



# Environmental Planning Committee

Monday 3 June 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).

Members of the public may also submit late correspondence. Instructions on how to do this are provided below:

- **To watch and/or listen to the meeting live (from 6.30pm)**  
Details on how to watch and listen to the meeting live will be available at Council Agendas, Audio Recordings and Minutes.  
<https://www.youtube.com/@woollahracouncil5355/streams>
- **To request to address the Committee (pre-register by 10.00am on the day of the meeting)**  
Pre-register to address the Committee by 10.00am on the day of the meeting by using the relevant registration form on Council's website - [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)
- **To submit late written correspondence (submit by 10.00am on the day of the meeting)**  
Members of the public may submit late written correspondence on an agenda item being considered at the Committee meeting. If you wish to make a written submission on an item on the agenda, please email your submission to [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by 10.00am on the day of the meeting.

The audio recording and late correspondence considered 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:

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*.

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### 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

### 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

29 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 – 3 June 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 3 June 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](mailto: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](mailto: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](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

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**Item No:** D1 Delegated to Committee  
**Subject:** **CONFIRMATION OF MINUTES OF MEETING HELD ON 6 MAY 2024**  
**Author:** Sue O'Connor, Governance Officer  
**File No:** 24/82579  
**Purpose of the Report:** The Minutes of the Environmental Planning Committee of 6 May 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 6 May 2024 be taken as read and confirmed.

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**Executive Summary:**

This report presents the Environmental Planning Committee Minutes of 6 May 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 Minutes 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 Minutes.

**Attachments**

1. Unconfirmed Minutes EP - 6 May 2024 [!\[\]\(ea8fbe6f010f6daa44b5d04d0a9bccd1\_img.jpg\)](#) 



# Environmental Planning Committee

Monday 6 May 2024  
6.30pm

## Minutes

Unconfirmed

**Environmental Planning Committee  
Minutes**

**Monday 6 May 2024**

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Woollahra Municipal Council  
Environmental Planning Committee Minutes

6 May 2024

## Environmental Planning Committee

### Minutes of the Meeting held on 6 May 2024 at 6.30pm.

Present: His Worship the Mayor, Councillor Richard Shields ex-officio

Councillors: Sean Carmichael (Chair)  
Sarah Swan  
Lucinda Regan  
Merrill Witt  
Susan Wynne

Staff:	Eleanor Banaag	(Senior Strategic Heritage Officer)
	Nick Economou	(Manager – Development Assessment) (via zoom)
	Carolyn Nurmi	(Governance Officer)
	Sue O'Connor	(Governance Officer)
	Scott Pedder	(Director – Planning & Place)
	Charmaine Tai	(Strategic Planner)
	Kristy Wellfare	(Team Leader – Heritage)
	Anne White	(Manager – Strategic Planning & Place) (via zoom)

Also in Attendance: Nil

## **1. Opening**

The Chair declared the Environmental Planning Committee of 6 May 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**

Apologies were received from Councillor Robertson & Councillor Shapiro.

## **5. Late Correspondence**

Nil

## **6. Declarations of Interest**

Nil

Woollahra Municipal Council  
Environmental Planning Committee Minutes

6 May 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 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.

**(Wynne/Shields)**

**Resolved:**

THAT the Minutes of the Environmental Planning Committee Meeting of 2 April 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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

6/0

**Against the Motion**

Nil

**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.

**(Swan/Wynne)**

**Resolved:**

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.

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Environmental Planning Committee Minutes

6 May 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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

Nil

6/0

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**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 Strategy 4.1:** Encourage and plan for sustainable, high quality planning and urban design outcomes.  
**Delivery Program:**

(Wynne/Shields)

**Resolved:**

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.

*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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

Nil

6/0

Woollahra Municipal Council  
Environmental Planning Committee Minutes

6 May 2024

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

**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.

**Note:** The Committee added new Part B i to iii and original Part B became Part C and New Part D added.

(Regan/Witt)

**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 30 Albemarle Avenue, Rose Bay.
- B. Amends the Part G site-specific controls referred to in A above as set out in Attachment 1 to require the following in respect of development of the site:
  - i. implementation of a trolley wheel locking system to be installed at all exit points of the shopping centre to prevent trolleys being removed from the centre;
  - ii. installation of specific safety measures for pedestrians at all vehicular entry and exit points of the centre such as pedestrian crossing markings, speed humps and other suitable pedestrian safety measures; and
  - iii. to ensure that any fencing of garden or open area is open fencing such that the garden areas can be viewed substantially from the streetscape and contribute to the streetscape.
- C. Resolves to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No 27)* with changes as set out in paragraph B above, as contained at **Attachment 1** of the report to the Environmental Planning Committee of 6 May 2024.
- D. That staff consider whether the controls could require there to be an open gate for public access to the green garden area during daylight hours, with the applicant being required to maintain the area during those hours.

Woollahra Municipal Council  
Environmental Planning Committee Minutes

6 May 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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

Nil

6/0

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**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.

**Note:** The Committee amended Part B of the Recommendation.

**(Regan/Witt)**

**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*.

---

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6 May 2024

**Note:** The following sentence is to be added to the Planning Proposal at page 13:

*“Within the Lots containing Building E are two mature Palm Trees. Research undertaken suggests that the trees date from at least 1970 and possibly as early as 1955. While the trees are not historically associated with Building E, the Study recognises that they contribute to the landscape setting of the Building.”*

**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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

Nil

6/0

**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.

(Swan/Wynne)

**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.

**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 Shields  
Councillor Swan  
Councillor Witt  
Councillor Wynne

Nil

6/0

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6 May 2024

There being no further business the meeting concluded at 7.04pm.

**We certify that the pages numbered 208 to 216 inclusive are the Minutes of the  
Environmental Planning Committee Meeting held on 6 May 2024 and confirmed by the  
Environmental Planning Committee on 3 June 2024 as correct.**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary of Committee

Unconfirmed



**Item No:** R1 Recommendation to Council  
**Subject:** **SUBMISSION ON PRECINCTS FOR LOW AND MID-RISE HOUSING REFORMS**  
**Authors:** Lyle Tamlyn, Acting Team Leader Strategic Planning  
Fiona Aghili, Strategic Planner  
**Approver:** Scott Pedder, Director Planning & Place  
**File No:** 24/90932  
**Purpose of the Report:** To inform Council of the submission provided to the Department of Planning, Housing and Infrastructure on precinct selection for the low and mid-rise housing reforms.  
**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 to the Environmental Planning Committee of 3 June 2024, and accompanying staff submission at **Attachment 1**, regarding the Department of Planning, Housing and Infrastructure's precinct selection for the low and mid-rise housing reforms across the Woollahra Local Government Area.
- B. Request the Mayor write to the Minister for Planning and Public Spaces, indicating Council's support for the staff submission and continued opposition to the low and mid-rise housing reforms.

---

**Executive Summary:**

The purpose of this report is to inform Council of a submission that staff prepared in response to a request from the Department of Planning, Housing and Infrastructure (DPHI) concerning precinct selection for the low and mid-rise housing reforms (see **Attachment 1**) across the Woollahra Local Government Area (LGA). In preparing the submission, staff maintained strong opposition to the proposed reforms and provided evidence on why each precinct selected by the DPHI could not accommodate the level of growth envisaged.

As per the recommends included in this report, staff recommend that a letter be written to the Minister for Planning and Public Spaces, outlining Council's support for the staff submission and continued strong opposition to the proposed low and mid-rise housing reforms.

**Discussion:**

Background

On October 2022, the *National Housing Accord* (Accord) was introduced with a national five year target of one million well-located new homes by June 2029. In August 2023, National Cabinet announced a revised five year target of 1.2 million well-located dwellings from mid-2024. The NSW Government committed to deliver at least 314,000 new homes by mid-2029, with a stretch goal of 377,000 dwellings. The Accord requires the NSW Government work in collaboration with Councils on changes to meet the five year housing target, with an agreement to: *'commit to working with local governments to deliver planning and land-use reforms that will make housing supply more responsive to demand over time, with further work to be agreed under the Accord.'*

On 28 November 2023, a press release from the NSW Government announced planning changes to create new low and mid-rise housing.

On 15 December 2023, the *Explanation of Intended Effect: Changes to create more low and mid-rise housing* (EIE) was placed on public exhibition. The proposed controls in the EIE were aimed at encouraging low and mid-rise housing in response to the housing crisis.

The changes in the EIE sought to:

- Expand land use permissibility to allow dual occupancies in the R2 Low Density Residential zone (already permissible under the Woollahra LEP 2014);
- Expand land use permissibility to allow manor houses and multi-dwelling housing in the R2 Low Density Residential zone, in station and town centre precincts;
- Implement non-refusal standards for height and floor space ratio (FSR); and
- Introduce other planning provisions such as changes to the *Apartment Design Guide* (ADG), landscaping provisions and Torrens subdivision of dual occupancies.

In response, staff prepared a submission to the exhibition period and tabled this at the Council meeting of 26 February 2024.

The submission raised the following key concerns with the proposed reforms:

- They do not adhere to the requirements of the National Accord;
- They erode the planning hierarchy established under the *Environmental Planning and Assessment Act 1979* by introducing confusion and complexity through overriding carefully crafted local provisions that support desired future character;
- The reforms will introduce uncertainty into the planning system;
- Uplift of this scale proposed must be delivered through place based planning supported by an evidence base including extensive site modelling and feasibility testing;
- They introduce one-size-fits-all non-refusal standards that will create excessive bulk and scale;
- The reforms significantly reduce canopy provisions;
- They are accompanied with limited information as to how heritage significance and environmentally sensitive areas will be protected;
- Complexities associated with the assessment of non-refusal standards will delay the processing of development applications; and
- Funding for additional infrastructure has not been considered, which is particularly important given there is no alignment with State infrastructure provision.

After considering the matter, Council resolved:

*THAT Council:*

- A. *Notes the report on the exhibition on the Explanation of Intended Effect: Changes to create low and medium-rise housing.*
- B. *Endorses the draft submission at **Attachment 1** of the report to the Council meeting of 26 February 2024 and requests it be submitted to the Department of Planning, Housing and Infrastructure, and:*
  - i. *Incorporate the minor amendments and enhancements suggested by Councillors during the Council meeting of 26 February 2024 and as circulated to staff via email;*
  - ii. *Recognising the importance of keeping our community informed, plus reinforcing Council's strong opposition to the NSW State Government's proposed planning changes; that a Communication Strategy is developed to assist our community in further understanding the changes and how to engage with the NSW State Government.*



- C. *Opposes the NSW State Government's proposed changes to create low and mid-rise housing in its current proposed form (as set out in the Explanations of Intended Effects referred to in paragraph A) due to the issues raised in Council's draft submission (referred to in paragraph B), especially noting that the proposed "one size fits all" reforms:*
- i. fundamentally abandon best practice, place-based strategic planning;*
  - ii. fail to consider the cumulative impacts of unplanned increased density on traffic, parking, heritage, infrastructure capacity, local character and the environment;*
  - iii. do not address how the additional infrastructure and essential services, which are the responsibility of the NSW State Government to provide, required to support density and population growth will be adequately funded and delivered; and*
  - iv. do not require the onsite delivery of a significant amount of affordable housing in perpetuity.*
- D. *Affirms that councils are best placed to appropriately plan for increased density in their municipalities in consultation with the NSW State Government and their local communities.*
- E. *Acknowledges that Woollahra Council is already meeting and exceeding NSW State Government housing targets, and already has a population density that is comparable to other global cities, and which is significantly higher compared to other areas in Greater Sydney.*
- F. *Writes to NSW Premier the Hon Chris Minns MP, the NSW Minister for Planning the Hon Paul Scully MP, the NSW Member for Vaucluse the Hon Kellie Sloane MP, the NSW Member of Sydney the Hon Alex Greenwich, the Federal Member for Wentworth the Hon Allegra Spender MP and the President of Local Government NSW Cr Darriea Turley AM, to:*
- i. express Council's strong opposition to the proposed changes as set out in the NSW State Government's Explanations of Intended Effects: changes to create low and mid-rise housing, for the reasons set out in Council's draft submission;*
  - ii. request their support in ensuring that future planning reforms are developed in consultation with local government to ensure that they:*
    - a. recognise and address infrastructure and traffic constraints, the importance of protecting residential amenity, heritage, local character, tree canopy and local natural environment; and*
    - b. deliver genuinely affordable housing within a strategic, precinct-based framework supported by proper infrastructure planning; and*
  - iii. release or request the release of the modelling and technical studies underpinning the proposed planning reforms for NSW.*
- G. *Send the draft submission referred to in paragraph B above in as a submission (with such changes as are deemed necessary by staff) to the NSW Legislative Council Inquiry into the development of the Transport Oriented Development Program commenced by the Terms of Reference published on 23 February 2024.*

In accordance with Part B, an amended version of the submission was submitted to the DPHI on 1 March 2024. A communication strategy was also developed in liaison with relevant Council staff and progressively implemented.

The letters referenced in Part F were prepared by staff and issued to all the named recipients on 6 March 2024. All letters received an acknowledgement email, and a letter of response was provided by the Federal Member for Wentworth, the Hon Allegra Spender MP (**Attachment 2**). As a result of the letter sent to the Minister for Planning and Public Spaces, on 20 May 2024 a meeting took place between the Minister, DPHI staff and the Mayor Cr Richard Shields. As required by Part G, the amended submission was also provided to the NSW Legislative Council *Inquiry into the development of the Transport Oriented Development Program* on 6 March 2024.

### Refinement of policy and precincts

On 8 May 2024, Council staff received an email from the DPHI with details of refinements made to controls specified in the EIE, as well as list of precincts being considered for the Woollahra Local Government Area (LGA).

