



Environmental Planning Committee

Monday 6 May 2024
6.30pm

Agenda



Environmental Planning Committee (EPC)

Woollahra Council will be holding Committee meetings (i.e. Environmental Planning (EP), Finance, Community & Services (FC&S) and Strategic & Corporate (S&C) with The Mayor, Councillors and staff will be participating in person. Members of the public are invited to attend the Committee meeting in person or watch and/or listen to meetings live (via Council's website).

A copy of the Agenda is available on Council's website:

https://www.woollahra.nsw.gov.au/council/meetings_and_committees/committees/environmental_planning_committee_ep/ep_agendas_and_minutes

To register to address the Committee, please email your name, phone number and Item number to records@woollahra.nsw.gov.au by **10.00am on the day of the meeting**, indicating if you will be attending in person or wish to address the meeting via teleconferencing technology. Please note, instructions on how to join the meeting will be forwarded to person who have pre-registered to make a submission/address the Committee, via email on the day of the meeting via email.

Late correspondence may be submitted for consideration by the Committee. All late correspondence must be received by 10.00am on the day before the meeting. Late correspondence is to be emailed to records@woollahra.nsw.gov.au

Minutes of the Environmental Planning Committee (EP) will be posted to Council's website once finalised.

If you are experiencing any issues please call Council's Governance department on (02) 9391 7001.

The audio recording and late correspondence consider at the meeting will be uploaded to Council's website by 5.00pm on the next business day.

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee Members and/or Staff to present apologies and/or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will invite member(s) of the public who registered to speak to address the Committee.
- Members of the public who have registered to address the Committee, will be allowed four (4) minutes in which to address the Committee. One (1) warning bell will be rung at the conclusion of three (3) minutes and two (2) warning bells rung at the conclusion of four (4) minutes. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (e.g. applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allocated four (4) minutes, the speaker will take no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Disclaimer:

Councillors, staff and members of the public are advised that meeting are being lived streamed, accessible via a link from Council's website.

By speaking at a Committee Meeting members of the public consent to their voice, image and personal information (including name and address) being recorded and publicly available on Council's website. Accordingly, please ensure your address to Council is respectful and that you use appropriate language and refrain from making any defamatory statements or discriminatory comments.

Woollahra Council **does not** accept any liability for statements, comments or actions taken by individuals during a Committee meeting.

Any part of the meeting that is held in closed session will not be recorded.

People connecting to this meeting by conferencing technology are reminded that under the *Local Government Act 1993*, the recording of meetings by a member of the public using any electronic recording device including a mobile phone or video camera is not permitted. Any person found recording without the permission of Council may be expelled from the meeting.

The audio recording of each meeting will be retained on Council's website for a minimum period of 6 months. After that period has passed, recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

For further information please visit www.woollahra.nsw.gov.au

Recommendation **only** to the Full Council ("R" Items):

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic planning matters including those initiated at State and Federal Government level.
- Urban design studies.
- Planning proposals and local environment plans.
- Development control plans and guidelines.
- Development contribution plans.
- Heritage conservation studies, assessments and controls.
- Commercial centres' studies.
- Residential studies and strategies.
- Parks and Reserves Plans of Management (Strategies, Policies and Objectives).
- Flood Management Strategies.
- Recreation Policies and Strategies.
- Sustainability Policies and Strategies.
- Transport Strategies.
- Tree Policies and Strategies.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters requiring supplementary votes to Budget.
- Matters not within the specified functions of the Committee.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes

Delegated Authority to be determined at Committee level ("D" Items):

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Statutory reviews of Council's Delivery Program and Operational Plan
- Any other matter falling within the responsibility of the Environmental Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.

Environmental Planning Committee Membership: 7 Councillors

Quorum: The quorum for Committee meeting is 4 Councillors

Woollahra Municipal Council Notice of Meeting

1 May 2024

To: His Worship the Mayor, Councillor Richard Shields ex-officio
Councillors Sean Carmichael (Chair)
 Sarah Swan (Deputy Chair)
 Lucinda Regan
 Matthew Robertson
 Isabelle Shapiro
 Merrill Witt
 Susan Wynne

Dear Councillors,

Environmental Planning Committee – 6 May 2024

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Environmental Planning Committee** meeting to be held in the **Thornton Room (Committee Room)**, 536 New South Head Road, Double Bay, on **Monday 6 May 2024 at 6.30pm.**

Members of the Public may:

- Register to address the meeting (via Zoom or in Person) by completing the relevant form available on Council's website:
<https://www.woollahra.nsw.gov.au/files/assets/public/v/2/forms/registration-form-to-address-council-committee-2023-2024.pdf> and email the completed form to records@woollahra.nsw.gov.au by **10.00am on the day of the meeting.**
- Submit late correspondence for consideration by Councillors by emailing records@woollahra.nsw.gov.au by **10.00am on the day of the meeting.**

Watch and listen to the meeting live via Council's website:

https://www.woollahra.nsw.gov.au/council/meetings_and_committees/committees/environmental_planning_committee_ep/ep_agendas_and_minutes

An audio recording of the meeting will be uploaded to Council's website following the meeting by 5.00pm on the next business day.

If you have any difficulties accessing the meeting please contact (02) 9391 7001.

Regards,

Craig Swift-McNair
General Manager

Environmental Planning Committee

Agenda

Item	Subject	Page
1	Opening	
2	Acknowledgement of Country (Gadigal People and Birrabirragal People)	
3	Leave of Absence and Apologies	
4	Disclosures of Interest	
Items to be Decided by this Committee using its Delegated Authority		
D1	Confirmation of Minutes of Meeting held on 2 April 2024 - 24/57179	7
D2	Register of Current Land and Environment Court Matters for Development Applications and Register for Court Proceedings for Building, Environmental & Health Control Matters - 24/66647	19
D3	Woollahra Local Planning Panel Register of Planning Decisions and Analysis - 24/66654.....	35
Items to be Submitted to the Council for Decision with Recommendations from this Committee		
R1	488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay - Draft Development Control Plan - 24/59351	43
R2	Advice of the Woollahra Local Planning Panel - Planning Proposal to list two school buildings in Rose Bay as local heritage items - 24/68571	125
R3	Post Exhibition Report - Updates to the Woollahra DCP 2015 in Response to the Employment Zone Reforms - 23/177988.....	169

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 2 APRIL 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/57179
Purpose of the Report: The Minutes of the Environmental Planning Committee of 2 April 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

Recommendation:

THAT the Minutes of the Environmental Planning Committee Meeting of 2 April 2024 be taken as read and confirmed.

Executive Summary:

This report presents the Environmental Planning Committee Minutes of 2 April 2024 for confirmation. The minutes of the meeting are presented as **Attachment 1** for adoption.

Discussion:

The Environmental Planning Committee Minutes are presented to the Committee as a procedural matter. Any matter arising from the Minutes can be discussed. A copy of the Minutes are provided as **Attachment 1**.

Options:

Submission of minutes to the Environmental Planning Committee is a procedural matter for the adoption of the minutes.

Community Engagement and / or Internal Consultation:

No internal or external consultation has taken place in the preparation of this report.

Policy Implications:

There are no direct policy implications as a result of this report.

Financial Implications:

There are no direct financial implications as a result of this report.

Resourcing Implications:

There are no direct resourcing implications as a result of this report.

Conclusion:

The minutes are presented for confirmation by the Environmental Planning Committee.

Attachments

1. Unconfirmed EP Minutes - 2 April 2024 [↓](#) 



Environmental Planning Committee

Tuesday 2 April 2024
6.30pm

Minutes

Unconfirmed

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

**Environmental Planning Committee
Minutes**

Tuesday 2 April 2024

Table of Contents

Item	Subject	Pages
D1	Confirmation of Minutes of Meeting held on 4 March 2024	141
D2	Ecological Sustainability Taskforce Meeting Minutes 12 March 2024, Including Climate Change Risk Assessment and Adaptation Plan	141
R1	Planning Proposal to List Eight Local Heritage Items and One Heritage Conservation Area in and around the Edgecliff Commercial Centre - Advice of the Woollahra Local Planning Panel	142
R2	Heritage Significance Assessment of Cooper Park Garage at 104 Manning Road, Double Bay.....	144
R3	Proposed Local Planning Controls for Basketball and Sports Courts	145

Unconfirmed

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

Environmental Planning Committee Minutes

Minutes of the Meeting held on 2 April 2024 at 6.30pm.

Present: His Worship the Mayor, Councillor Richard Shields ex-officio (joined 6.41pm during Item R1)

Councillors: Sean Carmichael (Chair)
Sarah Swan
Lucinda Regan
Matthew Robertson via zoom (joined 6.34pm during Item D2)
Merrill Witt
Susan Wynne via zoom

Staff: Eleanor Banaag (Senior Strategic Planner)
Sagar Chauhan (Heritage Officer)
Micaela Hopkins (Team Leader – Environment & Sustainability)
Scott Pedder (Acting General Manager)
Eleanor Smith (Strategic Planner)
Kristy Wellfare (Team Leader – Heritage)
Anne White (Manager – Strategic Planning & Place)

Also in Attendance: Lynette Durr (GML) Council Consultant (Heritage) - Item R1
Shikha Swaroop (GML) Council Consultant - Item R1

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

1. Opening

The Chair declared the Environmental Planning Committee of 2 April 2024 open and welcomed Councillors, staff and members of the public who are watching and listening to this evenings meeting.

2. Acknowledgement of Country (Gadigal People and Birrabirragal People)

The Chair read the following Acknowledgement of Country:

I would like to acknowledge that we are here today on the land of the Gadigal and Birrabirragal people, the traditional custodians of the land. On behalf of Woollahra Council, I acknowledge Aboriginal or Torres Strait Islander people attending today and I pay my respects to Elders past, present and emerging.

3. Acknowledgement of the Sovereign of the Day (King Charles III)

The Chair read the following Acknowledgement of the Sovereign of the Day (King Charles III):

I also acknowledge King of Australia King Charles III.

4. Leave of Absence and Apologies

An apology was received from and accepted from Councillor Isabelle Shapiro and leave of absence granted.

4.1 Attendance by Audio-Visual Link

(Swan/Witt)

Resolved:

THAT in accordance with clause 5.23 of Council's Code of Meeting Practice, the Committee approves the following Councillors participation in the Environmental Planning Committee Meeting of 2 April 2024 via Audio-Visual Link:

- Councillor Robertson
- Councillor Wynne

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Carmichael
Councillor Regan
Councillor Swan
Councillor Witt
Councillor Wynne

5/0

Against the Motion

Nil

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

5. Late Correspondence

Late correspondence was submitted to the committee in relation to item R1

6. Disclosures of Interest

Nil

Unconfirmed

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

Items to be Decided by this Committee using its Delegated Authority

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 4 MARCH 2024**
Author: Sue O'Connor, Governance Officer
File No: 24/44292
Purpose of the Report: The Minutes of the Environmental Planning Committee of 4 March 2024 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
Alignment to Delivery Program: Strategy 11.3: Ensure effective and efficient governance and risk management.

(Swan/Witt)

Resolved:

THAT the Minutes of the Environmental Planning Committee Meeting of 4 March 2024 be taken as read and confirmed.

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Carmichael
Councillor Regan
Councillor Swan
Councillor Witt
Councillor Wynne

5/0

Against the Motion

Nil

Item No: D2 Delegated to Committee
Subject: **ECOLOGICAL SUSTAINABILITY TASKFORCE MEETING MINUTES 12 MARCH 2024, INCLUDING CLIMATE CHANGE RISK ASSESSMENT AND ADAPTATION PLAN**
Author: Micaela Hopkins, Team Leader Environment & Sustainability
Approver: Tom O'Hanlon, Director Infrastructure & Sustainability
File No: 24/49747
Purpose of the Report: To circulate the minutes of the Ecological Sustainability Taskforce meeting held on 12 March 2024 and the Climate Change Risk Assessment and Adaptation Plan.
Alignment to Delivery Program: Strategy 8.3: Prepare for and adapt to the impacts of climate change.

(Regan/Swan)

Resolved:

THAT Council note the minutes of the Ecological Sustainability Taskforce meeting held on 12 March 2024 and the Climate Change Risk Assessment and Adaptation Plan.

Page 141

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

Note: In accordance with Council's Code of Meeting Practice a Division of votes is recorded on this matter.

For the Motion

Councillor Carmichael
Councillor Regan
Councillor Robertson
Councillor Swan
Councillor Witt
Councillor Wynne

Against the Motion

Nil

6/0

**Items to be Submitted to the Council for Decision with
Recommendations from this Committee**

Item No:	R1 Recommendation to Council
Subject:	PLANNING PROPOSAL TO LIST EIGHT LOCAL HERITAGE ITEMS AND ONE HERITAGE CONSERVATION AREA IN AND AROUND THE EDGECLIFF COMMERCIAL CENTRE - ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL
Authors:	Eleanor Banaag, Senior Strategic Heritage Officer Kristy Wellfare, Team Leader Heritage
Approvers:	Anne White, Manager Strategic Planning & Place Scott Pedder, Director Planning & Place
File No:	23/192929
Purpose of the Report:	To provide Council with the advice of the Woollahra Local Planning Panel. To obtain Council's approval to proceed with the planning proposal to list eight local heritage items and one heritage conservation area in, and around, the Edgecliff Commercial Centre in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014.
Alignment to Delivery Program:	Strategy 4.2: Conserving our rich and diverse heritage.
Note:	Late correspondence was tabled by Amrit Bahra, Menaka Qvist & Toby Raphael, R Cooper & Nicholas Venet, Kathleen Prendergast & Bill Bracey (2 pieces).
Note:	Amrit Bahra, Menaka Qvist & Toby Raphael, addressed the Committee.
Note:	Councillor Richard Shields left the meeting, the time being 7.09pm.
Note:	Councillor Susan Wynne left the meeting, the time being 7.10pm.
Note:	Councillor Susan Wynne returned to the meeting, the time being 7.11pm.
Note:	Councillor Richard Shields returned to the meeting, the time being 7.13pm.
Note:	The Committee amended Part B (i) and added new Part D to the Recommendation.
Note:	The Committee resolved to facilitate a site visit of 4 & 6-8 Oswald Street, Darling Point.

Page 142

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

(Swan/Robertson)

Recommendation:

THAT Council:

- A. Note the advice provided by the Woollahra Local Planning Panel from 20 October 2023 regarding the planning proposal to list local heritage items and one heritage conservation area in, and around, the Edgecliff Commercial Centre.
- B. Endorse the planning proposal as contained at **Attachment 1** of the report to the Environmental Planning Committee of 2 April 2024 to list the following eight local heritage items and one heritage conservation area in Schedule 5 and on the Heritage Map of the *Woollahra Local Environmental Plan 2014* (subject to the removal of 4 Oswald Street/Lot 12, DP 3893 from the planning proposal) and resolves to forward this to the Department of Planning, Housing and Infrastructure with a request for Gateway Determination to allow public exhibition:
 - i. 'Gruzman House', including interiors at 6–8 Oswald Street, Darling Point (Lot 3, DP 1197166).
 - ii. 'Winston House', including interiors at 20 New South Head Road, Edgecliff (SP 20728, SP 31826).
 - iii. 'Portland Hall', including interiors and gardens at 48 New South Head Road, Edgecliff (Lot 1, DP 82089; Lot 1, DP 1107185; Lot 1, DP 921798).
 - iv. 'Cobham', including interiors and gardens at 166 New South Head Road, Edgecliff (SP 90371).
 - v. 'Brantwood Court', including interiors and gardens at 168 New South Head Road, Edgecliff (SP 11580).
 - vi. 'Brantwood Hall', including interiors and gardens at 170 New South Head Road, Edgecliff (SP 86720).
 - vii. Victorian Georgian Terrace group – three cottages at 543–547 Glenmore Road, Edgecliff (Lots 34, 35 and 36, DP 255233).
 - viii. Phoenix Palms in Oswald Street Reserve, Oswald Street, Darling Point (Road Reserve).
 - ix. The Brantwood Heritage Conservation Area, comprising five buildings between 164-180 New South Head Road, Edgecliff:
 - a. 164 New South Head Road (SP 16897)
 - b. 166 New South Head Road (SP 90371)
 - c. 168 New South Head Road (SP 11580)
 - d. 170 New South Head Road (SP 86720)
 - e. 172-180 New South Head Road (SP 10535)
- C. Requests the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- D. Requests staff to organise a Councillor site visit for the property at 4 and 6-8 Oswald Street, Darling Point to allow Council to make a decision as to how to proceed with the heritage listing of 4 Oswald Street, Darling Point.

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne

Nil

7/0

Item No: R2 Recommendation to Council
Subject: **HERITAGE SIGNIFICANCE ASSESSMENT OF COOPER PARK GARAGE AT 104 MANNING ROAD, DOUBLE BAY**
Authors: Sagar Chauhan, Temp Heritage Officer
Kristy Wellfare, Team Leader Heritage
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 24/21279
Purpose of the Report: To respond to a Council resolution of 14th June 2022 to undertake an assessment of the potential heritage significance of Cooper Park Garage at 104 Manning Rd, Double Bay
Alignment to Delivery Program: Strategy 4.2: Conserving our rich and diverse heritage.
(Wynne/Robertson)

Recommendation:

THAT Council:

- A. Note the recommendations contained in the Assessment of Heritage Significance prepared at **Attachment 1** of the Environmental Planning Committee report to 2 April 2024, which concludes that 'Cooper Park Garage,' at 104 Manning Rd Double Bay does not meet the threshold for listing as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.
- B. Take no further action to progress listing of Cooper Park Garage, Double Bay in the Woollahra Local Environmental Plan 2014.
- C. Note that this resolution (initiated by a Notice of Motion) is now closed.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Swan
Councillor Witt
Councillor Wynne

Nil

7/0

Page 144

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

Item No: R3 Recommendation to Council
Subject: **PROPOSED LOCAL PLANNING CONTROLS FOR BASKETBALL AND SPORTS COURTS**
Author: Eleanor Smith, Executive Planner
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 24/35176
Purpose of the Report: To respond to a resolution requesting staff to investigate new controls for basketball courts.
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Motion moved by Councillor Wynne
Seconded by Councillor Swan

THAT Council take no further action on proposed local planning controls for basketball and sports courts.

Foreshadowed Motion advised by Councillor Regan
Seconded by Councillor Witt

THAT Council:

- A. Receive and note the report on proposed local planning controls for basketball and sports courts.
- B. Resolve to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No. 26)* as contained at **Attachment 1** of the report to the Environmental Planning Committee of 2 April 2024, subject to making the terminology consistent by referring to "sports courts".

The Motion was put and lost.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Swan
Councillor Wynne

Against the Motion

Councillor Carmichael
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Witt

2/5

Foreshadowed Motion was put and carried.
The Foreshadowed Motion became the Motion.
The Motion was put and carried.

(Regan/Witt)

Recommendation:

THAT Council:

- A. Receive and note the report on proposed local planning controls for basketball and sports courts.

Woollahra Municipal Council
Environmental Planning Committee Minutes

2 April 2024

- B. Resolve to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No. 26)* as contained at **Attachment 1** of the report to the Environmental Planning Committee of 2 April 2024, subject to making the terminology consistent by referring to “sports courts”.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Carmichael
Councillor Regan
Councillor Robertson
Councillor Shields
Councillor Witt

Councillor Swan*
Councillor Wynne

5/2

Note*: Councillor Swan abstained from the vote and is recorded as voting against the Motion.

There being no further business the meeting concluded at 8.21pm.

We certify that the pages numbered 137 to 146 inclusive are the Minutes of the Environmental Planning Committee Meeting held on 2 April 2024 and confirmed by the Environmental Planning Committee on 6 May 2024 as correct.

Chairperson

Secretary of Committee

Item No: D2 Delegated to Committee
Subject: **REGISTER OF CURRENT LAND AND ENVIRONMENT COURT MATTERS FOR DEVELOPMENT APPLICATIONS AND REGISTER FOR COURT PROCEEDINGS FOR BUILDING, ENVIRONMENTAL & HEALTH CONTROL MATTERS**
Authors: Nick Economou, Manager Development Assessment
Rosemary Bullmore, Manager Legal, Compliance & Enforcement
Approver: Scott Pedder, Director Planning & Place
File No: 24/66647
Purpose of the Report: To provide the EPC with an update of all legal matters.
Alignment to Delivery Program: Strategy 4.5: Ensure that planning and building requirements are complied with.

Recommendation:

THAT Council receive and note the attached register of current Land and Environment Court matters for Development Applications and for Court proceedings for Building, Environmental and Health Control matters for the period February 2024 to April 2024.

Executive Summary:

The purpose of this report is to present the EPC with an update on all legal matters.

Discussion:

Prior to the introduction of the Woollahra Local Planning Panel (WLPP), which was mandated by legislation to be in force from 1 March 2018, Council's former Development Control Committee received a register of current Land and Environment Court matters for Development Applications and for Court proceedings for Building Control, Environmental Control and Health Control, monthly.

With the establishment of the WLPP, there was no forum for the Councillors to be updated on current legal matters relating to development applications and court proceedings relating to compliance matters.

At its meeting of 4 June 2019, Council's Environmental Planning Committee (EPC) resolved as follows:

"That a register of current Land and Environment Court matters for Development Applications and for Court Proceedings for Building, Environmental and Health Control matters be tabled to the Environmental Planning Committee quarterly."

At the EPC meeting of 7 February 2022, it was requested that future reports include a breakdown on the 'grounds' the Appeals were filed.

The table below provides a snapshot of the number of Appeals filed on the grounds of deemed refusal, refusal or conditions of consent during the 2022/2023 and 2023/2024 periods.

	Deemed Refusal	Refusal	Conditions of Consent
2022/2023			
Qtr 1	8	7	1
Qtr 2	14	6	0
Qtr 3	11	2	0
Qtr 4	12	7	0
2023/2024			
Qtr 1	10	8	1
Qtr 2	13	1	0
Qtr 3	5	3	1

Options:

This report is for information and noting purposes only.

Community Engagement and / or Internal Consultation:

In preparing this report and consideration options, consultation has taken place with Council's solicitors, Council's Manager Development Assessment and the Manager Legal, Compliance and Enforcement.

Policy Implications:

There are no policy implications as a result of this report.

Financial Implications:

The financial implications are the costs associated with defending the appeals.

Resourcing Implications:



The resourcing implications is staff expending time in managing and defending the appeals and being taken away from the assessment of current outstanding developments applications.

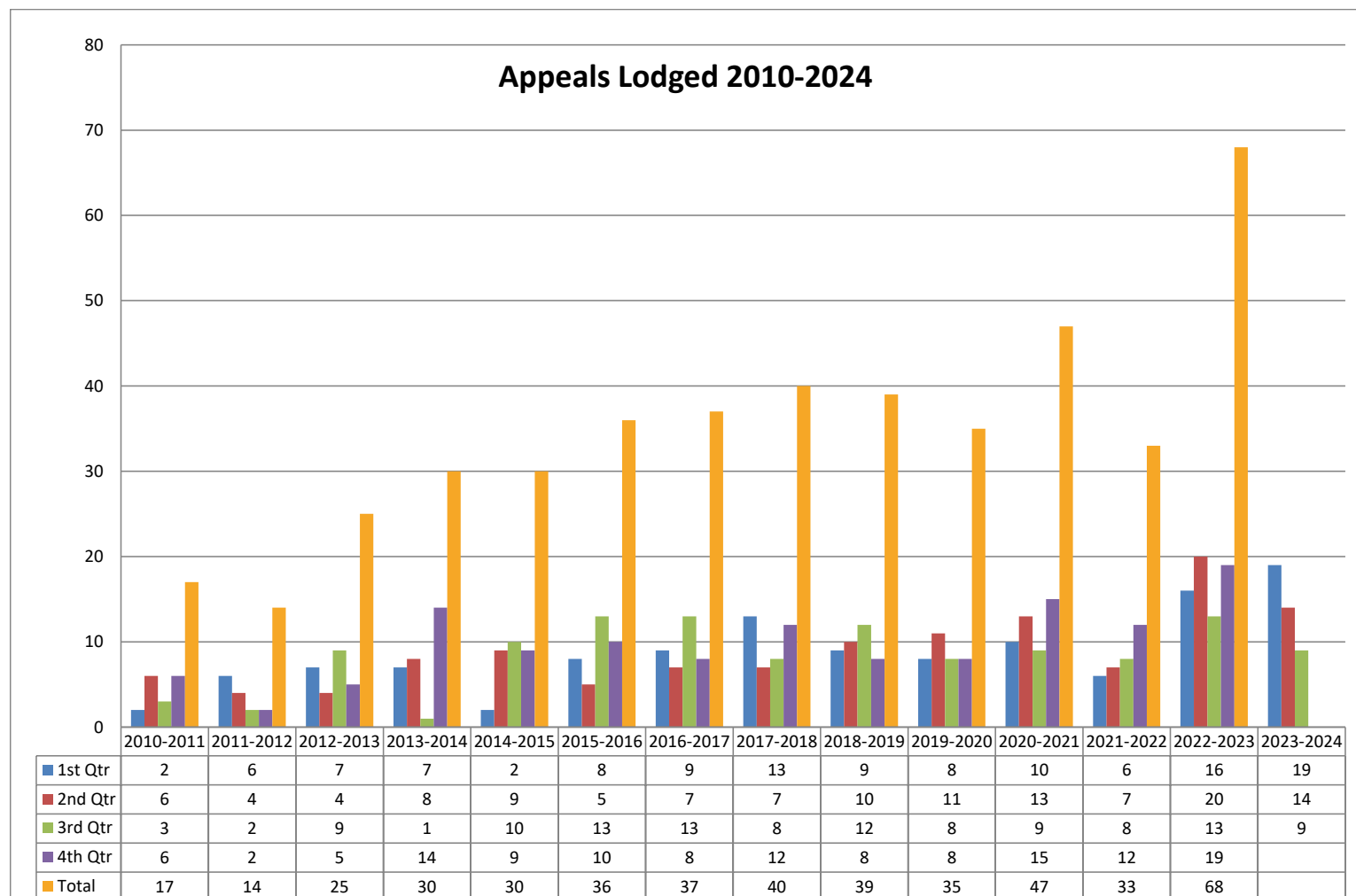
Additionally, external consultants are required.

Conclusion:

Attached is a copy of the current register, listing active legal matters and finalised judgements for the period February 2024 to April 2024. A graph is also attached showing the number of Class 1 appeals lodged from 2010-2024.

Attachments

1. Class 1 Appeals Lodged 2010-2024 [↓](#) 
2. Legal Register [↓](#) 



Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Development Assessment – Legal Matters				
Class 1 - Appealed Deemed Refusal				
Directions Hearing				
Eduardo de Oliveira Barata v WMC	DA358/2023	HWL Ebsworth Lawyers	3 Ormond Street PADDINGTON	This is an appeal against the deemed refusal of an application for the extensive alterations and additions to the existing terrace dwelling including landscaping. The DA will be tabled to an LPP meeting prior to the matter being heard by the Court. First directions hearing will be held on 2 May 2024.
CSKS Developments Pty Ltd v WMC	DA10/2024/1	Wilshire Webb Staunton Beattie Lawyers	85-87 Birriga Road BELLEVUE HILL	This is an appeal against the deemed refusal of an application for the demolition of all existing structures on both 85 and 87 Birriga Road and the construction of a new four (4) storey RFB containing 8 units, basement parking containing 16 spaces and associated landscaping. First directions hearing will be held on 9 May 2024. The DA will be tabled to an LPP meeting prior to the matter being heard by the Court.
Awaiting s34 Conference/s26 Mediation				
MHN Design Union Pty Ltd v WMC	DA237/2023	Lindsay Taylor Lawyers	43 Salisbury Road ROSE BAY	This is an appeal against the deemed refusal of a development application for the demolition of the existing building and construction of a three-storey RFB comprising three units, basement car parking and landscaping works. Council's SOFAC was filed and served on 22 November 2023. The DA was refused under staff delegation on 9 January 2024. A s34 conciliation conference was held on 14 March 2024. The appeal is still in the conferencing phase.
Bureau SRH Pty Limited v WMC	DA143/2023	Lindsay Taylor Lawyers	394,396-398 & 400 New South Head Road DOUBLE BAY	This is an appeal against the deemed refusal of an application for the demolition of existing buildings, construction of a new commercial building and lot consolidation. First directions hearing was held on 29 September 2023. Council's SOFAC was filed and served on 12 October 2023. The DA was refused by the LPP on 19 October 2023. A s34 conciliation conference was held on 15 March 2024. A second directions hearing was held on 10 April 2024. The appeal is still in the conferencing phase.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Hillcrest Rose Bay Pty Ltd v WMC	DA333/2023	Wilshire Webb Staunton Beattie Lawyers	780-786 New South Head Road ROSE BAY	This is an appeal against the conditions of consent of a development application for internal and external amendments to the RFB approved under DA30/2021. The DA was approved under staff delegation on 23 November 2023. First directions hearing was held on 16 January 2024. A Notice of Motion to combine the DA and s4.55(8) appeals filed on 22 December 2023 was granted on 18 January 2024. Council's SOFAC was filed and served on 23 February 2024. A s34 conciliation conference was held on 26 April 2024. The appeal is still in the conferencing phase.
Hillcrest Rose Bay Pty Ltd v WMC	DA30/2021/4	Wilshire Webb Staunton Beattie Lawyers	780-786 New South Head Road ROSE BAY	This is an appeal filed under s4.55(8) for modifications to the approved scheme. First directions hearing was held on 16 January 2024. Council's SOFAC was filed and served on 23 February 2024. A s34 conciliation conference was held on 26 April 2024. See above.
Drumalbyn B Pty Ltd & Drumalbyn R Pty Ltd v WMC	DA416/2021/3	HWL Ebsworth Lawyers	53-55 Drumalbyn Road BELLEVUE HILL	This is an appeal filed under s4.55(8) for modifications to the approved scheme. First directions hearing was held on 17 January 2024. Council filed and served its SOFAC on 2 February 2024. A s34 conciliation conference was held on 30 April 2024. The appeal is still in the conferencing phase.
Parkson C Pty Ltd v WMC	DA13/2023	HWL Ebsworth Lawyers	77-79 New South Head Road VAUCLUSE	This is an appeal against the deemed refusal of an application for the demolition and removal of trees, and construction of a shop top housing development comprising three (3) residential units and two (2) basement parking levels. The DA was refused under staff delegation on 6 October 2023. First directions hearing was held on 11 October 2023. Council's SOFAC was filed on 18 October 2023. A s34 conciliation conference was held on 18 March 2024. The matter was adjourned until 6 May 2024. The appeal is still in the conferencing phase.
Willobrook Holdings Pty Ltd v WMC	DA223/2023	Lindsay Taylor Lawyers	3 Knox Street DOUBLE BAY	This is an appeal against the deemed refusal of an application for the demolition of a partially constructed existing building (under DA212/2017) and construction of a new Shop Top Housing development. First directions hearing was held on 31 October 2023. The DA was refused by the LPP on 2 November 2023. A s34 conciliation conference is listed for 4 June 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Edgecliff Residences Pty Ltd & MHN Design Union Pty Ltd v WMC	DA372/2023	HWL Ebsworth Lawyers	365 Edgecliff Road EDGECLIFF	This is an appeal against the deemed refusal of a development application for the demolition of the existing strata-titled RFB, construction of a new RFB, landscaping and strata subdivision. First directions hearing was held on 1 February 2024. Council filed and served its SOFAC on 9 February 2024. The DA was refused by the LPP at its meeting of 18 April 2024. A s34 conciliation conference is listed for 5 July 2024.
Yarranabbe Ventures Pty Ltd v WMC	DA7/2024	Lindsay Taylor Lawyers	77-83A Yarranabbe Road DARLING POINT	This is an appeal against the deemed refusal of an application for the demolition of existing single dwellings and an RFB, and the construction of a new RFB and associated site works. First directions hearing was held on 19 March 2024. Council's SOFAC was filed and served on 28 March 2024. This DA will be tabled to a SECPP meeting prior to the matter being heard by the Court. A without prejudice meeting will be held on 2 May 2024.
Kew Bellevue Hill Pty Ltd v WMC	DA335/2022/2	Wilshire Webb Staunton Beattie Lawyers	84, 86 & 88 Birriga Road BELLEVUE HILL	This is an appeal filed under s4.55(8) for modifications to the approved RFB. First directions hearing was held on 1 March 2024. The DA will be tabled to an LPP meeting prior to the matter being heard by the Court. The matter is listed for a s34 conciliation conference on 14 August 2024.
Bowie Ferris Investments Pty Ltd v WMC	DA243/2023	HWL Ebsworth Lawyers	9-11 Glenmore Road PADDINGTON	This is an appeal against the deemed refusal of an application for alterations and additions including a modified facade and change of use from a Hotel/Pub to retail on the ground floor and offices on the first and second floors and identification signage. First directions hearing was held on 26 September 2023. The DA was refused by the LPP on 5 October 2023. A s34 conciliation conference was held on 23 February 2024. The s34 conference was terminated. The matter was listed for directions on 1 March 2024. The matter has been listed for a hearing on 15 and 16 August 2024.
First Applicant: 34 Cranbrook Road Pty Ltd – Second Applicant: MHN Design Union Pty Ltd v WMC	DA249/2023/1	Wilshire Webb Staunton Beattie Lawyers	34 Cranbrook Road BELLEVUE HILL	This is an appeal against the deemed refusal of an application for the demolition of the existing RFB and construction of a new RFB with four (4) apartments and landscaping. First directions hearing was held on 21 March 2024. Council filed and served its SOFAC on 28 March 2024. The DA will be tabled to the LPP meeting of the 2 May 2024. The matter is listed for a s34 conciliation conference on 19 August 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
First Applicant: Bellevue Road Holdings Pty Ltd Second Applicant: Attena Group Pty Ltd v WMC	DA216/2021/3	Wilshire Webb Staunton Beattie Lawyers	142, 142A & 142B Bellevue Road BELLEVUE HILL	This is an appeal against the deemed refusal of a modification application for internal and external modifications to the approved RFB including an electricity sub-station. First directions hearing was held on 26 March 2024. This matter will be determined under staff delegation. The matter has been listed for a s34 conciliation conference on 4 September 2024
STMRCF Pty Ltd (ACN 114 492 769) v WMC	DA164/2023/1	HWL Ebsworth Lawyers	364 & 364A Edgecliff Road WOOLLARA	This is an appeal against the deemed refusal of an application for Lot consolidation, alterations to the existing dwelling on Lot 1 of DP 224367, demolition of the existing dwelling on Lot 2 of DP 224367 and construction of a new RFB with basement parking. First directions hearing was held on 15 August 2023. Council's SOFAC was filed and served on 7 September 2023. A further directions was held on 8 September 2023. The DA was refused by the LPP on 19 October 2023. A s34 conciliation conference was held on 6 March 2024. The appeal is still in the conferencing phase.
Concretive BHV Pty Ltd v WMC	DA136/2023/2	HWL Ebsworth Lawyers	206B Victoria Road BELLEVUE HILL	This is an appeal filed under s4.55(8) for modifications to the approved RFB. First directions hearing was held on 23 April 2024. Council is to file and serve its Statement of Facts and Contentions on Monday, 6 May 2024. The proceedings are listed for a s34 conference on 5 September 2024.
Awaiting Hearing				
First Applicant: Nigel Graham Oliver-Frost; Second Applicant: MHN Design Union Pty Ltd v WMC	DA70/2023	Lindsay Taylor Lawyers	588 New South Head Road POINT PIPER	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a dual occupancy development including a basement parking, two swimming pools and associated landscaping. First directions hearing was held on 24 October 2023. The DA was refused under staff delegation on 25 October 2023. A s34AA conciliation conference and hearing is listed for 7 and 8 May 2024.
First Applicant: Molly Patricia Reid; Second Applicant: Tobias Partners Pty Ltd ACN 113 571 743 v WMC	DA54/2023/1	Peter R Rigg Solicitor & Barrister	54 New Beach Road DARLING POINT	This is an appeal against the deemed refusal of an application for the demolition of the existing attached dual occupancy and construction of a new attached dual occupancy, swimming pools, basement parking and associated siteworks and landscaping. First directions hearing was held on 15 June 2023. Council's SOFAC was filed and served on 13 July 2023. The DA was refused by the LPP on 20 July 2023. A s26 mediation conference was held on 10 November 2023. A hearing is listed for 27 and 28 May 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Victor Comino v WMC	DA330/2023	Lindsay Taylor Lawyers	63 Fitzwilliam Road VAUCLUSE	This is an appeal against the deemed refusal of a development application for the construction of new dwelling house and landscaping. The DA was refused under staff delegation on 22 January 2024. First directions hearing was held on 23 January 2024. A s34AA conciliation conference and hearing is listed for 11 and 12 June 2024
MHN Design Union Pty Ltd v WMC	DA172/2023	Wilshire Webb Staunton Beattie Lawyers	54 Streatfield Road BELLEVUE HILL	This is an appeal against the deemed refusal of a development application for the demolition of the existing building and construction of a new dwelling house with swimming pool and associated landscaping. The DA was refused under staff delegation on 23 January 2024. First directions was held on 24 January 2024. A s34AA conciliation conference and hearing is listed for 11 and 12 July 2024.
John Keith v WMC	DA287/2023	HWL Ebsworth Lawyers	3 Wiston Gardens DOUBLE BAY	This is an appeal against the deemed refusal of a development application for alterations and additions to the approved RFB. The DA was refused by the LPP on 21 December 2023. First directions hearing was held on 16 January 2024. A s34 conciliation conference was held on 21 February 2024. The s34 was terminated. A second directions hearing is to be held on 7 May 2024. Joint expert reports are to be filed by 14 August 2024. The matter is listed for hearing on 11, 12 and 13 September 2024.
Merman Investments Pty Ltd v WMC	DA325/2020/3	HWL Ebsworth Lawyers	3 Wiston Gardens DOUBLE BAY	This is an appeal filed under s4.55(8) for modifications to the approved scheme. First directions hearing was held on 16 January 2024. A s34 conciliation conference was held on 21 February 2024. The s34 was terminated. A second directions hearing is to be held on 7 May 2024. Joint expert reports are to be filed by 14 August 2024. The matter is listed for hearing on 11, 12 and 13 September 2024.
Merman Investments Pty Ltd v WMC	DA325/2020/4	HWL Ebsworth Lawyers	3 Wiston Gardens DOUBLE BAY	This is an appeal filed under s4.55(8) for modifications to the approved scheme. First directions hearing was held on 16 January 2024. A s34 conciliation conference was held on 21 February 2024. The s34 was terminated. A second directions hearing is to be held on 7 May 2024. Joint expert reports are to be filed by 14 August 2024. The matter is listed for hearing on 11, 12 and 13 September 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Class 1 - Appealed Deemed Refusal				
Directions Hearing				
Chaz Heitner v WMC	DA524/2021/2	Lindsay Taylor Lawyers	34 Northland Road BELLEVUE HILL	This is an appeal against the refusal of an application made under staff delegation for the internal and external modifications to the approved new dwelling. First directions hearing will be held on 3 May 2024.
Class 1 - Appealed Determination				
Awaiting s34 Conference/s26 Mediation				
Masolage Holdings Pty Ltd ACN 146 311 042 v WMC	DA277/2022/1	Lindsay Taylor Lawyers	68 Darling Point Road DARLING POINT	This is an appeal against the LPP refusal of an application for the temporary use for events (Clause 2.8 of Woollahra LEP 2014 - maximum of 52 days (whether or not consecutive days) in any period of 12 months). First directions hearing was held on 11 July 2023. Council's SOFAC was filed and served on 14 July 2023. A s34 conciliation conference was held on 24 November 2023. The proceedings have been listed for an adjourned s34 conciliation conference on 12 June 2024
Masolage Holdings Pty Ltd ACN 146 311 042 v WMC	DA278/2022/1	Lindsay Taylor Lawyers	68 Darling Point Road DARLING POINT	This is an appeal against the LPP refusal of an application to use part of a heritage item (Swifts) for occasional events. First directions hearing was held on 11 July 2023. Council's SOFAC was filed and served on 14 July 2023. A s34 conciliation conference was held on 24 November 2023. The proceedings have been listed for an adjourned s34 conciliation conference on 12 June 2024
Awaiting Hearing				
John David Boyd & Marly Boyd	DA87/2022/1	HWL Ebsworth Lawyers	127 Victoria Road BELLEVUE HILL	This is an appeal against the LPP refusal of an application for the demolition of the existing building and construction of a new dwelling with new pool, driveway, garage and associated landscaping. First directions hearing was held on 7 July 2023. Council's SOFAC was filed and served on 10 July 2023. A s26 mediation conference was held on 30 November 2023. Second directions hearing was held on 7 December 2023. A s34AA conciliation conference and hearing is listed for 27 and 29 June 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
First Applicant: Nigel Graham Oliver-Frost Second Applicant: MHN Design Union Pty Ltd v WMC	DA137/2023	Lindsay Taylor Lawyers	37 Fitzwilliam Road VAUCLUSE	This is an appeal against the LPP refusal of an application for the demolition of existing structures including driveway and construction of a new dwelling, swimming pool and associated landscaping on Lot 1, DP 341240. First directions hearing was held on 19 April 2024. Council's SOFAC was filed on 23 April 2024. A s34AA conciliation conference and hearing is listed on 15 and 16 October 2024.
First Applicant: Nigel Graham Oliver-Frost Second Applicant: MHN Design Union Pty Ltd v WMC	DA138/2023	Lindsay Taylor Lawyers	37 Fitzwilliam Road VAUCLUSE	This is an appeal against the LPP refusal of an application for the demolition of existing dwelling and construction of a new dwelling, swimming pool and landscaping on Lot 2, DP 341240. First directions hearing was held on 19 April 2024. Council's SOFAC was filed on 23 April 2024. A s34AA conciliation conference and hearing is listed on 15 and 16 October 2024.
First Applicant: Nigel Graham Oliver-Frost Second Applicant: Michael Suttie v WMC	DA579/2022	Lindsay Taylor Lawyers	37 Fitzwilliam Road VAUCLUSE	This is an appeal against the LPP refusal of an application for the alterations and additions to the existing dwelling. First directions hearing was held on 19 April 2024. Council's SOFAC was filed on 23 April 2024. A s34AA conciliation conference and hearing is listed on 22 and 23 October 2024.
April Zhang v WMC	DA268/2022/2	Wilshire Webb Staunton Beattie Lawyers	7 Wolseley Road POINT PIPER	This is an appeal against the conditions of consent of a modification application for the Modifications to Condition C.1(a) and (c) and C.13 relating to excavation, privacy measures and stormwater management. The first directions hearing was held on 19 April 2024. The matter is listed for a further directions hearing on 24 May 2024. A s34AA conciliation and hearing is listed on 16 and 17 October 2024.
Judgement Reserved				
Castlereagh Ventures Pty Ltd v WMC	DA2023/3/1	Lindsay Taylor Lawyers	27-29 & 31-37 Knox Street DOUBLE BAY	This is an appeal against the deemed refusal of an application for the demolition of existing buildings and the construction of a New Shop-Top Housing Development. First directions hearing was held on 4 May 2023. The DA was refused by the LPP on 18 May 2023. Council's SOFAC was filed and served on 16 May 2023. The s34 conciliation conference held on 7 September 2023 was terminated. Joint expert report were filed on 11 March 2024. A hearing was held on 9-10 April 2024. Judgement reserved.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Judgement Finalised				
Suzane Peponis-Brisimis v WMC	DA516/2022	Peter Rigg Solicitor & Barrister	4 Princes Avenue VAUCLUSE	This is an appeal against the LPP refusal of an application for alterations and additions to the existing dwelling including an additional level. First directions hearing was held on 28 July 2023. Joint expert reports were filed and served on 30 November 2023. A s34AA conciliation conference and hearing was held on 15 and 16 February 2024. The appeal was upheld with amended plans via a s34 Agreement on 27 February 2024.
Concretive BHV Pty Ltd (ACN 658 090 209) v WMC	DA136/2023/1	HWL Ebsworth Lawyers	206B Victoria Road BELLEVUE HILL	This is an appeal against the deemed refusal of an application for the demolition of the existing RFB and garage, and the construction of a new RFB with basement car parking. Council's SOFAC was filed and served on 12 July 2023. First directions hearing was held on 13 July 2023. The DA was refused by the LPP meeting on 17 August 2023. A s34 conciliation conference was held on 1 December 2023. The appeal was upheld with amended plans via a s34 Agreement on 8 March 2024.
26 Salisbury Pty Ltd ACN 658 437 971 v WMC	DA523/2022/1	Wilshire Webb Staunton Beattie Lawyers	26 Salisbury Road ROSE BAY	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a new three storey RFB development with a swimming pool, basement parking and associated landscaping works. The first directions hearing was held on 21 April 2023. The DA was refused by the LPP on 18 May 2023. The s34 conciliation conference held on 1 September 2023 was terminated. The matter was listed for a hearing on 11 and 12 December 2023. The appeal was dismissed on 12 March 2024
Jason Natoli v WMC	DA338/2015/3	Lindsay Taylor Lawyers	57A Fitzwilliam Road VAUCLUSE	This is an appeal against the deemed refusal of a modification application for the modifications to the alterations and additions to the approved RFB, including a reduction in the number of units. First directions hearing was held on 17 November 2023. The DA was refused under staff delegation on 19 December 2023. A s34 conciliation conference was held on 31 January 2024. The appeal was upheld with amended plans via a s34 Agreement on 12 March 2024.
Nicola Williams & Paul Williams v WMC	DA587/2022/1	Lindsay Taylor Lawyers	30A Russell Street VAUCLUSE	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a new three storey dwelling house, swimming pool and landscaping. First directions hearing was held on 10 August 2023. Council's SOFAC was filed and served on 15 August 2023. The DA was refused by the LPP on 7 September 2023. A s34AA conciliation conference and hearing was held on 7-8 February 2024. The appeal was upheld with amended plans via a s34 Agreement on 12 March 2024.