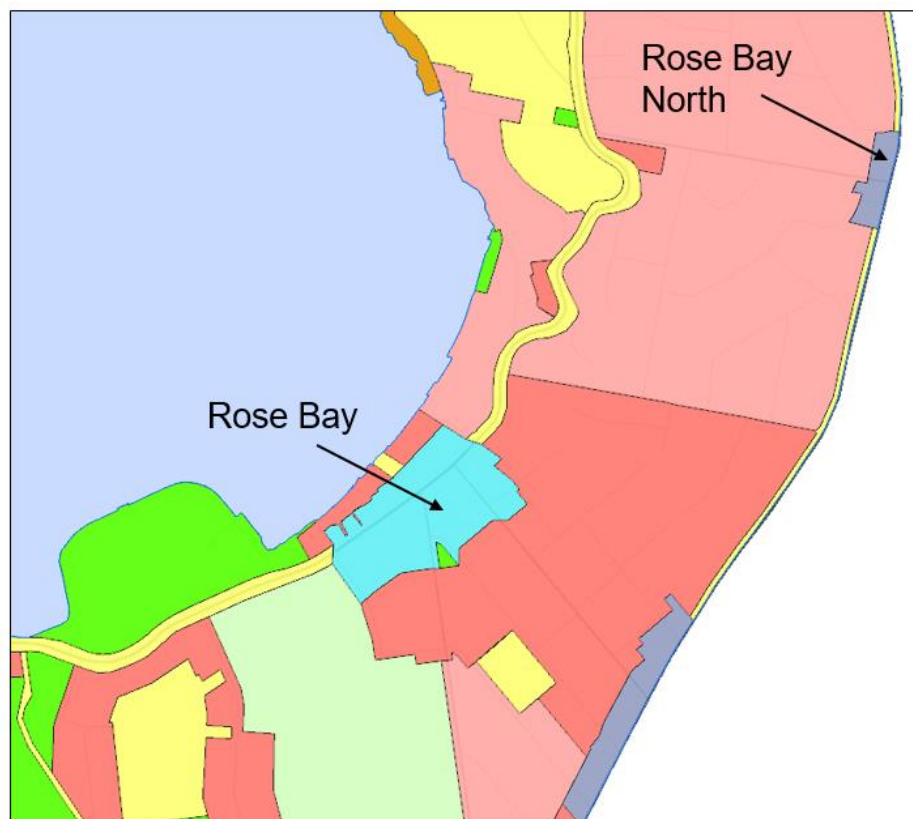
The refinement paper is provided at **Attachment 3**. In summary, it proposes the following adjustments:

- Details of collaboration with councils to clarify which precincts are included;
- Non-application of standards to land zoned for employment purposes;
- Revised treatment of R1 General Residential zoned land (not applicable to our LGA);
- Exclusion of high-risk flood or bushfire prone land;
- Recalibration of height and FSR controls; and
- Removal of changes to ADG and introduction of guidance provisions for site landscaping.

A list of precincts was provided in a feedback form (**Attachment 4**). These are listed below:

- Edgecliff Station and Shopping Centre (technically regarded as two precincts by the DPHI);
- Double Bay Town Centre;
- Rose Bay North (Old South Head Road)<sup>1</sup>; and
- Rose Bay (New South Head Road).

The locations of the two Rose Bay precincts are shown in **Figure 1** below:



**Figure 1:** Location of Rose Bay precincts.

The selection of station and/or town centre precincts is significant, as the reforms prescribe the most generous uplift in building height and FSR for land within 400-800m of certain precincts.

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<sup>1</sup> This centre is bounded by Captain Pipers Road and Kobada Road, and includes the small Coles supermarket.

In the email request to Council staff, the DPHI requested staff to nominate which centres we would and would not support being included in the reforms, and then to meet with the project team to discuss our rationale. The DPHI requested staff to have regard to the following in preparing our responses:

- **Essential infrastructure:** *These concerns should be critical and urgent, rather than general issues that can be addressed over time. Essential infrastructure includes water, sewage, stormwater, and electricity.*
- **Road infrastructure:** *These issues should be critical and urgent, rather than general issues that can be addressed over time. General traffic management is not considered a critical issue.*
- **Quality of train service:** *The initial screening included frequencies, distance to major hubs, and co-location with town centres, so the remaining issues may relate to capacity or reliability.*
- **Quality of bus services in town centres:** *The initial screening included a basic bus service screening for town centres, the remaining issues may relate to capacity, reliability, and frequency.*
- **Level of service of town centres:** *The initial screening was for the presence of a major supermarket, which was intended to predict the overall level of service of a centre. There may be some centres that contain a major supermarket, but do not have an adequate range of other frequently needed shops and services.*

Staff prepared a response and submitted it by the 23 May 2024 deadline. In addition to the above points, staff also took the opportunity to discuss some flooding, acid sulfate soil and hydrogeological constraints faced by various centres, and concerns we held with the refinement paper itself. The General Manager, Director of Planning & Place and senior Strategic Planning staff met online with the DPHI project team on 24 May 2024.

The staff response to the DPHI selected precincts is provided at **Attachment 1** for review using the template provided by DPHI. It should be noted that at the above-mentioned meeting with the DPHI, the DPHI stated that our staff response was a 'stellar example' of the sort of information they were hoping to see in response to their selected precincts. Regrettably, due to the two week timeframe, it was not possible to circulate the submission to Councillors for feedback prior to submission, noting that staff raised concern with the limited timeframe given for response with the DPHI.

Further to the above, the reason this information is now being tabled at a Committee meeting of Council (and subsequently to the Council meeting of 11 June 2024), is that the General Manager did not consider it appropriate that Council staff were being requested to determine whether certain selected precincts by the DPHI were appropriate or not for implementation of the low and mid-rise housing reforms, without reference to Councillors, noting the potential impacts on the broader community of such decisions.

### Options:

As a consequence of this report Council may resolve in line with the recommendations included in this report, or resolve in some other manner.

### Community Engagement and / or Internal Consultation:

Staff have previously placed information on the reforms on the Council's website and a YourSay webpage to inform the community about these significant reforms.

The submission that is the subject of this report was prepared by staff across the Strategic Planning and Place Department, utilising previous assistance from Council's Spatial Systems Support Coordinator.

### Policy Implications:

The DPHI have identified the following implementation schedule in **Table 1**.

**Table 1:** Implementation schedule from DPHI.

Step 1	Step 2	Step 3	Step 4
Exhibition and engagement	Submissions consideration and Report	Policy Drafting (no re-exhibition)	Finalisation
Concludes 23 February 2024	March-April 2024	March –June 2024	July - September 2024

Having regard to the above, amendments to planning legislation may affect the Woollahra LGA as early as July 2024.

### Financial Implications:

There are no financial implications associated with this matter at present. However, Council may have to increase infrastructure funding if the reforms proceed.

### Resourcing Implications:





There have been significant resource implications associated with this matter, as multiple staff have been involved in preparing this second submission which has impacted their ability to progress other matters.

### Conclusion:

Following receipt of Council's first submission to the low and mid-rise housing reforms, the DPHI released a refinement paper and asked Council staff to comment on proposed precincts in the Woollahra LGA. Staff provided a robust response, at **Attachment 1**, signalling our continued opposition to the proposed changes.

Staff recommend that a letter indicating Council's support of the staff submission and ongoing opposition to these reforms be sent to the Minister for Planning and Public Spaces.

### Attachments

1. Staff Submission to Proposed Precincts in Woollahra LGA - May 2024 [↓](#) 
2. Federal Member for Wentworth Allegra Spender MP Letter to Woollahra Council - 8 May 2024 [↓](#) 
3. Low and Mid-Rise Housing Refinement Paper - April 2024 [↓](#) 
4. Feedback Form on Precincts - May 2024 [↓](#) 

Department of Planning, Housing and Infrastructure

## Low- and Mid-Rise Housing: Station and Town Centre Selection Form

We would like to work with council to determine which station and town centres precincts are suitable to be included in the policy. We have undertaken a preliminary screening to eliminate the most unsuitable station and town centres based on location and service levels (refer to the Policy Refinement Paper for details).

We request that council review the initial list of stations and town centres in the form below and select either '**Yes**' (include) or '**No**' (request to exclude) for each station and town centre.

If you select 'No' to any station or town centre, we request that **reasons are provided** having consideration for the assessment criteria below.

If you could please **complete and return the form at least 1 business day prior to the workshop**, this will ensure we can have a productive meeting.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



### Assessment criteria for further exclusions of station and town centres

We will assess the reasons provided by council for proposed further exclusions of stations and town centres from the initial list. The initial lists are intended to be preliminary screenings designed to eliminate the most unsuitable stations and centres, focusing on location and service levels without considering other factors.

The factors that the Department will consider for further exclusions will include, but are not limited to, the following:

- **Essential infrastructure:** These concerns should be critical and urgent, rather than general issues that can be addressed over time. Essential infrastructure includes water, sewage, stormwater, and electricity.
- **Road infrastructure:** These issues should be critical and urgent, rather than general issues that can be addressed over time. General traffic management is not considered a critical issue.
- **Quality of train service:** The initial screening included frequencies, distance to major hubs, and co-location with town centres, so the remaining issues may relate to capacity or reliability.
- **Quality of bus services in town centres:** The initial screening included a basic bus service screening for town centres, the remaining issues may relate to capacity, reliability, and frequency.
- **Level of service of town centres:** The initial screening was for the presence of a major supermarket, which was intended to predict the overall level of service of a centre. There may be some centres that contain a major supermarket, but do not have an adequate range of other frequently needed shops and services.
- Land constraints and environmental risks within the precincts will be dealt with separately via direct land exclusions in Refinements 5, 6 and 7 (refer to Policy Refinement Paper)

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



## Woollahra – Station and Town Centre selections form

Station and Centre Precincts	Location and description	Council Response: Include?	Council Response: If no, please provide key reasons?
<b>Town centre precincts</b>	Double Bay Town Centre	No	<ul style="list-style-type: none"> <li>See a detailed response below.</li> </ul>
	Edgecliff Shopping Centre	No	<ul style="list-style-type: none"> <li>See a detailed response below.</li> </ul>
	Rose Bay North (Old South Head Road)	No	<ul style="list-style-type: none"> <li>See a detailed response below.</li> </ul>
	Rose Bay (New South Head Road)	No	<ul style="list-style-type: none"> <li>See a detailed response below.</li> </ul>
<b>Stations precincts</b>	Edgecliff Station	No	<ul style="list-style-type: none"> <li>See a detailed response below.</li> </ul>

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



**Key Points and recommendations**

1. Staff strongly object to the proposed precincts of Edgecliff, Double Bay, Rose Bay (New South Head Road) and Rose Bay North (Old South Head Road) based on immediate and evidenced infrastructure capacity issues relating to water and sewerage, road infrastructure, train and bus network servicing, amenities/services, schooling and open space. We also object to the onus being placed on councils to produce information on key public services (e.g. sewerage) that are outside of our jurisdiction. We have also identified concerns related to lack of consideration of flooding/hydrology and acid sulfate soil risks.
2. We strongly oppose the application of non-refusal standards from adjoining LGAs, including the proposed precincts at Bondi Junction, Bondi, Darlinghurst and Potts Point / Kings Cross / Rushcutters Bay based on the same issues outlined in Point 1 above.
3. Heritage significance will be greatly impacted by the proposed precincts. The refinement paper suggests that changes would eliminate instances of a six storey mid-rise in a 1-2 storey heritage context by not applying standards in employment zones and collaborating to address concerns with the R1 General Residential zone. However, the above changes do not address the issue, as later discussed. We strongly recommend that if the reforms proceed, the non-refusal standards do not apply to heritage significant areas of the R2 Low Density Residential and R3 Medium Density Residential zones.
4. The revised guidance-level landscaping provisions and reduced FSR proposed (2.2:1) will not alleviate the poorer tree canopy outcomes under the reforms when compared to our local controls. The provisions would still likely override *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) controls and decrease tree canopy and deep soil areas. If the changes proceed, Council would be pressed to meet the *Woollahra Urban Forest Strategy's* goal of 30% tree canopy cover by 2050. We would similarly struggle to achieve the NSW Government's ambitious 40% tree canopy target by 2036.
5. There is insufficient time for staff to respond to the proposed precincts and refinement paper. To meaningfully respond, staff would need to undertake detailed GIS research, commission transport studies, and obtain information from relevant authorities. As part of this response, staff have reached out to Sydney Water and Ausgrid for feedback on servicing requirements but further time is required to receive their comments.
6. The station and town centre precinct selections that have been proposed by the Department would have unprecedented impacts on the character of the Woollahra LGA. In light of the scale of the impacts and the proposed development standards, decisions on whether Council agrees or disagrees with the proposed precincts is not a decision that staff have the delegation to make. The information included in this response document are the views of Council staff only. Any determinations on the suitability or otherwise of the station and town centre selections are ultimately decisions for the elected Councillors of Woollahra Council in due course.



Low- and Mid-Rise Housing: Station and Town Centre Selection Form



**Introduction**

The Woollahra Local Government Area (LGA) is a well-established in-fill area in the Eastern District of Greater Sydney with higher than average levels of both dwelling and population density compared to Greater Sydney and other comparable LGAs. Further detail is provided below:

- Information from the Australian Bureau of Statistics (ABS), dated 30 March 2021, identifies that the Woollahra LGA is the seventh densest LGA in Sydney, with a density of 4,363 people per square kilometre and a total population of 53,496;
- The population density is shown to be considerably higher for the suburbs of Double Bay (5,886 people per km<sup>2</sup>), Edgecliff (8,331 people per km<sup>2</sup>), Paddington (7,938 people per km<sup>2</sup>) and the Woollahra suburb (5,886 people per km<sup>2</sup>).
- Dwelling density in our area exceeds many other comparable areas in Sydney, with 76.6% of dwellings being medium or high density, compared to 43.5% in Greater Sydney. This is clear in areas such as Double Bay and Edgecliff, where high density living is the norm comprising of 76.6% and 69.9% respectively; and
- Our area has higher than average dwelling diversity comprising of 55.6% apartments, 21% terraces and townhouses, and only 22.3% detached houses (ABS Census 2021).

Woollahra Council has successfully delivered on the requirements set out in the *Eastern District Plan*, which implements the *Greater Sydney Plan – a Metropolis of Three Cities*. The proposed reforms have no regard for the strategic planning work of Council in delivering additional housing in our area. We have met and exceeded the five year housing target (2016/17 to 2020/21) (300 + 212 extra dwellings) and are on track to meet the 6-10 year target. Between November 2016 to May 2023, 727 net additional dwellings have commenced or completed construction. We are implementing the region and district plan through best practice strategic planning, using a place based approach to inform local plans and strategies with appropriate community consultation.

The proposed changes would fundamentally undermine our carefully crafted, place-based plans developed over the last 20 years in consultation with our community. The reforms do not account for the recently adopted, Council-led strategies for the Edgecliff Commercial Centre (ECC) and Double Bay Centre, which will produce up to 615 and 300 net additional dwellings respectively. In addition to these figures, under the current planning controls, the ECC has an existing capacity for up to 830 dwellings, and Double Bay Centre has an existing capacity for 360 new dwellings.

Another significant issue with the reforms is the unintended effect of net dwelling loss, and subsequent consequences of creating more expensive dwellings (decreasing affordability) and less housing diversity. This is already an emerging issue being experienced by inner Sydney LGAs including Woollahra, Waverley and the City of Sydney. High value land with older apartment buildings is being redeveloped, or smaller sized dwellings are being renovated to create larger dwellings with three bedrooms or more. The NSW Government needs to recognise and respond to this issue in order to ensure that land for housing is being used efficiently.

In summary, we have significant concerns with the proposed station and town centre precincts for our area and strongly object to their implementation. We urge the NSW Government to recommit to a sound strategic planning framework, aligned with state infrastructure provision, and to collaborate with councils on an alternative best practice planning response to meet the five-year housing target under the National Housing Accord.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



## Edgecliff Commercial Centre (Proposed Station and Town Centre Precinct)

### Overview

The information provided by the Department refers to the Edgecliff Shopping Centre and Edgecliff Station as two separate precincts. As the retail area in Edgecliff directly adjoins the station, and they both share the same E1 Local Centre zoning, we have referred to them collectively as the Edgecliff Commercial Centre (ECC in this response). The ECC is approximately 2.9km east of the Sydney CBD. The Edgecliff suburb itself is characterised by 93.5% medium and high density housing with a low percentage of separate housing, as shown in **Table 1**. It is surrounded by the densely populated suburbs of Double Bay, Darling Point, and Paddington.

Suburb	Low density	Medium density	High density
Edgecliff	5.8%	23.6%	69.9%
Double Bay	13.4%	8.9%	76.6%
Darling Point	6.5%	5.9%	87.1%
Paddington	6.6%	60.5%	31.8%
Woollahra LGA	22.3%	21%	55.6%
Greater Sydney	55.8%	12.8%	30.7%

**Table 1:** Dwelling structure by density in Edgecliff and surrounding suburbs comparison with Woollahra LGA and Greater Sydney (ABS, Census 2021)

### Extent of proposed station and town centre precinct

The refinement paper has confirmed that E1 Local Centre and MU1 Mixed Use Centre zoned land will be included in station and town centre precincts, but would not be subject to the proposed non-refusal standards. While we do not support a precinct in the ECC, if the Department proceeds, the MU1 zoned land should not be included as part of the centre on the basis that the supermarkets, station and amenities/services are located within the land zoned E1 Local Centre. The commercial core is the focal point for the ECC, providing connection to the train network and the bus interchange. The MU1 zoned land is geographically separate to the commercial core, and is a linear strip of land along the state road, New South Head Road that does not meet the criteria for a suitable level of services and amenity for inclusion.

### Existing zoning, development standards and heritage conservation areas

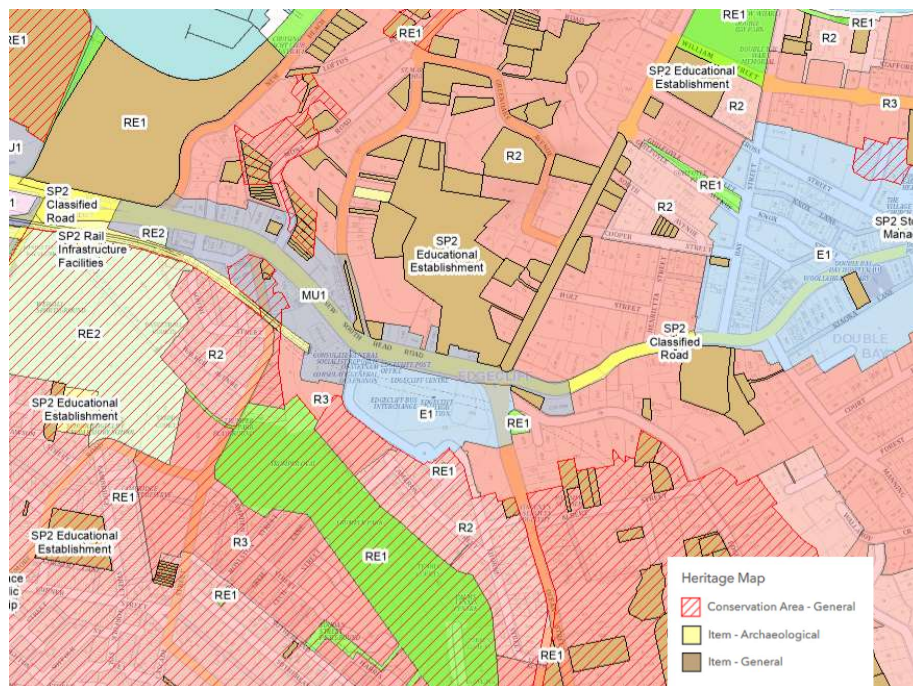
Council has already recognised the important function of this centre and has started planning for increased development on land zoned E1 Local Centre and MU1 Mixed Use. On 29 April 2024, Council endorsed the *Edgecliff Commercial Centre Planning and Urban Design Strategy* (the Edgecliff Strategy). As detailed previously, the Edgecliff Strategy will create up to 615 additional new dwellings, on top of the current planning controls that allow up to 830 dwellings.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



Surrounding the centre, the existing controls have appropriate floor space ratio (FSR) and building heights that respond to our desired future character and its heritage significance. Despite the surrounding area consisting largely of heritage conservation areas (HCAs), they already have an existing density that is higher than most parts of Greater Sydney.

The extent of the HCAs with R3 Medium Density Residential zoning is shown below in **Figure 1**.



**Figure 1: Edgecliff E1 Local Centre existing land use zoning and surrounding heritage**

**Flood risk**

Paddington has a significant history of flooding. Notable floodings events have occurred in November 1984, January 1989, March 1989, January 1991, April 2012, April and August 2015 and February 2017. These events have been the result of high intensity rainfall.

In 2019, Simulations Solutions completed the *Paddington Floodplan Risk Management Study and Draft Plan* that revealed a medium to high flooding risk in Paddington within the proposed Edgecliff station and town centre precinct (**Figure 2**). It was recommended that any development intensification, such as the consideration of higher density planning controls, must ensure there are no adverse impacts on flooding. This would require new planning controls to be rigorously tested, which has not occurred as part of the proposed reforms.

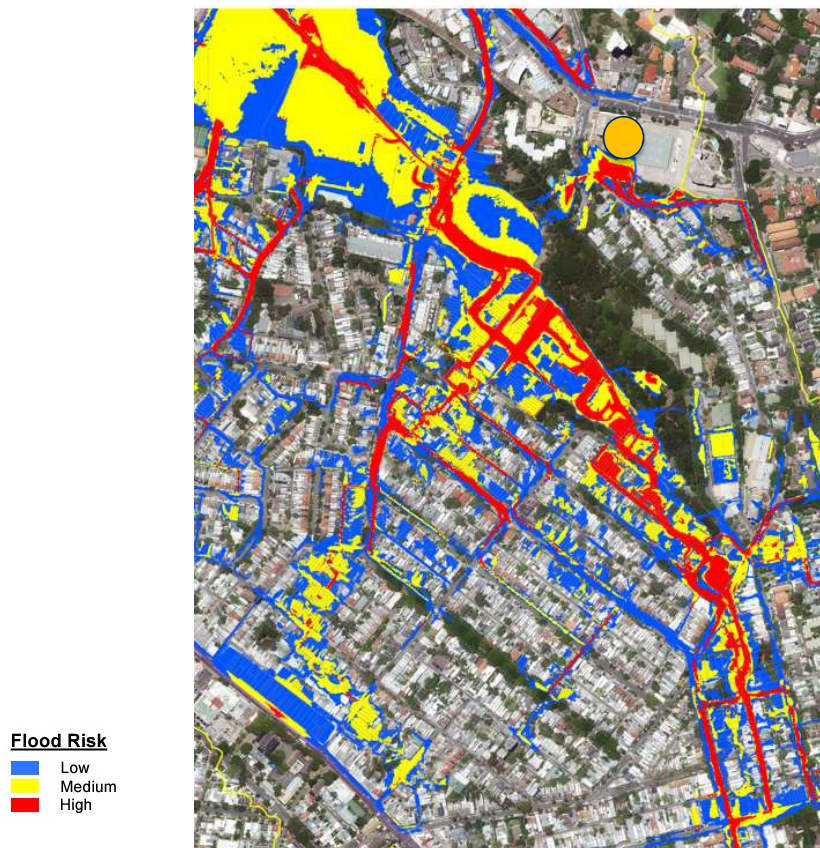
In line with the Department's 2021 Flood Prone Land Package, planning authorities are required to assess planning proposals in accordance with *Section 9.1 Ministerial Direction - 4.3 Flooding - for planning proposals* that create, remove or alter a zone or a provision that affects flood prone land.



Low- and Mid-Rise Housing: Station and Town Centre Selection Form



If the relevant assessments have not been completed, then staff recommend that flood prone land should be excluded as increases in density in a certain area may not be compatible with the relevant LEP clause.



**Figure 2:** Paddington flood risk mapping (Simulations Solutions, 2019), orange circle denoting Edgecliff Station.

**Response to criteria in the form provided relating to service provision and infrastructure**

Council staff have not had sufficient time to undertake a full assessment of service and infrastructure provision. However, we are able to provide some information in response to the criteria provided.

In February 2024, Council provided a submission on the reforms that highlighted the infrastructure constraints already facing our area. This was supported by comments from the Sydney Morning Herald on 11 December 2023, in an article that discussed the limited additional growth potential for Edgecliff:

*Planning Minister Paul Scully has revealed that key suburbs in the east including Bondi Junction and Edgecliff were “currently limited in additional growth” because of constraints on infrastructure that proved difficult to overcome.*

The Minister also noted:

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



*"There are part of Sydney's east that area currently limited in additional growth because of limited sewer and water infrastructure. Edgecliff as just one example is one of those".*

The Sydney Morning Herald article also stated:

*The government provided Opal card data for both Bondi Junction and Chatswood to point to its transport infrastructure already being at "high capacity".*

More specifically, the following constraints exist for Edgecliff:

- **Road Infrastructure:** A recent study by SCT Consulting (2024) found the intersection of New South Head Road / Glenmore Road / Mona Road was performing poorly. It is already at capacity for AM peak hour (7:15am to 8:15am) and PM peak hour (5:00pm to 6:00pm) traffic. This intersection is a key point of access to the ECC from surrounding residential land in Paddington and Darling Point, which would be significantly affected by the reforms. This performance modelling was also done outside of school pick up and drop off hours, where 400m queues along New South Head Road and into the side streets are common.
- **Schools:** The need to accommodate a new public high school is an immediate concern, with Rose Bay Secondary College at 96% capacity and the Inner Sydney High School at 93% capacity. School Infrastructure NSW noted these capacity issues in their submission to the Edgecliff Strategy when exhibited. Primary schools in the area are also facing capacity constraints, with Woollahra Public School being over capacity at 102%, Glenmore Road Public School at 99% capacity and Double Bay Primary School at 81% capacity.
- **Open Space:** The *Woollahra Recreation Strategy 2023* found the Woollahra LGA has a deficiency of open space, and from a planning perspective, few opportunities to increase the quantity. Our area's high to medium density living environment, combined by the popularity of our open spaces with visitors, has created high demand for quality open spaces. It is likely that new residents of this centre would not enjoy a sufficient supply of open space at surrounding parks such as Trumper Oval.
- **Quality of bus services in town centres:** Bus Opal Assignment Model (BOAM) information, obtained from TfNSW (2023) and reported by SCT Consulting (2024) shows there are multiple bus services over capacity at peak times for Edgecliff. There would be limited ability to provide more, given existing congestion issues through the area.

**Conclusion and recommendations for Edgecliff Commercial Centre (Proposed Station and Town Centre Precinct)**

For the reasons outlined above and in our previous submission, staff strongly recommend the proposed station and town centre precinct for Edgecliff should be excluded due to existing densities, infrastructure limitations and impacts on heritage significance.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



### Double Bay (Proposed Town Centre Precinct)

The Double Bay Centre is approximately 5km east of the Sydney CBD. It sits on the state road, New South Head Road, which serves as a link to Sydney CBD, the Cross City Tunnel and the Eastern Suburbs more broadly. The Double Bay suburb itself is characterised by 85.5% medium and high density housing including, as shown in **Table 2**.