24 70244 Legal Register - EPC - 6 May 2024(2)

Page 8 of 12

Trim Record No: 24/70244

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Cooper View Developments Pty Ltd v WMC	DA166/2023	Lindsay Taylor Lawyers	214-218 Victoria Road BELLEVUE HILL	This is an appeal against the deemed refusal of an application for the demolition of the existing structures and construction of a new RFB containing 12 residential units. The first directions was held on 21 September 2023. The DA was refused by the LPP on 5 October 2023. A s34 conciliation conference was listed for 8 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 19 March 2024.
Xiao Liang Wu v WMC	DA532/2022/1	HWL Ebsworth Lawyers	4 Tivoli Avenue ROSE BAY	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a new four-storey dual occupancy dwelling, including a pool and garage. First directions hearing was held on 1 September 2023. The DA was refused by the LPP on 21 September 2023. Joint expert reports were filed and served on 12 February 2024. A s34AA conciliation conference and hearing was listed for 11 and 12 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 19 March 2024.
Ashley Rourke v WMC	DA223/2013/2	Peter Rigg Solicitor & Barrister	102 Hargrave Street PADDINGTON	This is an appeal against the refusal of an application made under staff delegation for the modification to the approved scheme by incorporating side and rear boundary fencing and the conversion of a non trafficable roof terrace (above existing garage) to a trafficable area. First directions hearing was held on 12 September 2023. A s34AA conciliation conference and hearing was listed for 11 and 12 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 20 March 2024.
First Applicant: Jin Zhan; Second Applicant: Juanyun Zhou v WMC	DA516/2021	Lindsay Taylor Lawyers	76A Beresford Road BELLEVUE HILL	This is an appeal against the refusal of an application made under staff delegation for the demolition of the existing dwelling and construction of a new dwelling including basement car parking and swimming pool. First directions hearing was held on 5 September 2023. Joint expert report were filed and served on 7 February 2024. A s34AA conciliation conference and hearing was listed for 6 and 7 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 21 March 2024.
Amy Dutton v WMC	DA440/2022	HWL Ebsworth Lawyers	382 Edgecliff Road WOOLLAHRA	This is an appeal against the refusal of an application made under staff delegation for the alterations and additions to existing building and the conversion to a single dwelling with new basement garage, pool and associated landscaping. First directions hearing was held on 22 August 2023. Council SOFAC was filed and served on 30 August 2023. Joint expert reports were filed and served on 8 December 2023. A 34AA conciliation conference was held on 19 and 20 February 2024. The appeal was upheld with amended plans via a s34 Agreement on 26 March 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Nigel Graham Oliver-Frost v WMC	DA552/2022	Lindsay Taylor Lawyers	37 Fitzwilliam Road VAUCLUSE	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a new dwelling with basement garage, inground pool, rooftop terrace with a wading pool and associated landscaping. First directions hearing was held on 12 September 2023. The DA was refused by the LPP on 8 November 2023. Council's SOFAC was filed and served on 15 September 2023. A s34AA conciliation conference and hearing was held on 18-19 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 27 March 2024.
Clutch Triple Double Pty Ltd ACN 659 911 337 v WMC	DA481/2022/1	HWL Ebsworth Lawyers	440 Edgecliff Road EDGECLIFF	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling and construction of a six storey RFB. The DA was refused by the LPP on 20 July 2023. First directions hearing was held on 26 July 2023. Council's SOFAC was filed and served 28 July 2023. A s34 conciliation conference was held on 19 December 2023. The matter was adjourned to a directions hearing on 5 March 2024. A hearing was held on listed for 8 and 9 August 2024. The appeal was upheld with amended plans via a s34 Agreement on 28 March 2024.
Joyce Yu v WMC	DA115/2023	Wilshire Webb Staunton Beattie Lawyers	40 Towns Road VAUCLUSE	This is an appeal against the refusal of an application made under staff delegation for the demolition of the existing dwelling and the construction of a new 3-storey residential dwelling with basement parking, roof top terrace, landscaping and boundary fencing. First directions was held on 13 September 2023. Joint experts were filed and served on 11 March 2024. A s34AA conciliation conference and hearing was held on 25 and 26 March 2024. The appeal was upheld with amended plans on 10 April 2024.
Leslie Landerer v WMC	DA591/2022	Peter Rigg Solicitor & Barrister	7 Pacific Street WATSONS BAY	This is an appeal against the deemed refusal of an application for the demolition of the existing dwelling house and construction of a new dwelling, swimming pool and landscaping works. First directions hearing was held on 10 October 2023. Council's SOFAC was filed and served on 20 October 2023. The DA will was refused by the LPP on 16 November 2023. A s34AA conciliation conference and hearing was held on 14 and 15 March 2024. The appeal was upheld with amended plans via a s34 Agreement on 11 April 2024.
First Applicant: Junlin Lan; Second Applicant: Monica Hairu Yang	DA533/2022	Wilshire Webb Staunton	42 Vaucuse Road VAUCLUSE	This is an appeal against the LPP refusal of an the demolition of an existing tennis court and associated structures, the construction of 2 excavated levels below the existing tennis court consisting of a secondary dwelling and garaging accessed via a driveway crossing off Carrara Road and linked to the existing dwelling house via a subterranean corridor, the demolition and

24 70244 Legal Register - EPC - 6 May 2024(2)

Page 10 of 12

Trim Record No: 24/70244

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
		Beattie Lawyers		reconstruction of rear access to the dwelling house, the reinstatement of the tennis court and associated structures and landscaping works. The first directions was held on 23 August 2023. A s26 mediation was held on 9 February 2024. The appeal was upheld with amended plans via a s34 Agreement on 18 April 2024.
Natalie Laura Smith v WMC	DA131/2023	Peter Rigg Solicitor & Barrister	29 Hoddle Street PADDINGTON	This is an appeal against the refusal of an application made under staff delegation for the proposed first floor extension to existing two storey terrace. First directions hearing was held on 29 August 2023. Joint expert reports were filed and served on 31 January 2024. A s34AA conciliation conference was held on 21 and 22 February 2024. The appeal was dismissed on 19 April 2024.
Discontinued				
Julie-Anne McMillan v WMC	DA510/2019/3	Wilshire Webb Staunton Beattie Lawyers	16 Olphert Avenue VAUCLUSE	This is an appeal against the conditions of consent for a modification application for internal and external modifications to the approved alterations and additions. First directions hearing was held on 30 August 2023. The appeal was discontinued on 28 February 2024.
845 NSH Pty Ltd & MHN Design Union Pty Ltd v WMC	DA290/2023	Lindsay Taylor Lawyers	845 New South Head Road ROSE BAY	This is an appeal against the deemed refusal of a development application for the demolition of the existing structures on the site and construction of a multi-storey RFB with basement parking, including strata subdivision. First directions hearing was held on 21 November 2023. Council's SOFAC was filed and served on 24 November 2023. The DA was approved by the LPP as its meeting of 27 February 2024. The appeal was discontinued on 5 March 2024.

Applicant v Respondent	Council Reference	Legal Rep	Address	Comment
Legal, Compliance & Enforcement - Legal Matters				
Class 1- Orders & Civil Enforcement				
Awaiting Hearing				
Andrew Cameron & Vanessa Cameron v WMC	Order 19/2023	Woollahra Municipal Council	35 Suttie Road BELLEVUE HILL	Class 1 appeal, Council Order 19/2023 requiring the owner to cease unauthorised excavation of the site. The Court has directed that this matter run with the related Class 4 Proceedings, which was heard on 10-11 October 2023 and judgement is reserved. This matter is adjourned until the final orders are delivered in the Class 4 Proceedings.
Class 4- Judicial Review & Civil Enforcement				
Judgement Finalised				
WMC v Andrew Cameron and Others	SC7020	Woollahra Municipal Council	35 Suttie Road BELLEVUE HILL	Council commenced Class 4 judicial review proceedings seeking a declaration that the construction certificate is invalid and of no effect. Judgement delivered in favour of Council. Awaiting final orders and payment of costs. Notice of intention to appeal filed by First Respondent. Final day to appeal is 28 June 2024.
Class 5 – Criminal Enforcement				
WMC v Tavakoli and WMC v Landmark Construction Group Pty Ltd	SC8732	Woollahra Municipal Council	Bayview Hill Road adjacent to 4-6 Bayview Hill Road	Summons filed seeking conviction for carrying out work without obtaining development consent on an unformed portion of Bayview Hill Road adjacent to the Harbour. Prosecutor disclosure due 2 May 2024. Matter to be listed for further case management on 7 June 2024.

Item No: D3 Delegated to Committee
Subject: **WOOLLAHRA LOCAL PLANNING PANEL REGISTER OF PLANNING DECISIONS AND ANALYSIS**
Author: Nick Economou, Manager Development Assessment
Approver: Scott Pedder, Director Planning & Place
File No: 24/66654
Purpose of the Report: To provide the EPC with the Woollahra Local Planning Register of Planning Decisions and Analysis 15 February 2024 to 21 March 2024
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT Council note and receive the register of planning decisions of matters determined by the Woollahra Local Planning Panel (WLPP) for the period 15 February 2024 to 21 March 2024.

Executive Summary:

The purpose of this report is to present the Woollahra Local Planning Panel Register of Planning Decisions and Analysis for the period 15 February 2024 to 21 March 2024.

Discussion:

The Woollahra Local Planning Panel (WLPP) assesses and determines development applications and provides advice to Council on planning proposals and other matters. The WLPP is established under Part 2, Division 2.5 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*, Council is required to maintain a register that records which panel members vote for and which panel members vote against each planning decision of the WLPP.

Councillors have requested that a report be prepared on the decisions made and that this be reported to the Environmental Planning Committee (EPC) on a regular basis. Staff have prepared this planning decisions register to provide a summary of the applications considered by the WLPP, including the staff recommendation and the final WLPP decision.

Following feedback from Councillors at the Environmental Planning Committee in August 2018 meeting, cost of works, full reasons of referral and key issues form part of this report and are included in the relevant attachment.

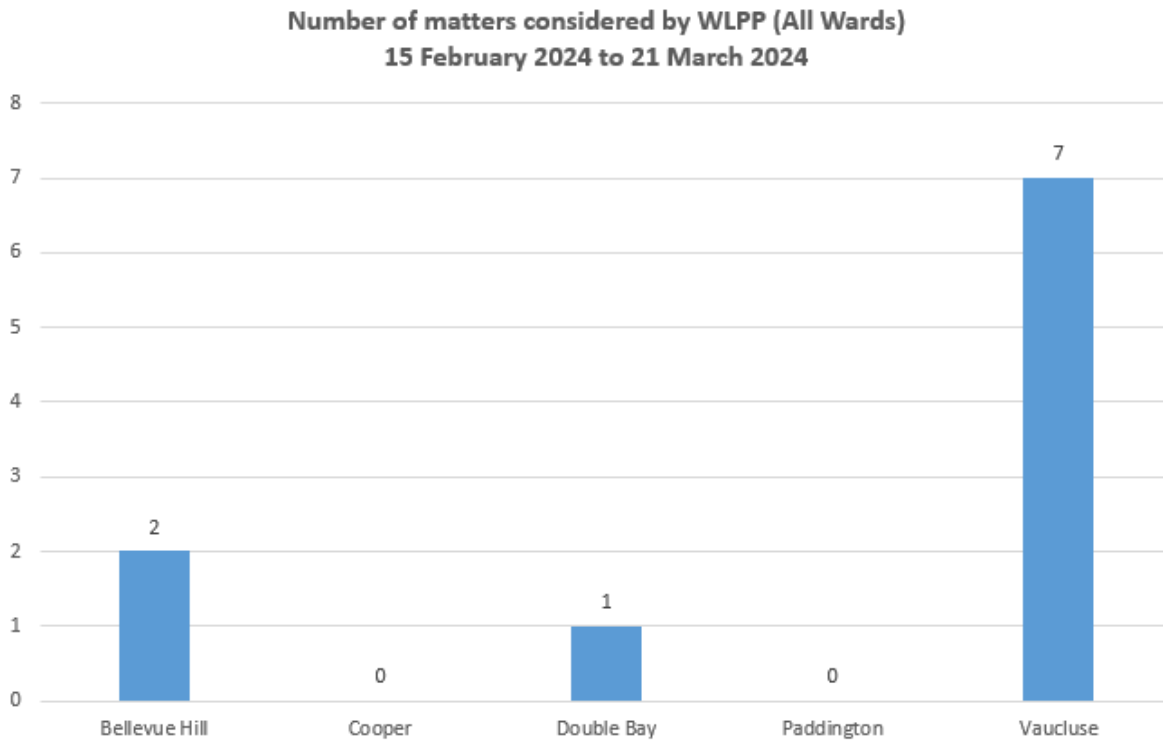
In total **10 Development Applications** and **1 Planning Proposal** were considered by the Woollahra Local Planning Panel during the period of **15 February 2024 2023 to 21 March 2024**.

Provided below is an analysis of the following:

- the number of development applications considered per ward
- staff recommendation vs WLPP Decision
- reason(s) for referral to WLPP.

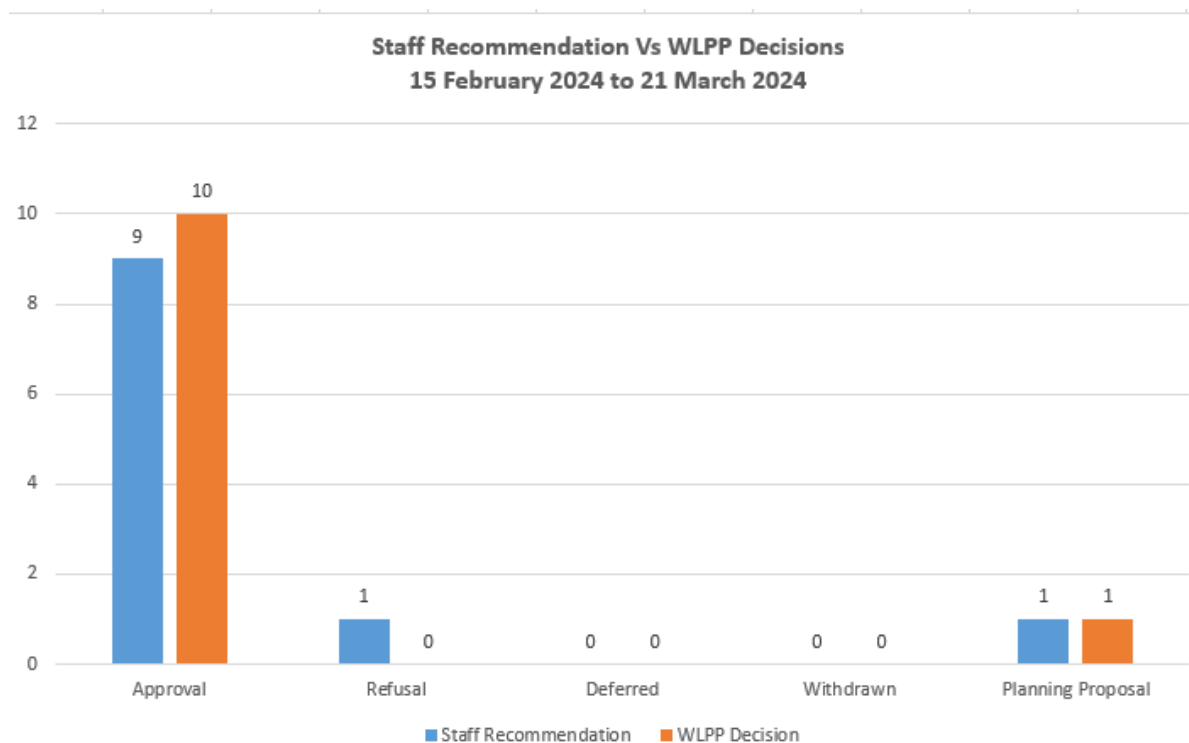
Number of Development Applications (excluding Planning Proposals) considered per ward:

The following graph illustrates the number of Development Applications (excluding Planning Proposals) considered by the Panel (per Ward).



Staff Recommendation vs WLPP Decision:

The graph below provides a comparison of the staff recommendation versus the WLPP decision.

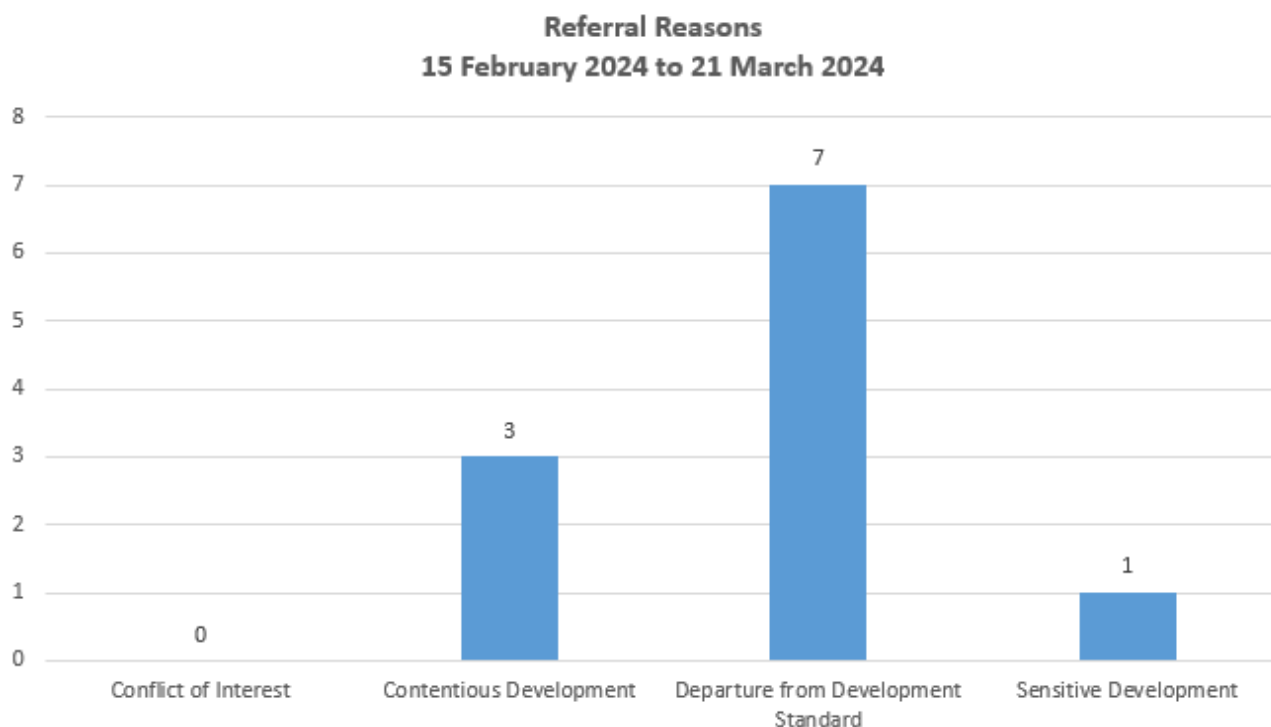


Reasons for Referral to WLLP:

The principal function of the WLPP is to determine local development applications (DAs) that fall within any of the following categories:

- conflict of interest;
- contentious development;
- departure from development standards (> 10%); and
- sensitive development.

The graph below indicates the reason for referral to the WLPP, noting that some applications fall within more than one category. Further details are available in **Attachment 1**.



Attachment 1 presents the Woollahra Local Planning Panel - Register of Planning Decisions, For the period 15 February 2024 to 21 March 2024.

1. Commentary on planning controls:

On 7 September 2020, Council's Environmental Planning Committee resolved, in part, as follows:

- C. *THAT Council requests that future reports include an analysis and commentary on the effectiveness of Council's current planning controls.*

In response to the above resolution, the following points are made:

- In the last review period, the Panel has not provided any feedback nor highlighted any shortcomings in the effectiveness of Council's current planning controls.
- In the event that issues are raised regarding the effectiveness of our current planning provisions, these are communicated to Council's Strategic Team. The Strategic Team will then research best practice, and where appropriate, recommend amendments.

2. Other relevant information – Appointment of Additional Community Representatives to the Local Planning Panel for the interim period March 2024 to 30 June 2024:

A report was tabled to Council at its meeting of 11 March 2024 to appoint additional Community Representatives to the WLPP for the interim period being March 2024 to 30 June 2024.

The Council resolved as follows:

THAT Council:

- A. *Determine and select two additional Applicants to be considered and appointed as Community Representatives subject to their availability for the interim period of March 2024 to June 2024, being:*

- *Mr Ronald Schaffer*
- *Mr Malcolm Young*

Note: *In the event of Mr Ronald Schaffer or Mr Malcolm Young being unavailable to serve on the WLPP Panel as a Community Representative, Ms Vivienne Skinner be appointed as a Community Representative.*

- B. *Based on their availability, delegates authority to the General Manager to appoint Community Representatives for the interim period of March 2024 to 30 June 2024*

- C. *Request the General Manager advise the Department of Planning, Housing and Infrastructure (DPH&I) of the appointed Community Representatives, in accordance with the Panel Member Section Guide for Councils as provided by the DPH&I.*

Both Mr Ronald Schaffer and Mr Malcolm Young, were subsequently appointed as the additional Community Representatives for the interim period.

3. Appeals:

The table below provides a brief snapshot of Applications determined by the Panel where Class 1 Appeals have been finalised within the period January 2024 to March 2024.

DA No.	Property Address	Staff Recommendation	Panel's Decision	L&E Court Decision/Outcome
516/2022	4 Princes Avenue VAUCLUSE	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
136/2023	206B Victoria Road BELLEVUE HILL	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
523/2022	26 Salisbury Road ROSE BAY	Refusal	Refusal	Dismissed
587/2022	30A Russell Street VAUCLUSE	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
166/2023	214-218 Victoria Road BELLEVUE HILL	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
532/2022	4 Tivoli Avenue ROSE BAY	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
552/2022	37 Fitzwilliam Road VAUCLUSE	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
481/2022	440 Edgecliff Road EDGECLIFF	Refusal	Refusal	Upheld with amended plans via a s34 Agreement
290/2023	845 New South Head Road ROSE BAY	Refusal	Approval	Discontinued

Options:

Council may resolve in line with the recommendations as included in this report or, Council may choose to resolve in some other manner.

Community Engagement and / or Internal Consultation:

In preparing this report internal consultation has taken place between the Director Planning & Place and the Manager Development Assessment.

Policy Implications:

Following consideration of this report, WLPP Operational Procedures will be updated.

Financial Implications:

There are no financial implications as a result of this report.


Resourcing Implications:

There are no resourcing implications as a result of this report.

Conclusion:

It is recommended that the Register of Planning Decisions for the period 15 February 2024 to 21 March 2024 be received and noted

Attachments

1. Register of Planning Decisions - 15 February 2024 to 21 March 2024 [!\[\]\(54a282d3ed55c9b1ac66d6fb81d5de2b_img.jpg\)](#) 



Woollahra Local Planning Panel (WLPP)
Register of Planning Decisions 15 February 2024 to 21 March 2024

Meeting Date	Reference	Address	Ward	Proposal	Cost of Works	Referral Reason					Staff Recco	WLPP Decision	Key Planning issues & Commentary	Voting For	Voting Against	Chair	Site Visit (Yes / No)
						Conflict of Interest	Contentious Development	Departure from Development Standard	Pre-Existing	Sensitive Development							
DEVELOPMENT APPLICATIONS																	
15-Feb-24	Public Item - D1 DA245/2023/1	19-27 Bay Street DOUBLE BAY	DOUBLE BAY	Demolition of existing building and construction of a five-storey Commercial Development (retail and restaurant).	\$10,960,000		✓	✓			Approval	Approval	At its meeting of 21 December 2023, the LPP did not consider the DA and deferred the matter on the grounds that the total number of submissions exceeded 10 and could not be dealt as an Electronic Agenda Item. The key planning issues related to breaches of the Height and FSR development standards, DCP Building Envelope non-compliances (i.e. number of storeys, street wall height, building setbacks/depth /articulation), consistency with the Desired Future Character objectives of the Double Bay Centre, traffic, previous Land and Environment Court history and residential/locality impacts (i.e. impacts associated with the restaurant use, traffic, noise, car parking excavation/construction related impacts). Panel's comments: Endorsed the staff recommendation.	Peter Wells Lee Kosnetter Sandra Robinson Andrew Petrie		Peter Wells	Yes
15-Feb-24	Electronic Item - D1 DA234/2023/1	65 Adelaide Street WOOLLAHRA	BELLEVUE HILL	Alterations and additions to existing dwelling house including new second storey addition.	\$703,095			✓			Approval	Approval	The key planning issues related to heritage, design, streetscape presentation/context, breach of the FSR development standard, consistency/compliance with Chapter C2 (Woollahra HCA) of WDCP 2015 and residential amenity impacts (i.e. solar access). Panel's comments: Endorsed the staff recommendation.	Peter Wells Lee Kosnetter Sandra Robinson Andrew Petrie		Peter Wells	Yes
27-Feb-24	Electronic Item - D1 DA290/2023/1	845 New South Head Road ROSE BAY	VAUCLUSE	Demolition of existing structures on the site and construction of a multi-storey RFB.	\$5,759,747					✓	Refusal	Approval	The DA was initially deferred by the LPP at its meeting of 21 December 2023 to enable the Applicant to submit amended plans which addressed the recommended reasons for refusal. Amended plans were submitted on 22 January 2024. A supplementary report was tabled to the LPP electronically on 27 February 2024. Panel's comments: The Panel reviewed the supplementary report dated 27 February 2024 and considered that the initial recommended reasons for refusal had adequately been addressed via the revised plans and /or conditions of consent. The Panel noted the development complied with the key development standards, being Height and FSR, and that the rear setback non-compliance was considered to be a reasonable response to the site's constraints and did not adversely impact on the amenity of adjoining properties. The Panel concluded that all other non-compliances were not sufficient to warrant refusal. The Panel considered that the revised siting of the development was more skilful than the original application and acheived a good planning outcome. Note: The Class 1 Appeal filed on the grounds of deemed refusal was discontinued on 5 March 2024.	Penelope Holloway John McInerney Larissa Ozog Kenneth Raphael		Penelope Holloway	Yes
7-Mar-24	Public Item - D1 DA445/2022/1	1 Vaucluse Road VAUCLUSE	VAUCLUSE	Demolition of the existing dwelling and construction of a new Dual-Occupancy development; swimming pools and landscaping works.	\$4,839,603		✓				Approval	Approval	The key planning issues related to the permissibility of a Dual Occupancy, DCP Building Envelope non-compliances (i.e. floorplate, building setbacks, volume of excavation), streetscape presentation and context, consistency with the Desired Future Character objectives of the precinct and residential amenity impacts (i.e. view loss, privacy, solar access, construction/excavation impacts, traffic/on-street car parking). Panel's comments: Endorsed the staff recommendation, subject to the modification of Condition C1(a) that addressed the height and material finish of the roof.	Helen Lochhead Philippa Frecklington Lee Kosnetter		Helen Lochhead	
7-Mar-24	Electronic Item - D1 DA157/2023/1	6 Hopetoun Avenue VAUCLUSE	VAUCLUSE	The demolition of a dwelling house, the construction of a new dwelling house and swimming pool, landscaping and site works	\$4,047,862			✓			Approval	Approval	The key planning issues related to a breach of the Height development standard, DCP Building Envelope non-compliances (i.e. floorplate, side boundary setbacks, external wall height, volume of excavation, height of primary open space and swimming pool above existing ground level), streetscape presentation and context, consistency with the Desired Future Character objectives of the precinct, landscape character, stormwater disposal and residential amenity impacts (i.e. privacy, sense of enclosure/scale and bulk, construction related impacts, stormwater run-off). Panel's comments: Endorsed the staff recommendation but considered that a deferred commencement condition was the most appropriate mechanism to capture the design amendments required in the staff recommended Condition C1. These design requirements related to stromwater design, landscaping, BASIX and privacy screening.	Helen Lochhead Philippa Frecklington Lee Kosnetter		Helen Lochhead	

Meeting Date	Reference	Address	Ward	Proposal	Cost of Works	Referral Reason					Staff Recco	WLPP Decision	Key Planning issues & Commentary	Voting For	Voting Against	Chair	Site Visit (Yes / No)
						Conflict of Interest	Contentious Development	Departure from Development Standard	Pre-Existing	Sensitive Development							
7-Mar-24	Electronic Item - D2 DA261/2020/4	8 Conway Avenue ROSE BAY	VAUCLUSE	Modification of the approved RFB, including extension and modification to the basement area.	\$0			✓			Approval	Approval	The key planning issues related to the proposed modifications breaching the Height development standard and resultant impacts in terms of streetscape presentation and residential amenity impacts. Panel's comments: Endorsed the staff recommendation.	Helen Lochhead Philippa Frecklington Lee Kosnetter		Helen Lochhead	
7-Mar-24	Electronic Item - D3 DA600/2021/2	27 Wilberforce Avenue ROSE BAY	VAUCLUSE	The removal of an additional Macadamia Tree (Tree 5) from the rear section of the site.	\$0		✓				Approval	Approval	The initial DA was approved by the LPP on 7 July 2022 subject to the inclusion of an additional condition C15 which required the retention of a Macadamia Tree (T5). The subject Modification Application sought the removal of the Macadamia Tree (T5). The key planning issue related to landscape character. Panel's comments: Endorsed the staff recommendation on the grounds the Modification Application was supported by Council's Landscape Officer and the Applicant's position to retain two trees which were originally approved to be removed.	Helen Lochhead Philippa Frecklington Lee Kosnetter		Helen Lochhead	
21-Mar-24	Electronic Item - D1 DA247/2023/1	7 Marine Parade WATSONS BAY	VAUCLUSE	Alterations and additions to an existing semi-detached dwelling including first floor addition.	\$1,208,839			✓			Approval	Approval	The key planning issues related to a breach of the Height development standard, heritage, design, streetscape presentation, consistency/compliance with Chapter C3 (Watsons Bay HCA) of WDCP 2015 and residential amenity impacts (i.e. view loss, privacy, scale/bulk, sense of enclosure). Panel's comments: Endorsed the staff recommendation.	Graham Brown Peter Brennan Megan Jones Kenneth Raphael		Graham Brown	
21-Mar-24	Electronic Item - D2 DA325/2023/1	7 Cranbrook Road BELLEVUE HILL	BELLEVUE HILL	Alterations and additions to the existing dwelling house.	\$702,900			✓			Approval	Approval	The key planning issues related to a breach of the Height development standard, DCP Building Envelope non-compliances (i.e. building setbacks, number of car parking spaces) and design (i.e. the new additions being sympathetic to the design/character of the existing building). Panel's comments: Endorsed the staff recommendation.	Graham Brown Peter Brennan Megan Jones Kenneth Raphael		Graham Brown	Yes
21-Mar-24	Electronic Item - D3 DA338/2022/3	12 Tivoli Avenue ROSE BAY	VAUCLUSE	Internal and external modifications to the approved dwelling house.	\$0			✓			Approval	Approval	The key planning issues related to the existing/approved breach of the FSR development standard being further exacerbated by the proposed modifications (an additional 15m ² in GFA), DCP Building Envelope non-compliances (i.e. boundary setbacks, external wall height) and residential amenity impacts (i.e. privacy, sense of enclosure). Panel's comments: Endorsed the staff recommendation subject to inclusion/modification of Condition C1 which related to privacy measures (i.e. height of privacy screens, window treatments).	Graham Brown Peter Brennan Megan Jones Kenneth Raphael		Graham Brown	Yes
PLANNING PROPOSALS																	
22-Feb-24	Public Item D1	Planning Proposal - 8-10 New McLean Street EDGECLIFF	DOUBLE BAY	To seek the advice of the Woollahra Local Planning Panel in relation to a request for a planning proposal to amend the planning controls that apply to 8-10 New McLean Street, Edgecliff under the Woollahra Local Environmental Plan 2014.	NA						Refusal	Refusal	In summary, the WLPP advised Council not to support the planning proposal. However, note that the site has strategic merit for increased residential. To achieve strategic and site-specific merit, the planning proposal should be consistent with the following: - Maintain the R3 Medium Density Residential zone and remove the proposed commercial uses. - Ensure any height increase provides a transition to Trumper Park and the Paddington HCA. - Refine the height and extent of podiums and towers to avoid adverse impacts on HCA, overshadowing, views and biodiversity. - Insert a no net loss and unit mix clause to support residential growth. - Address inconsistencies in transport studies to mitigate adverse traffic impacts. - Remove the proposed through-site link. - Prepare and exhibit a site specific DCP alongside the planning proposal. - Dedicate 5% of the GFA of the development for affordable housing and the development does not rely on the bonus provisions under the Housing SEPP.	Annelise Tuor John McInerney Heather Warton Graham Humphrey		Annelise Tuor	Yes

Item No: R1 Recommendation to Council
Subject: **488-492 OLD SOUTH HEAD ROAD AND 30 ALBEMARLE AVENUE, ROSE BAY - DRAFT DEVELOPMENT CONTROL PLAN**
Authors: Charmaine Tai, Strategic Planner
Jacquelyne Della Bosca, Executive Planner
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 24/59351
Purpose of the Report: To obtain Council's approval to exhibit an amendment to the Woollahra Development Control Plan 2015 to add a site-specific chapter for land at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay.
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT Council:

- A. Receives and notes the report on provisions for Part G Site-Specific Controls of the *Woollahra Development Control Plan 2015* applying to 488-492 Old South Head Road and t 30 Albemarle Avenue, Rose Bay.
- B. Resolves to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No 27)* as contained at **Attachment 1** of the report to the Environmental Planning Committee of 6 May 2024.