Suburb	Low density	Medium density	High density
Double Bay	13.4%	8.9%	76.6%
Woollahra	17.8%	31.1%	50.4%
Woollahra LGA	22.3%	21%	55.6%
Greater Sydney	55.8%	12.8%	30.7%

**Table 2:** Dwelling structure by density in Double Bay and surrounding suburbs comparison with Woollahra LGA and Greater Sydney (ABS, Census 2021)

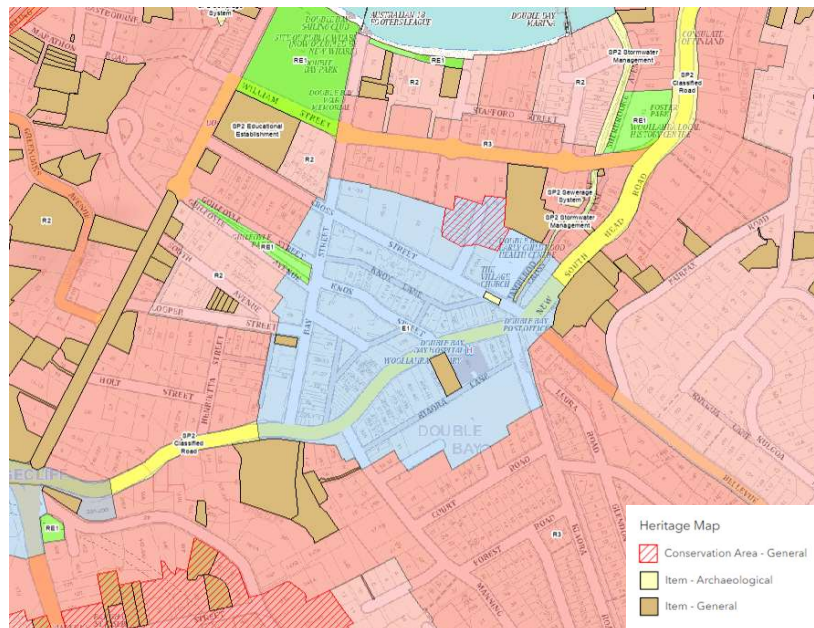
### Extent of proposed station and town centre precinct

The refinement paper indicates that E1 Local Centre zoned land would not be subject to the non-refusal standards. While we do not support Double Bay Centre's inclusion as a precinct, if the reforms proceed we support the standards not applying to the land zoned E1 Local Centre.

### Existing zoning, development standards and heritage conservation areas

Council has already recognised the important function of this centre and on 27 November 2023 Woollahra Council endorsed the *Double Bay Centre Planning and Urban Design Strategy* (the Double Bay Strategy). The Strategy will create 300 new dwellings, in addition to the current controls which have a capacity of 360 new dwellings. Surrounding the centre, Council controls are appropriately designed with FSRs and building heights that respond to our desired future character and retain significant heritage in the area as shown in **Figure 3** below.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



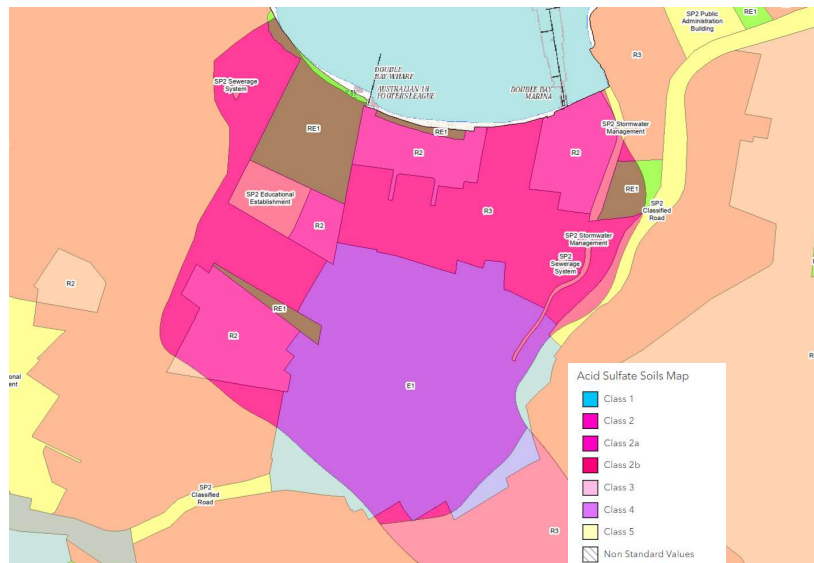
**Figure 3: Double Bay existing land use zoning and heritage significance**

**Acid sulfate soil**

The reforms do not exclude land with acid sulfate soils. This issue particularly affects Double Bay which has large areas classified as most likely to be affected by acid sulfate soils (Class 1 and Class 2), as shown in **Figure 4** below. These classifications require works below natural ground level or works where the water table is likely to be lowered to be assessed for potential hazards. In the LEP making process, planning authorities are required to assess planning proposals in accordance with *Section 9.1 Ministerial Direction - 4.1 acid sulfate soils - for planning proposals* that propose intensification of land uses for land that has a probability of containing acid sulfate soils.

If the relevant assessments have not been completed, then staff recommend that land with probability of acid sulfate soils should be excluded from the application of the non-refusal standards that increases in density in a certain area and may not be compatible with the relevant LEP clause.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



**Figure 4: Double Bay Acid Sulfate Soils Map**

**Flood risk**

In 2008, Bewsher Consulting completed the *Woollahra Municipal Council - Double Bay Catchment Flood Study*, which revealed extensive medium to high flood risk across Double Bay, as shown in **Figure 5** below. In 2011, Bewsher Consulting completed the *Double Bay Catchment Floodplan Risk Management Study and Plan* to help inform best practices responses to flooding issues. It was recommended that any increase in density be informed by detailed testing.

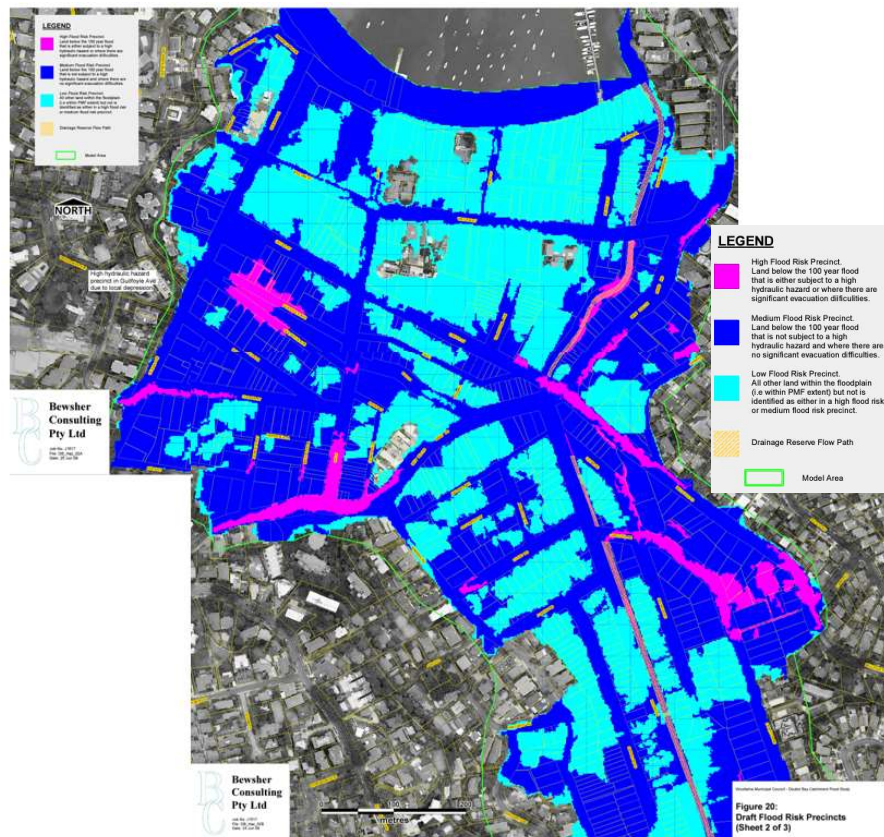
The proposed reforms do not meet the requirements that would be needed to increase height and FSR controls under a planning proposal to consider whether the proposed development standards are commensurate with the level of flood risk. In line with the Department's 2021 Flood Prone Land Package, planning authorities are required to assess planning proposals in accordance with *Section 9.1 Ministerial Direction - 4.3 Flooding - for planning proposals* that create, remove or alter a zone or a provision that affects flood prone land.

As shown in **Figure 5** below, the proposed standards would cover a large area of Double Bay that is at flood risk. A specific study is required to assess the impact of the proposed standards on Double Bay in their entirety. This is a best practice approach, rather than applying uniform development controls and leaving the assessment of the suitability of those controls to development application stage.

If the relevant assessments have not been completed, staff recommend that flood prone land should be excluded as increases in density in a certain area may not be compatible with the relevant LEP clause.



Low- and Mid-Rise Housing: Station and Town Centre Selection Form



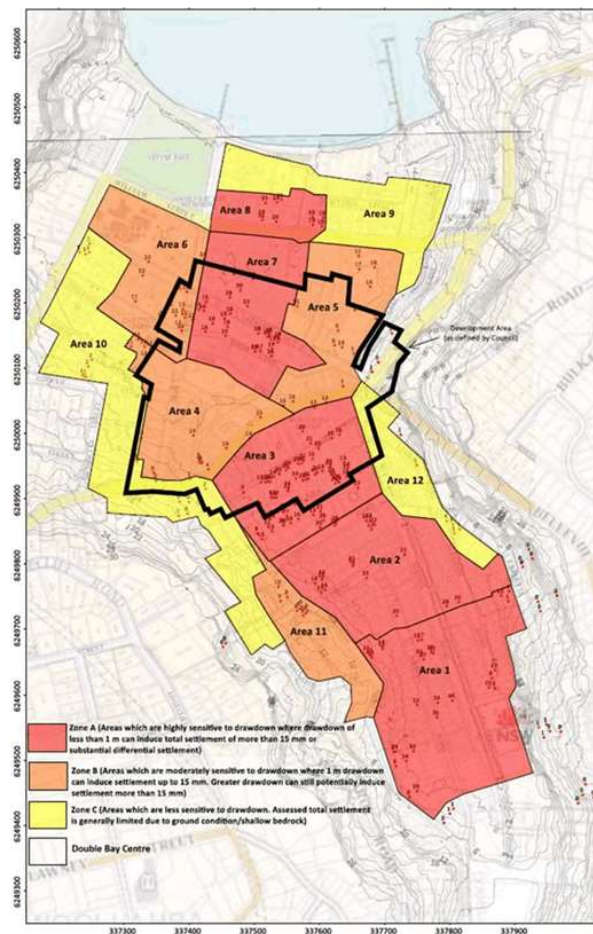
**Figure 5:** Double Bay catchment flood risk mapping (Bewsher, 2008)

**Groundwater hydrology**

The reforms do not account for the issue of groundwater drawdown as a consequence of underground structures from increased development under the proposed controls. This is particularly relevant for Double Bay, which has a very high water table and complex hydrogeological conditions.

In **Figure 6**, Zone A is shown in red, being areas of high sensitivity to drawdown due to ground conditions. In these areas, higher settlement magnitude is more likely to occur and adversely impact adjoining properties. In Zone B (orange), sites are moderately sensitive and can be affected by drawdown due to a thicker compressible layer of soil located at a deeper strata. These issues require consideration in the implementation of new controls.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



**Figure 6:** Settlement Zones in the Double Bay Catchment Area, as identified by GHD (Source: GHD report)

**Response to criteria in the form provided relating to service provision and infrastructure**

Again noting that staff have not had sufficient time to undertake a full assessment of service and infrastructure provision, we provide the following comments:

- **Water and sewerage infrastructure:** Edgecliff was excluded from the Transit Oriented Development (TOD) reforms due to water and sewerage constraints, with little scope to increase these services. In reviewing what information we have, staff expect this issue to similarly affect Double Bay, which relies on the same infrastructure. Additional development will likely put further pressure on the Bondi Treatment Plant and mains that feed through the area. Staff have requested updated statistics from Sydney Water, however, due to the lack of sufficient time, we have not received a current servicing assessment for the area.

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- **Electricity grid:** No information has been supplied to Council to demonstrate how the electricity grid could accommodate rapid population growth under the reforms. Staff are currently liaising with Ausgrid to determine exact capacity constraints. We recommend the implementation of the reforms is delayed to properly assess infrastructure capacity.
- **Road Infrastructure:** SCT Consulting (2024) found that the intersection of New South Head Road / Cross Street / Bellevue Head / Kiaora Road was already at capacity in peak periods (113m queues), and that of Knox Street / New South Head Road was over capacity. These are the two most critical signalised intersections in Double Bay, which impact on the performance of New South Head Road and local connecting streets. The additional housing capacity proposed would have an unacceptable impact on congestion at this points.
- **Schools:** Again, the issue of a new public high school is an immediate concern that needs to be addressed. The surrounding high schools are almost at capacity with the Rose Bay Secondary College at 96% capacity and the Inner Sydney High School at 93% capacity. Staff note these schools will also have to absorb demand generated from other LGAs as well. Primary schools in the area are also facing capacity constraints with Double Bay Primary School at 81% capacity and Rose Bay Primary School over capacity at 139%. There would clearly be insufficient educational facilities to meet the likely population growth.
- **Open Space:** The *Woollahra Recreation Strategy 2023* found the Woollahra LGA has a deficiency of open space, and from a planning perspective and few opportunities to increase the quantity. Double Bay only has Steyne Park near the main centre, and Lough Playing Fields which are further from where most housing under the reforms would be delivered. These would be insufficient for meeting the needs of an increased resident population.
- **Quality of bus services in town centre:** Bus Opal Assignment Model (BOAM) information, obtained from TfNSW (2023) and reported by SCT Consulting (2024) shows there are multiple bus services over capacity at peak times through the main state road, New South Head Road corridor of Double Bay.

**Conclusion and recommendations for Double Bay (Proposed Town Centre Precinct)**

For the reasons outlined above and in our previous submission, staff strongly recommend the proposed town centre precinct for Double Bay should be excluded due to existing densities, utility constraints, road infrastructure and bus service capacity constraints, flooding risk, acid sulfate soils and hydrological issues.

**Rose Bay (New South Head Road) (Town Centre Precinct)**

The Rose Bay centre is approximately 7.5km east of the Sydney CBD. The centre has two small supermarkets, being a Woolworths Metro under 1,300sqm GFA and an IGA under 500sqm GFA. The Rose Bay suburb itself is characterised by 77.5% medium and high density housing, as shown in **Table 3**.

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Suburb	Low density	Medium density	High density
Rose Bay	20.6%	8.7%	68.8%
Vaucluse	48.7%	8.4%	40.4%
Woollahra LGA	22.3%	21%	55.6%
Greater Sydney	55.8%	12.8%	30.7%

**Table 3:** Dwelling structure by density in Rose Bay and surrounding suburbs comparison with Woollahra LGA and Greater Sydney

**Flood risk**

Significant flooding has occurred at a number of locations in Rose Bay during periods of heavy rainfall, and from ocean influences (tides, storm surge) most notably in November 1984 and other events in the 1970's and 1990's.

In 2010, WMA Water completed the *Rose Bay Catchment Flood Study* that revealed extensive medium to high flood issues across Rose Bay, as shown in **Figure 7** below. Then, in 2014, WMA Water completed the *Rose Bay Floodplain Risk Management Study and Plan* that evaluated the management options to address flooding issues. Like other studies undertaken, it recommended that any consideration of uplift be accompanied by specific studies in the flood risks associated.

The proposed reforms do not meet the requirements that would be needed to increase height and FSR controls under a planning proposal with the consideration of flood risk. In line with the Department's 2021 Flood Prone Land Package, planning authorities are required to assess planning proposals in accordance with *Section 9.1 Ministerial Direction - 4.3 Flooding - for planning proposals* that create, remove or alter a zone or a provision that affects flood prone land.

If the relevant assessments have not been completed, then staff recommend that flood prone land should be excluded as increases in density in a certain area may not be compatible with the relevant LEP clause.



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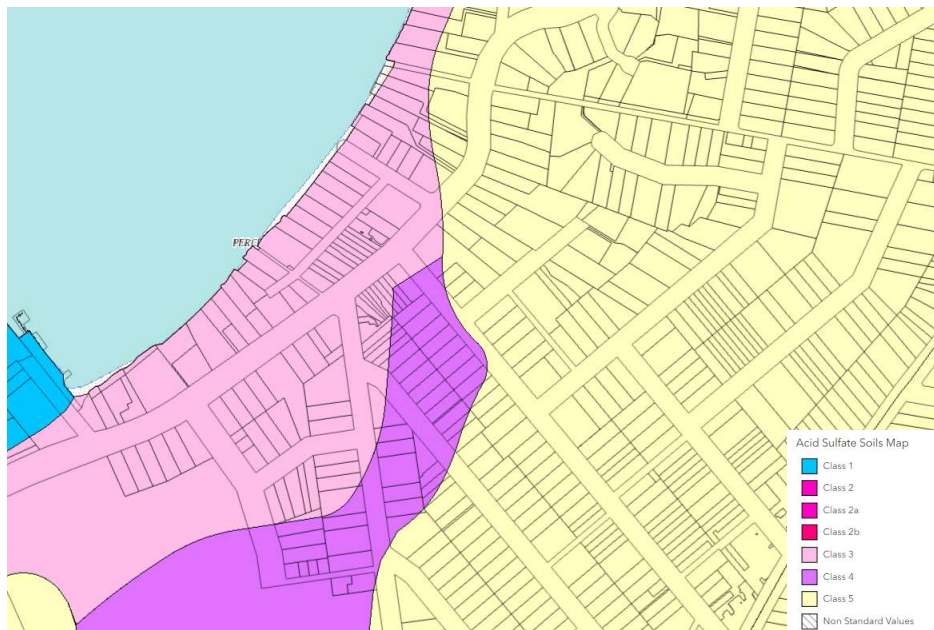
**Figure 7:** Rose Bay flood risk mapping (WMA Water, 2010))

#### **Acid sulfate soil**

The reforms do not exclude land with acid sulfate soils, which is shown to affect the Rose Bay centre (Classes 3 and 4) in **Figure 8** below. In the LEP making process, planning authorities are required to assess planning proposals in accordance with *Section 9.1 Ministerial Direction - 4.1 acid sulfate soils - for planning proposals* that propose intensification of land uses for land that has a probability of containing acid sulfate soils that are Class 1, 3 and 4.

If the relevant assessments have not been completed, then staff recommend that land with probability of acid sulfate soils should be excluded from the application of the non-refusal standards that increases in density in a certain area and may not be compatible with the relevant LEP clause.

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**Figure 8: Rose Bay (New South Head Road) Acid Sulfate Soils Map**

**Groundwater hydrology**

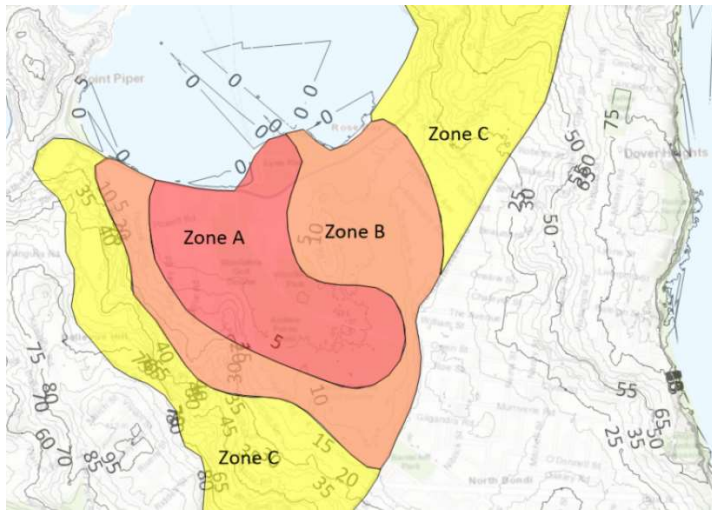
The reforms do not account for the issue of groundwater drawdown as a consequence of underground structures from increased development under the proposed controls. In 2024, GHD's report, *Rose Bay – Hydrological and Geotechnical Impacts* identified complex hydrogeological and geotechnical issues in Rose Bay.

In **Figure 9**, Zone A is shown in red, being areas of high sensitivity to drawdown due to ground conditions. In these areas, higher settlement magnitude is more likely to occur and adversely impact adjoining properties. In Zone B (orange), sites are moderately sensitive and can be affected by drawdown due to a thicker compressible layer of soil located at a deeper strata. Like in Double Bay, these issues require consideration in the implementation of new controls.

Specific groundwater modelling would be required to assess the long-term impact that could be anticipated from increased density, particularly where there is a large increase in deep basements that block a significant portion of the flow path. The GHD report identified potential issues including rock fall and erosion hazards, construction induced vibrations causing settlement and building damage, and the dewatering process disturbing acid sulfate soils. A proper risk assessment and analysis of the development standards is required to ensure controls meet site specific constraints.

If the relevant assessments have not been completed, staff recommend that Rose Bay should be excluded from the application of the non-refusal standards. They may cause adverse impacts on adjacent properties and future issues in new developments.

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**Figure 9:** Rose Bay (New South Head Road) settlement zones and their extent

**Response to criteria in the form provide relating to service provision and infrastructure**

Staff identify the following constraints relevant to Rose Bay (New South Head Road):

- **Water and sewerage infrastructure:** Edgecliff was excluded from the TODs due to water and sewerage constraints, with little scope to increase these services. This issue is similarly expected to affect Rose Bay, with additional development likely put further pressure on the Bondi Treatment Plant. Staff have requested updated statistics from Sydney Water, however, due to the lack of sufficient time, we have not received a servicing assessment for the area.
- **Electricity grid:** No information has been supplied to Council to demonstrate how the electricity grid could accommodate rapid population growth under the reforms. Staff are currently liaising with Ausgrid to determine exact capacity constraints. We recommend the implementation of the reforms is delayed to properly assess infrastructure capacity.
- **Road Infrastructure:** Transport consultancy TTW (2022) found the main intersection of the Rose Bay centre (Dover Road and New South Head Road), which provides access to most R3 Medium Density Residential land surrounding the centre, is over capacity. The TTW report found the intersection exhibits critical and significant capacity issues with 80m long queues at peak periods. Staff are also currently obtaining data for New South Head Road as a state road corridor, which suffers from extensive congestion during peak periods. This slows passenger cars and renders buses ineffective.
- **Quality of bus services in town centre:** As mentioned above, Rose Bay centre is situated on the state road, New South Head Road which suffers extensive congestion, which contributes to impacts on bus services. Staff are currently seeking to obtain data on bus services for this centre.
- **Schools:** The issue of public high schools is an immediate concern that needs to be addressed, with the Rose Bay Secondary College at 96% capacity. It is certain that the

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reforms would send this over capacity, particularly as it has a large catchment outside our LGA. Similarly, the local public primary school is facing critical capacity constraints with Rose Bay Primary School over capacity at 139%.

- **Open Space:** The *Woollahra Recreation Strategy 2023* found the Woollahra LGA has a deficiency of open space. Rose Bay has Tingira Park and Lyne Park near the centre, which are already heavily utilised by local residents and schools. These would be insufficient for meeting the needs of an increased resident population
- **Level of service of town centre:** Staff conducted an extensive audit of every building in the centre and found the level of service is inconsistent with that of a high quality town centre. Rose Bay centre is a low order town centre or neighbourhood centre, which has limited services and amenities available, and little potential to expand the services available due to land and infrastructure constraints. For instance, the centre only has one bank and limited medical facilities for the size of the catchment it caters towards. The staff audit also found that it does not have one supermarket that meets the definition of full line (over 2,000sqm in GFA). There is only a Woolworths Metro supermarket under 1,300sqm, and an IGA under 500sqm GFA. These would fail to meet the needs of a growing population. Overall, the Rose Bay (New South Head Road) centre would fail to adequately meet the daily servicing needs required.

**Conclusion and recommendations for Rose Bay (New South Head Road) (Town Centre Precinct)**

For the reasons outlined above, staff strongly recommend the proposed town centre precinct for Rose Bay (New South Head Road) should be excluded due to existing densities, unknown infrastructure limitations such as water/sewerage and electricity, traffic congestion and bus service capacity constraints. The transport to and from this location is constrained, and the peninsula location means there are limited options to improve the situation. The proposed density also does not align with the desired future character of the centre.

The Department advised that this proposed precinct was included on the basis of its existing supermarkets. However, a staff audit of the centre has found there are only two small supermarkets, which are both well under the definition of a full line supermarket. Overall, the centre is a low order town centre that is geographically isolated on the eastern side of the Woollahra LGA. It does not have sufficient services and would fail to adequately meet the daily needs of new residents and provide convenient access to employment opportunities.

**Rose Bay North (Old South Head Road) (Town Centre Precinct)**

The Rose Bay North centre is approximately 9.5km east of the Sydney CBD, and exists as a small neighbourhood hub. The centre itself has one small supermarket being a Coles under 300sqm GFA, and limited services and amenities available. While there is a bus stop, there is no direct bus route to the Sydney CBD. The Rose Bay North centre sits on the state road, Old South Head Road. The Rose Bay suburb itself is characterised by 77.5% medium and high density housing.



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**Response to criteria in the form provide relating to service provision and infrastructure**

Council staff have not had time to undertake a full detailed assessment given the limited timing to respond to the assessment criteria.

The following constraints exist relevant to Rose Bay North (Old South Head Road):

- **Quality of bus services in town centre:** The Rose Bay North centre is a neighbourhood centre on the state road, Old South Head Road that does not have a direct bus route to the Sydney CBD and relies on an interchange at Bondi Junction to another bus or train. The constrained nature of the centre, being located on the far eastern peninsula area, means there is limited scope to improve the bus servicing to this area.
- **Schools:** Again, the issue of public high schools is an immediate concern that needs to be addressed, with the Rose Bay Secondary College at 96% capacity. It is certain that the reforms would send this over capacity, particularly as it has a large catchment outside our LGA. Similarly, the local public primary school is facing critical capacity constraints with Rose Bay Primary School over capacity at 139%.
- **Open Space:** The *Woollahra Recreation Strategy 2023* found the Woollahra LGA has a deficiency of open space, and from a planning perspective, few opportunities to increase the quantity. This is particularly relevant to Rose Bay North, which does not have any parks near the proposed precinct. There are also no sites that could provide this in the future. Accordingly, there is a critical shortage of open space which should clearly justify the exclusion of this centre from the reforms.
- **Level of service of town centre:** Similar to Rose Bay Town Centre precinct (located on the state road, New South Head Road), staff conducted an extensive audit of every building in the centre. It found the level of service to be totally inconsistent with that envisaged for precincts under the reforms. Consistent with its geographic isolation from the main hubs of the LGA, it has a limited range of amenities and services. For example, it has no bank, no medical centre and very limited retail offerings with only 25 businesses in total. Included in this is one small supermarket (Coles), with a GFA of under 300sqm. It operates a neighbourhood grocery shop and is not intended to service a large population. The supermarket is well under the Department's definition of a full-line supermarket of over 2,000sqm GFA. Accordingly, this centre has the lowest service levels of any of the precincts and should be excluded.

**Conclusion and recommendations for Rose Bay North (Old South Head Road) (Town Centre Precinct)**

For the reasons outlined above, staff strongly recommend the proposed town centre precinct for Rose Bay North (Old South Head Road) should be excluded due to existing high density, infrastructure limitations, limited public transport and lack of amenity and services. The Department advised that this proposed precinct was included on the basis of an existing supermarket. However, staff research has found this is a small supermarket, well under the definition of a full line supermarket. Overall, the centre is not a high quality town centre and is a low order town centre that is geographically isolated on the eastern peninsula. The lack of shops, small-scale supermarket (not a full line supermarket), and insufficient services means this centre

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would fail to adequately meet the daily needs of new residents and provide convenient access to employment opportunities.