Executive Summary:

The purpose of this report is to obtain Council's approval to exhibit amendments to the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015). The proposed *Draft Woollahra Development Control Plan 2015 (Amendment No 27)* (draft DCP) provides objectives and controls for development of the site at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay (the site).

The site is subject to a proponent-led planning proposal which was on exhibition from 2 April 2024 to 7 May 2024. The planning proposal seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to facilitate redevelopment of the site for a four-storey mixed use development. As part of the planning proposal the proponent provided an indicative development concept comprising a two-level Woolworths supermarket with residential dwellings on the upper levels, and associated parking and loading elements.

The Sydney Eastern City Planning Panel is the *Planning Proposal Authority* (PPA) for the planning proposal and will determine if the LEP amendment will be made.

Should the amendments to the Woollahra LEP 2014 progress, a site-specific DCP should be in place to support the LEP provisions with detailed guidelines on the scale and nature of the built form permissible under the LEP amendment. In response, staff propose amendments to the Woollahra DCP 2015, Part G Site-Specific Controls, as set out in the draft DCP at **Attachment 1**. Staff recommend that Council endorse the draft DCP for public exhibition.

Discussion:

The site

The site is described as 488-492 Old South Head Road (Lot 1 DP 1009799) and 30 Albemarle Avenue, Rose Bay (Lot 30 Section B in DP 4567). It is located on the north-west corner of the intersection of Old South Head Road and Albemarle Avenue, Rose Bay (**Figure 1**).



Figure 1: Aerial photograph of the site and immediate surrounds
(Source: Nearmap, annotated by Council staff)

The site has a total site area of 2,261sqm and is comprised of the two allotments which are both owned by the proponent (Fabcot Pty Ltd/Woolworths Group).

Nos. 488-492 Old South Head Road, Rose Bay is located at the southern end of the Rose Bay South local centre and is zoned MU1 Mixed Use, and No. 30 Albemarle Avenue is zoned R2 Low Density Residential (**Figure 2**). The residential allotment is not within the Rose Bay South centre.

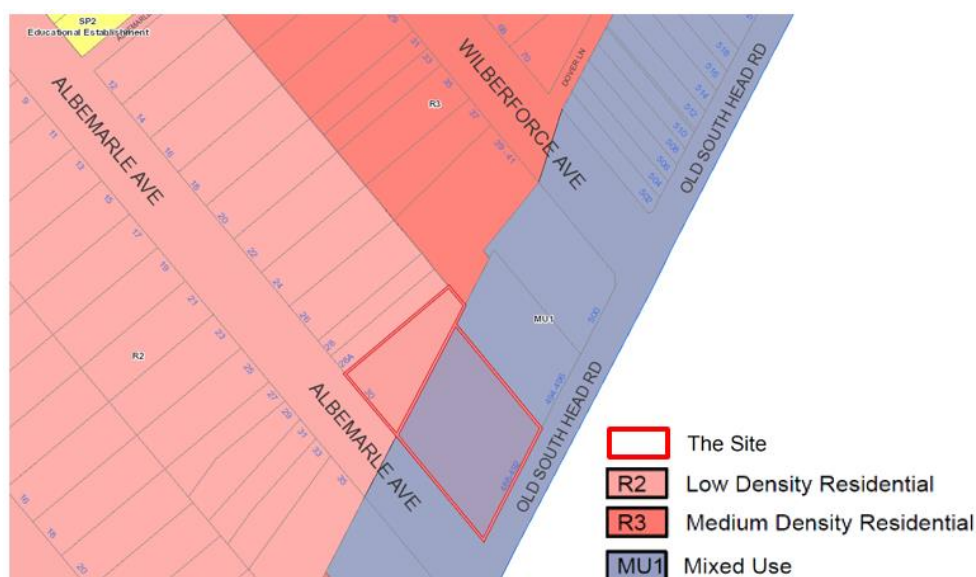


Figure 2: Zoning map of the subject site
(Source: Woollahra GIS Maps)

Land at 488-492 Old South Head Road is the site of the former Caltex service station which was decommissioned in 2020. This property has recently been refurbished, and Woolworths currently operates a click-and-collect grocery service on the land (**Figure 3**). Land at 30 Albemarle Avenue contains a single storey detached residential dwelling with vehicle access from Albemarle Avenue (**Figure 4**).



Figure 3: Photograph of 488-492 Old South Head Road, the former Caltex site
(Source: Council staff)



Figure 4: Photograph of 30 Albemarle Avenue, a single detached residential dwelling
(Source: Google Maps, 2020)

Background

The need for a site-specific draft DCP in relation to land at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay, arises because of a proponent-led planning proposal which seeks to facilitate redevelopment of the site for a four-storey mixed use development.

On 5 May 2022, the planning proposal was lodged with Council. Having considered staff feedback, the proponent submitted a revised planning proposal on 12 April 2023.

Staff assessment of the request for a planning proposal was reported to the Woollahra Local Planning Panel (Woollahra LPP) on 6 July 2023. The Woollahra LPP supported the planning proposal subject to the proponent amending the planning proposal to provide greater clarity and certainty to the outcomes of the proposed LEP changes. In particular, the Woollahra LPP advised Council that the proponent should identify opportunities to further setback the two upper levels of the building from the property boundary of 28A Albemarle Avenue to create an improved interface with the low density residential zone.

In response, the proponent revised the planning proposal, and staff identified that these revisions would improve the interface with the low density residential zone, particularly in relation to privacy and overlooking, and provide greater certainty to the development outcome at this elevation through the Part 6 provisions of the LEP amendment (see **Figure 5**).

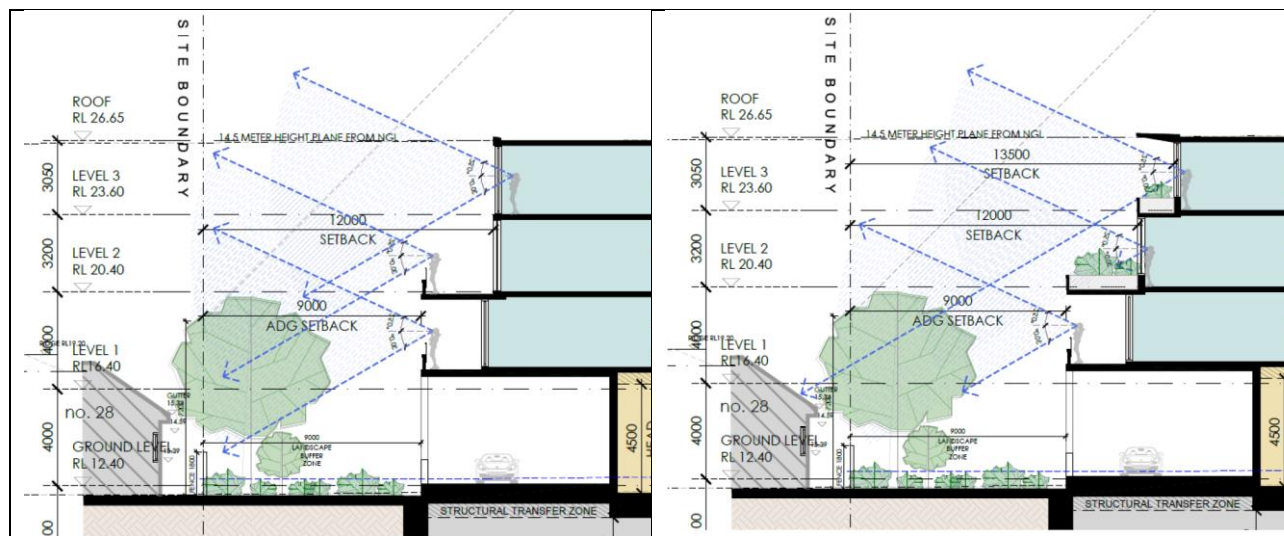


Figure 5: Proposed building setbacks, previous (left) and revised having considered the advice of the Woollahra LPP (right) (Source: Ethos Urban)

Furthermore, the Woollahra LPP advised Council that, should a Gateway determination be received, the planning proposal and any draft Planning Agreement should be publicly exhibited concurrently.

In response to the advice of the Woollahra LPP, the proponent submitted a revised planning proposal on 31 July 2023. The objective of the planning proposal is to facilitate redevelopment of the site to enable a 4-storey mixed use development.

In summary, the planning proposal seeks to amend the Woollahra LEP 2014 to:

- Insert a new clause in *Schedule 1 Additional permitted uses* to permit retail premises at 30 Albemarle Avenue, provided it is part of a shop top housing development at 488-492 Old South Head Road.
- Insert a new Part 6 *Additional local provisions* clause allowing development consent to be granted to a building with a maximum 14.5m height of buildings on 30 Albemarle Avenue, and maximum gross floor area of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.

This clause also establishes building setbacks at varying levels to the western boundary of 30 Albemarle Avenue, an 8m wide deep soil zone and a publicly accessible area fronting Albemarle Avenue, and a requirement that a site-specific development control plan is prepared prior to consent.

To accompany the planning proposal, the proponent provided an indicative development concept for a 4-storey mixed use development comprising a two-level Woolworths supermarket and 14 residential dwellings on the upper levels (L1-3), with associated parking and loading elements. The indicative development concept that could be facilitated by the proposed amendments is shown in **Figure 6**.



Figure 6: Albemarle Avenue indicative development concept (Source: Ethos Urban)

The revised planning proposal was considered by the Environmental Planning Committee on 7 August 2023 (see **Attachment 2**) and on 14 August 2023, Council resolved the following:

- A. *THAT Council refuse the planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay for the following reasons:*
1. *traffic and traffic congestion;*
 2. *congestion caused by the close proximity of the proposal to the local public school of more than 500 students and its drop off and pick up zone;*
 3. *insufficient transition area between the development and the R2 residential zone and no certainty that any proposed transition zone will be maintained with appropriate vegetation and trees in future;*
 4. *dominance in the streetscape and inconsistency with proximate R2 residential zone given the significant bulk and scale of the proposed development which intends to utilise the 30m frontage of the R2 residential block;*
 5. *need for protection of the very limited R2 zone in the Rose Bay area;*
 6. *lack of consideration for development of a proposal on a smaller footprint, being the footprint that currently exists and is zoned for that use;*
 7. *lack of consideration of the surrounding area which is well serviced by supermarkets and grocery stores; and*
 8. *not in the public interest as demonstrated by the petition tabled at this Council meeting, which demonstrates community concern with the size of the proposal.*
- B. *THAT should the applicant submit a Rezoning Review to the Department of Planning and Environment, that the community submissions (including the petition and any late correspondence) are submitted by staff as part of the Council documentation.*

On 6 September 2023, the DPHI received a rezoning review request (RR-2023-20) for the site. On 1 November 2023, the Sydney Eastern City Planning Panel (SECPP) considered the proponent's request for a rezoning review. Contrary to the Council recommendation, the SECPP supported the proposal being submitted for a Gateway determination because they considered it demonstrated strategic and site specific merit. The SECPP was appointed as the PPA.

In February 2024, the DPHI released a Gateway determination report which considered the details of the planning proposal and recommended that the planning proposal should proceed for the following reasons (see **Attachment 3**):

- *It demonstrates strategic merit as it is consistent with the objectives and directions of the Eastern City District Plan, Woollahra Local Strategic Planning Statement and Woollahra Local Housing Strategy.*
- *It would facilitate additional housing, commercial and employment opportunities on a site, which is accessible to public transport and services, and would complement Council's vision to revitalise the Rose Bay South local centre as an intimate, connected and thriving place that supports the needs of the community and businesses.*
- *It has site-specific merit as the future development is capable of achieving adequate urban design outcomes and would contribute to the regeneration of Rose Bay South centre.*

It is noted that the scale of the proposed concept remains in keeping with the four storey desired future character envisaged under the Woollahra DCP 2015. The additional permitted use on 30 Albemarle Avenue provides for improvements in the distribution of bulk and scale and site access, while also allowing for a better transition between the R2 Low Density Residential and MU1 Mixed Use zones, irrespective of the proposed 732 m2 additional GFA (21% increase) across the two sites.

Based on the assessment in this report, the proposal is to be amended prior to community and agency consultation to:

- *Remove the local provisions relating to building setbacks, deep soil landscaped areas, a publicly accessible area, and a site specific DCP.*

On 23 February 2024, the DPHI issued a Gateway determination (see **Attachment 4**) which contained a number of conditions. These conditions included that the planning proposal should be revised prior to public exhibition to address the following:

- remove the requirement for a Site-Specific Development Control Plan*
- remove proposed local provisions relating to setbacks, deep soil landscaped areas and a publicly accessible area (pocket park)*
- update the planning proposal timeframes.*

It is unclear as to why the DPHI removed from the LEP amendment some of the site-specific controls that Council staff had negotiated with the proponent to address issues such as the adjoining residential amenity, or why they had removed the requirement for a site-specific DCP for the site.

Notwithstanding Council's concerns in relation to this amendment, the planning proposal was placed on public exhibition from **2 April 2024** to **7 May 2024**. This exhibition process is being managed by the DPHI, and all submissions should be made directly to the DPHI. The exhibition webpage is available here:

<https://www.planningportal.nsw.gov.au/ppr/under-exhibition/planning-proposal-pp-2022-731-amend-woollahra-local-environmental-plan-2014>

A copy of the factsheet that accompanied the exhibition is at **Attachment 5**.

Draft DCP

In response to the Gateway determination, staff re-commenced discussions with the proponent regarding the provisions of a site-specific DCP. Notwithstanding that a site-specific DCP is no longer required by the proposed LEP amendments, the proponent supported its preparation and that it should include those detailed matters that were removed from the Woollahra LEP 2014 by the DPHI, such as building setbacks to 28A Albemarle Avenue.

Staff have prepared the draft DCP (see **Attachment 1**). The plan has been informed by:

- the proponent's site-specific DCP prepared by Ethos Urban which formed part of the supporting documents that accompany the planning proposal request,
- matters raised in the report and recommendations of the Environmental Planning Committee on 7 August 2023, Woollahra Local Planning Panel 6 on July 2023, and Staff Assessment Report, dated June 2023
- Council's resolution of 14 August 2023
- DPHI's Gateway determination report, with particular consideration of the setback provisions that were removed from the planning proposal.

The draft DCP will support and enhance the amended Woollahra LEP 2014 controls applying to the site and provide clarity on the scale and nature of the built form under those amendments.

The DCP provisions are to be included as Chapter 9 in Part G: Site Specific Controls, and apply only if land at 488-492 Old South Head Road and 30 Albemarle Avenue are developed together. These site-specific provisions will supplement the existing provisions in Woollahra DCP 2015, including particularly Part D: Chapter D2 Mixed Use Centres (Rose Bay South), and Part D: Chapter D3 General Controls for Neighbourhood and Mixed Use Centres.

The draft DCP addresses the site and its context, including:

- Desired future character – facilitates a built form that is consistent with the desired future character of the site and surrounding area, and includes detail on how the development can be located and designed to fit within its context.
- Built form – specifies height in storeys, setbacks, articulation zones, and façade design.
- Uses – sets a maximum GFA of 2,400m² for non-residential uses, and a minimum dwelling yield of 10 apartments that comprises a mix of dwelling sizes.
- Ground level active frontage – incorporates active frontages along Old South Head Road and Albemarle Avenue through retail uses and building entrances.
- Separation zone and landscaping – incorporates a separation zone to protect the amenity of the adjoining property at 28A Albemarle Avenue; deep soil landscaped area, tree canopy, and promoting crime prevention through environment design within the separation zone.
- Vehicular access and servicing – addresses safety and amenity of the vehicle access and loading area.
- Site facilities – minimises impacts of mechanical plant equipment and any electricity substation.
- Ecologically sustainable development – specifies a minimums 4 Green Star design and as-built rating for the development.

The draft DCP is provided at **Attachment 1**.

At the time of preparing this report, the planning proposal to which the draft DCP relates has been placed on public exhibition but not determined. Should the planning proposal proceed to finalisation, it is prudent that site-specific DCP provisions are in place to guide new development. To that end, staff recommend proceeding with the draft DCP to ensure development controls are in place either prior or shortly after the Woollahra LEP 2014 amendment is made.

Voluntary Planning Agreement

The proponent has expressed an intention to enter into a Voluntary Planning Agreement (VPA) for the site. The negotiations are currently in progress and are being managed by Council's Director Infrastructure and Sustainability, consistent with Council's VPA policy. For probity, matters relating to the VPA will be reported to Council separately for consideration.

Options:

As a consequence of this report Council may resolve to do one of the following:

1. Endorse for public exhibition the *Draft Woollahra DCP 2015 (Amendment No 27)* at **Attachment 1**.
2. Request staff to amend the *Draft Woollahra DCP 2015 (Amendment No 27)* at **Attachment 1** before it is placed on public exhibition.
3. Not make any changes to the Woollahra DCP 2015.
Staff do not recommend this option as it means that there would be no site-specific DCP in place should the proponent seek to lodge a development application for the site.

If Council supports the proposed amendments to the Woollahra DCP 2015, the next step is to exhibit the draft DCP. The process for amending a DCP is set out in the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, and the *Woollahra Community Participation Plan 2019*.

Community Engagement and / or Internal Consultation:

The draft DCP has been prepared in consultation with staff from Council's Development Assessment team, Engineering Services and Open Space & Trees. The proponent for the planning proposal also provided comment on the draft DCP.

If supported, the draft DCP must be publicly exhibited for a minimum of 28 days.

The exhibition would include the following:

- Notices in the Wentworth Courier newspaper;
- A page on Council's Your Say Woollahra webpage;
- Notification letters/emails sent to the following government agencies and community groups:
 - Transport for NSW; and
 - Rose Bay Action Group.
- Notification to the owner.
- Notifications to surrounding properties (including people who have previously made submissions to Council on this matter).

The outcome of the public exhibition of the draft DCP will be reported to a future meeting of Council.

Policy Implications:

Should Council resolve to progress the draft DCP, there will be policy implications as the Woollahra DCP 2015 will be amended.

Financial Implications:

Should Council resolve to progress the draft DCP, there will be no financial implications beyond the cost of facilitating the public exhibition.

Resourcing Implications:

Should Council resolve to progress the draft DCP, staff resources will be associated with managing the public exhibition and preparing a post-exhibition report to a meeting of Council.

Conclusion:

Council staff have prepared a draft DCP in response to the exhibition of the planning proposal for 488-492 New South Head Road and 30 Albemarle Avenue, Rose Bay. The draft DCP provides detailed guidance to help ensure that development suitably responds to the site and its context, including addressing building design, street activation, setbacks, landscaping, privacy, and the maximum non-residential gross floor area that may be achieved on the site.

At the time of preparing this report, the planning proposal relating to the site has been placed on public exhibition but not determined. However, should the planning proposal proceed to finalisation, it is prudent that site-specific DCP provisions are in place to guide and inform the future development.

Staff recommend that Council resolve to exhibit the draft DCP contained in **Attachment 1**.

Attachments

1. Draft Woollahra Development Control Plan (Amendment No 27) [↓](#) 
2. Report to the Environmental Planning Committee meeting of 7 August 2023
(Attachments removed) [↓](#) 
3. DPHI Gateway determination report, February 2024 [↓](#) 
4. Gateway determination, 23 February 2024 [↓](#) 
5. DPHI Fact Sheet to accompany the exhibition of the planning proposal, February 2024
[↓](#) 



Draft Woollahra Development Control Plan 2015 (Amendment No 27)

Prepared Date:	May 2024
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning and Place
HPE CM Record Number:	24/59685

Acknowledgment of Country

Woollahra Council acknowledges that we are on the land of the Gadigal and Birrabirragal people, the Traditional Custodians of the land. We pay our respects to Elders past, present and emerging.

Contents

Part 1 Preliminary	4
1.1 Background	4
1.2 Name of plan	4
1.3 Objectives of the plan.....	5
1.4 Land to which this plan applies	5
1.5 Relationship of this plan to the Act, Regulation and other plans or environmental planning instruments	5
1.6 Approval and commencement of this plan.....	5
1.7 How this plan amends Woollahra DCP 2015.....	5
Part 2 Amendments to Woollahra Development Control Plan 2015.....	6
Chapter A1 Introduction.....	6
2.1 Amendments to clause A1.4 List of amendments	6
Part G: Site-Specific Controls.....	6
2.2 Insert New Chapter G9 – 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay.....	6

Woollahra Development Control Plan 2015 (Amendment No 27)

Part 1 Preliminary

1.1 Background

Woollahra Development Control Plan 2015 (Amendment No 27) (Draft DCP) applies to land at 488-492 Old South Head Road (Lot 1 DP 1009799) and 30 Albemarle Avenue (Lot 30 Section B DP 4567), Rose Bay, but only if the two lots are developed together, hereafter referred to as 'the site'.

This draft DCP seeks to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) by introducing Chapter G9 to incorporate controls and objectives to address matters including the building design, street activation, setbacks, landscaping, privacy, and the maximum non-residential gross floor area that may be achieved on the site.

The site is owned by Fabcot Pty Ltd/ Woolworths Group. Land at 488-492 Old South Head Road is located at the southern end of the Rose Bay South centre. It is zoned MU1 Mixed Use in *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) and is the site of the former Caltex service station which was decommissioned in 2020. Land at 30 Albemarle Avenue is zoned R2 Low Density Residential and contains a single storey dwelling house. To the north-west, it adjoins a semi-detached dwelling at 28A Albemarle Avenue, Rose Bay (Lot 1 DP 204141).

The site is the subject of a proponent-led planning proposal which seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to facilitate redevelopment of the site for a four-storey mixed use development. As part of the planning proposal the proponent provided an indicative development concept comprising a two-level Woolworths supermarket with residential dwellings on the upper levels, and associated parking and loading elements.

The planning proposal amends the Woollahra LEP 2014 to:

- Insert a new clause in *Schedule 1 Additional permitted uses* to permit "retail premises" at 30 Albemarle Avenue, provided it is as part of a shop top housing development at 488-492 Old South Head Road.
- Insert a new clause in *Part 6 Additional local provisions* that applies only if 488-492 Old South Head Road and 30 Albemarle Avenue are developed together, and that:
 - Allows a maximum Gross Floor Area (GFA) of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.
 - Amends the maximum Height of Building (HOB) development standard on 30 Albemarle Avenue from 9.5m to 14.5m.

1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 27)*.

1.3 Objectives of the plan

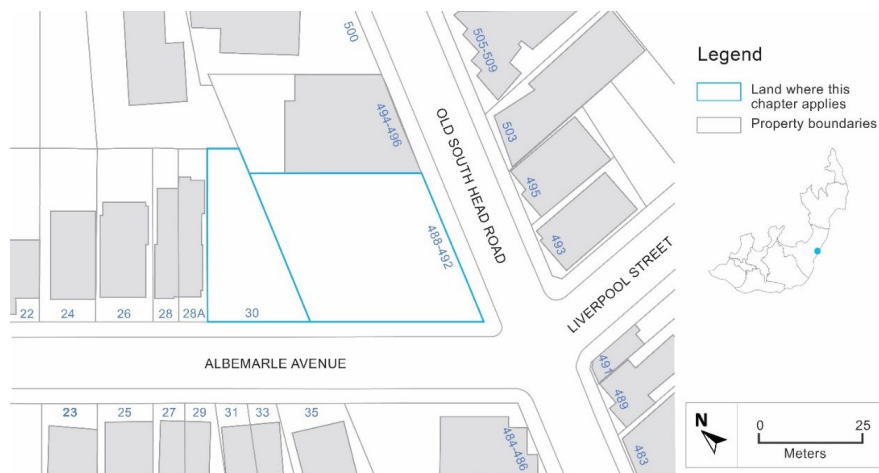
The objective of the plan is establish site specific controls for redevelopment of the site for a 4-storey mixed use development comprising a supermarket, residential apartments and associated parking and loading.

The provisions have regard to the site and its context, and seek to address impacts that could result from the redevelopment, including addressing the building design, street activation, setbacks, landscaping, privacy and the maximum non-residential gross floor area that may be achieved on the site.

The controls supplement existing general controls in other parts of the Woollahra DCP 2015.

1.4 Land to which this plan applies

This plan applies to the land identified on the map at Figure 1 (the site). The site comprises 488-492 Old South Head Road (Lot 1 DP 1009799) and 30 Albemarle Avenue (Lot 30 Sec B DP4567), Rose Bay. The plan applies only if both lots are developed together.



1.5 Relationship of this plan to the Act, Regulation and other plans or environmental planning instruments

This plan has been prepared under Part 3, Division 3.6 of the *Environmental Planning and Assessment Act 1979* and Part 2, Division 2 of the *Environmental Planning and Assessment Regulation 2021*.

The Woollahra LEP 2014 applies to land to which this plan applies. In the event of an inconsistency between this plan and the Woollahra LEP 2014, the Woollahra LEP 2014 prevails.

1.6 Approval and commencement of this plan

This plan was approved by Woollahra Council on TBC and came into effect on TBC.

1.7 How this plan amends Woollahra DCP 2015

This plan amends Woollahra DCP 2015 in the manner set out in Part 2 of this plan.

Part 2 Amendments to Woollahra Development Control Plan 2015

This plan amends Woollahra DCP 2015 in the following manner:

Insertions – identified in blue and underlined
Deletions – ~~identified in red and strikethrough~~

Chapter A1 Introduction

2.1 Amendments to clause A1.4 List of amendments

2.1.1 Insert at the end of the clause

Amendment	Date of approval and Commencement	Description of amendment
<u>No 27</u>	<u>Date approved – TBC</u> <u>Date commenced - TBC</u>	<u>Amend Part G, by inserting Chapter G9 - 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay and introducing controls and objectives to address environmental and other amenity impacts that could result from the future development of the site.</u>

Part G: Site-Specific Controls

2.2 Insert New Chapter G9 – 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

Chapter G9
488-492 Old South Head Road and
30 Albemarle Avenue
Rose Bay

Part G ► Site-Specific Controls

CHAPTER G9 APPROVED ON TBC
AND COMMENCED ON TBC

Chapter G9 ► 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

Contents

G8.1 INTRODUCTION.....	2
G8.1.1 Background.....	2
G8.1.2 Land where this chapter applies.....	2
G8.1.3 Development to which this chapter applies.....	3
G8.1.4 Objectives.....	3
G8.1.5 Relationship to other parts of the DCP	4
G8.2 DEVELOPMENT CONTROLS.....	5
G8.2.1 Desired future character	5
G8.2.2 Built form	6
G8.2.3 Uses	8
G8.2.4 Ground level active frontage	9
G8.2.5 Separation zone and landscaping	9
G8.2.6 Vehicular access and servicing	11
G8.2.7 Site facilities.....	12
G8.2.8 Ecologically sustainable development	12

G8.1 Introduction

G8.1.1 Background

This chapter of Woollahra DCP addresses land at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay, if developed together. This land is proposed to be redeveloped for a 4-storey mixed use development containing a supermarket, residential apartments, and parking including direct-to-boot dedicated car spaces.

Land at 488-492 Old South Head Road is located at the southern end of the Rose Bay South centre, it is zoned MU1 Mixed Use in *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) and is the site of a former Caltex service station which has been decommissioned.

Land at 30 Albemarle Avenue is zoned R2 Low Density Residential and contains a single storey dwelling house. To the north-west, it adjoins a semi-detached dwelling known as 28A Albemarle Avenue, Rose Bay being Lot 1 DP 204141.

The land was subject to a planning proposal that amends the Woollahra LEP 2014 to:

- Insert a new clause in *Schedule 1 Additional permitted uses* to permit “retail premises” at 30 Albemarle Avenue, provided it is part of a shop top housing development at 488-492 Old South Head Road.
- Insert a new clause in *Part 6 Additional local provisions* that applies only if 488-492 Old South Head Road and 30 Albemarle Avenue are developed together, and that allows:
 - A maximum Gross Floor Area (GFA) of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.
 - An increased Height of Building development standard from 9.5m to 14.5m on 30 Albemarle Avenue, Rose Bay.

This chapter includes provisions to establish additional controls to guide redevelopment on the land having regard to the context, including addressing building design, street activation, setbacks, landscaping, privacy and the maximum non-residential gross floor area that may be achieved on the site.

G8.1.2 Land where this chapter applies

This site specific chapter applies to the land identified on the map at Figure 1 (the site). The land comprises 488-492 Old South Head Road (Lot 1 DP 1009799) and 30 Albemarle Avenue (Lot 30 Sec B DP4567), Rose Bay.

The plan applies only if both lots are developed together.

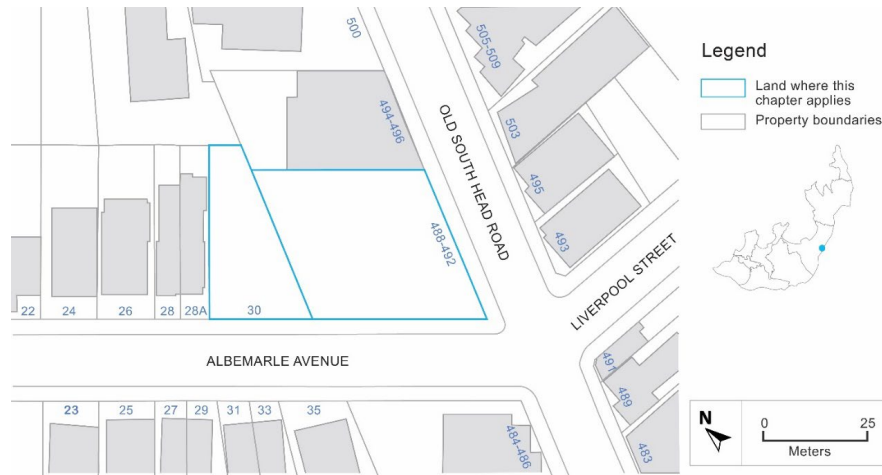


FIGURE 1 The site

G8.1.3 Development to which this chapter applies

This chapter applies to development requiring consent under the *Woollahra Local Environmental Plan 2014*.

G8.1.4 Objectives

The objectives of this chapter are to ensure that development on the site:

- O1 Supports growth of the Rose Bay South centre through provision of a new supermarket and new dwellings.
- O2 To positively contribute to the architectural design and character in the Rose Bay South centre.
- O3 Provides active frontages to Old South Head Road and Albemarle Avenue.
- O4 Incorporates a high standard of landscape design to encourage urban greening, contribute to the streetscape, and soften the visual impact of the built form.
- O5 Has a scale, bulk and design that respects the adjoining and nearby residences and the low scale streetscape character of Albemarle Avenue, particularly in terms of the building setback, articulation and transition of building height.
- O6 Does not unreasonably compromise the amenity of adjoining and nearby residences having regard to visual and acoustic privacy, landscape setting, and separation between the building and 28A Albemarle Avenue.
- O7 Minimises traffic and parking impacts on Old South Head Road, Albemarle Avenue and surrounding streets.

G9 | 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

► Part G | Site-Specific Controls

G8.1.5 Relationship to other parts of the DCP

This chapter is to be read in conjunction with other relevant parts of the DCP, including:

- Part D: Chapter D2 Mixed Use Centres (Rose Bay South)
- Part D: Chapter D3 General Controls for Neighbourhood and Mixed Use Centres
- Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.

In the event of an inconsistency between this site-specific chapter and the other chapters, this chapter prevails.

Note: Where land at 488-492 Old South Head Road and 30 Albemarle Avenue are developed together, Chapter B1 Residential Precincts and Chapter B3 General Development Controls do not apply.

► G9 pg.4

Draft May 2024
Woollahra Development Control Plan 2015

G8.2 Development Controls

G8.2.1 Desired future character

Objectives

- O1 To facilitate a built form that is consistent with the desired future character of the site and surrounding area.

Controls

- C1 Development on the site must align with the following:
- A building of no more than four storeys;
 - Active street frontages along Old South Head Road and Albemarle Avenue;
 - Articulated facades that contribute to the visual interest of the building and the character of the local area;
 - Respect the landscape character and low scale residential character of Albemarle Avenue, by providing building setbacks, height transition and a landscape setting;
 - Planting and a deep soil zone to soften its interface with the adjoining residential uses on Albemarle Avenue;
 - A diverse range of apartment sizes;
 - A single residential entry from the Albemarle Avenue frontage only; and
 - No vehicular access from Old South Head Road.

Note: The desired future character of the Rose Bay South centre is described in Part D: Chapter D2 of the Woollahra DCP 2015.

G8.2.2 Built form

Objectives

- O1 To provide a built form that is well defined and of a scale that creates a coherent street wall to Old South Head Road, and suitably addresses its prominent corner site position.
- O2 To use building setbacks and articulation to reduce the apparent bulk of the building.
- O3 To incorporate high quality façade design and finishes.
- O4 To establish setbacks to reduce overlooking and building bulk.
- O5 To provide a separation zone between the building and 28A Albemarle Avenue.
- O6 To enable deep soil planting in the setbacks and ensure deep soil landscaped area is achieved.
- O7 To provide for attractive and comfortable pedestrian areas while retaining important street trees.