**Bondi Junction and Bondi (Waverley Council) (Station and Town Centre Precinct)**

The Department has advised that Bondi Junction and Bondi are proposed as a station and/or town centre precincts for Waverley Council. The proposed Bondi Junction centre is on the border with the Woollahra LGA and would impact significantly on Woollahra and Bellevue Hill, particularly on the heritage significance of these areas. Similarly, the proposed Bondi precinct would impact on a low scale residential area in Bellevue Hill which is spatially separated from the area.

Staff strongly oppose the application of the non-refusal standards for these proposed station and town centre precincts for the reasons outlined in Waverley Council's response. The centres are spatially separated from our Council area, and the non-refusal standards would have unacceptable impacts on local character and heritage significance.

**Darlinghurst and Potts Point / Kings Cross / Rushcutters Bay (City of Sydney) (Station and Town Centre Precincts)**

The Department has advised that Darlinghurst and Potts Point / Kings Cross / Rushcutters Bay centres are proposed as a station and town centre precincts for City of Sydney. These centres border our LGA and would impact significantly on Paddington and Darling Point, particularly on the heritage significance of these areas.

For the reasons outlined above and in our previous submission, staff strongly oppose to the application of the non-refusal standards from the proposed station and town centre precincts at Darlinghurst and Potts Point / Kings Cross / Rushcutters Bay in the Woollahra LGA.

**Other feedback – Refinement Paper**

- **Heritage:** The refinement paper suggests that the following changes would remove the situation of a six storey mid-rise applying in 1-2 storey heritage context:
  - Not applying standards in employment zones (E1, E2, MU1, SP5 zones)
  - Collaborating with Councils to address concerns in the R1 General Residential zone

The above changes do not address the issue. We have demonstrated in our previous submission that this is problematic in the R3 Medium Density Residential and R2 Low Density Residential zones. We strongly advocate for the non-refusal standards to not apply to any land with heritage significance. This will remove ambiguity in the protection of these areas and support the planning controls in local environmental plans and development control plans that protect heritage significance.

- **Guidance level landscape provisions:** Although the Department's reforms refinement paper removes changes to the *Apartment Design Guide*, it proposes to implement guidance-level landscaping provisions through an alternative mechanism. These suggested provisions would still likely override Woollahra DCP 2015 controls and would result in decreases in both tree canopy cover and deep soil. This would be exacerbated by the 2.2:1 FSR control, which would still place additional pressure on building footprints when compared to our local standards. If the changes proceed, Council will be pressed to meet the *Woollahra Urban*

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*Forest Strategy's* goal of 30% tree canopy cover by 2050. We will similarly struggle to achieve the NSW Government's ambitious 40% tree canopy target by 2036. Staff recommend that the 'guidance level' landscape provisions do not override local provisions.

- **Extent of proposed station and town centre precinct:** The refinement paper and advice from the Department is that employment zones would not be subject to the station and town centre precinct non-refusal standards. While we do not support the non-refusal standards, staff consider that not applying them to employment zoned land consisting of E1 Local Centre and MU1 Mixed Use in our LGA would be a preferable outcome.



## Allegra Spender MP

FEDERAL MEMBER FOR WENTWORTH

8<sup>th</sup> May, 2024  
Anne White  
Manager Strategic Planning & Place  
Woollahra Municipal Council  
536 New South Head Road  
Double Bay, NSW, 2028

**RE: Woollahra Council letter on NSW State Government housing reforms**

Dear Ms. White,

Thank you for your letter informing me about Woollahra Council's submission to the NSW State Government's consultation on *"Changes to create more low-and mid-rise housing"*.

I note that since your letter was sent, the first stage of planning reforms under the NSW Government's Transport Oriented Development (TOD) have now been finalised. These amend planning controls within 400m of 37 metro and rail stations, which do not include any stations in Woollahra.

As a member of federal parliament, my primary focus is on measures that the Commonwealth can take to address Australia's housing crisis. The need for urgent and significant action to address this crisis has been made clear to me by the feedback I have received from Wentworth residents, including as part of two public housing forums I held last year. The community clearly articulated to me the need to address housing supply, while retaining amenity and quality of life.

As you are aware, control and management of planning and housing development is the responsibility of state and local Governments. I acknowledge Woollahra Council's concerns about the NSW State Government's process, and the potential impacts of the proposed changes which you have outlined. I believe strongly in the importance of community consultation, and I welcome the Council engaging so closely with the NSW State Government, as well as the relevant member of the NSW State Parliament.

As the experts on state and local planning decisions, I believe the NSW State Government and the Council are best placed to determine the appropriate next steps in relation to the issues you have raised. My own focus will continue to be on steps that the federal government can take to address Australia's housing crisis.

Thank you again for writing to me, and I will continue to be available to meet with Woollahra Council on a regular basis to discuss local issues and concerns.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'AS'.

**Allegra Spender**  
Member for Wentworth

Suite 302, Level 3, 179-191 New South Head Road, Edgecliff NSW 2027  
P: 02 9327 3988 E: Allegra.Spender.MP@aph.gov.au

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# Low-and Mid-Rise Housing Policy Refinement Paper

Version 1.0 Prepared by DPHI LMR Policy team

29 April 2024



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## Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Low- and Mid-Rise Housing Policy Refinement Paper

First published: April 2024

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# Introduction

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## 1.1 Purpose of this paper

This paper outlines the key policy issues, makes recommendations for policy refinements, and presents an approach to engage with councils.

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## 1.2 Principles guiding the policy refinement

The purpose of refining the policy is to ensure it effectively achieves its objectives, particularly in relation to consideration of local contexts. This principle will guide all changes to the policy. The objectives of the policy are below.

The objectives are to:

- Encourage well-located, well-designed, low and mid-rise housing
- Increase housing supply
- Contribute to the National Housing Accord housing supply commitments.

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## 1.3 Policy refinements will not reduce estimated dwellings

The Department has estimated that the policy will result in an additional 112,000 new dwellings by mid-2029 (the Accord Period). This estimate is conservative and factors-in that key policy refinements will be made to remove inappropriate outcomes such as upzoning in high-risk flood areas, mid-rise development in inappropriate contexts, and areas with poor infrastructure.

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# Policy refinement

This section outlines the key issues with the policy which were raised in submissions and provides recommendations to address them. Each key issue is addressed by one or more policy recommendations, some of which include direct one-on-one engagement with councils to finalise a policy position. The refinement process has been guided by an analysis of the submissions and continuing policy development work.

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## 2.1 Summary of policy refinements

Refinement 1. Collaborate with councils to remove unsuitable stations and town centres

Refinement 2. Do not apply the standards in employment zones (E1, E2, MU1 zones)

Refinement 3. Collaborate with councils to address concerns in the R1 zone

Refinement 4. Note that the main heritage concerns are addressed by Refinement 2 and 3

Refinement 5. Exclude land affected by high-risk flooding

Refinement 6. Exclude land affected by high-risk bushfire

Refinement 7. Exclude land affected by other high-risk hazards

Refinement 8. Recalibrate the FSR and height for the mid-rise standards

Refinement 9. Do not make changes to the Apartment Design Guide

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## 2.2 Issue 1 – Unsuitable station and town centre precincts

### Refinement 1. Collaborate with councils to remove unsuitable station and town centre precincts

Prior to the council workshops, the Department will provide each council with an initial list of potentially suitable stations and town centres in their area and request feedback on any further exclusions (or inclusions). The Department will then assess proposed exclusions against the 'criteria for further exclusions' outlined in Section 2.2.3.

Any proposed exclusion that the Department does not support following feedback from councils will be discussed at the workshop. The workshop agenda will primarily address these contentious stations and town centres, ultimately resulting in the development of a final list by the Department.

### 2.2.1 Background to the EIE proposal

The Explanation of Intended Effect (EIE) proposed to increase housing density within 'Station and Town Centre Precincts' to achieve the objective of the policy for 'well-located' housing. These precincts are where the proposals for multi-dwelling housing and residential flat buildings would apply. The proposals for dual occupancies, however, are not associated with these precincts.

The precincts are areas within an 800-metres walking distance from all train stations (heavy/metro/light) and key town centres across the Greater Sydney, Hunter, Central Coast, and Illawarra regions. These precincts cover a significant portion of the Sydney metro area and surrounding regions.

As anticipated through the exhibition of the EIE, many stations and town centres may not be suitable for the proposed density levels.

### 2.2.2 What DPHI heard about this issue in the submissions

Many submissions expressed support for the overarching aim of promoting increased housing in well-located areas.

However, concerns were raised regarding the suitability of some stations across greater Sydney and surrounding regions for the proposed levels of density outlined in the Explanation of Intended Effect. These concerns stemmed from factors such as limited service frequency, distance from major hubs, and insufficient nearby amenities.

Additionally, many stakeholders voiced support for the idea of encouraging more housing within walking distance of high quality town centres. They believed that situating new housing near

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supermarkets, shops, and services could reduce reliance on cars and contribute to the development of more liveable communities.

A key issue revolved around identifying which town centres are suitable for increased housing. Many lower-order town centres (zoned E1 Local centre and MU1 Mixed use) were considered unsuitable for various reasons, including a lack of shops, insufficient services, and inadequate public transport. Submitters argued that in such areas, town centres would fail to adequately meet the daily needs of new residents and provide convenient access to employment opportunities.

### 2.2.3 Criteria for further exclusions of station and town centres

The Department will assess the evidence provided by councils for proposed further exclusions of stations and town centres from the initial lists. These initial lists are intended to be preliminary screenings designed to eliminate the most unsuitable stations and centres, focusing on location and service levels without considering other factors.

The factors that the Department will consider for further station and town centre exclusions will include, but are not limited to, the following:

- **Essential infrastructure:** These concerns should be critical and urgent, rather than general issues that can be addressed over time. Essential infrastructure includes water, sewage, stormwater, and electricity.
- **Road infrastructure:** These issues should be critical and urgent, rather than general issues that can be addressed over time. General traffic management is not considered a critical issue.
- **Quality of train service:** DPHI have already screened for frequencies, distance to major hubs, and co-location with town centres, so the remaining issues may relate to capacity and reliability.
- **Quality of bus services in town centres:** DPHI have only done a basic bus service screening for town centres, the remaining issues may relate to capacity, reliability, and frequency.
- **Level of service of town centres:** DPHI have screened for major supermarkets to predict the level of service of a centre, however there may be some centres with major supermarkets that do not also have a range of other frequently needed goods and services.
- **Land constraints and environmental risks within the precincts** will be dealt with separately via direct land exclusions in Recommendations 5-7.

### 2.2.4 Initial list of stations

The Department conducted a review of all 350 stations in the Greater Sydney, Hunter, Central Coast, and Illawarra regions. From this review, an initial list was developed based on criteria aimed at excluding the least suitable stations – those with inadequate service levels and significant distance from major centres.

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These criteria were developed through an analysis of submissions, consultation with Transport for New South Wales (TfNSW), and DPHI's research. The inclusion criteria are:

1. **Service Frequency:** Sydney metro area less than 15-minute; outside the metro less than 30 minutes.
2. **Proximity to Major Centres:** train travel time of less than 30 minutes to major centres (Sydney CBD, North Sydney, Parramatta, Penrith, Liverpool, Campbelltown, Chatswood, Gosford, Wollongong, and Newcastle).
3. **Co-location with Town Centres:** Stations outside the metro area must be situated within 400 metres of a town centre to remove isolated regional stations.

Excluded stations are mainly located far from major centres, such as Cessnock and Shoalhaven, where train services are infrequent, and travel times to major centres are lengthy. These exclusions align with stations identified as unsuitable in the submissions.

## 2.2.5 Initial list of town centres

Consistent with the EIE, all town centres zoned E2 'commercial centre' are proposed for inclusion as triggers for the 'station and town centre precincts'. The E2 zones are designed to be significant town centres that include a diverse range of goods, services, and public transport. There is a total of 66 E2 town centres across the Greater Sydney, Hunter, Central Coast, and Illawarra regions. Examples include Maroubra Junction and Dee Why.

In line with the EIE, DPHI will engage with councils to determine which town centres zoned E1 Local Centre and MU1 Mixed Use should also be included as triggers for the 'station and town centre precincts'. The Department is looking for centres that offer a wide range of frequently needed goods and services, including a full-line supermarket, shops, and restaurants.

More than 800 'reasonably sized' E1/MU1 zones across the specified regions have been reviewed and an initial list of E1/MU1 town centres has been developed, guided by criteria aimed at excluding the least suitable centres. The inclusion criteria was:

1. **Full-Line Supermarket:** Supermarkets with a retail floor area exceeding 2,000 square meters offering a wide and deep range of groceries. Our research indicates that full-line supermarkets are the best single predictor of a well-serviced town centre, indicating the presence of various other goods and services such as medical facilities, fitness centres, retail outlets, eateries, parks, and community amenities.
2. **Regular Bus Service:** A bus service operating at a frequency of at least one bus per hour, aligning with the bus service requirements for Affordable Housing provisions in the State Environmental Planning Policy. This standard serves as an initial benchmark, with councils expected to provide further information on higher service standards.

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## 2.3 Issue 2 – Application of standards in employment zones and heritage areas

### 2.3.1 Background to the EIE proposal

The EIE proposed to apply the non-refusal standards within ‘any zone’ the development is permitted. The intent of the ‘any zone’ approach was to also capture zones that are ‘higher-order’ than the target R2 low density and R3 medium density residential zones.

The mid-rise standards were designed for the R3 medium density residential zone, and the intention was to also apply the standards in higher-order zones – because if the standards are appropriate in R3, it then follows that they are also appropriate in zones designated for higher density residential (ie. R4 zones). To achieve this intent, the EIE stated that the mid-rise standards would apply in ‘any zone (except R2) that residential flat buildings are permitted’.

The issue with this approach is that zones that are not ‘equal or higher order’ than the R3 zone, such as the employment zones, and the general residential zone, will get mid-rise standards (RFBs are permitted in these zones). This has created the unintended outcome of the mid-rise standards applying in out of context zones. These zones are the only circumstances in the policy where a single storey low density area would be upzoned to a 6-storey residential area.

### 2.3.2 What DPHI heard about this issue in the submissions

The most significant concern with the application of the standards were in places where the proposals would lead to a 1 or 2 storey neighbourhood being upzoned to allow 21m high apartments. There was concern this would create jarring development outcomes and issues such as overshadowing, overlooking, and congestion. The main circumstances that this outcome would occur would be in the R1 General residential zone and the employment zones (E1, E2 and MU1). They were concerned that these zones were not intended for 6-storey apartments, and they have highly varied characters, densities, and objectives. The inner-city councils also pointed out that many of these zones are already densely populated in a low-rise form and are not suitable for mid-rise due to narrow lots and narrow street widths.

Most councils were also concerned that the standards applying in the employment zones would undermine the employment status of these zones and also undermine master planning in these areas. They noted that many of their centres already had suitable controls for 3 to 6 storey development and are already delivering housing. They were concerned that the proposals would undermine these place-based controls and produce poor outcomes within the town centres.

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### 2.3.3 Issues with the standards applying in employment zones and master planned areas

Refinement 2 – Do not apply the standards in employment zones (E1, E2, MU1, SP5 zones)

The standards will not apply within the employment/town centre zones themselves (E1, E2, MU1 and SP5 zones).

It is important to note that the standards will apply in the residential zones surrounding the town centres (within the 800m walking catchments) if that town centre is selected for inclusion.

The key reasons for this refinement are:

- there is little benefit in applying the standards in the employment/town centre zones, as they generally have comparable or higher FSRs/heights (ave. 2.16:1 and 20m)
- these zones only account for a small portion of the land where the standards apply (approx. 5.5%).
- it generally addresses concerns about standardised provisions undermining master planned areas, as these zones represent the main locations for master planning.
- it will avoid the unintended consequence of disrupting areas already delivering housing.
- it will avoid the unintended consequence of detracting from the employment and service function of these zones.
- this refinement alleviates some of the main heritage concerns, as a significant portion of these zones, approximately 35%, are heritage, and these zones are where existing low-rise heritage contexts can intersect with the 6 storey mid-rise provisions.

The primary zones within town centres and most Council master planning areas are zoned:

- E1 – Local Centre
- E2 – Commercial Centre
- MU1 – Mixed Use
- SP5 – Metropolitan Centre (exclusive to the Sydney CBD)

Most town centres have undergone master planning, incorporating a range of height and floor space ratio (FSR) controls tailored to achieve specific outcomes that capitalise on contextual opportunities and address constraints. Master planning achieves place-based outcomes such as sunlight provision to parks and public spaces, increased building heights at corners, and the dedication of land for open space land. Figure 1 illustrates an example of a master planned area featuring diverse heights and FSRs.

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Across Greater Sydney, the Hunter, Central Coast, and Illawarra regions, the average height and FSR controls within these zones is 20.4 meters and 2.16:1, facilitating a built form of 5-6 storeys. This already aligns with the policy intent of 4-6 storeys. Moreover, these zones only represent approximately 5.5% of the lots where the policy standards were proposed to apply, totalling around 38,000 lots out of 694,000 lots within the station/town centre precincts.

Implementing a standardised height and FSR control in these areas would yield minimal benefits for housing supply while posing risks to place-based outcomes and the employment/service focus of these zones.

By refraining from applying the standards in these zones, any ongoing Council master planning or planning proposals utilising these zones will remain unaffected by the policy. It is noted that master planning or planning proposals within the R2, R3, and R4 zones will be subject to the policy as proposed in the EIE. This differentiation is justified, as LMR proposals were specifically designed for these residential zones, representing a manageable increase in residential density consistent with the density objectives of the respective zones (ie. low-rise proposals for R2 and mid-rise proposals for R3 and R4). Additionally, master planning in purely residential areas tends to be less common and less nuanced.



Figure 1. Example of a master planned town centre (FSR/Height controls) – Northbridge town centre (zoned E1)

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### 2.3.4 Issues in the R1 General Residential Zone

#### Refinement 3 – Collaborate with councils to address concerns in the R1 general residential zone

The Department will collaborate with the main councils which use the R1 zone to develop refined standards that better align with the varied contexts in which this zone is used. A preliminary refinement that will serve as the basis for collaboration with councils has been developed.

The objective of the R1 General Residential zone is to accommodate various housing types and densities. While many councils do not utilise this zone, it does cover large parts of the inner-city, inner-west, and regional towns like Maitland. All residential typologies, including residential flat buildings, are permitted in this zone as per the Standard Instrument. [Appendix A](#) provides a summary of the R1 zone across Local Environmental Plans (LEPs), including average Floor Space Ratios (FSRs) and heights.

The Explanation of Intended Effect (EIE) proposed to apply the non-refusal standards within 'any zone' where the development type is permitted. This means that the R1 zone within 'station/centre precincts' would be subject to the 6-storey mid-rise controls, as residential flat buildings are permitted in this zone. However, this results in a larger than intended increases for many R1 areas, which typically consist of 1-2 storey low-rise housing. It also poses an issue for heritage areas, where 1-2 storey heritage properties clash with the 6-storey controls. Approximately 24% of all R1 lots are heritage listed or conservation.

The R1 zone does not inherently represent a 'higher order' residential zone compared to the R3 zone for which the mid-rise controls were designed. Consequently, applying mid-rise standards in this zone poses the highest risk within the policy framework. The City of Sydney and Inner West councils have expressed concerns about the potential impact of mid-rise standards in these zones.

#### Possible Refinements

Most of the concerns raised with the mid-rise standards in the R1 zone could be resolved with one of the following refinements:

**Option 1** – Applying only the low-rise standards in the R1 zone (no mid-rise standards)

**Option 2** – Applying the low-rise standards to R1 zones that are used for low-rise purposes; and the mid-rise standards to R1 zones that are used for mid-rise purposes, specifically:

- If the R1 zone currently enables +3 storeys (represented by controls for height >10m or FSR>0.8:1), then the 4-6 storey mid-rise provisions will apply.
- If the R1 zone currently enables 1-2 storey (represented by controls for height <10m or FSR <0.8:1), then the 2-3 storey low-rise provisions will apply.

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These refinements are consistent with the objectives of the policy to ensure new housing is 'well-designed' and 'well-located', as it avoids jarring transitions from 1 storey to 6 storeys and maintains a more compatible level of density for the local context.

### 2.3.5 Heritage concerns

**Refinement 4 – Note that the main heritage concerns are addressed by Refinements 2 and 3**

The Department does not recommend any specific changes to the policy relating to heritage. However, it is noted that refinement 2 and 3 address the greatest concerns for heritage in the policy as they remove the situation of 6-storey mid-rise standards applying in 1-2 storey heritage contexts.

The primary concern regarding heritage is in heritage conservation areas (HCA) that are characterised by 1 or 2 storey dwellings where the 6-storey controls would apply – this scenario occurs in the R1, MU1, E1, and E2 zones, which are often used for low-rise/low-density purposes and the mid-rise standards would apply. However, this scenario does not occur in R2 zones, which will get the low-rise provisions, nor in R3 and R4 zones, which get the mid-rise provisions however this is aligned with the medium/high density objectives of the zone.

While heritage provisions in Local Environmental Plans (LEPs) and Development Control Plans (DCPs) will remain in force, they will only apply to the extent that they do not conflict with the height and Floor Space Ratio (FSR) standards in the State Environmental Planning Policy (SEPP). Consequently, heritage considerations related to the height and form of an area may have limited weight in the assessment of Development Applications (DA).

Refinement 2 and 3 aim to prevent the unintended consequence of upzoning a single-storey heritage area to 6 storeys. This resolves the main heritage concerns and aligns with the policy objective of ensuring new housing is 'well-designed' and 'well-located' by avoiding abrupt transitions between 1 storey and 6 storeys, thus maintaining a more compatible level of density for the local context.

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## 2.4 Issue 3 – Flooding, Bushfire and other hazard risks

### 2.4.1 What DPHI heard about these issues in the submissions

Many submissions, particularly those from councils on the city fringes and in more rural areas, were concerned about how the policy would address natural hazards and risks, such as bushfires and flooding.

The sentiment was that certain natural hazards and evacuation risks cannot be managed effectively at the development application stage. They advised that once an area has been upzoned, there is little that can be done at the development application stage to manage the risks of major floods and bushfires. These issues must be addressed strategically or in the proposed policy. They were also concerned that the availability of the complying development pathway for low-rise housing would mean that there would be little consideration of major flood and bushfire risks.

Many of these submissions also raised concern about the risks of increased density within evacuation areas. For example, in areas with limited or constrained evacuation routes, respondents recommended carefully planning any increases in density as part of a strategic process to ensure risk is managed.

#### Refinement 5 – Exclude land within the maximum flood zone in high risk catchments

The policy will not apply on land below the Probable Maximum Flood (PMF) level in the Hawkesbury-Nepean Valley and the Georges River catchments. The Department will advise councils of this prior to the workshops and collaborate to develop the appropriate exclusion areas. This land is mostly not well located, being in peri-urban areas and environmentally sensitive. It represents a small portion of LMR land.

DPHI will also work with relevant councils to manage evacuation risks where they cannot be properly managed at DA stage.

#### Refinement 6 – Exclude high-risk bushfire land

The policy will not apply on category 1 bush fire prone land. The Department will advise councils of this prior to the workshops and collaborate on any outstanding bushfire issues at the workshop.

DPHI will work with relevant councils to manage evacuation risks where they cannot be properly managed at DA stage.

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#### Refinement 7 – Exclude land is that affected by other hazards that are high-risk

The Department has investigated other hazards including coastal management, contaminated lands, acid sulfate soils, land slip, pipelines and dangerous industries.

The Department considers that these risks can generally be managed at DA stage however there may be circumstances that councils advise are high risk and can be excluded.

### 2.4.2 Key reasons for refinements 5, 6 and 7

The EIE proposals apply to all land affected by flooding, bushfire and other hazards. Some of this land is high-risk and cannot be properly managed at the DA stage. DPHI recommends excluding high risk lands because:

- It is consistent with the LMR policy objective to ensure new housing is ‘well located’, as it will avoid upzoning in high-risk locations.
- Ministerial directions 4.1 to 4.6 effectively prevent increases in residential densities in areas affected by hazards unless technical studies demonstrate risks are mitigated.
- The DA process cannot adequately limit the density of an area once it has been upzoned.
- Higher risk areas are mostly at the fringes of the city or in regional settings. that are mostly not suitable for LMR due to a variety of other factors including lack of public transport, distance to major centres, agricultural land uses, and environmental issues
- It accounts for a small proportion of LMR land.

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## 2.5 Issue 4 – Other issues

There are a number of other issues that warrant policy refinement that are mostly technical in nature which are not appropriate for one-on-one council consultation. There are many submissions from Councils and other stakeholders that contained detailed analysis of these issues which have been used as part of the analysis and refinements.

### 2.5.1 What DPHI heard about these issues in the submissions

Councils and many industry representatives claimed there was a mismatch between the proposed floor-space ratio and building height provisions. Many councils provided analysis that the floor-space ratio was too high for the intended 4 to 6-storey outcomes. They advised that to achieve the floor-space allowance within a 4 to 6-storey height limit, the buildings would have to be bulky and built to the site boundaries with minimal landscaping.

Some councils also analysed the proposed changes to the Apartment Design Guide, concluding that the changes would reduce amenity and worsen issues for waste collection.

### 2.5.2 FSR and Height mid-rise standards

#### Refinement 8 – Recalibrate the FSR and Height mid-rise standards

- For 6 storey mid-rise, change FSR to 2.2:1, height to 22m for residential flat buildings and 24m for shop top housing and introduce a maximum of 6 storeys
- For 4 storey mid-rise, change FSR to 1.5:1, height to 17.5m and introduce a maximum of 4 storeys

The key reasons for these standards are:

- analysis show 6-storeys typically has an FSR between 1.8 and 2.2:1.
- 2.2:1 is recommended as it will accommodate smaller sites and shop top housing developments which need more floor space.
- The FSR is lower than TOD because TOD mandates affordable housing, so if the FSRs are the same, LMR would essentially be more permissive than TOD.
- LMR will only apply in residential zones which need more setbacks and landscaping.
- analysis show 6-storeys typically requires a height between 21-23m for residential flat buildings and up to 24m for shop top housing.
- the heights accommodate compliant ceiling heights, a raised ground floor level, higher ceilings for ground floor shops, and lift overruns/roof access. 24m covers shop top and 22m covers RFBs.

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- a maximum 6 storey control is proposed to ensure the additional height is used to achieve ceiling heights, rather than a 7th storey.

The proposed mid-rise FSR and height standards were intended to enable a well-designed 4 to 6 storey apartment buildings. The standards proposed in the EIE were:

- 0-400m to station/centre: 3:1 FSR and 21m height (intended to be 6 storeys)
- 401-800m to station/centre: 2:1 FSR and 16m height (intended to be 4 storeys)

Further policy development and analysis provided in the submissions have revealed that these controls will produce bulky development that will not be well designed. The main issue is the FSR which is too high to fit within the intended 4 to 6 storey outcome. The only way to achieve it would be having no setbacks to the front and side boundaries, leaving minimal space for landscaping and separation, or to provide 8-10 storeys. This was not the intention.

The Department has used the analysis provided in the submissions and internal design advice to recommend a refined FSR and height provision which is detailed with justification in the tables below.