Controls

- C1 Development is a maximum four storeys.
- C2 The building design is to be a high quality contemporary structure, and may include defined horizontal and vertical elements, façade arches and curved edges to reduce perceived building bulk and contribute to the architectural quality and aesthetic of the building.
- C3 The minimum setbacks from Old South Head Road and Albemarle Avenue are:
 - At Ground Level and Level 1 - 0m from the street boundary.
 - At Level 2 - 0m from the street boundary with a minimum 3m articulation zone from the street boundary.
 - At Level 3 - 3m from the street boundary with a minimum 2m articulation zone from Old South Head Road and 2.5m articulation zone from Albemarle Avenue.

The articulation zone is to be occupied by balconies, planter boxes, terrace landscaping and weather protection/awnings only. Weather protection/awnings, if any, must not increase building bulk and the prominence of the two upper levels.

Refer to Figures 2 and 3 for setbacks and articulation zone.

- C4 The minimum setbacks from the building at 494-496 Old South Head Road (SP 75026) are:
 - At Ground Level and Level 1 - 0m from the north-western boundary.
 - At Level 2 -
 - 0m from the north-western boundary where a blank wall adjoins MU1 mixed use zoned land.
 - 10m between habitable rooms/balconies and non-habitable rooms.

- At Level 3 -
 - 7m between non-habitable rooms.
 - 10m between habitable rooms/balconies and non-habitable rooms.
 - 13m between habitable rooms/balconies.

Refer to Figure 3 for setbacks.

- C5 The minimum setbacks from the north-western boundary that adjoins 28A Albemarle Avenue (Lot 1 DP 204141) are:

- At Ground Level and Level 1 - 9m to the building.
- At Level 2 - 9m to the building and 12m to any habitable rooms/balconies.
- At Level 3 - 12m to the building and 13.5m to any habitable rooms/balconies.

The articulation zone is to be occupied by planter boxes, terrace landscaping, and weather protection/awnings only. Balconies, terraces or the like are not permitted in this articulation zone.

Weather protection/awnings, if any, must not increase building bulk and the prominence of the two upper levels.

Refer to Figure 2 for setbacks and articulation zone.

- C6 Basement walls and any piling (or similar structural elements) must be setback at least 8m from the north-western boundary that adjoins 28A Albemarle Avenue.

A variation to the 8m setback may be considered to accommodate underground plant and services, but only if the minimum consolidated deep soil landscaped area and tree canopy cover specified in Section G8.2.5 Separation zone and landscaping is achieved.

- C7 Awnings are provided along Old South Head Road and Albemarle Avenue retail frontages. The awnings are to be designed and installed to retain and protect street trees.

- C8 Wet weather protection is to be provided at entrances.

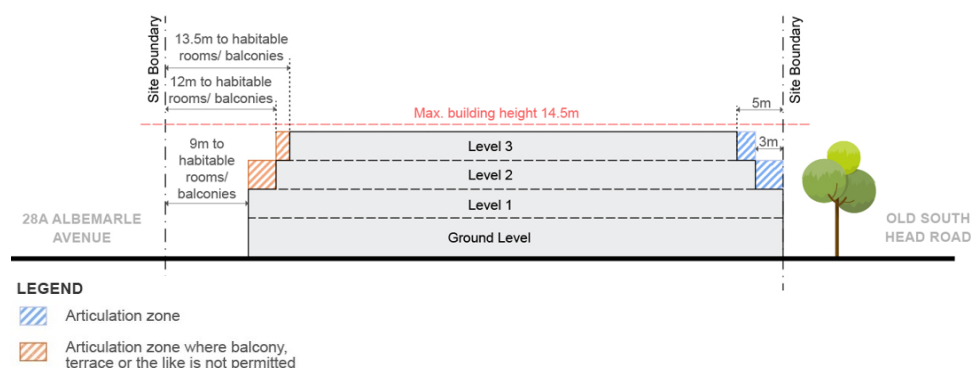


FIGURE 2 Old South Head Road and north-western setbacks

G9 | 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

► Part G | Site-Specific Controls

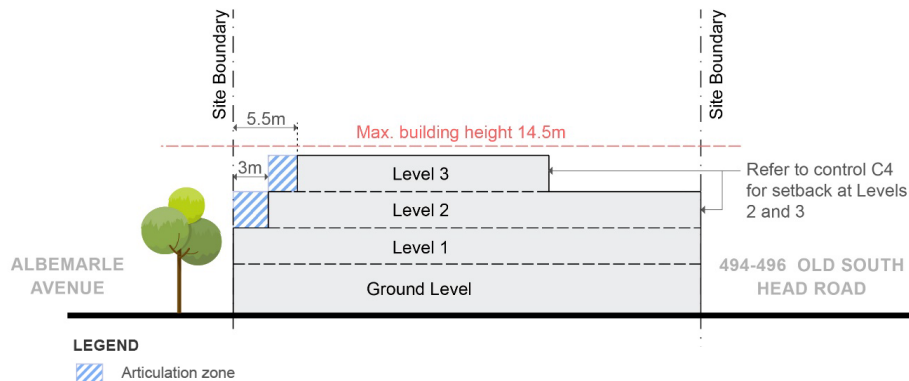


FIGURE 3 Albemarle Avenue & north-eastern setbacks

G8.2.3 Uses

Objectives

- O1 To provide an appropriate mix of residential and non-residential land uses that reinforce the mixed use character of the Rose Bay South centre.
- O2 To facilitate a supermarket that meets the day-to-day goods and services needs of the local community.
- O3 To establish a limit on the non-residential floor space to ensure commercial activities do not have unacceptable traffic or other environmental impacts.
- O4 To achieve a minimum dwelling yield to contribute to housing growth
- O5 To promote housing choice through providing a mix of unit dwelling sizes.
- O6 To achieve good levels of residential amenity for residents and neighbours.

Controls

- C1 No more than 2,400m² of the gross floor area of the development is used for non-residential uses.
- C2 The residential component of the development achieves a minimum dwelling yield of 10 apartments and comprises a mix of Studio/1 Bedroom, 2 Bedroom, and 3 or more Bedroom dwellings.
- C3 Residential uses are located on the upper levels and achieve a high degree of amenity in accordance with the Housing SEPP Chapter 4 and the Apartment Design Guide.

► G9 pg.8

Draft May 2024
Woollahra Development Control Plan 2015

G8.2.4 Ground level active frontage

Objectives

- O1 To facilitate development that is compatible with the desired future character of Rose Bay South centre and respects the landscape and low scale residential character of Albemarle Avenue.
- O2 To reinforce the site's prominent corner location.
- O3 To ensure the built form design elements and uses improve street level activation along Old South Head Road as a primary frontage and enhance the quality of the site's presentation to Albemarle Avenue.

Controls

- C1 At the ground floor, the building is designed for retail uses on the primary street frontage including key corner location of Old South Head Road and Albemarle Avenue.
- C2 Active frontages are provided to Old South Head Road and Albemarle Avenue, through uses such as shopfronts and building entries.
- C3 Separate entrances are provided to the residential and commercial uses. Access to the residential component is from Albemarle Avenue.
- C4 The building façade must be designed to contribute to the street and remains highly transparent and activated. It must not present blank walls onto streets.

G8.2.5 Separation zone and landscaping

Objectives

- O1 To protect the amenity of the adjoining R2 Low Density Residential land at 28A Albemarle Avenue.
- O2 To avoid an unreasonable sense of enclosure by providing an appropriate separation zone between the building and 28A Albemarle Avenue.
- O3 To incorporate deep soil landscaping within the separation zone to:
 - maximise opportunities for screen planting to enhance the amenity of the surrounding residential area,
 - contribute to the leafy setting of the residential streetscape along Albemarle Avenue, and
 - contribute to urban greening and enhancing tree canopy cover within the locality.
- O4 To ensure that the separation zone is a safe environment by promoting crime prevention through environmental design (CPTED).

G9 | 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

► Part G | Site-Specific Controls

-
- O5 To ensure fences and walls contribute positively to the Albemarle Avenue streetscape and adjacent residential dwellings.
- O6 To integrate planting to the façade of the building to enhance the appearance, amenity and energy efficiency of the building.
- O7 To provide for on-site stormwater absorption.

Controls

- C1 A minimum 9m wide separation zone is provided from the north-western boundary.
- C2 The separation zone accommodates:
- a deep soil landscaped area which is:
 - at least 10% of the total site area, and
 - designed to provide a consolidated area with a minimum width of 8m, measured from the north-western boundary;
 - at least two medium sized canopy trees to achieve a minimum combined tree canopy of 40m²;
 - screen planting along the full length of the boundary that directly adjoins 28A Albemarle Avenue; and
 - a mix of dense hedge and feature planting, shrubs and trees that help soften and screen the development interface with the adjacent residential dwelling.

Refer to Figure 4.

- C3 Tree canopy area is at least 10% of the total site area.
- C4 Building design incorporates opportunities for planting on structures and within the facade. Design solutions may include green roofs, green walls and planter boxes.
- C5 Landscaping is provided within the communal open space.
- C6 Landscaping and other planting includes drought tolerant Australian native plants.
- C7 Street level landscaping is provided along Old South Head Road and Albemarle Avenue.
- C8 The separation zone provides opportunities for active and passive surveillance, and incorporates the CPTED principles into design including provision of lighting and CCTV.
- C9 The area beyond the building line of 28A Albemarle Avenue is secured by fencing or other security measures to restrict public access. Refer to Figure 4.
- C10 The side and rear fences do not exceed 1.8m in height.
- C11. On the Albemarle Avenue frontage, any front fences and gates do not exceed 1.2m if solid or 1.5m if 50% transparent or open.
- C12 The design and materials of fences and gates are compatible with the building.

► G9 pg. 10

Draft May 2024
Woollahra Development Control Plan 2015

► Part G | Site-Specific Controls G9 | 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

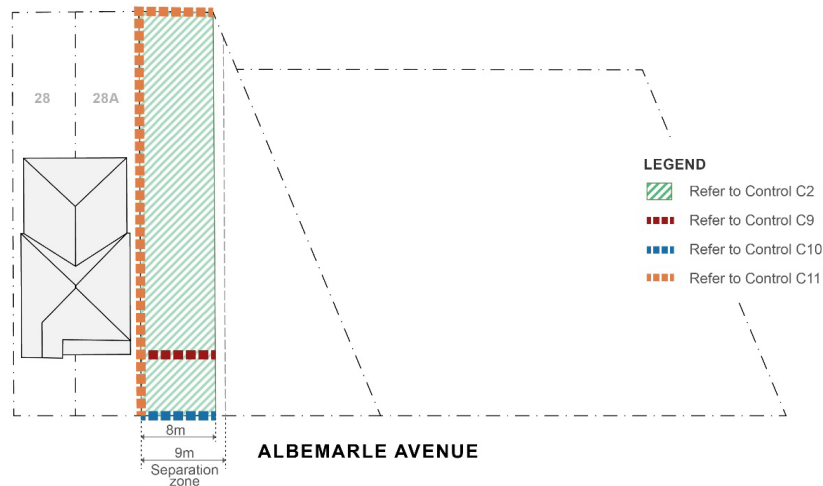


FIGURE 4 Separation zone, deep soil landscaped area and fences

G8.2.6 Vehicular access and servicing

Objectives

- 01 To ensure the safe and efficient movement of vehicles within, entering and leaving the site.
- 02 To provide servicing entry and egress points on the site which minimise disruption to the surrounding road networks.
- 03 To minimise the visual and other amenity impacts of the car parking and loading dock on the surrounding properties and public domain.
- 04 To provide sufficient accessible and safe public and private car parking for development on the site.
- 05 To provide continuous active retail street frontages and protect street trees along Old South Head Road.

Controls

- C1 Development complies with the provisions in Part E of the DCP, Chapter E1 Parking and Access. The parking multiplier for non-residential uses applies to the whole development site including 30 Albemarle Avenue, Rose Bay.
- C2 Access to on-site car parking and servicing facilities is provided off Albemarle Avenue. No vehicular access is permitted off Old South Head Road.
- C3 Vehicle access points and building entrances must be separate and clearly defined to avoid pedestrian and vehicular conflicts.

Draft May 2024
Woollahra Development Control Plan 2015

► G9 pg. 11

-
- C4 The loading dock must be fully enclosed with a door and is no larger than the dimensions required for functional operation.
- C5 Automated doors for car parking, loading areas and loading docks are designed to provide effective noise reduction. The use of these facilities must not give rise to noise which exceed 5dB(A) above the background sound level when measured at the façade of the nearest residential property.
- Note: Conditions of consent may restrict the operation of the loading dock to specified hours.
- C6 A development application must be accompanied by a Traffic and Parking Report and a Car Parking and Loading Dock Plan of Management which assess potential traffic and safety impacts including truck movements to the site and considers timing of deliveries.

G8.2.7 Site facilities

Objectives

- O1 To ensure that site facilities are accessible and functional, and do not have a negative impact on the streetscape or amenity of adjoining residential dwellings.
- O2 To avoid locating mechanical plant equipment on the rooftop.
- O3 To ensure any required substation is not visible from the street.

Controls

- C1 Mechanical plant equipment is located and designed to maintain and protect the visual and acoustic amenity of the adjoining residential properties.
- C2 If an electricity substation is required, the substation is to be provided as a basement chamber substation.
- C3 All plant and equipment must be concealed from the exterior and not detract from the streetscape.

G8.2.8 Ecologically sustainable development

Objectives

- O1 To contribute to ecologically sustainable development, including net positive carbon emissions.

Controls

- C1 The building achieves a minimum a 4 Green Star design and as-built rating.

Notes: The provisions in Part E of the DCP, Chapter E6 Sustainability also apply.

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

Item No: R2 Recommendation to Council
Subject: **PLANNING PROPOSAL - 488-492 OLD SOUTH HEAD ROAD & 30 ALBEMARLE AVENUE, ROSE BAY AND REPORTING THE ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL**
Authors: Charmaine Tai, Strategic Planner
Jacquelyne Della Bosca, Executive Planner
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 23/119844
Purpose of the Report: To provide Council with the advice of the Woollahra Local Planning Panel on a planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay.
To recommend that Council progress the planning proposal.
Alignment to Delivery Program: Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

Recommendation:

THAT

- A. Council note the advice provided by the Woollahra Local Planning Panel on 6 July 2023 regarding the planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay.
- B. Council endorse the planning proposal as contained in **Attachment 1** of the report to the Environmental Planning Committee of 7 August 2023 to amend the *Woollahra Local Environmental Plan 2014* and resolve to forward this to the Department of Planning and Environment with a request for Gateway determination to allow public exhibition.
- C. Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environment plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.
- D. Any planning agreement proposed by the proponent be prepared in accordance with the adopted *Woollahra Voluntary Planning Agreement Policy 2020*.
- E. Should a Gateway determination be received, the planning proposal, a site-specific draft development control plan and any draft planning agreement should be publicly exhibited concurrently.
- F. The applicant pays the relevant site specific development control plan fee as identified in Council's adopted Fees and Charges for 2023/24.

Executive Summary:

Council received a developer-initiated planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to facilitate redevelopment of the two sites for a four-storey mixed use development comprising a two-level mid-sized Woolworths supermarket with residential dwellings on the upper levels (L1-3), and associated parking and loading elements.

A detailed assessment of the planning proposal was undertaken by Council staff and in summary, staff considered that the planning proposal had strategic and site-specific merit

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

(see **Attachment 2**). This assessment was presented to the Woollahra Local Planning Panel (Woollahra LPP) on 6 July 2023 (see **Attachment 3**).

The Woollahra LPP generally supports the planning proposal but advised Council to seek further details in relation to the proposed open space area and how it will be managed, identifying opportunities to further setback the proposed building at levels three and four from the property boundary of 28 Albemarle Avenue, and to consider any potential for an affordable housing contribution. The proponent has suitably addressed these matters and has updated the planning proposal in response.

In summary, staff recommend that Council resolve to endorse the planning proposal as contained in **Attachment 1** of the report to the Environmental Planning Committee of 7 August 2023, and resolve to forward this to the *Department of Planning and Environment* (DPE) with a request for a Gateway determination to allow public exhibition.

Discussion:

The site

The site is described as 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay. It is located on the north-west corner of the intersection of Old South Head Road and Albemarle Avenue, Rose Bay (**Figure 1**).



Figure 1: Aerial photograph of the site and immediate surrounds
(Source: Nearmap, annotated by Council staff)

The site has a total site area of 2,261sqm and is comprised of the following two allotments which are both owned by the proponent:

Allotment	Legal description	Approximate area
488-492 Old South Head Road, Rose Bay	Lot 1 in DP 1009799	1,555sqm
30 Albemarle Avenue, Rose Bay	Lot 30, Section B in DP 4567	706sqm

Table 1: Description of subject site

Nos. 488-492 Old South Head Road, Rose Bay is located at the southern end of the Rose Bay South local centre and is zoned MU1 Mixed Use, and No. 30 Albemarle Avenue is zoned R2 Low Density Residential (**Figure 2**). The residential allotment is not within the Rose Bay South local

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

centre. Land at 488-492 Old South Head Road is the site of the former Caltex service station which was decommissioned in 2020. This allotment currently contains a disused fuel canopy, hardstand, signage and a convenience store. The fuel bowisers have been removed and a temporary hoarding erected around the perimeter (**Figure 3**). Land at 30 Albemarle Avenue contains a single storey detached residential dwelling with vehicle access from Albemarle Avenue (**Figure 4**).

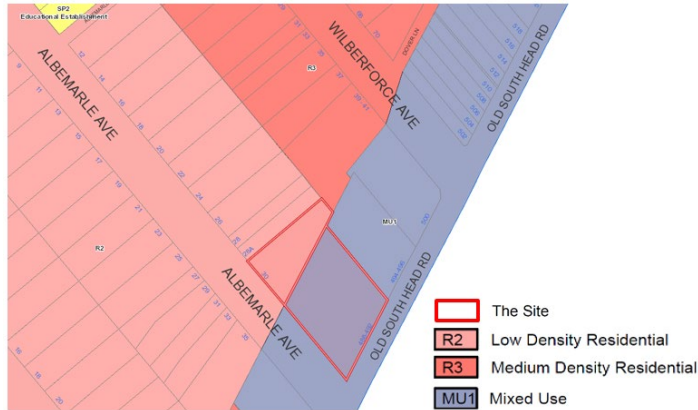


Figure 2: Zoning map of the subject site
(Source: Woollahra GIS Maps)



Figure 3: Photograph of 488-492 Old South Head Road, the former Caltex site
(Source: Ethos Urban)



Figure 4: Photograph of 30 Albemarle Avenue, a single detached residential dwelling
(Source: Google Maps, 2020)

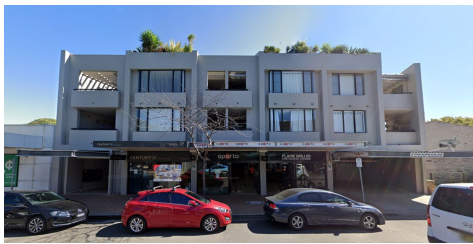
Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

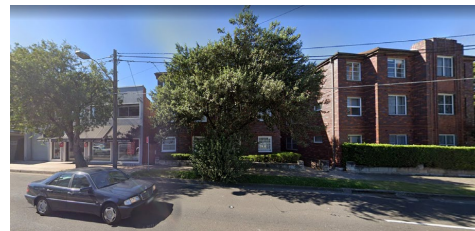
Surrounding development

The site is partially located in the Rose Bay South local centre which contains a broad range of shops and services for the local community. The centre is bisected by Old South Head Road, with land to the west in the Woollahra LGA (zoned MU1 Mixed Use) and land to the east in the Waverley LGA (zoned E1 Local Centre).

Development surrounding the site comprises a range of mixed use developments, shop top housing and low-density residential dwellings ranging from one to three storeys in height (see **Figures 5 – 8**). The Rose Bay Public School is approximately 130m to the west along Albemarle Avenue. The Royal Sydney Golf Club (a local heritage item) is approximately 300m to the west of the subject site.



*Figure 5: Existing development immediately to the north along Old South Head Road
(Source: Google Maps, 2020)*



*Figure 6: Existing development immediately to the east across Old South Head Road
(Source: Google Maps, 2021)*



*Figure 7: Existing development immediately south / south-east along Old South Head Road
(Source: Google Maps, 2021)*



*Figure 8: Existing residential development immediately west along Albemarle Avenue
(Source: Google Maps, 2021)*

Background

Council staff met with the proponent on three occasions on 20 October 2021, 7 December 2021 and 1 February 2021 prior to the proponent submitting the request for a planning proposal. Council staff provided minutes of the pre-application meetings and documented issues for the applicant to address prior to submitting a formal request to Council. A copy of the minutes accompanying the Staff Assessment Report is provided at **Attachments 7 and 8**.

On 5 May 2022, the proponent submitted a formal request for a planning proposal (hereafter referred to as 'superseded planning proposal') to amend the Woollahra LEP 2014 to facilitate a four storey mixed use development on the site (PP-2022-731).

Council's planning staff commenced an assessment of the planning proposal and identified a number of issues. These included questions about the appropriateness of the proposed use of amendments to the Woollahra LEP 2014, the complexity of the proposed height controls, the method used to calculate and determine the requested GFA, and a misalignment between the requested provisions in the planning proposal and the indicative development concept.

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

In response to the staff feedback, the proponent submitted a revised planning proposal on 12 April 2023. Council staff assessed the planning proposal with reference to the NSW Department of Planning and Environment's (DPE) *Local Environmental Plan Making Guideline* (September 2022). The Staff Assessment report is provided at **Attachment 2**.

Council's planning staff have undertaken internal and external consultation to inform the assessment of the planning proposal. The parties consulted and their responses are discussed in the Staff Assessment report at **Attachment 2**. Council also commissioned an independent review by SCT Consulting and Leyson Consulting to inform the traffic and economic impacts associated with the planning proposal. See **Attachments 5 and 6**.

In summary, staff considered that the planning proposal has strategic merit in the context of the region, district and local planning objectives. The planning proposal also demonstrates site-specific merit. The built form likely to result from the amended controls will align with the scale of surrounding developments, and position new residential and commercial floor space in an appropriate location.

The planning proposal was referred to the Woollahra LPP on 6 July 2023 for advice (see **Attachment 3**). In preparing the report to the Woollahra LPP, staff recommended a number of administrative amendments to the planning proposal. These are summarised below:

- Amend *Schedule 1 Additional permitted uses* wording to ensure that development for the purpose of a retail premises at 30 Albemarle Avenue only occurs as part of a shop top housing.
- Amend *Part 6 Additional local provisions* by:
 - Insert a subclause to specify the maximum building height of 14.5m at 30 Albemarle Avenue. Addressing the building height in Part 6 (and not clause 4.3 as requested by the proponent) will mean that the 14.5m height will only apply if the land is redeveloped with land at 488-492 Old South Head Road. The underlying 9.5m maximum building height standard will otherwise remain unchanged.
 - delete references to public seating and bicycle parks. These are not key planning controls and are more suitably addressed in the site-specific DCP and
 - identify that the site-specific DCP is to include a minimum residential yield. This reflects Council policy to encourage a reasonable net dwelling yield on redevelopment site.

In summary, staff recommend that the Woollahra LPP advises Council to proceed with the draft planning proposal, subject to various amendments to the drafting of the proposed LEP provisions which seek to provide greater clarity and certainty to the application of the proposed LEP changes.

Advice of the Woollahra Local Planning Panel

Local Planning Panels (LPPs) are panels of independent experts that determine development applications on behalf of Council and provide advice on other planning matters, including planning proposals. Under the Act, LPPs are mandatory for all Sydney councils and are put in place so the process of assessment and determination of development as applications with a high corruption risk, sensitivity or strategy importance is transparent and accountable.

The planning proposal was referred to the Woollahra LPP on 6 July 2023 (see **Attachment 3**). Having considered the report, the Woollahra LPP generally supported the planning proposal and the amendments recommended by staff but advised Council to seek further details in relation to certain matters. These additional matters are identified in green and underlined in the advice from the Woollahra LPP below:

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

- A. *THAT the Woollahra Local Planning Panel advises Council that it generally supports the planning proposal to proceed for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay at **Attachment 1** subject to the proponent amending the planning proposal to provide greater clarity and certainty to the outcomes of the proposed LEP changes.*
- B. *THAT the Woollahra Local Planning Panel advises Council to:*
- i. seek further details in relation to the open space area between 28 Albemarle and the development site, and how it will be designed and managed;*
 - ii. liaise with the applicant to identify opportunities to further setback the building at levels three and four from the property boundary of 28 Albemarle Avenue to create an improved interface with the low density residential zone.*
- C. *THAT subject to A and B above and any changes in response to Part B, the Woollahra Local Planning Panel notes that the planning proposal should be amended by the proponent in the following manner:*

Insert a new Schedule 1 Additional permitted use as below:

Use of certain land at 30 Albemarle Avenue, Rose Bay

- 1) *This clause applies to land at 30 Albemarle Avenue, Rose Bay, being Lot 30, Section B in DP 4567.*
- 2) *Development for the purpose of a retail premises is permitted with development consent, but only as part of shop top housing.*
- 3) *Development consent must not be granted for the uses specified in subclause (2) unless the land at Lot 30, Section B in DP 4567 is developed in conjunction with land at 488-492 Old South Head Road, Rose Bay, being Lot 1 in DP 1009799.*

Insert a new Part 6 Additional local provisions as set out below:

Development of land at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

- 1) *The objectives of this clause are:*
 - a) *to enable a mixed-use development comprising commercial and residential uses to be delivered on the subject land;*
 - b) *to prevent a mixed use development outcome on the subject land that is inconsistent with the requirements set out in this clause; and*
 - c) *to ensure the redevelopment of the subject land will not have a detrimental adverse impact on the amenity and character and character of the surrounding area.*
- 2) *This clause applies to Lot 1 in DP 1009799 at 488-492 Old South Head Road and Lot 30, Section B in DP 4567 at 30 Albemarle Avenue, Rose Bay.*
- 3) *Development consent must not be granted under this clause unless the development comprises both identified allotments as the total site area.*
- 4) *Despite clause 4.3, the maximum height of a building on Lot 30, Section B in DP4567 at 30 Albemarle Avenue, Rose Bay must not exceed 14.5m.*
- 5) *Despite clauses 4.4 and 4.4B, the development must not exceed a maximum gross floor area of 4,200m² across the site, comprising:*
 - a) *a maximum gross floor area of 480m² on Lot 30, Section B in DP 4567; and*
 - b) *a maximum gross floor area of 3,720m² on Lot 1 in DP 1009799.*
- 6) *Development consent must not be granted unless a building setback is provided within the site for the full length of Lot 30 Section B I DP4567 providing for –*
 - a) *A minimum width of 9m as measured from the north-western side boundary to the outer wall of the building;*
 - b) *A substantial, unencumbered deep soil landscaped area within this zone with a minimum width of 8m; and*
 - c) *A publicly accessible area fronting Albemarle Avenue.*

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

- 7) *Development consent must not be granted for development on land to which this clause applies unless a development control plan has been prepared for the land that provides at a minimum for the following –*
- a) *urban character statement,*
 - b) *building envelope and built form controls, including the following –*
 - i. *building massing,*
 - ii. *building setbacks,*
 - iii. *height of building in storeys,*
 - iv. *façade articulation*
 - v. *overlooking*
 - c) *land use provisions, including minimum residential yield*
 - d) *vehicular access and servicing arrangements,*
 - e) *landscaping and deep soil zones,*
 - f) *flood management,*
 - g) *management of environmental impacts, including overshadowing and visual and acoustic privacy,*
 - h) *ecologically sustainable development.*
- D. *THAT the Woollahra Local Planning Panel notes that the proponent is in discussion with relevant Council staff regarding a Voluntary Planning Agreement (VPA) for the sites and that the planning proposal should be amended by the proponent to include a reference to these discussions, and that Council should consider the potential for an Affordable Housing contribution be made to Council.*
- E. *THAT the Woollahra Local Planning Panel advises Council that, should a Gateway determination be received, the planning proposal and any draft Planning Agreement should be publicly exhibited concurrently.*

Response to key matters identified by the Woollahra Local Planning Panel

In response to the advice of the Woollahra LPP (and those comments highlighted in green and underlined above) the proponent submitted a revised planning proposal on 31 July 2023 as contained in **Attachment 1**. The proponent's response to the Woollahra LPP is at section 1.3 of the planning proposal. A summary of the key information provided is set out below with staff comments.

Open space between 28 Albemarle Avenue and subject site

The Woollahra LPP recommends that the proponent provide further details in relation to the open space area between 28 Albemarle and the development site, and how it will be designed and managed. The proponent has updated the planning proposal to include the following response:

"The detailed delivery of this space will be resolved in a future development application.

However, for completeness, the Proponent confirms that the open space within the western separation zone is intended to be retained as common property under the ownership of the strata plan for the development. The future strata plan will be responsible for maintaining this piece of open space.

The Proponent has committed to prioritise advanced plantings within the deep soil zone to promote a local increase in tree canopy coverage. The design intent for the separation zone is to limit public accessibility to the front, street-facing portion, in line with CPTED principles and to mitigate any privacy or acoustic concerns with rear private open space areas of the adjoining residential locality. The open space separation zone will accommodate all necessary detailed design measures to achieve this including retaining walls, fencing, lighting and CCTV provisions to ensure a

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

welcoming and safe space. Hedge style planting will appropriately mitigate visual concerns to the neighbouring property and will promote the 'green' focus of the space.

The area fronting Albemarle Avenue (which will be publicly accessible), will be enhanced with elements such as seating/benches together with potential for bike parking. These detailed issues will be resolved at the DA stage.” (Planning Proposal section 1.3, page 11)

Council planning staff note that the majority of the land is intended to be retained as private land, and supports this approach. Design matters can be addressed in the site-specific DCP, the future DA, and conditions of consent.

Setback of building at levels three and four from the property boundary of 28 Albemarle Avenue

The Woollahra LPP recommends that the proponent identify opportunities to further setback the building at levels three and four from the property boundary of 28 Albemarle Avenue to create an improved interface with the low density residential zone.

In response to this issue, the proponent states:

“In order to provide more certainty of a future outcome aligned with the revised Indicative Reference Scheme, additional site-specific objectives are proposed to be inserted within Part 6 and worded to ensure redevelopment of the subject land will not have a detrimental adverse impact on the amenity and character of the surrounding residential area by way of the incorporation of a publicly accessible open space zone and specific built form considerations.” (Planning Proposal section 1.3, page 12)

Having considered the advice of the Woollahra LPP, the additional objectives (shown in red below) to clause 6.9 *Development of land at 488-492 Old South Head Rd and 30 Albemarle Avenue, Rose Bay* are shown below in subclause 1)d) and e):

Part 6 additional local provision

6.9 Development of land at 488-492 Old South Head Rd and 30 Albemarle Avenue, Rose Bay

- 1) The objectives of this clause are:
 - a) to enable a mixed-use development comprising commercial and residential uses to be delivered on the subject land;
 - b) to prevent a mixed use development outcome on the subject land that is inconsistent with the requirements set out in this clause;
 - c) to ensure the redevelopment of the subject land will not have a detrimental adverse impact on the amenity and character of the surrounding area;
 - d) to ensure the redevelopment outcome incorporates a deep soil separation zone; and
 - e) to ensure built form is appropriately setback from the north-western side boundary.

Figure 9: Extract of revised planning proposal - LEP amendment, clause 6.9 Objectives
(Source: Ethos Urban)

The proponent states:

“Further, the future development is proposed to be regulated through the strengthening of building separation control through the requirement to achieve minimum separation to the north-western side boundary to the outermost projection of the proposed building of 9m at the first and second floor levels and 12m at the third floor level. Additional minimum setbacks to habitable rooms and balconies are required of 12m at the second floor and 13.5m at the third floor.” (Planning Proposal section 1.3, page 12)

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

Accordingly, the proponent has revised the controls in clause 6.9, subclause 6) to amend subclause 6a) and insert subclauses 6)b), c) and d) as follows (with the changes shown in red and changes in response to the staff recommendation are shown in blue):

- 6) Development consent must not be granted unless a building setback is provided within the site for the full length of Lot 30 Section B in DP4567 providing for—
- a) a minimum setback width of 9m at the ground level as measured from the north-western side boundary to the ~~outer wall of the~~ building, including the following –
 - i. A substantial, unencumbered deep soil landscaped area within this zone with a minimum width of 8m,
 - ii. A publicly accessible ~~paved~~ area fronting Albemarle Avenue ~~that includes public seating and bicycle parks,~~
 - b) a minimum setback to the building of 9m, as measured from the north-western side boundary at the first floor level,
 - c) a minimum setback to the building of 9m, as measured from the north-western side boundary at the second floor level, with a minimum setback of 12m to habitable rooms and balconies,
 - d) a minimum setback to the building of 12m, as measured from the north-western side boundary at the third floor level, with a minimum setback of 13.5m to habitable rooms and balconies,

Figure 10: Extract of revised planning proposal - LEP amendment, clause 6.9 setbacks
(Source: Ethos Urban)

To illustrate the revised objectives and controls, the proponent has revised the Indicative Reference Scheme to illustrate the above amendments including:

- *Level 2 – relocation of the side facing balcony to provide a primary northern and southern outlook for future apartments at this level and replacement of the previous 3m wide balcony zone with a non-trafficable green planter box; and*
- *Level 3 – reduction in floorspace in the uppermost level through the 1.5m increase in the building separation zone to the west and the incorporation of a 1.5m wide, non-trafficable green planter box.*

Council staff recommend that the revisions shown in the Indicative Reference Scheme at **Figure 11** below suitably respond to the issues raised by the Woollahra LPP. In particular, replacing the balconies with non-trafficable green planter boxes at Levels 2 and 3, increases the separation to the habitable areas and therefore reduces overlooking and improves privacy. These revisions at **Figure 11** compares the interface of the Indicative Reference Scheme in section format, with the original scheme (top) and the revised scheme (bottom).

Council staff support the additional objectives for clause 6.9 and find that the setbacks depicted in the Indicative Reference Scheme are suitably reflected in subclause 6.9)6) as set out in **Figures 9 & 10** above. The setbacks in the revised Indicative Reference Scheme and the proponent's intention for "the prioritisation of a planted western façade" as shown in the indicative visualisation of the Revised Reference Scheme in the Planning Proposal page 13 will also be reflected in the site-specific DCP.

In summary, staff identify that these revisions will improve the interface with the low density residential zone, particularly in relation to privacy and overlooking, and provide greater certainty to the development outcome at this elevation through the Part 6 provisions of the LEP.

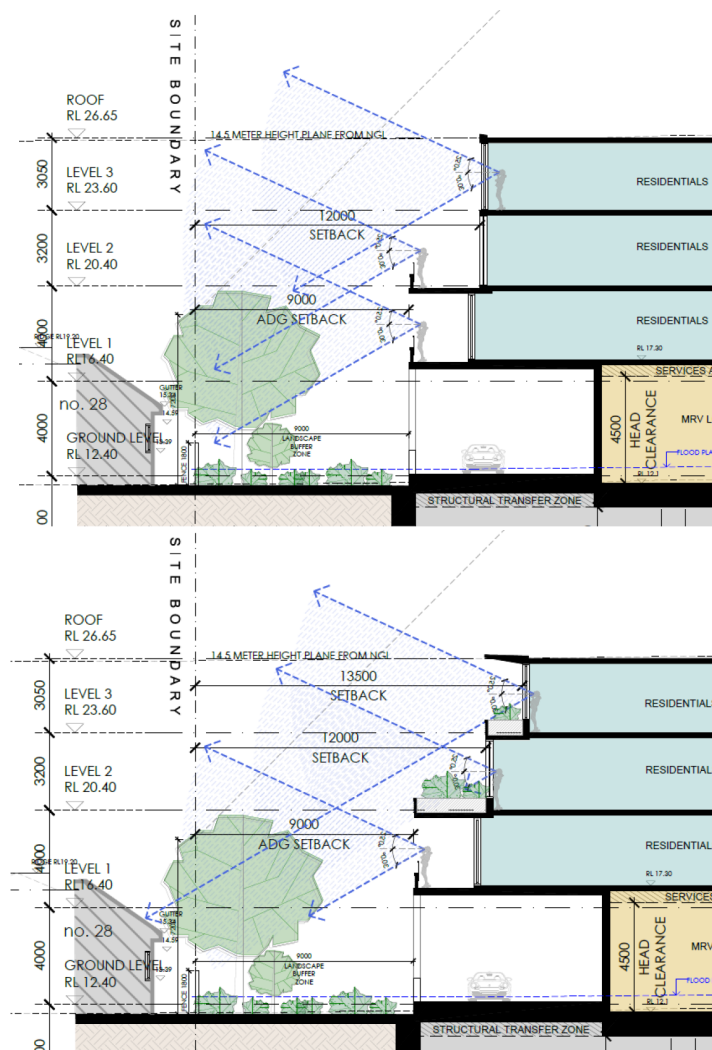


Figure 11: Proposed building setbacks, previous (top) and revised having considered the advice of the Woollahra LPP (bottom) (Source: Ethos Urban)

Consider potential for an Affordable Housing contribution to Council

The Woollahra LPP noted that the proponent is in discussion with relevant Council staff regarding a Voluntary Planning Agreement (VPA) for the sites and recommended that the planning proposal include a reference to these discussions, and that Council should consider the potential for an Affordable Housing contribution be made to Council.

In response, the proponent advises that:

"The Proponent has made an indicative letter of offer to enter into a Voluntary Planning Agreement with Council in conjunction with the proposed planning control amendments. This process is being addressed separately by an independent assessor appointed by Council to manage the appraisal process. The detail of these discussions is kept separate from the Planning Proposal and a probity advisor has been appointed in this regard." (Planning Proposal section 1.3, page 14)

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

Council staff note the under the adopted Woollahra VPA Policy, development contributions authorised by a planning agreement are to be used for a public purpose. The term “public purpose” is defined in the policy, and covers a range of matters including the provision of (or the recoupment of the cost of providing) affordable housing.

Any negotiations in relation to a VPA are being managed by Council’s Director Infrastructure and Sustainability, and for probity reasons will be reported to Council independently of the planning proposal consistent with Council’s VPA Policy.

Planning proposal

The planning proposal as contained in **Attachment 1** seeks to amend the Woollahra LEP 2014 to facilitate redevelopment of the two sites for a four-storey mixed use development comprising a two-level mid-sized Woolworths supermarket with residential dwellings on the upper levels (L1-3), and associated parking and loading elements.

The planning proposal requests amendments to the Woollahra LEP 2014, which are summarised as follows:

- Insert a new *Schedule 1 Additional permitted use* provision applicable to 30 Albemarle Avenue, Rose Bay, to permit shop top housing.
- Insert a new Part 6 *Additional local provisions* clause allowing development consent to be granted to a building with a maximum 14.5m height of buildings on 30 Albemarle Avenue, and maximum gross floor area of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.

This clause also establishes building setbacks at varying levels to the western boundary of 30 Albemarle Avenue, an 8m wide deep soil zone and a publicly accessible area fronting Albemarle Avenue, and a requirement that a site-specific development control plan is prepared prior to consent.

The documents provided with the proponent’s planning proposal request are available on Council’s website at the link below. This includes an indicative development concept to illustrate the built form that could be achieved under the LEP provisions in the planning proposal. **Attachment 4** contains a list of these documents.

<https://www.woollahra.nsw.gov.au/488-492-old-south-head-road-and-30-albermarle-avenue-rose-bay>

The planning proposal has been prepared in accordance with section 3.33 of the Act and the document prepared by the NSW Department of Planning and Environment titled *Local Environmental Plan Making Guideline* (September 2022).

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

Options:

As a consequence of this report, the EPC may:

- Provide advice to Council to proceed with the planning proposal in the manner requested by the proponent; or
- Request the proponent make amendments to the planning proposal; or
- Provide advice to Council not to proceed with the planning proposal.

Community Engagement and / or Internal Consultation:

The proponent undertook consultation in 2021 to inform the preparation of their planning proposal. This included a letterbox drop to over 2,600 neighbouring businesses and residents, an online survey, community workshops and a project website. A summary is provided in the proponent's Planning Proposal Report (section 5.3, **Attachment 1**) and the proponent's Consultation Outcomes Report, available on Council's website. Also, in June 2023 the proponent circulated a Factsheet (**Attachment 9**) to advise the local community about the revised planning proposal.

Council's planning staff have undertaken internal and external consultation to inform the assessment of the planning proposal. The parties consulted and their responses are discussed in the Staff Assessment report at **Attachment 2**.

It is noted that when the matter was considered at the meeting of the Woollahra LPP on 6 July 2023, the following presented to that meeting: Councillor Witt, Mark Skurnik on behalf of the Rose Bay Action Group, Daniel Barber on behalf of the Rose Bay Action Group, and nearby residents Frank Fernia and Tracy Newfield.

If the planning proposal receives a Gateway determination, surrounding landowners and the wider community (including those who addressed the Woollahra LPP) will be notified via the exhibition process. Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2021*, the *Woollahra Community Participation Plan 2019* and any conditions of the Gateway determination.

Policy Implications:

Should Council resolve to progress the planning proposal (having considered the advice of the Woollahra LPP), and should it progress to finalisation, there will be policy implications as controls for the subject properties will change under the Woollahra LEP 2014. A site-specific draft DCP will also need to be prepared (and exhibited concurrently with the planning proposal) and if adopted it will amend the Woollahra DCP 2015.

Financial Implications:

The proponent has paid a lodgement fee in accordance with Council's adopted Fees and Charges.

The proponent is required to pay a fee for the preparation of a site-specific DCP should a subsequent Gateway determination be granted by the DPE. These fees are identified in Council's adopted Fees and Charges for 2023/24.

Any planning agreement proposed by the proponent will be prepared in accordance with the adopted *Woollahra Voluntary Planning Agreement Policy 2020* and the associated costs will be met by the proponent.

Woollahra Municipal Council
Environmental Planning Committee

07 August 2023

Resourcing Implications:

Should Council resolve to progress the planning proposal (having considered the advice of the Woollahra LPP), staff resources will be associated with progressing a planning proposal, including the preparation of the site-specific draft DCP (based on the proponent's site-specific DCP submitted with the planning proposal), managing the public exhibition, analysing submissions and preparing a post exhibition report to a meeting of Council.

Conclusion:

Council has received a developer initiated planning proposal to amend the planning controls for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay. The Woollahra LPP advises Council that it generally supports the planning proposal, notwithstanding identifying matters requiring attention to which the proponent has now addressed.

Council staff find that the planning proposal has strategic and site specific merit, and recommends that Council proceeds with the planning proposal at **Attachment 1** in the manner set out in the report recommendation.

Attachments

1. Planning Proposal prepared by Ethos Urban - 31 July 2023
2. Staff Assessment Report - June 2023
3. Report to the Woollahra LPP meeting of 6 July 2023 (excluding attachments)
4. List of documents provided by proponent
5. Economic Impact Assessment Peer Review prepared by Leyson Consulting
6. Transport Assessment Peer Review prepared by SCT Consulting
7. Pre-application consultation minutes, meeting 1 – 12 November 2021
8. Pre-application consultation minutes, meeting 2 – 15 December 2021
9. Woolworths Rose Bay Fact Sheet prepared by Ethos Urban



IRF24/146

Gateway determination report – PP-2022-731 (RR-2023-20)

488 – 492 Old South Head Road and 30 Albemarle
Avenue, Rose Bay

February 2024



NSW Department of Planning, Housing and Infrastructure | dphi.nsw.gov.au

Published by NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

Title: Gateway determination report – PP-2022-731 (RR-2023-20)

Subtitle: 488 – 492 Old South Head Road and 30 Albemarle Avenue, Rose Bay

© State of New South Wales through Department of Planning, Housing and Infrastructure 2024. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Housing and Infrastructure as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (February 2024) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Housing and Infrastructure), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Site description and surrounding area.....	2
1.4	Explanation of provisions	5
1.5	Mapping.....	6
1.6	Local planning panel (LPP) recommendation.....	6
1.7	Sydney Eastern City Planning Panel recommendation	7
1.8	Background	7
2	Need for the planning proposal	9
3	Strategic assessment	9
3.1	District Plan	9
3.2	Local.....	11
3.3	Section 9.1 Ministerial Directions	13
3.4	State environmental planning policies (SEPPs)	18
4	Site-specific assessment	20
4.1	Environmental.....	20
4.1.1	Urban design	20
4.1.2	Traffic and parking	24
4.2	Social and economic.....	24
4.2.1	Supermarket floor space.....	24
4.3	Infrastructure	25
4.3.1	Community infrastructure	25
5	Consultation.....	28
5.1	Community	28
5.2	Agencies.....	28
6	Timeframe	28
7	Local plan-making authority	28
8	Assessment summary	28
9	Recommendation.....	29

Table 1 | Reports and plans supporting the proposal.

Relevant reports and plans
A – Rezoning Review prepared by Ethos Urban on behalf of the proponent Fabcot Pty Ltd (Woolworths Property Group) (September 2023)
B –Planning Proposal Report prepared by Ethos Urban (Revised, December 2023)
C - Social and Economic Impact Assessment
D – Urban Design Study
E – Site-Specific Development Control Plan
F –Transport Assessment
G – Landscape Report
H – Flooding Assessment
I - Stakeholder Engagement Consultation Report
J – Survey Plan
K – Arboricultural Impact Appraisal
L – Noise Impact Assessment
M – Waste Management Plan
N – Remediation Action Plan

1 Planning proposal

1.1 Overview

Table 2 | Planning proposal details

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Planning Proposal at 488-492 Old South Head Road and 30 Albemarle, Avenue Rose Bay
NUMBER	PP-2022-731 (RR-2023-20)
LEP TO BE AMENDED	Woollahra Local Environmental Plan (LEP) 2014
ADDRESS	488-492 Old South Head Road and 30 Albemarle, Avenue Rose Bay
DESCRIPTION	Lot 1 DP1009799 Lot 30 Section B DP4567
RECEIVED	12/12/2023
Estimated NO. DWELLINGS	14 dwellings in total (13 dwellings additional)
FILE NO.	EF23/12516 (IRF24/146)
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives and intended outcomes of the planning proposal are to facilitate redevelopment of two sites for a four storey mixed use development containing a supermarket and 14 residential apartments.

Development Concept Scheme

The planning proposal is based on a concept development scheme prepared by the proponent (**Figure 1**) that features the following:

- A four-storey mixed commercial and residential building with basement parking.
- A Woolworths supermarket located on the ground floor and part of Level 1.
- 14 apartments comprising a mix of dwelling sizes located on Levels 1 – 3 (net increase of 13 dwellings).

- 3 basement levels with up to 70 supermarket, 19 residential, and 3 residential visitor parking spaces (including car wash bay), motorcycle, and bicycle spaces.
- A total gross floor area (GFA) of 4,145m² (equivalent to an FSR of 1.84:1), comprising 2,168m² supermarket floor space (FSR 0.96:1) and 1,978m² residential floor space (FSR 0.88:1).



Figure 1 | Architectural perspective of the concept development scheme (street view from corner of Old South Head Road and Albemarle Avenue) (Source: Urban Design Study).

1.3 Site description and surrounding area

The site is located at the corner of Old South Head Road and Albemarle Avenue and is known as 488 – 492 Old South Head Road and 30 Albemarle Avenue, Rose Bay (**Figure 2**). It has an area of approximately 2,257m² (based on survey plan), and comprises the following lots:

- Lot 1 DP 1009799 (488-492 Old South Head Road)
- Lot 30 Section B DP 4567 (30 Albemarle Avenue).

The site is occupied by a former Caltex service station and a single storey dwelling house at 30 Albemarle Avenue (**Figures 3 and 4**).

The service station site contains a fuel canopy, hardstand, signage, and a convenience store. Fuel tanks have been decommissioned and bowsers removed following closure in 2020. Site remediation works approved by Council (DA/502/2019) are expected to be undertaken by the proponent upon redevelopment of the site.

The portion of the site at 488-492 Old South Head Road is located within the Rose Bay South local centre and is zoned MU1 Mixed Use. The portion of the site at 30 Albemarle Avenue is zoned R2 Low Density Residential.

The area surrounding the site is characterised by a mix of commercial and residential developments. To the immediate north of the site is a three storey shop top housing development with mixed commercial and residential developments further north. South of the site is the opposite side of Albemarle Avenue which contains a single storey pharmacy on the corner and one and two storey residential dwellings further south. East of the site is the opposite side of Old South Head Road (within the Waverley Council LGA) which contains three storey residential flat buildings and two and three storey shop-top housing developments. West of the site is Albemarle Avenue which is characterised by one and two storey dwellings and the Rose Bay Public School approximately 130m to the west.

Gateway determination report – PP-2022-731 (RR-2023-20)

Located approximately 175m northeast of the site at 518A Old South Head Road is the Rose Bay Uniting Church and associated Wesley Hall buildings which are listed as local heritage items under the Woollahra LEP 2014.

The nearest public open space areas to the site are located approximately 400m to the northwest and east, being the Rose Bay Community Garden, playing fields/ovals, the Woollahra Golf Club and Sydney Croquet Club at the corner of Old South Head Road and O'Sullivan Road, and the Onslow Street Reserve at 46 Onslow Street, Rose Bay.

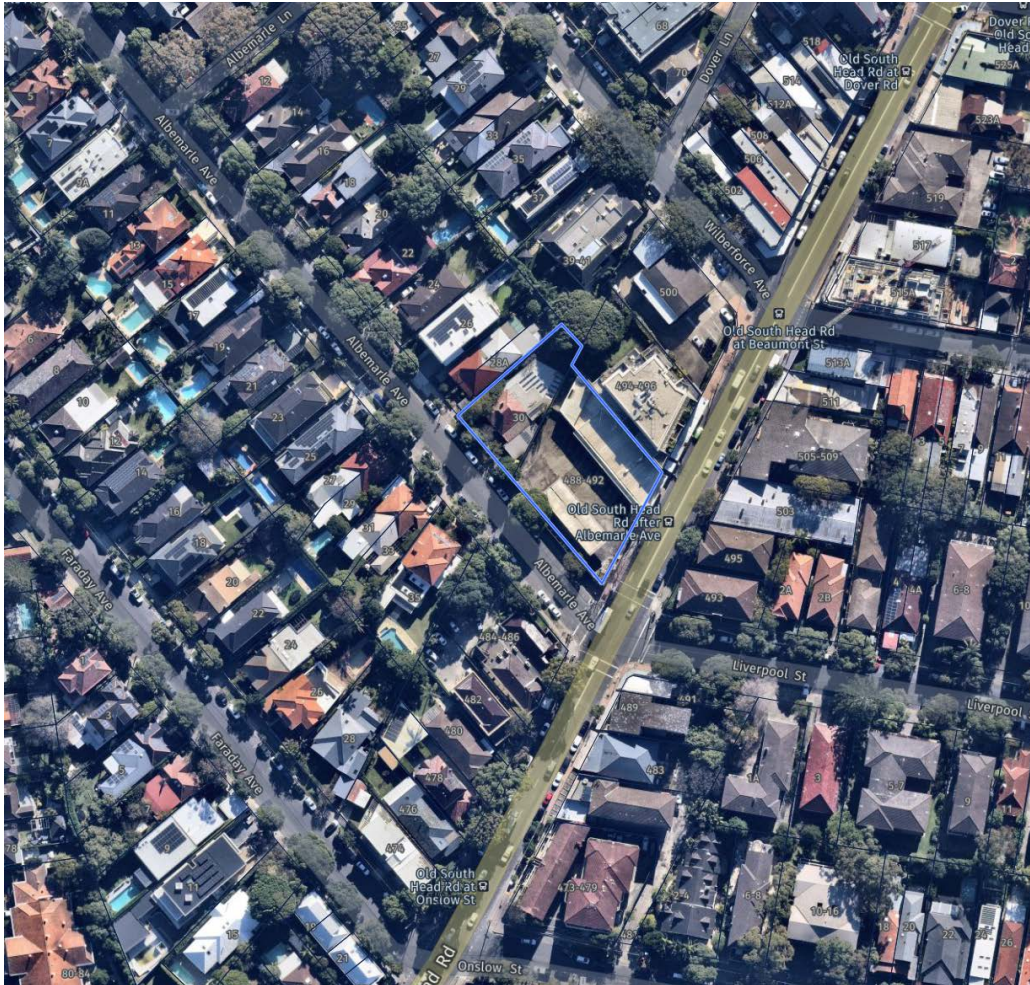


Figure 2 | The site outlined in blue (Source: Nearmap, June 2023)



Figure 3 | View of the site from Old South Head Road (Source: Planning Proposal, July 2023)



Figure 4 | View of the site from Albemarle Avenue (Source: Planning Proposal, July 2023)

1.4 Explanation of provisions

The planning proposal seeks amendments to the Woollahra Local Environmental Plan (LEP) 2014 to permit a mixed-use development containing a supermarket and residential dwellings as shown in the indicative development scheme shown in **Figure 1**.

The proposed LEP amendments are as follows:

Amend Schedule 1 - Additional permitted land uses

Under the current zoning in the Woollahra LEP, a mixed-use development is permitted on land at 488-492 Old South Head Road zoned MU1 Mixed Use but prohibited on land at 30 Albemarle Street zoned R2 Low Density Residential.

The planning proposal does not seek to change the residential zone of 30 Albemarle Avenue, but to use the *Schedule 1 Additional permitted uses* provision to permit retail premises as part of shop top housing. The additional non-residential uses will only apply if the land at 30 Albemarle Avenue is developed in conjunction with 488-492 Old South Head Road. In this way, the underlying R2 Low Density Residential zone will continue to apply to the site.

Amend Part 6 - Additional local provisions

The following additional local provisions are also proposed and only apply if the land at 30 Albemarle Avenue is developed in conjunction with 488-492 Old South Head Road:

Height of buildings

No changes are proposed to the maximum building height of 14.5m for the 488-492 Old South Head Road part of the site. The planning proposal seeks to amend the 9.5m height control for 30 Albemarle Avenue so that a continuous 14.5m maximum building height applies to the whole site. The two sites will be able to accommodate a 4 storey mixed use development.

The planning proposal proposes that the maximum 14.5m building height for 30 Albemarle Avenue be included in the *Part 6 Additional local provisions*, which apply only if the site is redeveloped with 488-492 Old South Head Road. The underlying 9.5m maximum building height for 30 Albemarle Avenue will otherwise remain unchanged.

Gross Floor Area

The planning proposal does not request amendments to the FSR controls. It seeks to use *Part 6 Additional local provisions* to increase the permitted maximum GFA to 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue, when both sites are developed together. The proposal equates to an additional 732m² GFA or maximum FSR of 1.84:1 across the two sites. Refer to **Table 3** for a comparison of existing vs proposed gross floor area controls.

Table 3 | Proposed vs existing FSR and GFA

Site	Existing maximum FSR/GFA	Proposed maximum FSR/GFA
30 Albemarle Avenue	0.5:1/348m ²	480m ² ¹
488-492 Old South Head Road	2:1/3,120m ²	3,720m ² ¹

¹ When both sites are developed together

Other proposed provisions

The planning proposal seeks to use *Part 6 Additional local provisions* to establish:

- Minimum building setbacks ranging from 9m to 13.5m to the western boundary of 30 Albemarle Avenue
- A minimum 8m wide deep soil zone and a publicly accessible area fronting Albemarle Avenue
- A requirement that a site-specific development control plan (DCP) is prepared prior to any development consent being granted for the site. The DCP is to include an urban character statement and provisions relating to key principles and controls to ensure the future built form delivers a high quality architectural outcome and exhibits design excellence. All matters will be required to be addressed at the detailed development application stage.

Voluntary Planning Agreement

The Proponent has made an indicative letter of offer to enter into a VPA with Council which includes, in addition to the payment of Section 7.11 development contributions, the provision of a ground level publicly accessible landscaped zone along the site's north-west boundary, which will essentially function as an urban pocket park. The pocket park is to be embellished and fully maintained by the proponent with an easement benefiting public access on title.

1.5 Mapping

The proposal does not seek to alter the existing Woollahra LEP maps.

1.6 Local planning panel (LPP) recommendation

On the 6 July 2023 the Woollahra LPP considered the proposal. The LPP's advice to Council was that:

- The Panel generally supports the planning proposal to proceed subject to the proponent amending the planning proposal to provide greater clarity and certainty to the outcomes of the proposed LEP changes.
- The Council:
 - seek further details in relation to the open space area between 28 Albemarle and the development site, and how it will be designed and managed; and
 - liaise with the applicant to identify opportunities to further set back the building at levels three and four from the property boundary of 28 Albemarle Avenue to create an improved interface with the low-density residential zone.
- That subject to the above, the LPP notes that the planning proposal should be amended by the proponent, in the following manner:
 - insert a new Schedule 1 Additional permitted uses; and
 - insert a new Part 6 Additional local provisions.

The LPP also recommended that the planning proposal:

- Be amended by the proponent to include a reference to discussions undertaken with Council staff regarding a Voluntary Planning Agreement (VPA) for the site.
- That Council should consider the potential for an Affordable Housing contribution to be made to Council.
- That the planning proposal and any draft VPA should be publicly exhibited concurrently.

1.7 Sydney Eastern City Planning Panel recommendation

On 1 November 2023, the Sydney Eastern City Planning Panel (the Planning Panel) undertook the rezoning review and recommended that the planning proposal should be submitted for a Gateway determination because it has demonstrated strategic and site-specific merit.

The Panel recommended the proposal be revised to replace the reference to open space zone in the proposed *Part 6 Additional local provisions* so that it reads:

“Implementation of a ground level, publicly accessible land adjacent the western boundary of 30 Albemarle Avenue providing for a 9m wide building separation zone and an 8m wide deep soil zone”.

1.8 Background

Date	Event
5 May 2022	Planning proposal PP-2022-731 was lodged with Woollahra Council (Council) by Ethos Urban on behalf of Fabcot Pty Ltd (Woolworths Property Group) (the proponent).
6 July 2023	The Woollahra LPP considered the proposal and advised Council to proceed to Gateway determination subject to amendments to provide greater clarity and certainty to the outcomes of the proposed changes to the Woollahra LEP.
31 July 2023	In response to the advice of the WLPP, the proponent submitted a revised planning proposal (the rezoning review proposal) which included the following changes: <ul style="list-style-type: none"> reducing the building height to maximum 14.5m by deleting the lift and stair access to the roof level and relocating rooftop plant and equipment areas to the ground floor. deleting three residential units on Level 3 to increase the setback to the northern boundary and to align with the neighbouring building. increasing balcony setbacks on Levels 2 and 3 to minimise overhang to Old South Head Road and the corner of Albemarle Avenue. reducing the awning size on the top floor to minimise the bulk and scale of the upper level. increasing the setback to the glazing line to 12m for Level 2 and 13.5m for Level 3 by adding a landscape buffer to the western elevation.
7 August 2023	The planning proposal was reported to Council's Environmental Planning Committee (EPC). Council officers recommended that Council endorse the planning proposal and forward it to the Department for Gateway determination. The EPC recommended that Council refuse the planning proposal for the following reasons: <ul style="list-style-type: none"> traffic. lack of transition zone. not in keeping with the streetscape. need for protection of the R2 zone. not in the public interest.

Gateway determination report – PP-2022-731 (RR-2023-20)

Date	Event
14 August 2023	<p>Council resolved as follows:</p> <p><i>A. THAT Council refuse the planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay for the following reasons:</i></p> <ol style="list-style-type: none"> <i>1. traffic and traffic congestion;</i> <i>2. congestion caused by the close proximity of the proposal to the local public school of more than 500 students and its drop off and pick up zone;</i> <i>3. insufficient transition area between the development and the R2 residential zone and no certainty that any proposed transition zone will be maintained with appropriate vegetation and trees in future;</i> <i>4. dominance in the streetscape and inconsistency with proximate R2 residential zone given the significant bulk and scale of the proposed development which intends to utilise the 30m frontage of the R2 residential block;</i> <i>5. need for protection of the very limited R2 zone in the Rose Bay area;</i> <i>6. lack of consideration for development of a proposal on a smaller footprint, being the footprint that currently exists and is zoned for that use;</i> <i>7. lack of consideration of the surrounding area which is well serviced by supermarkets and grocery stores; and</i> <i>8. not in the public interest as demonstrated by the petition tabled at this Council meeting, which demonstrates community concern with the size of the proposal.</i> <p><i>B. THAT should the applicant submit a Rezoning Review to the Department of Planning and Environment, that the community submissions (including the petition and any late correspondence) are submitted by staff as part of the Council documentation.</i></p>
6 September 2023	<p>The Department received a rezoning review request (RR-2023-20) from Ethos Urban, on behalf of the landowner Fabcot Pty Ltd (Woolworths Property Group). The request was accepted by the Department on 26 September 2023 after payment for the rezoning review was issued and the package considered adequate.</p>
1 November 2023	<p>The Sydney Eastern City Planning Panel (the Planning Panel) undertook the rezoning review and recommended that the planning proposal should be submitted for a Gateway determination and revised to change reference to an 'open space zone' to 'publicly accessible land'.</p>
1 November 2023	<p>Woollahra Municipal Council has previously refused the proposal. In accordance with Section 3.32(1) of the Environmental Planning and Assessment Act 1979, the Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the Planning Proposal Authority (PPA) for this planning proposal.</p>
14 November 2023	<p>Council acknowledged that the Planning Panel is the PPA for this planning proposal.</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

Date	Event
21 November 2023	<p>Council officers submitted that the wording of the Panel's Record of Decision regarding the public open space was incorrect and inconsistent with the issue raised by staff. It was requested that the wording should be amended to read:</p> <p><i>Public open space – request requirement that the area is <u>not</u> publicly accessible, acting as a landscape buffer to adjoining low density residential.</i></p> <p>It was also requested that the Panel's recommendation, which retains the term <i>publicly accessible land</i> in the proposed <i>Part 6 Additional Local provisions</i> be amended via the Gateway determination conditions.</p>
12 December 2023	<p>The proponent submitted updated planning proposal documentation to align with relevant environmental planning instruments (Attachment A).</p>

2 Need for the planning proposal

The planning proposal is not the result of a study or strategy. However, the proposal has strategic merit having regard to the Region, District and Local strategic plans and policies.

A specific need has been identified for provision of a medium sized supermarket to address an under supply in the local area. This is identified in the proponent's Economic Impact Assessment and supported by Council's independent assessment. The planning proposal responds to this need by providing a two-level 'mid-size' supermarket with associated facilities on the site.

The scale and intensity of the development facilitated under the proposed LEP amendments is generally compatible with the existing and desired future character of the Rose Bay South local centre. The mechanisms adopted would provide certainty in the anticipated built form facilitated by the planning proposal, being a four storey mixed use development.

Further to this, the amendments to the LEP facilitate development under the planning proposal only if both sites at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay are included. The underlying development standards of the LEP remain unchanged if development does not occur in accordance with the planning proposal.

3 Strategic assessment

3.1 District Plan

The site is within the Eastern City District Plan. The Greater Cities Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic, and environmental assets.

The District Plan identifies that the Eastern City will require 1.8 million sqm of additional retail floorspace over the next 20 years. Specifically, the District Plan recognises the importance of the growth of supermarket-based centres, with Rose Bay South and other local centres contributing to the delivery of additional retail floorspace.

The planning proposal is consistent with the priorities for liveability, productivity, and sustainability in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Gateway determination report – PP-2022-731 (RR-2023-20)

Table 4 | District Plan assessment

District Plan Objectives	Justification
Liveability	<p><i>E5 – Providing housing supply, choice, and affordability with access to jobs, services, and public transport.</i></p> <p>The proposal seeks to facilitate approximately 14 additional dwellings (there is currently one existing dwelling) and 75 jobs (post-construction) on the site, which is highly accessible being near bus and other local services. The site also has good access to open space areas being approximately 400m from a community garden, sporting oval/fields, golf club, croquet club, and a local reserve.</p> <p><i>E6 – Creating and renewing great places and local centres and respecting the District's heritage.</i></p> <p>The proposal would contribute to the redevelopment of Rose Bay South centre by facilitating a new development with additional housing and employment opportunities.</p>
Productivity	<p><i>E10 – Delivering integrated land use and transport planning and a 30-minute city.</i></p> <p>The proposal seeks to increase supermarket floor space and provide additional housing in the Rose Bay South centre which will increase retail opportunities and housing supply and choice. Local employment opportunities will be enhanced through the operation of the supermarket.</p> <p>The location of the proposal within the Rose Bay South centre enhances walkability and access for existing and future residents, workers, and visitors. The location of retail uses on the ground floor increases the vitality and activation of the centre.</p>
Sustainability	<p><i>E19 – reducing carbon emissions and managing energy, water, and waste efficiently.</i></p> <p>The proposal will incorporate the principles of sustainability through the provision of deep soil and tree canopy, compliance with the relevant BASIX Energy scores and NABERS Energy ratings, and ongoing retail operations in accordance with the Woolworths Sustainability Plan 2025.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 | Local strategic planning assessment

Local Strategies	Justification
Woollahra Local Strategic Planning Statement (LSPS) 2020	<p>The proposal is located within the Rose Bay South centre which is identified as a local centre in the LSPS. The proposal is broadly consistent with the LSPS vision for the centre and is consistent with the following Planning Priorities:</p> <p><i>1: Planning for integrated land use and transport for a healthy, sustainable, connected community and a 30-minute city.</i></p> <p>The proposal would facilitate approximately 14 dwellings and 75 on-going jobs in an accessible location close to public transport and services. The proposal is located along a transport corridor with suitable access and facilities for deliveries, servicing, and local freight activities.</p> <p>The proposal would have access to several public open space and recreation areas approximately 400m to the northwest and east, including the Rose Bay Community Garden, playing fields/ovals, the Woollahra Golf Club, Sydney Croquet Club and the Onslow Street Reserve.</p> <p><i>4: Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.</i></p> <p>The proposal would broaden housing choice in Rose Bay South by facilitating the provision of different sized dwellings. It supports the role of the centre with the provision of a supermarket.</p> <p><i>6: Placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.</i></p> <p>The proposal would facilitate retail supermarket use at ground and first floor levels that activate the public domain. The building height is consistent with the rest of the centre.</p> <p><i>7: Supporting access to a range of employment opportunities and partnerships.</i></p> <p>The proposal supports access to new employment opportunities by providing a new supermarket located close to public transport and existing residential neighbourhood.</p> <p><i>13: Improving the sustainability of our built environment, businesses, transport, and lifestyles by using resources more efficiently and reducing emissions, pollution, and waste generation.</i></p> <p>The proposal promotes walkability by being located close to existing residential uses, open space and recreation areas, and public transport with nearby bus services.</p>
Woollahra 2030, Community Strategic Plan (CSP)	<p>The CSP identifies the strategic direction and integrated planning framework for the Woollahra LGA. The planning proposal is broadly consistent with the following goals in the CSP:</p> <p><i>Goal 4: Well-planned neighbourhoods.</i></p> <p>The proposal will facilitate a mixed-use development providing additional commercial floor space and housing within a modern building that contributes to the regeneration</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

Local Strategies	Justification
	<p>of the Rose Bay South centre. The proposal would enhance the urban form and function of the centre and contribute to increased local activity.</p> <p><i>Goal 5: Liveable places.</i></p> <p>The proposal promotes good urban design outcomes by promoting public and private open space areas, a retail use to activate the pedestrian environment, and encouraging public transport use.</p> <p><i>Goal 6: Getting around.</i></p> <p>The proposal would provide additional dwellings and employment on a site with good access to public transport.</p> <p><i>Goal 9: Community focussed economic development.</i></p> <p>The proposal seeks to provide additional commercial floor space that would support new employment opportunities by providing a supermarket that contributes to the revitalisation of the Rose Bay South centre.</p>
Woollahra Local Housing Strategy (LHS)	<p>The LHS articulates Council's policy for housing and sets a vision to facilitate high quality housing in suitable locations to meet changing community needs. The LHS identifies the need for 1,200 new dwellings to be provided within the LGA by 2036 and contains objectives and actions to support the outcomes of the LHS. The relevant objectives and actions of the LHS are discussed below.</p> <p><i>Objective 1: Sustain a diverse range of housing types and protect low density neighbourhoods and villages.</i></p> <p><i>Objective 2: Facilitate opportunities for housing growth in locations identified in the Woollahra Local Housing Strategy.</i></p> <p><i>Objective 3. Ensure housing conserves heritage, maintains local character, and achieves design excellence.</i></p> <p><i>Objective 4. Ensure that new housing contributes to tree canopy and to long-term sustainability outcomes.</i></p> <p>The proposal would deliver additional housing within Rose Bay South centre with good access to public transport which aligns with Council's vision to revitalise the centre. It would provide 14 apartments of different sizes within a 4 storey built form that responds to the local character. The provision of a supermarket would support the employment and business role of the centre.</p> <p>The proposal is informed by a concept scheme and draft site-specific DCP demonstrating the proposal can achieve good urban design and sustainability outcomes which includes open space areas with landscaping and tree canopy.</p>
Rose Bay Place Plan 2023-2028 (Rose Bay Place Plan) (adopted on 26 June 2023)	<p>The Rose Bay Place Plan is a strategic guide to place activation and economic development in Rose Bay. It establishes a vision for the Rose Bay suburb as an intimate, connected and thriving place that supports the needs of the community and businesses. The planning proposal is broadly consistent with the following elements of the Rose Bay Place Plan:</p> <p><i>Objective 2: It is a pleasure to move around – for everyone:</i></p> <ul style="list-style-type: none"> • create walkable local village environments. <p><i>Objective 4: Rose Bay is a great place to socialise and shop – day and night:</i></p> <ul style="list-style-type: none"> • support the growth and development of a small-scale night-time economy in local and neighbourhood centres.

Gateway determination report – PP-2022-731 (RR-2023-20)

Local Strategies	Justification
	<ul style="list-style-type: none"> create opportunities for diverse, vibrant, and resilient economies in local and neighbourhood centres. <p>The proposal promotes walkability by being located close to existing residential uses, open space and recreation areas, public transport, and cafes, pharmacy, gym, and medical practice.</p> <p>The proposal will introduce a supermarket located on the ground and first floors of the corner site activating the Old South Head Road frontage, encouraging local resident interactions and activity, and supporting the local economy.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 | 9.1 Ministerial Directions assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The proposal is consistent with the priorities and actions of the Eastern City District Plan, which give effect to the objectives and directions of the Region Plan. Refer to Section 3.1 of this report.
1.4 Site Specific Provisions	Inconsistent, minor significance	<p>This direction seeks to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The proposal seeks to include several site-specific provisions including:</p> <ul style="list-style-type: none"> additional permitted uses development of both sites together building height gross floor area setbacks deep soil zones publicly accessible area site-specific DCP. <p>The planning proposal is accompanied by an Urban Design Report prepared by PBD Architects which provides a concept development scheme to demonstrate that the LEP amendments will facilitate the proposed development.</p> <p>The proposed site-specific provisions are supported, with the exception of building setbacks, deep soil zones, publicly accessible area, and a site-specific DCP, which are to be deleted via Gateway conditions.</p> <p>The inclusion of a local provision for a site-specific DCP is not necessary as a DCP can be prepared and finalised as part of the planning proposal process.</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

Directions	Consistent	Reasons for Consistency or Inconsistency
		<p>Local provisions relating to building setbacks, deep soil zones and publicly accessible area are discussed further in this report under Section 4.1.1 Urban design and Section 4.3.1 Community Infrastructure.</p> <p>The Department considers that the remaining site-specific provisions, relating to height, FSR and developing both sites together, will manage bulk and scale and provide certainty about the scale of development across the site whilst ensuring a level of flexibility in relation to how the development will be delivered. It also provides opportunity to respond to the constraints and issues that arise at the DA stage.</p> <p>The Apartment Design Guide (ADG) will also apply to future development applications and will ensure an appropriate design outcome on the site.</p> <p>Whilst the proposal is inconsistent with this Direction, the inconsistency is considered to be of minor significance and had been addressed with Gateway conditions.</p>
4.1 Flooding	Consistent	<p>The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual. It also seeks to ensure LEP provisions that apply to flood prone land are commensurate with flood behaviour and consider potential flood impacts on and off the land.</p> <p>The Flooding Assessment supporting the proposal assesses the proposal against Council's DCP and the Ministerial Direction. Flood levels are identified as ranging from:</p> <ul style="list-style-type: none"> 12.94m AHD adjacent to the eastern corner to 12.41m AHD in the western corner of the site for the 1% AEP design storm event 13.15m AHD adjacent to the eastern corner and 12.56m AHD in the western corner of the site in the PMF design storm event 0.15m – 0.8m during the 1% AEP and 0.3m - 1.0m in the PMF in Old South Head Road and Albemarle Avenue. <p>The Flooding Assessment concludes that based on Council's flood study the proposal is not located in the floodway area. The site however is in a Flood Planning Area under the Woollahra LEP due to Old South Head Road and Albemarle Avenue being a high hazard floodway.</p> <p>The Flooding Assessment recommends that flood mitigation strategies are to be considered during the detailed design of the proposal to address:</p> <ul style="list-style-type: none"> footpath levels for the road adjacent to the proposal which is within the floodway. refuge for tenants and residential car spaces above the PMF event.

Gateway determination report – PP-2022-731 (RR-2023-20)

Directions	Consistent	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> processes which will limit the requirement for emergency management from government services. <p>Council staff concur with this approach as noted in the Staff Assessment report for the planning proposal.</p> <p>The Department is satisfied that the proposal is consistent with this direction and that flood matters can be further considered and suitably addressed at the development application stage.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>This objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning authorities.</p> <p>The site is occupied by a former service station located on the corner of Old South Head Road and Albemarle Avenue. Service station activities are listed in Table 1 of the Contaminated Land Planning Guidelines and therefore this Direction is applicable to the proposal.</p> <p>A Remedial Action Plan (RAP) was prepared by ERM to support the planning proposal (Appendix N). The RAP identifies that the main contaminants of concern on the site are total recoverable hydrocarbons, lead, benzene, toluene, ethylbenzene, xylene, and naphthalene associated with the service station backfill sands, fuel lines, fill points, bowsers, and vent pipes.</p> <p>The conclusions of the RAP are that the site can be made suitable for the proposed residential land uses, subject to the remedial strategies and goals detailed in the RAP being implemented as part of any future development of the site. The work, once implemented, will make the site suitable for the supermarket and residential uses.</p> <p>It is noted that demolition of the service station and site remediation works were approved by Council under a development consent (DA/502/2019).</p> <p>The Department is satisfied that the proposal is consistent with this Direction and that the land can be remediated and made suitable for the proposed uses.</p>
4.5 Acid Sulfate Soils	Consistent	<p>The objective of the Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The planning proposal relates to land identified as being affected by Class 5 acid sulfate soils. The Department is satisfied that further consideration of this matter can be undertaken at the development application stage when soil testing can be undertaken and construction details including excavation levels will be known.</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

Directions	Consistent	Reasons for Consistency or Inconsistency
5.1 Integrating Land Use and Transport	Consistent	<p>The objectives of this Direction are to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <i>improving access to housing, jobs, and services by walking, cycling and public transport, and</i> <i>increasing the choice of available transport and reducing dependence on cars, and</i> <i>reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> <i>supporting the efficient and viable operation of public transport services, and</i> <i>providing for the efficient movement of freight.</i> <p>The Direction applies as the proposal seeks to create local provisions to facilitate a mixed-use development.</p> <p>The Planning Proposal is consistent with the guidelines identified within this Direction in that it will:</p> <ul style="list-style-type: none"> facilitate a mixed-use development on land with good access to public transport, being within walking distance to bus services. create employment opportunities close to existing residential neighbourhoods increasing opportunities for workers to be locally sourced. provide supermarket floorspace to reduce the need for residents to travel outside of the local area for their shopping needs. <p>The proposal is accompanied by a Traffic Assessment report which concludes that:</p> <ul style="list-style-type: none"> the proposed vehicle access from Albemarle Avenue will significantly improve road and pedestrian safety compared to the former service station access from Old South Head Road. the proposed turntable allows all trucks to enter and exit the site in a forward direction. car and bicycle spaces will be in accordance with Council's DCP and the objectives of the Woollahra Integrated Transport Strategy and will meet customer needs, reduce parking on surrounding streets, and encourage customers to park onsite. the proposal will generate fewer traffic movements compared to the previous service station use. the intersection at Old South Head Road and Albemarle Avenue would retain its existing level of service.

Gateway determination report – PP-2022-731 (RR-2023-20)

Directions	Consistent	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> discussions with TfNSW have informed the planning proposal including appropriate access for service vehicles to/from Albemarle Avenue and Old South Head Road. <p>The Department is satisfied that the proposal is consistent with this Direction the proposal and traffic and parking impacts can be managed as part of a future DA.</p>
6.1 Residential Zones	Consistent	<p>This Direction seeks to encourage a variety of housing types, make efficient use of infrastructure and services and minimise the impact of residential development on the environment and resource lands.</p> <p>The planning proposal seeks to introduce the additional permitted uses to 30 Albemarle Avenue for 'retail premises' but only has part of 'shop top housing' and only in conjunction with the development of 488-492 Old South Head Road. The use is currently prohibited in the R2 zone.</p> <p>The proposed APU together with the increased built form controls, equating to an additional 732m² GFA across the sites, will ensure an appropriate mix of uses on the site and will not reduce the residential density of the land.</p> <p>The site has access to existing infrastructure and services which can be utilised in addition to the proponent paying section 7.11 and 7.12 development contributions.</p> <p>The Department is satisfied that the proposal is consistent with this Direction.</p>
7.1 Employment Zones	Consistent	<p>The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in employment zones including the MU1 Mixed Use zone, and support the viability of identified centres.</p> <p>The proposal seeks to increase non-residential floor space on the site with the provision of a supermarket consistent with the MU1 Mixed Use zone of 488-492 Old South Head Road.</p> <p>The planning proposal is broadly consistent with the 'local centre' hierarchy envisaged in Woollahra's strategic planning frameworks and would address identified undersupply of supermarket floorspace in the area.</p> <p>The Department is satisfied that the proposal is consistent with this Direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 | Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
SEPP 65 Design Quality of Residential Apartment Development	<p>The SEPP aims to improve the design quality of residential apartment development.</p> <p>Clause 28 provides that a DA to which this SEPP applies requires the consent authority to consider the design quality principles and Apartment Design Guide (ADG) before the DA is determined.</p>	Yes	<p>The planning proposal is supported by an Urban Design Report (Attachment F) with information that addresses the ADG. In particular, the report has considered the building separation, solar access, natural ventilation, and open space and deep soil planting requirements of the ADG.</p> <p>Section 4 of the report below provides a more detailed assessment of the urban design and amenity aspects of the proposal. Further assessment against the ADG will also be undertaken at the development assessment stage.</p>
Transport and Infrastructure 2021	<p>The aims of this SEPP are to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities for certain development during the assessment process.</p>	Yes	<p>Clause 2.120 – <i>Impact of road noise or vibration on non-road development</i> of the SEPP requires that residential accommodation that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles cannot be approved unless the consent authority is satisfied that appropriate measures will be taken to ensure that the relevant noise levels are not exceeded:</p> <p>The provisions of Clause 2.120 apply to the proposal as the land has a frontage to Old South Head Road which has an annual average daily traffic volume of more than 20,000.</p> <p>Although the proposal does not seek approval for construction works, the impacts of road noise have been considered against the concept scheme.</p> <p>The application is supported by a Noise Impact Assessment that assesses potential noise impacts to the proposed residential uses associated with traffic noise intrusion from Old South Head Road.</p> <p>The Assessment concludes that the proposal can comply with the relevant noise criteria subject to recommended acoustic treatments being adopted in the design of the development, and that a full assessment of</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
			<p>recommended treatments can be undertaken during the detailed design stage.</p> <p>The Department is satisfied that the proposal can comply with the relevant noise criteria subject to appropriate acoustic treatment being integrated into the development.</p>
Resilience and Hazards 2021	The object of the applicable chapter is to provide for a State-wide planning approach to the remediation of land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	Yes	<p>Chapter 4 of this SEPP applies. The planning proposal does not relate to land that is within an investigation area under the Contaminated Land Management Act 1997.</p> <p>The site is occupied by a former service station located on the corner of Old South Head Road and Albemarle Avenue. Service station activities are listed in Table 1 of the Contaminated Land Planning Guidelines and therefore this SEPP is applicable to the proposal.</p> <p>A Remedial Action Plan (RAP) was prepared by ERM to support the planning proposal (Appendix N). The RAP concludes that the site can be made suitable for the proposed residential land uses, subject to remediation. The work, once implemented, will make the site suitable for the supermarket and residential uses.</p> <p>It is noted that demolition of the service station and site remediation works were approved by Council under a development consent (DA/502/2019).</p> <p>The Department is satisfied that the land can be remediated and made suitable for the proposed development.</p>
Biodiversity and Conservation 2021	This SEPP aims to protect the biodiversity values of trees and other vegetation, provide habitat for koalas, enhance the riverine environment of the River Murray and Hawkesbury-Nepean River system, preserve bushland within certain urban areas, prohibit canal estate development, provide healthy water catchments, and protect	Yes	<p>Chapter 2 of the SEPP aims to protect the biodiversity values of trees and vegetation and applies to land zoned B4 Mixed Use (or the MU1 Mixed Use) zone in the Woollahra LGA. Specific provisions apply to clearing of vegetation on development sites.</p> <p>An Arboricultural Impact Appraisal accompanies the proposal. It identifies four street trees located adjacent to the site's front boundary which are in good health and have streetscape contributory significance that should be retained. Four trees located within</p>

Gateway determination report – PP-2022-731 (RR-2023-20)

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
	the Sydney Harbour Catchment area.		<p>the site are of low significance and can be removed.</p> <p>The Landscape Report accompany the proposal details the intended landscaping for the site, including the retention of the four significant street trees. Successful retention of the trees is dependent on effective tree protection measures being implemented during construction works. The report recommends tree protection measures for the trunk, branches, and ground area which are to be further considered as part of the development application process.</p> <p>The Department is satisfied that the proposal is consistent with and will not interfere with the operation of the SEPP.</p>
State Environmental Planning Policy (Sustainable Buildings) 2022 (1 October 2023)	The Sustainable Buildings SEPP encourages the design and construction of more sustainable buildings across NSW. It sets standards for residential and non-residential development and commences the process of measuring and reporting on the embodied emissions of construction materials.	Yes	<p>Although the proposal does not seek approval for construction works, sustainability measures have been identified for the concept scheme that will be further developed and validated through the design and delivery of the development.</p> <p>The Department is satisfied that the proposal is consistent with the SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The site is not identified as an environmentally sensitive area or containing endangered ecological communities.

The potential environmental impacts associated with the proposal are discussed below.

4.1.1 Urban design

The proposal is supported by an Urban Design Report (**Attachment F**) that features a concept development scheme for a 4 storey building with ground and first floor supermarket and 14 residential apartments (**Figure 1**).

The scale of the development is generally consistent with the future character of the Rose Bay South local centre envisaged in the Woollahra Development Control Plan 2015, which identifies four storey mixed use development for the site and adjoining properties.

Gateway determination report – PP-2022-731 (RR-2023-20)

The proposal's built form, street alignment and continuous awnings also reflect the desired future character of the centre and integrate with surrounding developments.

The concept scheme provides appropriate activation of the ground floor with entry doors and windows of the supermarket located along Old South Head Road, and residential entry on Albemarle Avenue, reflecting the adjoining residential uses. Planting along the western boundary and residential balconies softens the façade and provides appropriate separation and screening to the Albemarle Avenue residential uses.

The Urban Design Report provides an assessment of the proposal against the provisions of the ADG relating to building separation, solar access, natural ventilation, and open space and deep soil planting which are detailed below.

Building separation

The proponent's Urban Design Report demonstrates that the proposal is capable of achieving the required separation distances consistent with the design criteria of the ADG.

As such, the site-specific provision requiring the implementation of a staggered setback adjacent the western boundary of 30 Albemarle Avenue and the proposed building is not considered necessary. The ADG will apply and be considered as part of a future development application, if the site is rezoned in accordance with this proposal.

Solar access

The proponent's Urban Design Report demonstrates the capability that 78.6% of apartments (11 apartments) would receive at least 2 hours of sunlight to living areas and balconies in mid-winter, approximately 21.4% (3 apartments) would receive no sun in mid-winter. This is consistent with the design criteria of the ADG.

The proposal will not result in significant detrimental shadow impacts to adjoining developments between 9am and 3pm in mid-winter with most overshadowing being over Old South Head Road and Albemarle Avenue (**Figure 5**).

Gateway determination report – PP-2022-731 (RR-2023-20)



Figure 5 | Envelope shadows of proposal between 9am and 3pm on 21 June (Source: Urban Design Study)

Natural ventilation

The design criteria of the ADG provides that at least 60% of apartments are naturally cross ventilated in the first nine storeys of a building. The concept scheme shows that approximately 64.3% of apartments (9 apartments) would be naturally cross-ventilated.

Open space and deep soil planting

The ADG provides that communal and public open space, with minimum area equal to 25% of the site area is to be provided for future residents. Deep soil zones of between 7% and 15% of the site area are also to be provided.

The concept scheme shows three communal open space areas located on the ground floor and Level 2 that equate to 30.7% of the site area. The deep soil zone within these areas is 15.8% of the site area consistent with the provisions of the ADG (**Figure 6**).

More than 50% of the principal usable part of the communal open space area receives direct sunlight for a minimum of 2 hours between 9am and 3pm in mid-winter consistent with the ADG.

Level 2 communal open space is accessible to residents, consistent with the ADG. The open space located on the ground floor comprises a publicly accessible area located at the front of the site adjoining 28A Albemarle Avenue. The remaining communal open space, and the largest in the proposal is a landscaped separation zone located between the western boundary and the future building. Although the Urban Design Report identifies this area as communal open space, access to this area by future building occupants is not resolved. Further consideration of the communal open space area would be given at the development application stage.

Gateway determination report – PP-2022-731 (RR-2023-20)

As the concept scheme demonstrates that the proposal is capable of achieving the required deep soil zones under the ADG, the site-specific provision requiring a deep soil separation zone is not considered necessary. The ADG will apply and be considered as part of a future development application.

The publicly accessible area is discussed further in this report below under **Section 4.3.1 Community Infrastructure**.

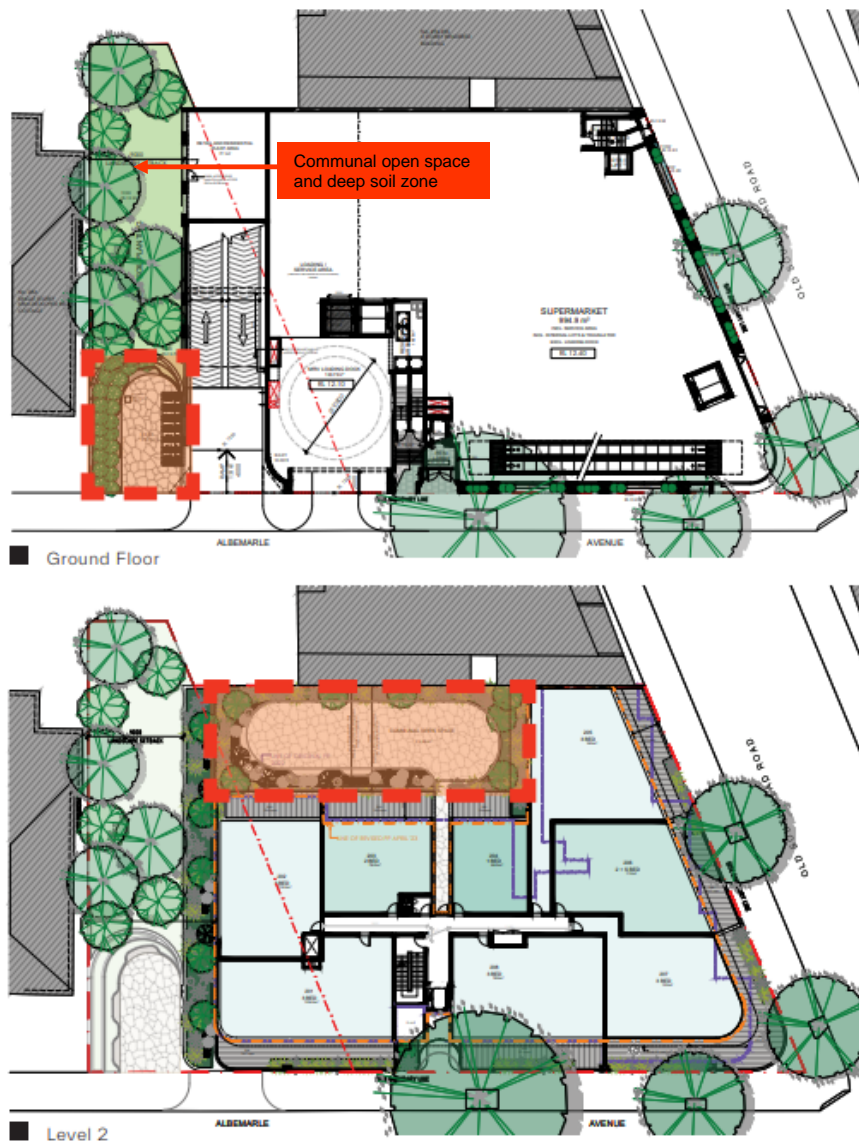


Figure 6 | Concept scheme with location of communal and public open space areas marked orange (Source: Planning Proposal)

4.1.2 Traffic and parking

The proposal is supported by a Traffic Assessment report which assesses the proposal’s traffic and parking generation and implications on the local traffic network. The report concludes that the proposal:

- will generate fewer traffic movements compared to the previous service station use.
- vehicle access from Albemarle Avenue will significantly improve road and pedestrian safety compared to the former service station access from Old South Head Road.
- car and bicycle spaces will be provided in accordance with the Woollahra Development Control Plan 2015 and the objectives of the Woollahra Integrated Transport Strategy.
- the intersection at Old South Head Road and Albemarle Avenue would retain its existing level of service.
- discussions with TfNSW have informed the proposal including access for service vehicles.

The Department is satisfied that the proposal will not result in adverse traffic and parking impacts, with the detailed design being finalised at the development application stage.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 | Social and economic impact assessment

Social and Economic Impact	Assessment
Economic	<p>The proposal would provide additional supermarket floor space that would enhance the role of the Rose Bay South local centre as an intimate, connected and thriving place that supports the needs of the community and businesses. It would also deliver additional housing that creates demand for local services, improves activation and contributes to the vitality of the centre.</p> <p>The proposal would also create additional jobs during construction and at the operational phase of the development.</p>
Social	<p>The proposal would broaden housing choice and facilitate additional commercial activities that support the local community.</p>

4.2.1 Supermarket floor space

The proponent’s Economic Impact Assessment has identified a specific need for supermarket floor space to address an under supply in the local area. This is supported by Council’s independent economic assessment. The planning proposal responds to this need by providing a two-level mid-size supermarket of 2,168m² with associated facilities on the site.

In the Staff Assessment Report (June 2023) prepared for the planning proposal, Council officers note that the proposed provisions do not identify a maximum GFA for the supermarket to reflect the 2,168m² GFA shown in the concept scheme and the area the Traffic Assessment report is based on. They do not support a supermarket larger than the proposed 2,168m² as it would result in substantially more traffic movements.

Council staff recommend that the drafting of the *Schedule 1 Additional permitted uses* provision be amended to ensure that any retail uses are part of shop-top housing and do not result in a supermarket comprising the proposal’s entire 4,200m² floor space.

The Sydney Eastern City Planning Panel noted Council’s request but did not recommend any changes to the drafting of the provision.

The Department acknowledges Council’s intent that a supermarket is provided in the future development that reflects the concept scheme that the Traffic Assessment report is based on. However, a supermarket is already permitted with consent in the E1 Local Centre zone without restriction and any future traffic impact can be assessed at the development application stage.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal.

Table 9 | Infrastructure assessment

Infrastructure	Assessment
Public and active transport	The site is well serviced by public transport being close to frequent bus services on Old South Head Road. The provision of approximately 14 additional dwellings is not considered to adversely affect the capacity of the existing public transport facilities. The site is also within walking distance of local services and open space.
Utilities	<p>The proposal is unlikely to require significant increase in local infrastructure. Augmentation to utility services may be required and can be addressed at the development application stage.</p> <p>To ensure infrastructure needs are adequately addressed, a Gateway condition is recommended to require consultation with Sydney Water and Ausgrid.</p>

4.3.1 Community infrastructure

At the Panel meeting Council staff raised concern that part of the proposed landscaped zone may be secluded and present opportunities for antisocial behaviour (**Figure 7**). It was requested that the drafting of the *Part 6 Additional local provisions* be amended to restrict the publicly accessible area to the Albemarle Avenue frontage only, with the remaining area being private open space for the future building.

In response, the Panel recommended that prior to the proposal being submitted for Gateway determination, the planning proposal be revised to remove the reference to the open space zone in the proposed *Part 6 Additional local provisions* so that it reads:

“Implementation of a ground level, publicly accessible land adjacent the western boundary of 30 Albemarle Avenue providing for a 9m wide building separation zone and an 8m wide deep soil zone”.

The proponent revised the planning proposal (7 December 2023) to remove references to publicly accessible land adjacent to the western boundary from the proposed *Part 6 Additional local provisions* as follows:

- 6) *Development consent must not be granted unless a building setback is provided within the site for the full length of Lot 30 Section B in DP4567 providing for—*
 - a) *a minimum setback width of 9m at the ground level as measured from the north-western side boundary to the building, including the following –*
 - i. *A substantial, unencumbered deep soil landscaped area within this zone with a minimum width of 8m,*

ii. A publicly accessible area fronting Albemarle Avenue.

On the 21 November 2023, Council officers wrote to the Department about the wording of the Panel's Record of Decision:

We have identified an error in the Record of Decision under 'key issues discussed' with Council staff where it states:

"Public open space – request requirement that the area is publicly accessible; acting as a landscape buffer to adjoining low density residential."

This is not correct and is inconsistent with the issue raised by staff. For our records, we require this error to be corrected. It should read:

"Public open space – request requirement that the area is not publicly accessible, acting as a landscape buffer to adjoining low density residential."

Furthermore, and contrary to the staff requested amendment, the Panel's recommendation has retained the use of the term publicly accessible land. Accordingly, we are requesting that this issue is resolved via the Gateway determination conditions.

For clarity, Council and the community have significant concerns over the public use of the setback area between 28A and 30 Albemarle Avenue. Accordingly, we recommended that having private access only to this area would protect the amenity of adjoining low residential dwellings and provide a buffer from the proposed mixed-use development.

In summary, the planning proposal should not rely on the provision of publicly accessible land to facilitate a mixed-use development for the following reasons:

- It undermines the amenity of the adjoining residential properties, particularly to 28A Albemarle Avenue which directly adjoin the development site;*
- Council's Open Space and Recreation team have advised that the setback area between No. 28A and 30 Albemarle Avenue does not provide any public benefits due to its small size. Accordingly, it will not provide any meaningful active or passive recreational use for the community; and*
- Mandating public access is pre-empting the details of a Voluntary Planning Agreement for the site. As stipulated in the proponent's Letter of Offer dated 13 July 2022, the proponent intends to offset monetary contributions through the provision of a publicly accessible area. However, this approach is not supported by Council staff.*

Council's intent is that no publicly accessible area is mandated for the proposal, and it does not intend to own or manage any portion of the site. Any public area provided to the Albemarle Avenue frontage, as shown in the concept scheme, is to be owned and managed by the future development. The area behind this is to be private open space for the occupants of the future building (**Figure 8**).

The draft site-specific DCP echoes the location of the publicly accessible area by requiring "...a publicly accessible open space area with public seating and bicycle racks fronting onto and accessible from Albemarle Avenue".

The Department considers that public access to the entire landscape zone adjoining the western boundary should not be mandated in the LEP. The provision of any publicly accessible open spaces on the site can be resolved at the development application stage when the provisions of the ADG and principles of crime prevention through environmental design (CPTED) are considered. This will ensure a level of flexibility in relation to how the development will be delivered and opportunity to respond to constraints and issues that arise at DA stage. As such, a condition is recommended to delete this requirement.

The provision of a publicly accessible area can also be reconsidered by the Panel as the planning proposal authority, post-exhibition.

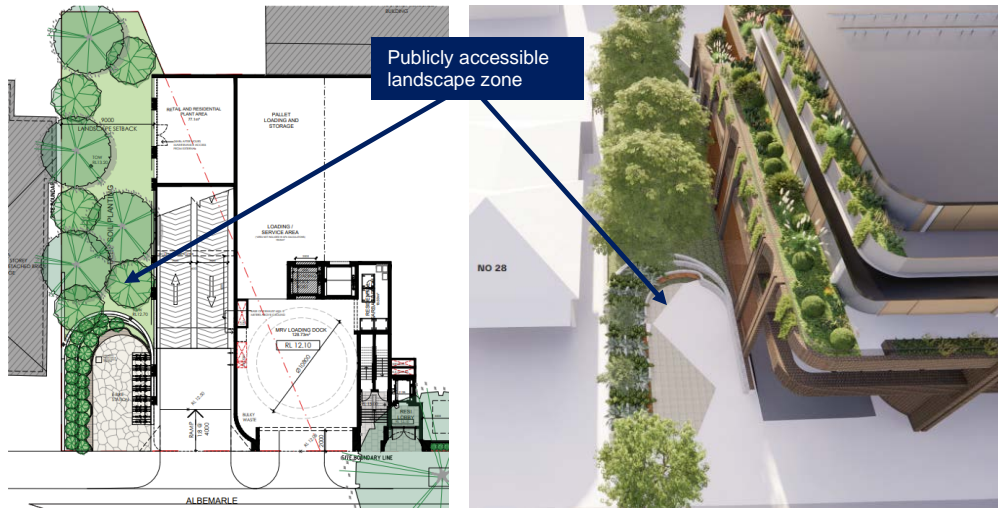


Figure 7 | Concept scheme showing location of publicly accessible landscaped zone (Source: Urban Design Study)



Figure 8 | Landscape zone with location of potential public area at the Albemarle Avenue frontage and private open space behind (Source: Urban Design Study)

5 Consultation

5.1 Community

The Panel proposes a community consultation period of 28 calendar days, which is equivalent to 20 working days.

Given the nature of the planning proposal, the proposed exhibition period is considered appropriate and forms a condition of the Gateway determination.

5.2 Agencies

The planning proposal does not specifically identify which agencies will be consulted.

Having regard to the nature and scope of the proposal, it is recommended the following agencies be consulted on the proposal and given 20 working days to comment:

- Transport for NSW
- Environment and Heritage Group (Department of Climate Change, Energy, the Environment and Water)
- State Emergency Service
- Ausgrid
- Sydney Water
- Waverley Council

6 Timeframe

The Department's Local Environmental Plan Making Guide provides a benchmark of 225 working days from Gateway determination to finalisation for 'standard' planning proposals. Based on this benchmark, the proposal is targeted for finalisation 11 months from the lodgement of the proposal for Gateway by the proponent.

The Department recommends a time frame of 8 months from Gateway to ensure it is completed in line with its commitment to reduce processing times. It is recommended the planning proposal is updated prior to consultation to reflect this timeframe.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the Sydney Eastern City Planning Panel is the planning proposal authority, the Department as delegate for the Minister is the local plan making authority for this planning proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It demonstrates strategic merit as it is consistent with the objectives and directions of the Eastern City District Plan, Woollahra Local Strategic Planning Statement and Woollahra Local Housing Strategy.
- It would facilitate additional housing, commercial and employment opportunities on a site, which is accessible to public transport and services, and would complement Council's vision to revitalise the Rose Bay South local centre as an intimate, connected and thriving place that supports the needs of the community and businesses.

- It has site-specific merit as the future development is capable of achieving adequate urban design outcomes and would contribute to the regeneration of Rose Bay South centre.

It is noted that the scale of the proposed concept remains in keeping with the four storey desired future character envisaged under the Woollahra DCP 2015. The additional permitted use on 30 Albemarle Avenue provides for improvements in the distribution of bulk and scale and site access, while also allowing for a better transition between the R2 Low Density Residential and MU1 Mixed Use zones, irrespective of the proposed 732 m² additional GFA (21% increase) across the two sites.

Based on the assessment in this report, the proposal is to be amended prior to community and agency consultation to:

- Remove the local provisions relating to building setbacks, deep soil landscaped areas, a publicly accessible area, and a site specific DCP.

9 Recommendation

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

2. Prior to public exhibition, the planning proposal is to be amended to:
 - a) Remove the local provisions relating to building setbacks, deep soil landscaped areas and a publicly accessible area.
 - b) Remove the local provision requiring a site-specific DCP.
 - c) To update the planning proposal timeframes.
3. Consultation is required with the following public authorities:
 - Transport for NSW
 - Environment and Heritage Group (Department of Climate Change, Energy, the Environment and Water)
 - State Emergency Service
 - Ausgrid
 - Sydney Water
 - Waverley Council
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
5. The timeframe for completing the LEP is to be 8 months from the date of the Gateway determination.

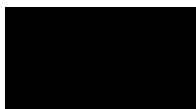


Renee Coull
Manager, Place and Infrastructure, Eastern and South Districts



Carina Lucchinelli
Manager, Place and Infrastructure, Eastern and South Districts

Gateway determination report – PP-2022-731 (RR-2023-20)



9 February 2024

Laura Locke

Director, Eastern and South Districts

Assessment officer

Paula Bizimis

Senior Planning Officer, Eastern and South Districts





Department of Planning, Housing and Infrastructure

Gateway Determination

Planning proposal (Department Ref: PP-2022-731): to introduce site-specific provisions for land at 488 – 492 Old South Head Road and 30 Albemarle Avenue, Rose Bay.

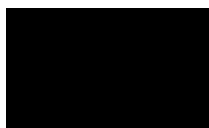
I, the Executive Director, Metro East and South at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Woollahra Local Environmental Plan (LEP) 2014 to introduce site-specific provisions for land at 488 – 492 Old South Head Road and 30 Albemarle Avenue, Rose Bay should proceed subject to the following conditions:

1. The planning proposal is to be revised prior to exhibition to address the matters set out below:
 - a) remove the requirement for a Site-Specific Development Control Plan
 - b) remove proposed local provisions relating to setbacks, deep soil landscaped areas and a publicly accessible area (pocket park)
 - c) update the planning proposal timeframes.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
 - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, 2022).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - Transport for NSW
 - Environment and Heritage Group (Department of Climate Change, Energy, the Environment and Water)
 - State Emergency Service
 - Ausgrid
 - Sydney Water
 - Waverley Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 20 working days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The time frame for completing the LEP is to be 8 months following the date of the Gateway determination.

Dated 23rd day of February 2024



Amanda Harvey
Executive Director, Metro East and South
Department of Planning, Housing and
Infrastructure

Delegate of the Minister for Planning and
Public Spaces

PP-2022-731 (IRF24/146)

Department of Planning, Housing and Infrastructure
(Planning Panels)

Fact sheet



Exhibition of Planning Proposal 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay (PP-2022-731)

The planning proposal seeks to enable redevelopment of the site for a 4 storey mixed use development containing a supermarket and 14 residential apartments.

Site description

The site comprises two separate parcels of land and is located at 488-492 Old South Head Road (Lot 1 DP 1009799) and 30 Albemarle Avenue, Rose Bay (Lot 30 Section B DP 4567). The site currently contains a former Caltex service station (decommissioned) and a single storey dwelling house at 30 Albemarle Avenue. The site is currently zoned part MU1 Mixed Use (488-492 Old South Head Road) and part R2 Low Density Residential (30 Albemarle Avenue) under the *Woollahra Local Environmental Plan (LEP) 2014*.



Figure 1 - Subject site (Source: SIX Maps NSW 2024)

© State of New South Wales through Department of Planning, Housing and Infrastructure 2024. Information contained in this publication is based on knowledge and understanding at the time of writing, March 2024, and is subject to change. For more information, please visit dphi.nsw.gov.au/copyright. IRF24/451 | TMP-MC-FS-V1.2

Department of Planning, Housing and Infrastructure (Planning Panels)



Fact sheet

What the planning proposal will do

The planning proposal seeks to amend the Woollahra LEP 2014 to enable redevelopment of the site for a 4-storey mixed use development containing a supermarket and 14 residential apartments.

In summary, it seeks to:

- Insert a new clause in Schedule 1 Additional permitted uses to permit retail premises at 30 Albemarle Avenue, provided it is as part of a shop top housing development at 488-492 Old South Head Road.
- Create a new local provisions clause that applies only if 488-492 Old South Head Road and 30 Albemarle Avenue are developed together that:
 - Allows a maximum Gross Floor Area (or "GFA") of 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue.
 - Permits a maximum Height of Building of 14.5m at 30 Albemarle Avenue.

What is a planning proposal?

A planning proposal (or "PP") explains the intended effect of a proposed LEP or proposed amendments to an LEP. It describes the intended outcomes and proposed LEP provisions, identifies and addresses the potential impacts that the changes may have and provides justification for making the LEP.

A planning proposal is a key part of the LEP making process because it describes how a new or amended LEP will 'give effect' to strategic and site-specific planning outcomes. It is the first step in making the statutory link between strategic plans and planning controls which apply to development.

Note: Any physical development of the land occurs under separate planning processes.

What is an LEP?

An LEP provides a statutory framework for the way land can be developed and used.

An LEP contains land use zones which establish where residential, commercial, recreation and other uses can occur. It has development controls for buildings and land, including controls for maximum building heights, floor space, subdivision and lot size.

LEPs also include provisions which address local matters, hazards and constraints, such as flooding, protection of biodiversity, heritage conservation, or land that is being reserved by the government to build more public infrastructure in the future.

An LEP is made under the *Environmental Planning and Assessment Act 1979*.

What are the Council's, the Sydney Eastern City Planning Panel and the Departments role in the process?

The Council's role for this planning proposal

On 5 May 2022, the planning proposal was originally lodged with Woollahra Council. On 14 August 2023, Council resolved not to support the planning proposal.

The proponent subsequently lodged a rezoning review request for the proposal, which resulted in the Sydney Eastern City Planning Panel (Panel) supporting the proposal progression for Gateway

Department of Planning, Housing and Infrastructure (Planning Panels)



Fact sheet

determination in November 2023 and appointing itself as the PPA. Council is now considered a key stakeholder and will be consulted as part of the public exhibition.

Sydney Eastern City Planning Panel's role for this proposal

The Panel acts as the independent body in rezoning reviews within the Woollahra Local Government Area (LGA). Given Council did not support the progression of the planning proposal, the Panel was requested by the Proponent to review the rezoning request.

The Panel determined that the proposal demonstrated strategic and site-specific merit and should proceed to Gateway determination. The Panel was appointed as the Planning Proposal Authority and is therefore responsible for preparing the package of planning proposal documents for public exhibition and running the public consultation. The Panel will consider public submissions on the planning proposal prior to making a decision about whether the planning proposal should proceed to finalisation.

The Department's role for this planning proposal

The Department assesses and guides planning proposals through the LEP making process. This includes active management of the planning proposal through the LEP making process, issue resolution, and finalising the LEP (if the Minister is the local plan-making authority).

On 12 December 2023, the updated planning proposal was submitted to the Department for Gateway determination. An assessment of the proposal was undertaken, and a Gateway determination was issued on 23 February 2024 stating the proposal should proceed subject to the conditions, including the public exhibition of the proposal.

A final assessment of the planning proposal will be undertaken by the Department after the public exhibition. At this stage further amendments may be made to respond to matters raised by community members or public authorities. The Department is the local plan-making authority and will determine if the LEP amendment will be made.

Additional information about the planning proposal

More information about the proposal and details about how you can get involved can be found on the NSW Planning Portal. Go to www.planningportal.nsw.gov.au/ppr/under-exhibition/planning-proposal-pp-2022-731-amend-woollahra-local-environmental-plan-2014.

How to make submissions

Submissions on the planning proposal should be made to the Department through the NSW Planning Portal. Go to www.planningportal.nsw.gov.au/ppr/under-exhibition/planning-proposal-pp-2022-731-amend-woollahra-local-environmental-plan-2014.

Your submission must be lodged **by 5pm on Tuesday, 7 May 2024** and must include:

- if the submission relates to the planning proposal
- a statement on whether you support or object to the proposal; and
- the reasons why you support or object to the proposal.

Persons lodging submissions must declare reportable political donations (including donations of \$1000 or more) made in the previous two years.

Your personal information is protected under the *Privacy and Personal Information Act 1998*.

Department of Planning, Housing and Infrastructure (Planning Panels)



Fact sheet

We may publish any personal information you have included in your submissions on a proposal. Do not include any personal information in your submission that you do not want published. If you do not want your name and address to be made public, please ensure you tick the relevant box and clearly state this on the front page of your submission. Making a submission is entirely voluntary and you are under no obligation to provide us with any of your personal information, except as otherwise required by law.

Who should I direct my Planning Proposal inquiries to?

For questions relating to the planning proposal, please contact Douglas Cunningham on (02) 9274 6357.

What is a Planning Proposal Authority (PPA)?

In the planning proposal process, the PPA is responsible for preparing the package of planning proposal documents and submitting them to the Department for a Gateway determination.

A Gateway determination is an approval required before the proposal can proceed to public exhibition. This approval is usually subject to conditions.

The PPA is responsible for satisfying the conditions of the Gateway determination, public exhibition of the planning proposal, and finalisation.

An alternate PPA may be appointed under certain circumstances, where directed by the Minister. As the planning proposal is the result of a rezoning review the Sydney Eastern City Planning Panel is the Planning Proposal Authority and the Department will be the Local Plan-Making Authority.

What is a Local Plan-Making Authority (LPMA)?

The LPMA is the authority responsible for making the LEP as identified by the Gateway determination. This may be the Minister (or delegate) or the relevant council. The LPMA undertakes the statutory functions in making the LEP.

Item No:	R2 Recommendation to Council
Subject:	ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL - PLANNING PROPOSAL TO LIST TWO SCHOOL BUILDINGS IN ROSE BAY AS LOCAL HERITAGE ITEMS
Authors:	Eleanor Banaag, Senior Strategic Heritage Officer Kristy Wellfare, Team Leader Heritage
Approvers:	Anne White, Manager Strategic Planning & Place Scott Pedder, Director Planning & Place
File No:	24/68571
Purpose of the Report:	To provide Council with the advice of the Woollahra Local Planning Panel. To obtain Council's approval to proceed with the planning proposal to list two school buildings in Rose Bay as local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014.
Alignment to Delivery Program:	Strategy 4.2: Conserving our rich and diverse heritage.

Recommendation:

THAT Council:

- A. Note the advice provided by the Woollahra Local Planning Panel on 18 April 2024 regarding the planning proposal to list two school buildings in Rose Bay as local heritage items.
- B. Endorse the planning proposal as contained at **Attachment 1** of the report to the Environmental Planning Committee of 6 May 2024 to list the following two school buildings as local heritage items in Schedule 5 and on the Heritage Map of the *Woollahra Local Environmental Plan 2014* and resolves to forward this to the Department of Planning, Housing and Infrastructure with a request for Gateway Determination to allow public exhibition:
 - i. 'Rose Bay Public School – Building E, including interiors' at 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).
 - ii. 'McAuley Catholic Primary School – former Christian Brothers College building, including interiors' at 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).
- C. THAT Council request the Minister for Planning and Public Spaces (or delegate) authorise Council as the local plan-making authority in relation to the planning proposal, to make the local environment plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

Executive Summary:

The purpose of this report is to provide Council with the advice of the Woollahra Local Planning Panel (Woollahra LPP) and the recommendations of the *Draft Rose Bay Public School and McAuley Catholic Primary School Heritage Assessment* to list two school buildings in Rose Bay as local heritage items.

In summary, we recommend that Council resolve to endorse the planning proposal as contained in **Attachment 1**, and forward this to the Department of Planning, Housing and Infrastructure (DPHI) with a request for a Gateway determination to allow public exhibition.

Discussion:

On 8 April 2019 Woollahra Council considered a Notice of Motion (11.2) regarding the proposed heritage listing of certain buildings in Rose Bay. At this meeting, Council resolved (in part):

THAT Council requests staff to undertake an assessment of heritage significance for the following properties located in Rose Bay, NSW:

- ii. Old School Hall, Rose Bay Public School, Albemarle Ave, Rose Bay; and*
- iii. McAuley Catholic School and outbuildings (formerly Christian Brothers College Rose Bay),*

and report to the Environmental Planning Committee on whether these items have sufficient heritage significance to be listed as:

- i. a local heritage item in the Woollahra Local Environmental Plan 2014 (WLEP); and/or*
- ii. an item on the State Heritage Register under the Heritage Act 1977.*

Draft Heritage Study, Artefact Heritage

In June 2023, Council staff commissioned consultants *Artefact Heritage* to investigate the heritage significance of the Rose Bay Public School and McAuley Catholic Primary Schools as part of the *Rose Bay Public School and McAuley Catholic Primary School Heritage Assessments* (the Draft Study). The Draft Study can be viewed here:

<https://yoursay.woollahra.nsw.gov.au/rose-bay-schools>

The purpose of the Draft Study was to provide information regarding the historic values of each site, and identify if any of the sites contained significant cultural heritage values to warrant listing at either the local or state level. The draft study included the following:

- a comprehensive historical analysis of both school sites;
- internal and external site inspections of all buildings on each site;
- a robust comparative analysis of other relevant school examples.

Assessment of heritage significance

An assessment of the heritage significance of the two proposed items was undertaken in accordance with the Environment and Heritage Group and Department of Climate Change, Energy, the Environment and Water (DCCEEW) *Assessing heritage significance* (2023) and *Investigating heritage significance* (2021). There are seven significance criteria used in the process of assessing heritage significance:

Table 1: NSW Heritage assessment criteria summary

Criteria		
(a)	Historic significance	<i>A place or object is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).</i>
(b)	Historical association	<i>A place or object has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).</i>
(c)	Aesthetic/ creative/ technical achievement	<i>A place or object is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (or the local area).</i>
(d)	Social, cultural and spiritual significance	<i>A place or object has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.</i>
(e)	Research potential	<i>A place or object has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).</i>

Criteria		
(f)	Rare	<i>A place or object has potential to yield information that will contribute to an understanding of NSW's cultural or natural (or the cultural or natural history of the local area).</i>
(g)	Representativeness	<i>A place or object is important in demonstrating the principal characteristics of NSW's</i> <ul style="list-style-type: none"> <i>cultural or natural places; or</i> <i>cultural or natural environments.(or a class of the local area's cultural or natural places; or cultural or natural environments.)</i>

Each criterion has significance indicators which are used to assist in the assessment process. If an item can demonstrate meeting one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

Having assessed each of the items against the Heritage NSW guidelines, the Draft Study concluded that the following two buildings meet the threshold for listing as items of local heritage significance.

- “Rose Bay Public School - Building E, including interiors”, 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).
- “McAuley Catholic Primary School – former Christian Brothers College building, including interiors”, 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).

Accordingly, the Draft Study recommends that these two buildings are listed as local heritage items in Schedule 5 Part 1 of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), and identified on the associated Heritage Map.

A summary of each Heritage NSW criteria, and how these were met by each item is summarised below in Table 2. Note that the Draft Study says that it is likely there is social significance for each school with students and alumni who have attended in the past.

Table 2: NSW Heritage criteria assessment summary

Property	(a) historic	(b) historical association	(c) aesthetic/ creative/ technical	(d) social	(e) technical/ research	(f) rarity	(g) representative
<i>Rose Bay Public School - Building E, including interiors</i>	✓	✓	✓	✗	✗	✓	✓
<i>McAuley Catholic Primary School – former Christian Brothers College building, including interiors</i>	✓	✓	✓	✗	✓	✓	✓

Further details and photos describing each item is provided in the Draft Study and inventory sheets which can be viewed here: <https://yoursay.woollahra.nsw.gov.au/rose-bay-schools>

Community Engagement:

Site inspections

Artefact Heritage were engaged in June 2023. Following preliminary research, Artefact undertook site inspections of the two schools between August and September 2023, which included internal and external inspections of buildings and the whole school grounds.

Circulating the Draft Heritage Study for owner pre-engagement

Following the site inspections, Council staff distributed the Draft Study to the school's administration team in February 2024, to facilitate comment and feedback. It is understood that this Draft Study was then circulated to the relevant Stage agencies i.e. Catholic Schools and Schools Infrastructure NSW.

The purpose of this "pre-engagement" was to make the affected owners aware of the recommendations of the study, and Council staff's intention to apply a heritage status to the buildings. It also allowed an opportunity for owners to provide feedback and commentary that might inform the draft heritage study and/or the planning proposal.

A response was received by the Manager – Heritage, Schools Infrastructure NSW (SINSW) with regards to Rose Bay Public School. SINSW acknowledged the heritage assessment prepared by Artefact Heritage and confirmed that they have no objections to the technical assessment of Building E as possessing local heritage significance. They did request that for the purpose of consistency with other DoE heritage listings, the gazettal name of the heritage listing be described as "Rose Bay Public School – Building E". This is also to ensure that the heritage values specific to this building are protected. The Submission is included as **Attachment 2**. Based on the feedback Council staff supported the administrative suggestion in the submission and have made the name of the proposed heritage item to be "Rose Bay Public School – Building E" consistent throughout all reports and inventory sheets.

Planning Proposal

Having considered the issues raised in the owner submissions, a planning proposal was prepared to list the two buildings as local heritage items in Schedule 5 and on the Heritage Maps of the Woollahra LEP 2014.

The planning proposal was prepared in accordance with section 3.33 of the Act and the document prepared by the former NSW Department of Planning and Environment titled *Local Environmental Plan Making Guideline* (December 2021).

The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014.
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014.
- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Advice of the Woollahra Local Planning Panel

The planning proposal was referred to the Woollahra Local Planning Panel (Woollahra LPP) for consideration on 18 April 2024. The representatives of both schools were notified of this meeting. In the morning of 18 April 2024, the Woollahra LPP carried out site inspections of each proposed heritage listed school building, and an internal site inspection was facilitated for the Rose Bay Public School Building E. Councillor Jarvis presented to the Woollahra LPP meeting.

Having considered the planning proposal, the Woollahra LPP provided the following unanimous advice to Council:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list the following two local heritage items in Schedule 5 and on the Heritage Map of the Woollahra Local Environmental Plan 2014:

- A. *'Rose Bay Public School – Building E, including interiors' at 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).*

Note: The Panel notes the existence of the palm tree that falls within the curtilage of the Rose Bay Public School Building E and that any future work to the building and its surrounds and settings will need to take into account the significance of the landscape setting.

- B. *'McAuley Catholic Primary School – former Christian Brothers College building, including interiors' at 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).*

In response to the note to Item A, Council staff acknowledge the Panel's advice regarding two mature palm trees that fall within the proposed heritage curtilage of the Rose Bay Public School – Building E. These trees were discussed in the Draft Study as dating from the early 1950s and while not historically associated to Building E (dating from 1909) they still have contributory value to the landscape setting of the building.

Should the proposed heritage listing proceed, any work to the building will need to meet the aims of the *Woollahra LEP 2014* as per 1.2(f), the consent requirements in accordance with Clause 5.10(2), and consideration of impacts on heritage significance required as per Clause 5.10(4). As both trees will fall within the heritage listed allotments encompassing Building E, this consideration of impacts to significance would extend to both trees. As such, Council staff recommend that the effect of heritage listing will appropriately provide consideration to the palm trees as recommended by the Panel.

Options:

Subject to Council's decision, the planning proposal (with updates to make reference to the Council decision) will be referred to the DPHI seeking a Gateway determination. This will allow the planning proposal to be placed on public exhibition. The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2021* and the Gateway determination issued by the DPHI as delegate for the Minister.

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, Council may request authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act. Part C of the recommendation for this report deals with this request. After public exhibition, the planning proposal and submissions received will be reported to Council. Alternatively, Council may decide to note the advice of the Woollahra LPP and not progress the planning proposal.

Policy Implications:

Should Council resolve to progress a planning proposal, and should the planning proposal progress to finalisation, there will be policy implications by listing two local heritage items in the *Woollahra LEP 2014*, Schedule 5, Part 1.

Financial Implications:

Council staff engaged Artefact Heritage to undertake the Draft Heritage Study which has been used to inform the planning proposal. There will be some costs associated with progressing and exhibiting a planning proposal and making further amendments to the Draft Study as a consequence of issues raised in submissions. However, these are considered appropriate considering the work required, and this was budgeted for in the 2023/2024 and 2024/2025 financial year.

Resourcing Implications:



Staff resources will be associated with progressing a planning proposal which will include managing the public exhibition and preparing a post exhibition report to a meeting of Council.

Conclusion:

A planning proposal to list the Rose Bay Public School – Building E, and the McAuley Catholic Primary School – former Christian Brothers College building, in the Woollahra LEP 2014 was considered by the Woollahra LPP on 18 April 2024. Council staff note the endorsement from the Woollahra LPP to progress the listings.

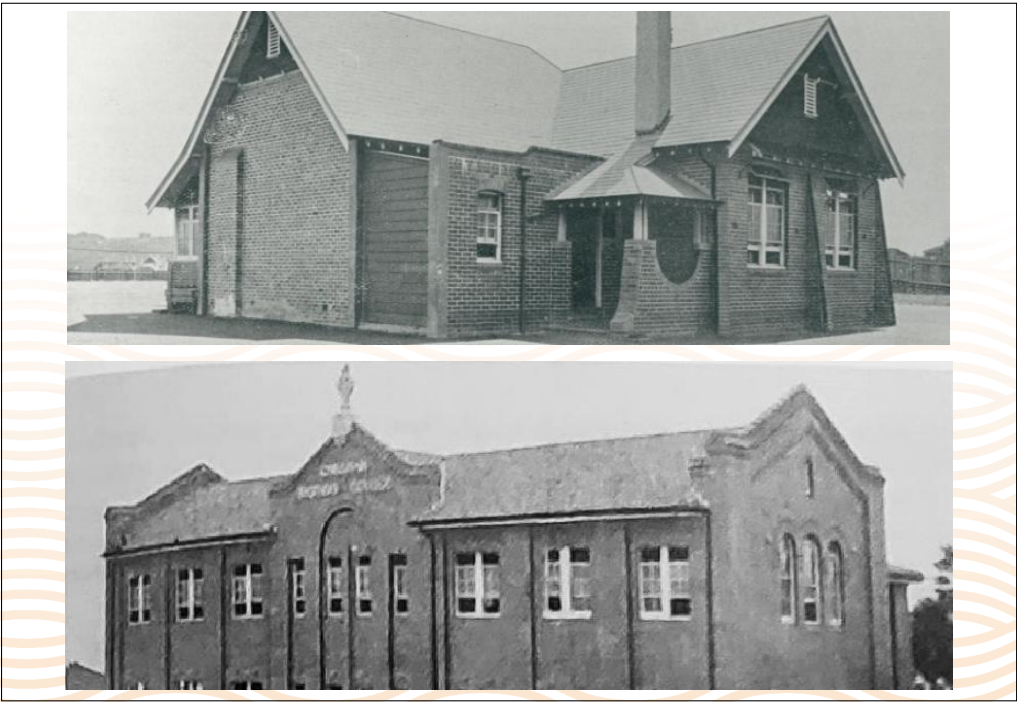
Council staff recommend that Council endorses the planning proposal at **Attachment 1** and proceed with referring this to the DPHI requesting a Gateway determination to allow public exhibition.

Attachments

1. Planning Proposal - Rose Bay Schools Heritage Listing - April 2024 [↓](#) 
2. Submission from Schools Infrastructure NSW (Redacted) [↓](#) 



Local Heritage Listing: Rose Bay Schools



Version Date:	April 2024
Division/Department:	Strategic Planning
Responsible Officer:	Eleanor Banaag – Senior Strategic Heritage Officer
HPE CM Record Number:	24/45977

Acknowledgement of Country

Woollahra Council acknowledges the Gadigal and Birrabirragal people, the traditional custodians of the land of Woollahra. We would like to acknowledge Aboriginal or Torres Strait Islander people and pay our respects to Elders past, present and emerging.

Cover Photo: (Top) Rose Bay Public School original school building (now part of Building E) / Christian Brothers College School Building within McAuley Catholic Primary School.

TABLE OF CONTENTS

1. Introduction	5
1.1. Background	5
1.2. Description of this planning proposal	6
1.3. Assessment of Heritage Significance	6
1.4. Statement of Heritage Significance.....	11
2. Existing sites and surrounding context.....	12
2.1. Rose Bay Public School – Building E	12
2.2. McAuley Catholic Primary School – Former Christian Brothers College building	15
3. Existing planning controls.....	19
3.1. Woollahra Local Environmental Plan 2014	19
3.2. Woollahra Development Control Plan 2015	20
4. Objectives of planning proposal	20
5. Explanation of provisions.....	21
6. Justification	21
6.1. Need for planning proposal.....	21
6.2. Relationship to strategic planning framework	22
6.3. Environmental, social and economic impact	23
6.4. State and Commonwealth interests	25
7. Mapping	25
8. Community consultation.....	30
8.1. Stakeholder pre-engagement	30
8.2. Public Exhibition	30
9. Project timeline.....	31
Schedules.....	32
Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs)	32
Schedule 2 – Compliance with section 9.1 directions (Directions by the Minister) under the EP&A Act	34

Supporting documents (circulated separately)

- **Draft Heritage Study: Rose Bay Public School and McAuley Catholic Primary School (December 2023)**
- **Heritage Inventory Sheet – Rose Bay Public School, Building E (March 2024)**
- **Heritage Inventory Sheet – McAuley Catholic Primary School, former Christian Brothers College building (January 2023)**

1. Introduction

1.1. Background

This planning proposal seeks to amend the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), at Schedule 5 (Environmental heritage) and the Heritage Map, to include two new heritage items.

- Rose Bay Public School – Building E, including interiors, 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).
- McAuley Catholic Primary School – former Christian Brothers College building, including interiors, 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).

Council considered a Notice of Motion (8 April 2019, NOM 11.2) regarding the proposed heritage listing of certain buildings in Rose Bay. At this meeting, Council resolved (in part):

THAT Council requests staff to undertake an assessment of heritage significance for the following properties located in Rose Bay, NSW:

- ii) Old School Hall, Rose Bay Public School, Albemarle Ave, Rose Bay; and*
- iii) McAuley Catholic School and outbuildings (formerly Christian Brothers College Rose Bay),*

and report to the Environmental Planning Committee on whether these items have sufficient heritage significance to be listed as:

- i) a local heritage item in the Woollahra Local Environmental Plan 2014 (WLEP); and/or*
- ii) an item on the State Heritage Register under the Heritage Act 1977.*

In June 2023, Woollahra Council investigated the Rose Bay Public School and McAuley Catholic Primary Schools as part of the *Rose Bay Public School and McAuley Catholic Primary School Heritage Assessments* (the heritage study, or the Draft Study) prepared by Artefact Heritage.

The Draft Study included a comprehensive historical analysis of both school sites and all school buildings throughout, internal and external site inspections of all buildings on each site, and a robust comparative analysis of other relevant school examples. The Draft Study assessed the significance of each building using the process and heritage assessment criteria contained in the NSW Heritage Office guidelines, *Assessing Heritage Significance (2023)*. Artefact Heritage provided a Draft Study to Council in December 2023.

The Draft Study concluded that the following individual buildings reached the threshold for local heritage listing on the Woollahra LEP 2014, Schedule 5.

- Rose Bay Public School - Building E, including interiors, 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).
- McAuley Catholic Primary School – former Christian Brothers College building, including interiors, 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).

The Draft Study was provided to the school representatives in February 2024 for comment and feedback. A response was received by the Manager – Heritage, Schools Infrastructure NSW (SINSW) with regards to Rose Bay Public School. SINSW acknowledged the heritage

assessment prepared by Woollahra Council and confirmed that they have no objections to the technical assessment of Building E as possessing local heritage significance.

They have requested, for the purpose of consistency with other DoE heritage listings, that the gazettal name of the heritage listing be described as “Rose Bay Public School – Building E”. This is also to ensure that the heritage values specific to this building are protected.

1.2. Description of this planning proposal

The objective of the planning proposal is to amend Woollahra LEP 2014 to list the Rose Bay Public School – Building E including interiors, and the McAuley Catholic Primary School – former Christian Brothers College building including interiors, identified in Table 1 below, as local heritage items in Schedule 5 Environmental heritage, Part 1 Heritage items. Heritage listing of these buildings will ensure recognition of its significance, as well as provide statutory protection through ensuring that any future development proposals are assessed against the heritage provisions of the Woollahra LEP 2014.

Table 1: Subject sites to which the planning proposal applies

	Item	Address	Lot/DP
1	<i>Rose Bay Public School – Building E, including interiors</i>	21 Wilberforce Avenue, Rose Bay	Lot 49-53 / DP 4567
2	<i>McAuley Catholic Primary School – former Christian Brothers College building, including interiors</i>	12 Carlisle Street, Rose Bay	Lots A & B / DP 80580

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the NSW Department of Planning and Environment supporting document. *Local Environmental Plan Making Guideline* (August 2023).

1.3. Assessment of Heritage Significance

Artefact Heritage carried out an assessment of heritage significance of the two subject sites.

The assessment of heritage significance was undertaken in accordance with Environment and Heritage Group, Department of Planning and Environment publications *Assessing heritage significance* (2023) and *Investigating heritage significance* (2021). There are seven criteria used in the process of assessing heritage significance:

Criterion (a) – Historical significance

An item is important in the course, or pattern of NSW’s cultural or natural history (or the cultural or natural history of the local area).

Criterion (b) – Historical Association

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW’s cultural or natural history (or the cultural or natural history of the local area).

Criterion (c) – Aesthetic/creative/technical achievement

An item is important in demonstrating aesthetic characteristics and/or high degree of creative or technical achievement in NSW (or the local area).

Criterion (d) – Social, cultural and spiritual significance

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.

Criterion (e) – Research potential

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

Criterion (f) – Rare

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural (or the cultural or natural history of the local area).

Criterion (g) – Representative

An item is important in demonstrating the principal characteristics of NSW's

- cultural or natural places; or*
- cultural or natural environments.(or a class of the local area's cultural or natural places; or cultural or natural environments.)*

Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance.

The assessment concludes that the following sites are of **local** heritage significance.

- Rose Bay Public School – Building E, including interiors, 21 Wilberforce Avenue, Rose Bay (Lot 49-53, DP 4567).
- McAuley Catholic Primary School – former Christian Brothers College building, including interiors, 12 Carlisle Street, Rose Bay (Lots A and B, DP 80580).

Accordingly, it is recommended that the two sites are listed in Schedule 5 and identified on the associated Heritage Map of the Woollahra LEP 2014.

1.3.1. Assessment of Significance – Rose Bay Public School, Building E, including interiors

Historical significance Criterion (a)	The north-eastern section of Building E (the E Block) at Rose Bay Public School dates from 1907, and together with subsequently constructed additions in 1911, 1916, the 1920s and 1970s, presents the oldest and most distinctive building on this school campus. It has local historical significance as a good quality local community building which has been in public use for well over a century. It retains considerable authenticity and integrity in retaining many of the original qualities of its original design and materials, and because it is still being used in its original function for classroom teaching. Building E meets the guidelines for inclusion for local historical significance.
	Building E at Rose Bay Public School may have local associations with James Sven Wigram, the Chief Architect in charge of school

Historical association significance Criterion (b)	buildings within the NSW Department of Public Works between 1904 and 1908, as a local example of his public school design if it can be established as designed by him. Building E has the potential to meet the guidelines for inclusion for local historical associations.
Aesthetic significance Criterion (c)	Building E at Rose Bay Public School has local aesthetic significance as a good quality government-built educational building dating from 1907, which retains many of its early design features including the use of warm face brick work, decorative brick buttresses positioned between windows, barge board gables facing the street, tall chimneys, wide eaves with exposed rafters, large timber-framed rectangular sash windows, four panelled doors, high ceilings, plastered walls and painted timber elements throughout. Building E meets the guidelines for inclusion for local aesthetic significance.
Social significance Criterion (d)	Building E at Rose Bay Public School is likely to have social significance for school children, alumni, teachers and others who used the building when attending or working at the school—further consultation with the local community may be required to establish a local level of social significance. Building E potentially meets the guidelines for inclusion for social significance for alumni.
Technical/ Research significance Criterion (e)	Building E at Rose Bay Public School is the first known building to be constructed on this land so there is low potential for historical archaeological remains of local significance. A recent search found no Aboriginal Heritage Information Management System (AHIMS) sites registered within the property. The study area falls within an area of Potential Aboriginal Heritage Sensitivity (Coast Heritage, 2021). Building has low potential for historical archaeological remains of local significance.
Rarity Criterion (f)	Building E at Rose Bay Public School has local rarity as one of very few public schools in NSW built from scratch between 1904 and 1908 to meet new requirements. Smaller classrooms and more light and ventilation were required in response to the Department of Public Instruction's 'revolution' in its pedagogy and school room design following the government's commission of inquiry into education. Building E Meets the guidelines for inclusion for local rarity.
Representative ness	Building A at Rose Bay Public School has moderate local significance for representing some principal characteristics of early 20 th century NSW Government school building design including the use of good quality natural materials such as brick, slate and timber

Criterion (g)	constructed with good quality workmanship, and ongoing good quality extensions and maintenance to the building. Building E meets the guidelines for inclusion for local representativeness.
Integrity	Building E at Rose Bay Public School is in good condition and retains much of the integrity of its original design and materials. The original 1907 building can still be discerned in the north-eastern corner of the building. Subsequent numerous additions to the building over the course of more than 100 years have been undertaken carefully to either exactly reproduce the high quality double-brick building construction housing high-ceilinged classrooms with tall windows, or to blend sympathetically with it. Three chimneys are still in good condition on the roof although fireplaces in the classrooms have long been blocked up. Importantly, the building is still being used in its original function for classroom teaching.

1.3.2. Assessment of Significance – McAuley Catholic Primary School, Former Christian Brothers College building, including interiors

Historical significance Criterion (a)	As the oldest, largest and most distinctive building on this school campus, dating from 1936, the former college building has moderate local historical significance as a remnant of the Christian Brothers' twentieth century contribution to Catholic educational institutions in the locality. It retains considerable integrity for still being used in its original function for classroom teaching. The former Christian Brothers College building meets the inclusion guidelines for local historical significance.
Historical association significance Criterion (b)	The former Christian Brothers College building has local historical associations for having been designed by John Hennessey and thus forming part of the extensive oeuvre of good quality ecclesiastical architecture designed by the Hennessey firm between the 1880s and 1940s. The building has a local historical association with the Christian Brothers College Rose Bay and the McAuley Catholic Primary School as a locally significant educational and religious institution. The former Christian Brothers College building meets the inclusion guidelines for local historical associations
Aesthetic significance Criterion (c)	The former Christian Brothers College building is a modest local example of the educational, ecclesiastical architecture by the Hennessey architectural firm—comparable with the Hennessey-designed buildings at St Patricks Strathfield or St Mary's Concord rather than the grander buildings at St Patrick's Estate Manly, St Joseph's Hunters Hill or Santa Sabina Strathfield. The building

Planning Proposal – Rose Bay Schools, local heritage listing

24/45977

Version: April 2024

Page 9 of 37

	<p>retains much of its internal and external integrity and makes a local contribution to the streetscape of Carlisle Street with its substantial form and impressive historical appearance with good quality architectural detailing in traditional materials.</p> <p>The former Christian Brothers College building meets the inclusion guidelines for local aesthetic significance.</p>
<p>Social significance Criterion (d)</p>	<p>The former Christian Brothers College building is likely to have social significance for school children, alumni, teachers and others who frequented the building when attending or working at McAuley Catholic Primary School—but further consultation with the local community may be required to establish a local level of social significance.</p> <p>The former Christian Brothers College building potentially meets the inclusion guidelines for local social significance for alumni.</p>
<p>Technical/ Research significance Criterion (e)</p>	<p>The former Christian Brothers College building is understood to be the second building to be constructed on the property formerly known as 12 Carlisle Street, which had a Federation era residence constructed there in c.1904. As such it has moderate-to-high potential for historical archaeological remains of local significance. A recent search found no Aboriginal Heritage Information Management System (AHIMS) sites registered within the property. The study area falls within an area of Potential Aboriginal Heritage Sensitivity (Coast Heritage, 2021).</p> <p>The former Christian Brothers College building has potential for historical archaeological remains of local significance.</p>
<p>Rarity Criterion (f)</p>	<p>The former Christian Brothers College building has local rarity as the only modest but good quality, intact and still functioning example of a Hennessey-designed Catholic school architecture in Sydney's eastern suburbs, constructed in 1935 near the end of the firm's lifespan.</p> <p>The former Christian Brothers College building meets the inclusion guidelines for local rarity.</p>
<p>Representative ness Criterion (g)</p>	<p>The former Christian Brothers College building has local representative significance as a good quality, intact and still functioning example of mid-twentieth century Catholic school architecture in Sydney's eastern suburbs, designed by the prestigious Hennessey architectural firm.</p> <p>The former Christian Brothers College building meets the inclusion guidelines for local representativeness.</p>
<p>Integrity</p>	<p>The former Christian Brothers College building is in good condition and retains considerable integrity of its original design and materials. It retains its original footprint and three level layout, its original brick wall and tiled roof construction materials. Although most of its original timber-framed windows have been replaced with</p>

	metal-framed windows, they retain the original patterns of fenestration. The open rear verandahs have been enclosed, turning them into corridors. Importantly, the building is still being used in its original function for classroom teaching.
--	--

1.4. Statement of Heritage Significance

Below is the Statement of Significance for the subject property. The heritage significance assessment, including a heritage inventory sheet, is separately attached to this planning proposal, see *Rose Bay Public School and McAuley Catholic Primary School – Heritage Assessments* (December 2023).

1.4.1. Statement of Significance – Rose Bay Public School, Building E

Building E at Rose Bay Public School has local heritage significance under historical, associational, aesthetic, rarity and representative criteria.

Building E dates from 1907, and together with its subsequently constructed additions in 1911, 1916, the 1920s and 1970s, presents the oldest and most distinctive building on the Rose Bay Public School grounds. It has local historical and possibly associational significance as well as considerable authenticity and integrity as a good quality, local community building which has been in public use for well over a century and continues in its original function for classroom teaching. It may have social significance for school children, alumni, teachers and others who have used the building when attending or working at the school—further consultation with the local community may be required to establish a local level of social significance.

Building E at Rose Bay Public School has local aesthetic, rarity and representative significance as a government-built, educational building dating from 1907 which retains many of the features of its original design and materials. These include the use of warm face brick work, barge board gabled facades, tall chimneys, wide eaves with exposed rafters, decorative brick buttresses positioned between timber-framed sash windows, four panelled interior timber doors, high ceilings, plastered walls and painted timber panelling and built-in furniture.

1.4.2. Statement of Significance – McAuley Catholic Primary School, Former Christian Brothers College building

The former Christian Brothers College building within the McAuley Catholic Primary School is assessed as having local significance for its local historical values, local historical associations, aesthetic values, rarity and representativeness. It has some potential for historical archaeological remains of local significance.

The former Christian Brothers College building is a modest local example of the educational, ecclesiastical architecture by the Hennessey architectural firm—comparable with the Hennessey-designed buildings at St Patrick’s Strathfield or St Mary’s Concord rather than the grander buildings at St Patrick’s Estate Manly, St Joseph’s Hunters Hill or Santa Sabina Strathfield. As the oldest, largest and most distinctive building on this school campus, the former college building has moderate local historical importance for representing the Christian Brothers’ twentieth century contribution to Catholic educational institutions in the locality. The building is in good condition and retains considerable integrity for still being used in its original function for classroom teaching. It has moderate rarity and representative significance at the local level as a work of ecclesiastical school architecture designed by the Hennessey firm of architects in 1935.

The former Christian Brothers College building has local historical associations for having been designed by John Hennessey and thus forming part of the extensive oeuvre of good quality ecclesiastical architecture designed by the Hennessey firm between the 1880s and 1940s. The building makes a local contribution to the streetscape of Carlisle Street with its substantial form and impressive historical appearance with good quality architectural detailing in traditional materials.

The former Christian Brothers College building may have some social significance for school children, alumni, teachers and others who frequented the building when attending or working at McAuley Catholic Primary School. Such associations may not be considered strong enough to meet the threshold for local social significance.

2. Existing sites and surrounding context

2.1. Rose Bay Public School – Building E

Building E of the Rose Bay Public School is positioned on the north-eastern side of the school, facing Wilberforce Avenue. The north-eastern corner of Building E incorporates the first building erected on the school premises in 1907. The original, small, single-storey school building was constructed in warm-coloured face brick with a slate roof and a T-shaped plan with gabled facades facing east, west and south. The south facing façade was a blank wall without windows or buttresses, suggesting that an extension of the building in this direction was expected (and in fact soon occurred, within four years).

Extensions to the building took place in 1911, 1916, 1920, 1929 and during the 1970s. The early extensions in 1911 and 1916 were sympathetic to the original design and appear to have been constructed to match the original materials, form and detailing. The 1970s extensions to the Wilberforce Avenue façade had simpler, modern detailing. The early sections of the building built in 1907, 1911 and 1916 retain decorative brick buttresses positioned between windows and diagonally placed at the corners of the building.

The interiors of the building retain many historic features typical of good quality early-to-mid 20th century buildings, including high ceilings lined with timber boards, cornices, timber-panelled sections of walls, plastered walls with picture rails, built-in timber furniture, four-panelled timber doors. The window frames in the original 1907 section of the building appear to be the original timber including the sash frames and arrangement of glass panes. There are many other historic, timber-framed windows remaining in situ throughout the building.

The Rose Bay Public School site is located between Albemarle Avenue and Wilberforce Avenue, northwest of Albemarle Lane, and legally comprised of Lots 111 and 112 DP 1076937, and Lots 13-20 & Lots 46-54 DP 4567. Building E of the Rose Bay Public School is located wholly within Lot 49 to Lot 53, DP 4567 (see Figures 1 & 2 below).



Figure 1: Cadastral map of Rose Bay Public School (outlined in blue) with the allotments containing Building E in red. (Source: Woollahra Council GIS Maps)



Figure 2: Aerial photograph of the northwest corner of the Rose Bay Public School, with Building E outlined in green. (Source: Nearmap accessed by Woollahra Council Maps)



Figure 3: Original 1907 north-eastern corner of Building E facing Wilberforce Avenue, with original windows and buttresses. (Artefact Heritage, 2023)



Figure 4: Photo of Building E at Rose Bay Public School facing the playground, with original 1907 section of the building pictured at left. (Artefact Heritage, 2023)



Figure 5: 1909 Photo of the original building at Rose Bay Public School, now the north eastern corner of Building E. (Source: State Records FL1441588)

2.2. McAuley Catholic Primary School – Former Christian Brothers College building

The McAuley Catholic School is positioned on a hillside approximately 300 metres east of the harbour at Rose Bay. It is on a slope falling to the south and to the west, and the grounds are terraced throughout with retaining walls. Three of the school's four buildings face Carlisle Street and the other three sides of the school grounds are bordered by residential properties.

The former Christian Brothers College building, dating from 1935, fronts onto Carlisle Street and is the focal point of the school as the oldest, largest and most distinctive building on the

McAuley Catholic Primary School campus. It is a three-storey building with a rectangular plan and reserved, dignified architectural detailing. It is constructed in brown face brick and has a roof finished with rounded terracotta tiles.

The building measures approximately 27 metres in length and 12 metres in width with an approximate floor space of 324m² per level. It contains three levels of classrooms with some support rooms such as corridors and toilets. The first and second floors each feature a row of large classrooms facing Carlisle Street with a corridor behind them providing access from staircases at both ends of the building. The ground level has one classroom entered from the south-west side of the building (near the school entrance) and there are a number of ground-level toilets with entrances facing the playground at the back.

The street façade and two side facades are more decorative than the rear façade. The street façade has ten window bays symmetrically arranged around a central gable feature presenting the name 'Christian Brothers College' and surmounted by a cross. The high quality brickwork features pilasters, window sills and a decorative texture above the second storey windows. The two side facades match, each presenting three tall, narrow window bays under three Romanesque arches topped by gabled parapets constructed in decorative brick-work. The rear façade has eight sets of window bays on two levels, positioned within plainer brickwork although still symmetrically arranged.

The interiors retain the original layout and are in good condition throughout. The ceilings retain their original joist detailing on the first and second floors. On the second floor the ceilings within the classrooms have batten patterning, suggesting they may be original, while the corridor ceiling is sloped and faced with timber like an enclosed verandah. Some original deep skirting boards remain within some of the classrooms. Interior walls and ceilings are painted in neutral colours and all the rooms are carpeted in earthy tones. The windows on the long facades have been replaced with metal frames while the sides of the building appear to retain their original timber framed windows. Most of the internal and external doors appear to be contemporary but some original terrazzo thresholds remain.

The cadastral description of McAuley Catholic Primary School comprises Lots A and B, DP 80580; Lot 1, DP 805717; Lot 18, DP 73884. The school premises occupy the lots previously numbered 6-12 Carlisle Street Rose Bay. The former Christian Brothers College building is wholly contained within Lots A and B of DP 80580 only (see figures 6 and 7 below).

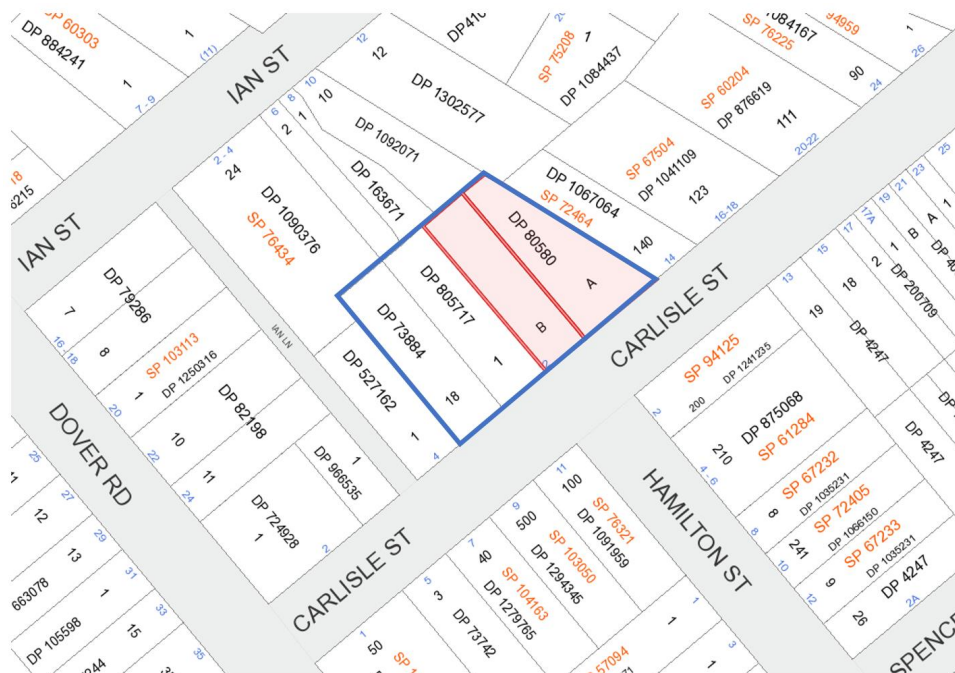


Figure 6: Cadastral map of McAuley Catholic Primary School (outlined in blue) with the allotments containing the former Christian Brothers College building in red. (Source: Woollahra Council GIS Maps)

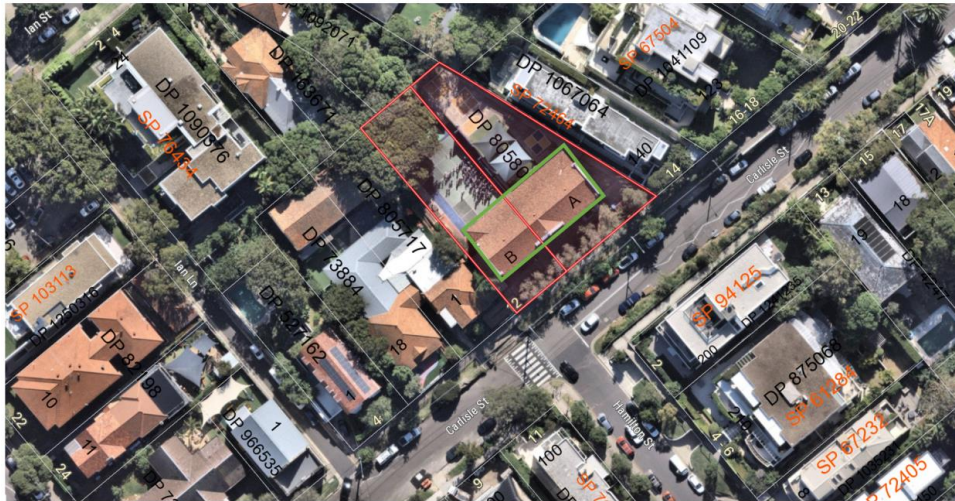


Figure 7: Aerial photograph of the northeast half of the McAuley Catholic Primary School, with the former Christian Brothers College building outlined in green. (Source: Nearmap accessed by Woollahra Council Maps)

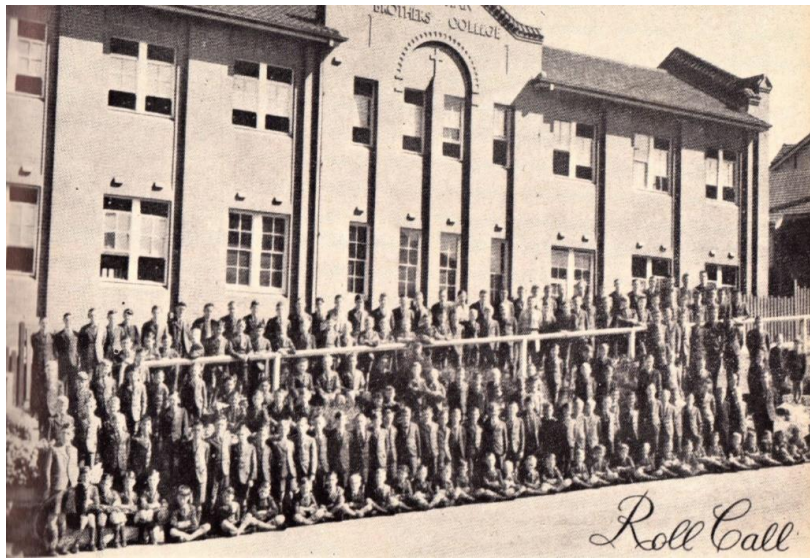


Figure 8: School students positioned in front of the main former Christian Brothers College building in 1942, facing Carlisle Street. (Source: Christian Brothers, 1959)



Figure 9: Photo of the south-eastern façade of the building facing Carlisle Street c1989, showing the two upper floors. (Source: Not known, reproduced in Cosgrove, 1989)



Figure 10: Photo of the south-western corner of the building façade from Carlisle Street. (Source: Artefact Heritage, 2023)

3. Existing planning controls

3.1. Woollahra Local Environmental Plan 2014

Table 2 below identifies the zone and key principal development standards that currently apply to the subject site under Woollahra LEP 2014.

No changes are proposed to these under this planning proposal.

Table 2: Summary of current development standards

Site	Zone	Maximum building height (m)	Floor space ratio
Rose Bay Public School	SP2 Educational Establishment	9.5	N/A
McAuley Catholic Primary School	R3 Medium Density Residential	10.5	1:1

3.1.1. Zoning Objectives

The objectives of the SP2 zone are as follows:

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To encourage the retention and planting of trees and other vegetation as part of development to minimise the urban heat island effect and to improve microclimates.

The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*
- *To ensure development conserves and enhances tree canopy cover.*

3.1.2. Other LEP provisions

Both sites subject to this Planning Proposal are identified under the Woollahra LEP 2014 as potentially containing Class 5 acid sulfate soils. The subject sites are not known to be subject to any other environmental constraints.

3.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to both sites subject to this Planning Proposal. Any development proposals either on the site, or on an adjoining site, are required to address any relevant Woollahra DCP 2015 controls.

4. Objectives of planning proposal

The objective of the amendment to the Woollahra LEP 2014 is to recognise the heritage significance of Building E of the Rose Bay Public School, and the former Christian Brothers College building of the McAuley Catholic Primary School, and provide them with statutory heritage protection.

The planning proposal will amend Schedule 5 and the Heritage Map of the Woollahra LEP 2014 to include the subject sites listed below. The inclusion of these sites as heritage items in the Schedule will mean any future development proposals either on the site, or on any land within the vicinity, will need to consider the provisions of Clause 5.10 (5) of Woollahra LEP 2014. This will provide a statutory requirement for development proposals to consider the effects of proposed development on the heritage significance of this item.

Item	Address	Lot/DP
<i>Rose Bay Public School – Building E, including interiors</i>	21 Wilberforce Avenue, Rose Bay	Lots 49-53, DP 4567
<i>McAuley Catholic Primary School – former Christian Brothers College Building, including interiors</i>	12 Carlisle Street, Rose Bay	Lots A and B, DP 80580

5. Explanation of provisions

The planning proposal seeks the following amendments to Woollahra LEP 2014:

- Insert a listing for the “Rose Bay Public School – Building E, including interiors” in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage).
[The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the LEP].
- Insert a listing for the “McAuley Catholic Primary School – former Christian Brothers College building, including interiors” in Part 1 (Heritage Items) of Schedule 5 (Environmental Heritage).
[The exact wording of the amendment will be determined by the Parliamentary Counsel prior to the making of the LEP].
- Amend the Heritage Map (8500_COM_HER_005) to identify two additional heritage items.

6. Justification

The planning proposal has strategic merit. The heritage significance of the subject sites, currently used as educational establishments, were assessed through a heritage assessment undertaken by Artefact Heritage on behalf of Council staff (see separately circulated documents: *Rose Bay Public School and McAuley Catholic Primary School Heritage Assessments* (December 2023)).

The heritage listings will provide ongoing protection and recognition of the heritage significance of these sites.

These matters are further discussed below in part 6.1 to 6.3.

6.1. Need for planning proposal

1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The planning proposal is the result of the recommendations found in the main report *Rose Bay Public School and McAuley Catholic Primary School Heritage Assessments* prepared by Artefact Heritage on behalf of Woollahra Council. The report concluded that the buildings on the subject sites meet the criteria for listing as a local heritage items.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The objective is to recognise the heritage significance of the subject sites and provide them with statutory heritage protection. The best means of achieving this objective is through an amendment to Woollahra LEP 2014 to list the subject sites as local heritage items. This is achieved through the planning proposal process.

Other options, such as adding site-specific objectives and controls to Woollahra DCP 2015, or including heritage conservation conditions to a potential development consent, will not provide the same level of heritage protection and recognition.

6.2. Relationship to strategic planning framework

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including exhibited draft plans or strategies)?

Yes. The planning proposal is consistent with the relevant objectives of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the relevant planning priorities and actions of the *Eastern City District Plan* (2018), as discussed below.

Greater Sydney Region Plan: A Metropolis of Three Cities

The planning proposal is consistent with the directions and objectives of *Greater Sydney Regional Plan: A Metropolis of Three Cities*, particularly Objective 13: "Environmental heritage is identified, conserved and enhanced".

Identifying the subject sites as local heritage items will provide ongoing protection and recognition of their heritage significance.

Eastern City District Plan

The planning proposal is generally consistent with the directions, priorities and objectives of the *Eastern City District Plan*, particularly Planning Priority E6 and Action 20:

Planning Priority E6 Creating and renewing great places and local centres, and respecting the District's heritage

Objective 13 'Environmental heritage is identified, conserved and enhanced'

Action 20 'Identifying, conserving and enhancing the environmental heritage of the local area' through:

- a. engaging with the community early to understand heritage values
- b. applying adaptive re-use and interpreting heritage to foster distinctive local places managing and monitoring the cumulative impact of development on the heritage values and character of places

Heritage listing of these sites will provide ongoing protection and recognition of the heritage significance of these items.

4. Will the planning proposal give effect to a Council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Woollahra Local Strategic Planning Statement

Planning Priority 5 of the Woollahra Local Strategic Planning Statement is relevant:

Planning Priority 5 Conserving our rich and diverse heritage

In particular Actions 28 and 30 of this planning priority seek to ensure that heritage is conserved and that the LEP and DCP reflect the evolving nature of heritage:

28. Continue to proactively conserve and monitor heritage in the Municipality including:

- *reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015*
- *sustainably managing visitation to our heritage conservation areas and destinations*

- *promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas*
- *supporting implementation of legislation for Aboriginal Heritage.*

30. Undertake further theme-based Municipality-wide studies, with consideration for the fact that heritage is constantly evolving.

Community Strategic Plan, Woollahra 2032

The planning proposal is consistent with *Woollahra 2032 – Community Strategic Plan*. Notably, the planning proposal meets the following strategy within Goal 4 (Well-planned neighbourhoods) under the Social theme:

4.2 Conserving our rich and diverse heritage

Heritage listing of the subject sites will provide ongoing protection and recognition of the heritage significance of these items, consistent with these local strategies.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Yes. The planning proposal is not in-consistent with other relevant State or regional study or strategy.

6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies (SEPPs).

Regarding *SEPP (Exempt and Complying Development Codes) 2008*, where an item is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.

Regarding *SEPP (Transport and Infrastructure) 2021*, where an item is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as development permitted or without consent, as well as works considered exempt or complying specific to schools.

Refer to **Schedule 1** for an outline of consistency with all SEPPs.

7. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2**).

6.3. Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. There are no critical habitat areas, threatened species, populations or ecological communities or their habitats present on the subject land. Accordingly, the proposal will not have any impact in this regard.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. There are no likely environmental effects that would arise as a result of the planning proposal. Protection of the items will be required when development is proposed, or if there is development proposed in its vicinity. Protection measures are not likely to result in environmental harm and will be managed through the development assessment process.

10. Has the planning proposal adequately addressed any social and economic effects?

Yes. The Draft Study assessed the subject sites against the criteria for 'cultural significance' as defined in the *Australia ICOMOS Burra Charter*, as meaning the historic, aesthetic, scientific, social or spiritual value for past, present or future generations.

The assessment found that these sites meet a number of heritage criteria at a local level. While the planning proposal does not have any direct economic effect, it has some social impact for the local community that appreciates and enjoys local heritage in the Woollahra LGA.

There will be potential economic implications relating to the need for heritage management documents (to accompany a development application) to assess and support future changes to buildings, including new uses, alterations and modifications. With regards to development pathways, depending on the scale and impact of works, developments to local heritage items can be managed as:

- a development application process,
- a heritage works without consent application (under CI 5.10(3) of the Woollahra LEP 2014 for works with minor impacts or for maintenance only.

Furthermore, *SEPP (Exempt and Complying Development Codes) 2008* allows some work to local heritage items (with restrictions).

The *SEPP (Transport and Infrastructure) 2021* provides for specific types of work to local heritage items for the purposes of a school and its operations (with restrictions), as development without consent. The SEPP also provides for some exempt and complying development, again where the work is limited to specific school-related functions. In these instances, Council is notified but consent is not sought.

These additional heritage management and development approval processes will enable the needs of the landowner to be considered in conjunction with the conservation of the building and the impact of the proposed changes on the heritage significance of the building.

Therefore, it is considered that the planning proposal will have a positive social and economic effects because:

- Heritage listing will provide ongoing protection and recognition of the social heritage significance of these sites.
- Heritage listing will not preclude future development of the buildings which is undertaken in accordance with heritage requirements.

- The potential need for additional assessments and management documents to support development applications is necessary in order to provide the appropriate protection against impacts to significance.
- It is not anticipated that the planning proposal will have any negative social effect which need to be addressed as part of the proposal.

6.4. State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal involves the local heritage listing of the subject sites and does not involve amendments to the planning controls that will facilitate intensified development.

Currently, all properties have access to adequate public infrastructure such as water, sewer, electricity and telephone services.

There is no significant infrastructure demand that will result from the planning proposal. The existing services that are available to the subject site is suitable for the proposal of a local heritage listing in a residential zone.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Should the planning proposal proceed to public exhibition, consultation with the relevant public authorities will be carried out. These authorities will include, but are not limited to:

- Environment and Heritage Group, Department of Planning and Environment
- The National Trust of Australia (NSW).

Further consultation will take place with any other authorities identified by the Gateway Determination.

7. Mapping

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Map (8500_COM_HER_005) by applying an "Item-General" classification to the following sites.

	Item	Address	Lot/DP	LEP Heritage Map Sheet No.
1	<i>Rose Bay Public School – Building E, including interiors</i>	21 Wilberforce Avenue, Rose Bay	Lots 49 – 53, DP 4567	8500_COM_HER_005
2	<i>McAuley Catholic Primary School – former Christian Brothers College building, including interiors</i>	12 Carlisle Street, Rose Bay	Lots A & B, DP 80580	8500_COM_HER_005

An extract of the existing and proposed heritage maps are shown in **Figures 11 to 16** below. It should be noted that “TBC” is shown indicatively in lieu of item numbers, which will be subject to confirmation at the finalisation stage.

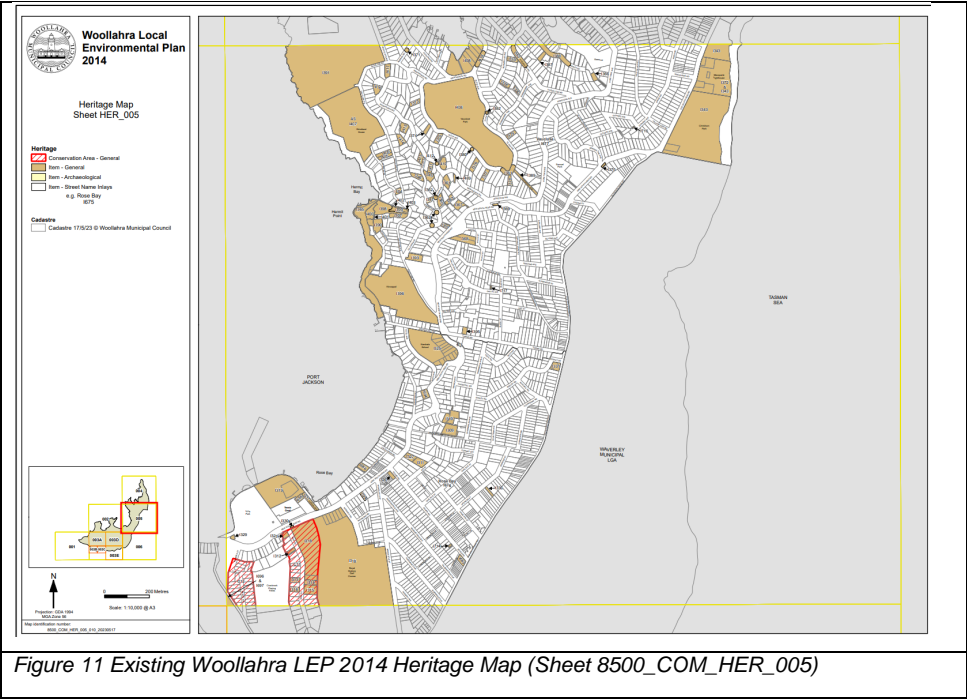


Figure 11 Existing Woollahra LEP 2014 Heritage Map (Sheet 8500_COM_HER_005)

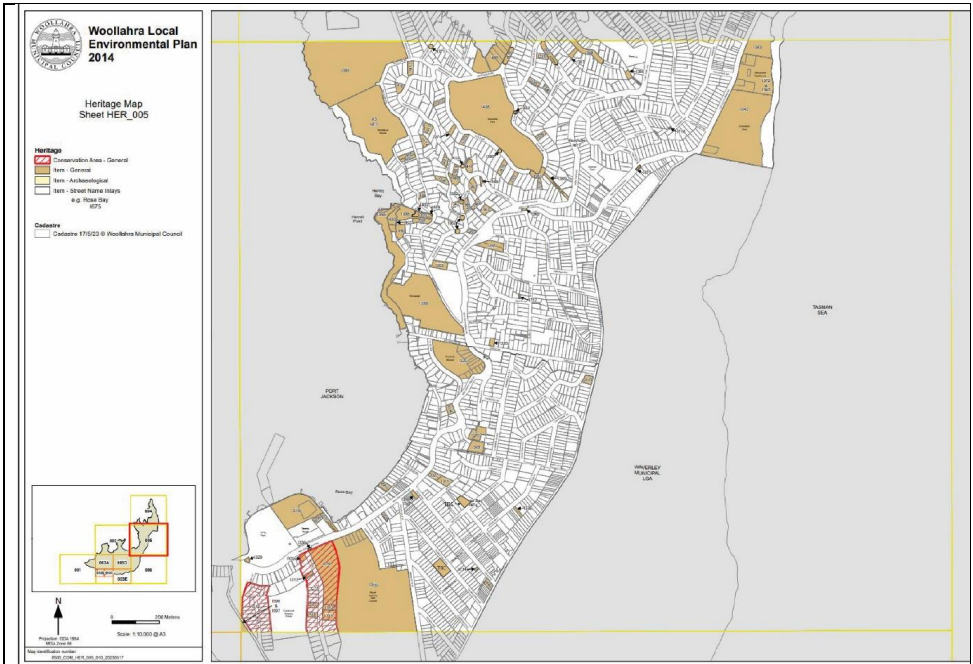


Figure 12 Proposed Woollahra LEP 2014 Heritage Map (Sheet 8500_COM_HER_005)

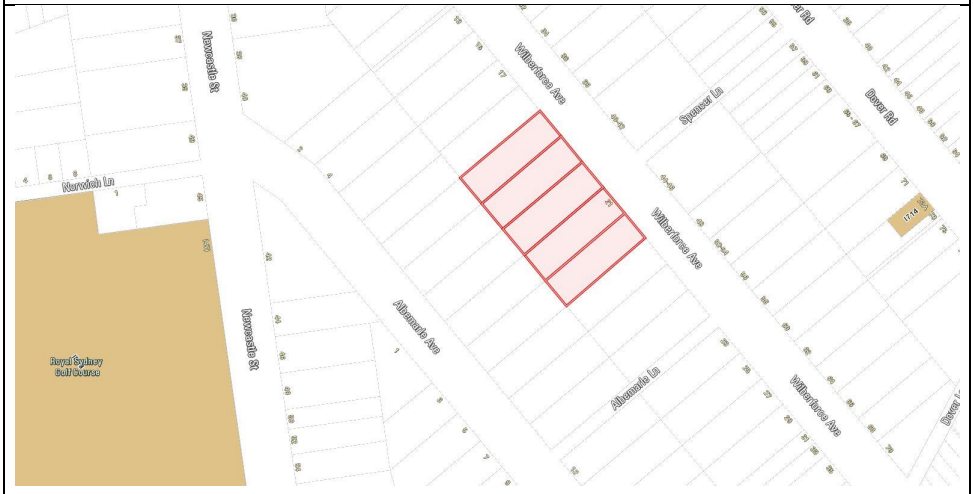
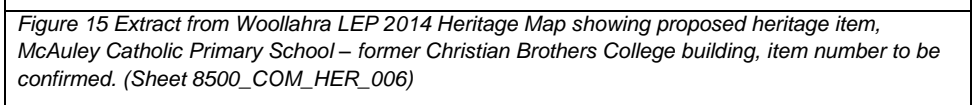
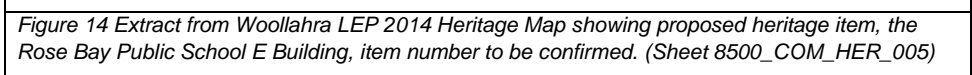
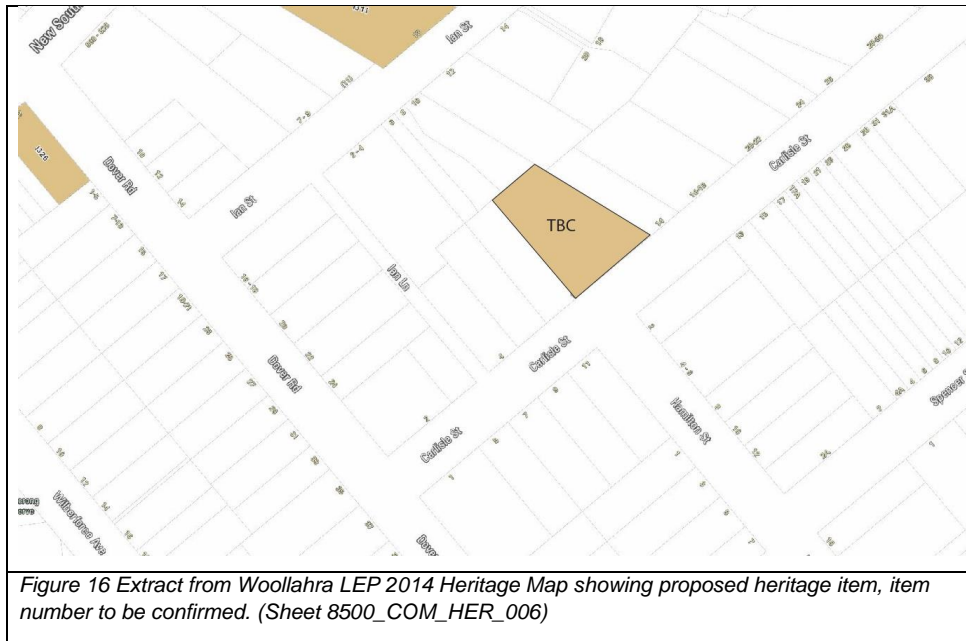


Figure 13 Extract from existing Woollahra LEP 2014 Heritage Map. Rose Bay Public School – Building E is highlighted in red. (Sheet 8500_COM_HER_005)





8. Community consultation

8.1. Stakeholder pre-engagement

The Draft Study was provided to the administration team of each school subject to this Planning Proposal in February 2023. The school administration team also forwarded the Draft Study to the relevant asset management teams within their State organisations.

Comments were received by the Heritage Manager, Schools Infrastructure NSW, with regards to Rose Bay Public School. SINSW acknowledged the heritage assessment prepared by Woollahra Council and confirmed that they have no objections to the technical assessment of Building E as possessing local heritage significance.

They have requested, for the purpose of consistency with other DoE heritage listings, that the gazettal name of the heritage listing be described as "Rose Bay Public School – Building E". This is also to ensure that the heritage values specific to this building are protected.

8.2. Public Exhibition

Public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2021*. It will also have regard to the other relevant plans and guidelines including the *Woollahra Community Participation Plan* (2019), the *Local Environmental Plan Making Guideline* (2021) and any conditions of the Gateway Determination.

We recommend that the planning proposal is exhibited for a minimum of 28 days.

Public notification of the exhibition will comprise:

- weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period,
- a notice on Council's website
- a letter to land owners in the vicinity of the subject site

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council offices:

- the planning proposal, in the form approved by the gateway determination
- the Gateway determination
- information relied upon by the planning proposal (such as relevant Council reports and the heritage significance assessment)
- Woollahra LEP 2014
- Section 9.1 Directions.

9. Project timeline

As Council is authorised to exercise the functions of the Minister for Planning under section 3.36 of the *Environmental Planning and Assessment Act 1979*, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Woollahra Local Planning Meeting	4 April 2024
Environmental Planning Committee recommends proceeding	6 May 2024
Council resolution to proceed	13 May 2024
Gateway determination	July 2024
Completion of technical assessment	Usually none required
Government agency consultation	August 2024
Public exhibition period	Same time as agency consultation
Submissions assessment	October 2024
Council assessment of planning proposal post exhibition	December 2024
Council decision to make the LEP amendment	January 2025
Council to liaise with Parliamentary Counsel to prepare LEP amendment	February 2025
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	April 2025
Notification of the approved LEP	May 2025

Schedules

Schedule 1 – Consistency with State Environmental Planning Policies (SEPPs)

State environmental planning policy	Comment on consistency
SEPP (Biodiversity and Conservation) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy. It is noted that where a property is locally heritage listed (or is a draft item) on the Woollahra LEP 2014 Schedule 5, there are implications in terms of the extent of works that can be considered as exempt and complying development.
SEPP (Housing) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Industry and Employment) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No.65 – Design Quality of Residential Apartment Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Planning Systems) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Precincts – Central River City) 2021	Not applicable.
SEPP (Precincts – Eastern Harbour City) 2021	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Precincts – Regional) 2021	Not applicable.
SEPP (Precincts – Western Parkland City) 2021	Not applicable.
SEPP (Primary Production) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resilience and Hazards) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Resources and Energy) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Transport and Infrastructure) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

**Schedule 2 – Compliance with section 9.1 directions (Directions by the Minister)
under the EP&A Act**

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
1	Planning systems	
1.1	Implementation of Regional Plans	Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i> , particularly Objective 13: Environmental Heritage is identified, conserved and enhanced. The heritage listing of this property will provide ongoing protection of the heritage significance of these items.
1.2	Development of Aboriginal Land Council land	Not applicable. This planning proposal does not affect Aboriginal Land Council land.
1.3	Approval and referral requirements	The planning proposal seeks to heritage list one property in the Woollahra Local Government Area. This is not expected to require any additional approval or referral requirements. The planning proposal is consistent with this direction.
1.4	Site specific provisions	The planning proposal does not contain any unnecessarily restrictive site specific planning controls. The planning proposal is consistent with the direction
1	Planning systems – place based	
1.5 – 1.20	Implementation Plans	Not applicable. These plans do not apply to the Woollahra LGA.
2	Design and place	
3	Biodiversity and conservation	
3.1	Conservation zones	Applicable and consistent. The planning proposal will not affect the conservation standards of any environmentally sensitive land.
3.2	Heritage conservation	Applicable and consistent. The planning proposal will not affect the significance of places with environmental heritage. The proposed Heritage listing of the property in the Woollahra LGA will provide ongoing protection and recognition of the heritage significance of this property.

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
3.3	Sydney drinking water catchments	Not applicable. This direction does not apply to the Woollahra LGA.
3.4	Application of C2 and C3 zones and environmental overlays in Far North Coast LEPs	Not applicable. This direction does not apply to the Woollahra LGA.
3.5	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
3.6	Strategic Conservation Planning	Not applicable. The planning proposal does not apply to land identified as avoided land or a strategic conservation area under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .
4	Resilience and hazards	
4.1	Flooding	Not applicable. The planning proposal will not affect flood liable land.
4.2	Coastal management	Not applicable. The planning proposal will not affect land in a coastal zone.
4.3	Planning for bushfire protection	Not applicable. The planning proposal will not affect bushfire prone land.
4.4	Remediation of contaminated land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to this direction.
4.5	Acid sulfate soils	Applicable and consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.6	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
5	Transport and infrastructure	
5.1	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the aims, objectives and principles of: <ul style="list-style-type: none"> <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
5.2	Reserving land for public purposes	The planning proposal does not amend reservations of land for public purposes. The planning proposal is consistent with the direction.
5.3	Development near regulated airport and defence airfields	Applicable and consistent. The planning proposal does not contain a provision which is contrary to this direction.
5.4	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
6	Housing	
6.1	Residential zones	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2	Caravan parks and manufactured home estates	The planning proposal will not affect any caravan parks or manufactured housing estates.
7	Industry and employment	
7.1	Business and industrial zones	Not applicable. The direction does not apply where sites are zoned for business or industry.
7.2	Reduction in non-hosted short-term rental accommodation period	Not applicable. This direction does not apply to the Woollahra LGA.
7.3	Commercial and retail development along the Pacific Highway, North Coast	Not applicable. This direction does not apply to the Woollahra LGA.
8	Resources and energy	
8.1	Mining, petroleum production and extractive industries	Not applicable. This planning proposal will not affect any of the nominated activities.
9	Primary production	
9.1	Rural zones	Not applicable. This planning proposal will not affect any rural zones.
9.2	Rural lands	Not applicable. This planning proposal will not affect any rural lands.
9.3	Oyster aquaculture	Not applicable. This planning proposal will not affect any Priority Oyster Aquaculture Areas.

Planning Proposal – Rose Bay Schools, local heritage listing

24/45977

Version: April 2024

Page 36 of 37

Planning proposal – Compliance with section 9.1 directions		
Direction		Applicable/comment
9.4	Farmland of state and regional significance on the NSW Far North Coast	Not applicable. This direction does not apply to the Woollahra LGA.



Education

15 March 2024

Senior Strategic Heritage Officer
Woollahra Municipal Council
536 New South Head Road
Double Bay NSW 2028

Attn: Eleanor Banaag, [REDACTED]

Dear Ms Banaag,

**RE: DEPARTMENT OF EDUCATION SUBMISSION – PLANNING PROPOSAL FOR
INCLUSION OF ROSE BAY PUBLIC SCHOOL ON SCHEDULE 5 OF THE WOOLLAHRA
LOCAL ENVIRONMENT PLAN**

The NSW Department of Education (DoE) understands that Woollahra Municipal Council is undertaking a review of Heritage Items listed on Schedule 5 of the Woollahra Local Environment Plan (LEP). As part of this review, an independent heritage assessment was prepared by Artefact Heritage which identified Building E at Rose Bay Public School as an item of local heritage significance and has recommended for its listing on Schedule 5 of the Woollahra LEP.

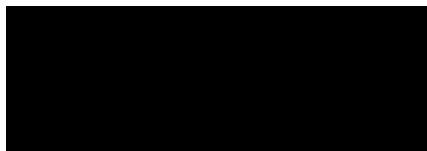
DoE thanks Council for providing the heritage assessment to us for our review and I can confirm that DoE has no objections to the technical assessment of Building E as possessing local heritage significance.

Should Council pursue the heritage listing of the school, DoE requests that the gazettal clearly indicates that Building E is considered heritage significant at the school. Consistent with other DoE heritage listings, we would suggest that the gazetted name of the heritage listing be described as "Rose Bay Public School – Building E", or similar, to ensure that the heritage values of this specific building are conserved.

DoE welcome the opportunity to engage further on the planning proposal and the content contained in the submission. Should you require further information about this submission, please contact the DoE Heritage Team at [REDACTED]

Yours Sincerely,

Lincoln Lawler
Director, Statutory Planning and Heritage
School Infrastructure NSW



School Infrastructure NSW
[REDACTED] George Street Name Suburb NSW 2000

[REDACTED] Sydney, NSW 2001



Item No: R3 Recommendation to Council
Subject: **POST EXHIBITION REPORT - UPDATES TO THE WOOLLAHRA DCP 2015 IN RESPONSE TO THE EMPLOYMENT ZONE REFORMS**
Authors: Joahna Doolan, Student - Strategic Planning & Place
Lyle Tamlyn, Acting Team Leader Strategic Planning
Approvers: Anne White, Manager Strategic Planning & Place
Scott Pedder, Director Planning & Place
File No: 23/177988
Purpose of the Report: To report on the public exhibition of Draft Woollahra Development Control Plan 2015 (Amendment 24) for employment zone amendments, and seek Council's approval for finalisation.
Alignment to Delivery Program: Strategy 4.5: Ensure that planning and building requirements are complied with.

Recommendation:

THAT Council:

- A. Receives and notes the post exhibition report on *Draft Woollahra Development Control Plan 2015 (Amendment 24)* that contains amendments in response to the employment zone reforms.
- B. Approves *Draft Woollahra Development Control Plan 2015 (Amendment 24)* as exhibited.

Executive Summary:

This report relates to the public exhibition of *Draft Woollahra Development Control Plan 2015 (Amendment 24)* (Draft DCP), which contains administrative updates to zone names required by the NSW Government's employment zone reforms.

These changes were applied to all local environmental plans in 2022, including the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). As a result, the Draft DCP is administrative in nature to make it consistent with the Woollahra LEP 2014.

The Draft DCP and supporting material were on public exhibition for 33 days. Council received one submission in support of the Draft DCP. Staff recommend that Council resolves to approve the Draft DCP to ensure the changes take place before a two year transitional period expires.

Discussion:

Background

In 2021, the NSW Department of Planning and Environment inserted new employment zone names into the *Standard Instrument (Local Environmental Plans) Order 2006* (the Order). The new employment zone names replaced previous business zone names and included the merging of some former zones and the introduction of minor permissibility updates. The new names were intended to support small and medium sized business by providing a simplified zoning framework that would foster productivity and jobs growth.

On 16 December 2022, *State Environmental Planning Policy Amendment (Land Use Zones) (No 6) 2022* (the SEPP) came into force. It formally introduced new employment zone names into the Woollahra LEP 2014 that were mandatory for every local government organisation in the state. The changes came into effect on 26 April 2023. The SEPP also included a savings and transitional clause, which maintained the effect of former zone names for two years.

The key changes that applied to the Woollahra LEP 2014 were:

- Land zoned B1 Neighbourhood Centre and B2 Local Centre was merged and replaced with a new zone called E1 Local Centre; and
- Land zoned B4 Mixed Use was replaced with a new zone called MU1 Mixed Use.

These changes are shown in **Figure 1** below:

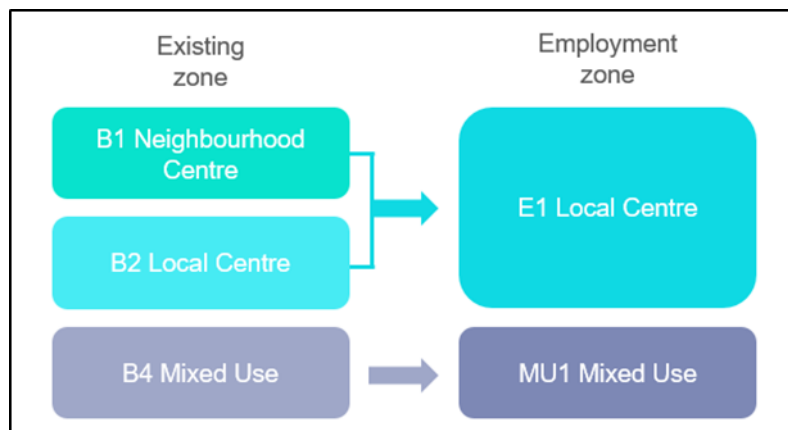


Figure 1: Relevant employment zone name changes to the Woollahra LGA.

The new E1 Local Centre and MU1 Mixed Use zones introduced new mandatory zone objectives and amendments to the land uses that are permitted or prohibited in those zones. For Woollahra, these changes were generally minor in nature and did not affect the way that existing landowners and businesses use their land in the LGA.

The intent of the local provisions was to protect the existing scale and amenity of our centres, while balancing their role to provide employment and business opportunities. This was achieved by making the following additional amendments to the Woollahra LEP 2014:

1. Inserting new local zone objectives for the E1 Local Centre and MU1 Mixed Use zones
2. Strengthening the intent of our existing local zone objectives which were carried over into the E1 and MU1 zones
3. Inserting a new Part 6 Additional local provision to clearly establish our centres hierarchy. This provision provides further considerations for development assessment for proposals in smaller centres zoned E1 Local centre. These considerations seek to support the character of the centre, the amenity of neighbouring residences and have regard to the role of the centre within the centres hierarchy established in the Woollahra Local Strategic Planning Statement 2020.

Consequential amendments to the Woollahra DCP 2015

In response to the implementation of the new employment zones in the Woollahra LEP 2014, corresponding updates were sought in the Woollahra DCP 2015.

On 3 October 2023, the Environmental Planning Committee considered a report identifying proposed amendments to the Woollahra DCP 2015 as a response to the employment zone reforms. The Draft DCP updated all references of B1 Neighbourhood Centre and B2 Local Centre to E1 Local Centre. Additionally, all references to the B4 Mixed Use were replaced by MU1 Mixed Use.

On 9 October 2023, Council resolved:

THAT Council:

- A. *Receives and notes the report on the updates required to the Woollahra Development Control Plan 2015 in response to the employment zone reforms.*
- B. *Resolves to prepare and exhibit a draft development control plan to amend the Woollahra Development Control Plan 2015 to include updated references to land use zones.*

Public exhibition

The Draft DCP and supporting material were publically exhibited for 33 days, from 13 March 2024 to 14 April 2024. This is consistent with the requirements of the *Environmental Planning & Assessment Act 1979* (EP&A Act), *Environmental Planning and Assessment Regulation 2021* (the Regulation) and the *Woollahra Community Participation Plan 2019*.

The exhibition included the following:

1. Five notices in the Wentworth Courier newspaper, appearing on 13 March 2024, 20 March 2024, 27 March 2024, 3 April 2024, and 10 April 2024.
2. A page on Council's Your Say Woollahra webpage, which was visited by 214 people during the exhibition period;
3. Notification emails to the following groups: Darling Point Society, Holdsworth Community, Double Bay Residents' Association, Harbour View Neighbourhood Watch and Residents Group, Rose Bay Residents Association, the Paddington Society, Woollahra History and Heritage Society, Queen Street and West Woollahra Association, Point Piper Residents and the Vaucluse Progress Association.

A copy of the exhibited Draft DCP can be viewed on this page, under 'Exhibition Document' on the right hand side: <https://yoursay.woollahra.nsw.gov.au/updated-employment-zones>

Submissions

In response to the exhibition, Council received one submission. The submission was in favour of the Draft DCP, commenting that it had minimal impact and simplified the planning system (see **Attachment 1**). Accordingly, staff do not recommend any post exhibition amendments to the Draft DCP.

Options:

The process for amending a DCP is set out in the EP&A Act and the Regulation. The Draft DCP was prepared and publicly exhibited in accordance with these requirements.

If Council resolves to approve the Draft DCP, it will come into effect on the date that a notice of Council's decision is published on Council's website (or on a later date specified in the notice).

Alternatively, Council may decide not to endorse the Draft DCP. However, after the two year period expires, this will impede our ability to apply and enforce controls that rely on land use zones. Council may also decide to endorse the Draft DCP with other amendments. Subject to the nature of the other amendments, re-exhibition may need to occur.

Community Engagement and / or Internal Consultation:

Refer to the 'Discussion' section of this report.

Policy Implications:

Should Council resolve to approve the Draft DCP, there would be policy implications as the Woollahra DCP 2015 would be amended.

Financial Implications:

There are no financial implications as a result of the recommendation to finalise the Draft DCP.

Resourcing Implications:

Should Council resolve to progress a Draft DCP, staff resources will be associated with the finalisation process.

Conclusion:

The Draft DCP includes administrative updates in response to the employment zone reforms.

The Draft DCP was placed on exhibition in accordance with Council's statutory obligations. One submission was received during the exhibition period in support of the Draft DCP. Staff recommend that Council resolves to approve the Draft DCP as exhibited with no amendments.

Attachments

1. Submission (redacted) - March 2024 [↓](#) 

Submission - Draft Woollahra DCP 2015 (Amendment 24): Employment Zones Reform

No	Name	YourSay Submission
1	Martin	Appears to have minimal impact and simplifies the system. Did not see this change as part of the housing strategic plan

Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings