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Standard	EIE	Recommendation	Analysis and Justification
0-400M FROM STATIONS/TOWN CENTRES			
FSR	3:1	2.2:1	<ul style="list-style-type: none"> <li>Councils and internal analysis show 6-storeys typically has an FSR between 1.8 and 2.2:1.</li> <li>The ADG recommends an FSR of 2:1 for 6-7 storeys.</li> <li>The LMR landscaping controls cannot be achieved at 3:1.</li> <li>2.2:1 is recommended as it will accommodate smaller sites and shop top housing developments which need more floor space.</li> <li>The FSR should be lower than TOD because: <ul style="list-style-type: none"> <li>TOD mandates affordable housing, so if the FSRs are the same, LMR would essentially be more permissive than TOD which applies in the best transport locations across the Six Cities,</li> <li>LMR will only apply in residential zones which need setbacks and landscaping, unlike employment zones.</li> </ul> </li> </ul>
Height	21m	24m for shop top housing 22m for residential flat buildings	<ul style="list-style-type: none"> <li>Councils and internal analysis show 6-storeys typically requires a height between 21-23m for residential flat buildings and up to 24m for shop top housing.</li> <li>These heights accommodate ADG compliant ceiling heights, a raised ground floor level, higher ceilings for ground floor shops, and lift overruns/roof access.</li> <li>24m is recommended for shop top and 22m for RFB. A maximum 6 storey control is proposed below to ensure the additional height is used to achieve ceiling heights, rather than for a 7<sup>th</sup> storey.</li> </ul>
Storeys	None	Max 6 storeys	<ul style="list-style-type: none"> <li>Ensures the additional height provided is used to achieve ceiling heights and amenity, rather than a 7<sup>th</sup> storey.</li> <li>Ensures the intent of 6 storey mid-rise housing is achieved.</li> </ul>

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Standard	EIE	Recommendation	Analysis and Justification
401-800M FROM STATIONS/TOWN CENTRES			
FSR	2:1	1.5:1	<ul style="list-style-type: none"> <li>Councils and internal analysis show 4-storeys typically has an FSR between 1.2 and 1.6:1.</li> <li>The ADG recommends an FSR of 1:1 for 3 storeys.</li> <li>The LMR landscaping controls cannot be achieved at 2:1.</li> <li>1.5:1 is recommended as it will accommodate smaller sites and shop top housing developments which need more floor space.</li> </ul>
Height	16m	17.5m	<ul style="list-style-type: none"> <li>Councils and internal analysis show 4-storeys typically requires a height between 15.5-16.5 m for residential flat buildings.</li> <li>These heights accommodate ADG compliant ceiling heights, a raised ground floor, and lift overruns/roof access.</li> <li>17.5m is recommended to cover both RFB and shop top housing to allow for higher ceilings for ground floor shops. A 4 storey maximum control is proposed below. This prevents the extra height being used for a 5<sup>th</sup> storey rather than for amenity.</li> </ul>
Storeys	None	Max 4 storeys	<ul style="list-style-type: none"> <li>Ensures the additional height provided is used to achieve ceiling heights and amenity, rather than a 5<sup>th</sup> storey.</li> <li>Ensures the intent of 4 storey mid-rise housing is achieved.</li> </ul>

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### 2.5.3 Changes to the Apartment Design Guide

#### Refinement 9 – Do not make changes to the Apartment Design Guide

The EIE proposed several modifications to the Apartment Design Guide (ADG), primarily aimed at reducing requirements to promote mid-rise apartments. These included decreases in building separation for the 5th and 6th storeys, reductions in communal open space, and reducing the need for garbage truck access to sites.

Many council submissions and key group submissions provided commentary and detailed analysis indicating that the proposed changes were unnecessary and would result in negative outcomes, such as diminished amenity and waste management issues. Therefore, it is recommended that no changes are made to the ADG.

While the proposed landscaping controls for low- and mid-rise development in the EIE were intended to be implemented through modifications to the ADG and the low-rise design guide, DPHI will pursue these changes through an alternative mechanism. Feedback from submissions largely supported appropriate landscaping provisions. Internal assessments have indicated that it may be challenging for development to achieve the landscaping controls and to achieve a Floor Space Ratio (FSR) near to the maximum allowance; however, the proposed reduction in FSR to 2.2:1 may alleviate this issue. To ensure flexibility, the landscaping controls will be drafted as guidance-level provisions rather than strict development standards.

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# Council Engagement Approach

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## 3.1 Workshop format

Workshops will be conducted with each of the 49 councils that submitted feedback to the Explanation of Intended Effect (EIE). This includes all of the six cities councils (44) and 5 outside the six cities.

The attendees from the Department of Planning, Housing and Infrastructure (DPHI) at these workshops should comprise:

- 1 key decision maker from the LMR policy division, such as a Director or Executive Director.
- 1-3 LMR technical planning officers, including a team leader, with one designated as the note taker.
- 1 representative from the regional team to provide local council knowledge.

The attendees from each council at the workshops should include:

- 1 key decision maker with delegation, such as a Planning Manager or Director.
- 1-3 technical planning officers.

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## 3.2 Preparation for workshops and agenda

The primary objective of the workshops is to establish a consensus on a list of suitable station and town centre precincts for each council, as outlined in Refinement 1.

Ahead of the workshops, each council will be provided with an initial list of potentially suitable stations and town centres and feedback will invited on any further exclusions (or inclusions) a council may deem necessary. The Department will evaluate council feedback against the 'criteria for further exclusions' outlined in Section 2.2.3. Any proposed exclusions that the Department disagrees with will be subject to discussion during the workshop. The workshop agenda will focus on these specific stations and town centres, culminating in the development of a final list by the Department.

Some councils will also be directly engaged on Refinements 3, 4, 5, 6, and 7, as they relate to issues that are unique to certain councils such as those pertaining to the R1 zone, heritage, or natural hazards.

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Follow-up meetings will be minimised unless they are essential for resolving technical issues that may arise.

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## Appendix A – R1 Zone Analysis

Council	R1 Lots	Height of Buildings Control Average	FSR Control Average
Maitland	32612	10m	0.9:1
Central Coast	22581	9.5m	0.6:1
Inner West	19557	13.1m	0.5:1
Sydney	18899	9.8m	1.3:1
Camden	17657	13.5m	N/A
Shoalhaven	7603	8.7m	N/A
Liverpool	6855	9.6m	0.7:1
Northern Beaches	4503	8.7m	0.6:1
Penrith	4022	11.6m	N/A
Campbelltown	1654	9.8m	N/A
Shellharbour	1531	9m	N/A
Cessnock	1256	N/A	N/A
Wollongong	1155	21.3m	1.5:1
Burwood	905	12.1m	1.4:1
Fairfield	890	9m	0.5:1
Blacktown	819	12.6m	N/A
Randwick	613	10.6m	0.7:1
Lake Macquarie	605	10.8m	N/A
The Hills Shire	574	11.8m	1.5:1
Blue Mountains	473	7.5m	0.5:1
Hawkesbury	306	12m	N/A

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Council	R1 Lots	Height of Buildings Control Average	FSR Control Average
Canada Bay	239	12m	0.75:1
Ryde	156	16.6m	2.3:1
Ku-Ring-Gai	47	10.5m	0.45:1
City Of Parramatta	31	17.1m	0.9:1
Port Stephens	10	9m	N/A
TOTAL	145,553	Average = 10.9m Mode = 8.5m Median = 9.5m	Average = 0.82:1 Mode = 0.5:1 Median = 0.6:1

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Department of Planning, Housing and Infrastructure

# Low- and Mid-Rise Housing: Station and Town Centre Selection Form

We would like to work with council to determine which station and town centres precincts are suitable to be included in the policy. We have undertaken a preliminary screening to eliminate the most unsuitable station and town centres based on location and service levels (refer to the Policy Refinement Paper for details).

We request that council review the initial list of stations and town centres in the form below and select either **'Yes'** (include) or **'No'** (request to exclude) for each station and town centre.

If you select 'No' to any station or town centre, we request that **reasons are provided** having consideration for the assessment criteria below.

If you could please **complete and return the form at least 1 business day prior to the workshop**, this will ensure we can have a productive meeting.

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



### Assessment criteria for further exclusions of station and town centres

We will assess the reasons provided by council for proposed further exclusions of stations and town centres from the initial list. The initial lists are intended to be preliminary screenings designed to eliminate the most unsuitable stations and centres, focusing on location and service levels without considering other factors.

The factors that the Department will consider for further exclusions will include, but are not limited to, the following:

- **Essential infrastructure:** These concerns should be critical and urgent, rather than general issues that can be addressed over time. Essential infrastructure includes water, sewage, stormwater, and electricity.
- **Road infrastructure:** These issues should be critical and urgent, rather than general issues that can be addressed over time. General traffic management is not considered a critical issue.
- **Quality of train service:** The initial screening included frequencies, distance to major hubs, and co-location with town centres, so the remaining issues may relate to capacity or reliability.
- **Quality of bus services in town centres:** The initial screening included a basic bus service screening for town centres, the remaining issues may relate to capacity, reliability, and frequency.
- **Level of service of town centres:** The initial screening was for the presence of a major supermarket, which was intended to predict the overall level of service of a centre. There may be some centres that contain a major supermarket, but do not have an adequate range of other frequently needed shops and services.
- Land constraints and environmental risks within the precincts will be dealt with separately via direct land exclusions in Refinements 5, 6 and 7 (refer to Policy Refinement Paper)

Low- and Mid-Rise Housing: Station and Town Centre Selection Form



## Woollahra – Station and Town Centre selections form

Station and Centre Precincts	Location and description	Council Response: Include?	Council Response: If no, please provide key reasons?
<b>Town centre precincts</b>	Double Bay Town Centre	<i>Yes / No</i>	<ul style="list-style-type: none"> <li><i>If no, provide reasons having consideration for the assessment criteria</i></li> </ul>
	Edgecliff Shopping Centre	<i>Yes / No</i>	<ul style="list-style-type: none"> <li><i>If no, provide reasons having consideration for the assessment criteria</i></li> </ul>
	Rose Bay North (Old South Head Road)	<i>Yes / No</i>	<ul style="list-style-type: none"> <li><i>If no, provide reasons having consideration for the assessment criteria</i></li> </ul>
	Rose Bay (New South Head Road)	<i>Yes / No</i>	<ul style="list-style-type: none"> <li><i>If no, provide reasons having consideration for the assessment criteria</i></li> </ul>
<b>Stations precincts</b>	Edgecliff Station	<i>Yes / No</i>	<ul style="list-style-type: none"> <li><i>If no, provide reasons having consideration for the assessment criteria</i></li> </ul>





**Item No:** R2 Recommendation to Council  
**Subject:** **HYDROGEOLOGICAL AND GEOTECHNICAL STUDY OF THE ROSE BAY AREA AND PROPOSED DCP AMENDMENTS**  
**Author:** Jacquelyne Della Bosca, Executive Planner  
**Approvers:** Kristy Wellfare, Acting Manager Strategic Planning & Place  
Emilio Andari, Manager Engineering Services  
Tom O'Hanlon, Director Infrastructure & Sustainability  
Scott Pedder, Director Planning & Place  
**File No:** 24/74056  
**Purpose of the Report:** To report on the findings of the hydrogeological and geotechnical study of the Rose Bay area undertaken by GHD Pty Ltd  
To obtain Council's approval to exhibit an amendment to the Woollahra Development Control Plan 2015.  
**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 study *Rose Bay - Hydrogeological and Geotechnical Impacts* (May 2024) prepared by GHD Pty Ltd in **Attachment 1**.
- B. Resolves to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No 30) - Hydrogeological and Geotechnical Impacts* as contained in **Attachment 2** of the report to the Environmental Planning Committee of 3 June 2024.

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**Executive Summary:**

Council is concerned about impacts associated with excavation, particularly the potential impact of groundwater drawdown on the structural and geological integrity of buildings in the Rose Bay area. In addition, vibration from construction activities such as building demolition, pile driving, soil compaction and rock excavation can have negative impacts.

Engineering consultants GHD Pty Ltd have undertaken a hydrogeological and geotechnical study of the Rose Bay area to assess impacts relating to excavation, subterranean building and dewatering works. Preliminary assessment of landform stability and impacts of construction induced vibration were also carried out. GHD's findings are set out in the document *Rose Bay - Hydrogeological and Geotechnical Impacts* (May 2024) provided in **Attachment 1**.

In summary the study identified that the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) would be strengthened by including provisions to address the impact of groundwater drawdown and land stability within parts of the Rose Bay area. The study also found that vibration limits, guidelines and monitoring requirements should be considered to address human comfort and structural damage.

Having regard to the findings of the study, Council staff recommend changes to the Woollahra DCP 2015 as set out in *Draft Woollahra Development Control Plan 2015 (Amendment No 30) - Hydrogeological and Geotechnical Impacts* (draft DCP) in **Attachment 2**.

Staff recommend that Council endorse the draft DCP for public exhibition.

**Discussion:**

Background

At the Council meeting on 14 June 2022, it was resolved:

*THAT Council:*

- A. *Request the General Manager commence drafting an appropriate scope of works for the hydrogeological and geotechnical study for the entire Rose Bay basin area from the Bellevue Hill ridgeline (with the initial focus of this work to be in the vicinity of Drumalbyn Road Bellevue Hill), with a view to engaging a consultant to undertake this study urgently, preferably commencing in early July 2022.*
- B. *Note that the request as detailed in A) above is subject to the hydrogeological and geotechnical study for the entire Rose Bay basin being adopted as a line item by Council at the 27 June 2022 Council meeting, as included in the draft 2022-2023 budget at \$120,000.*

Further to this, in April 2023 in response to Councillor feedback, the impacts of vibration associated deep excavation were requested to be included and considered as part of this study.

At the Council meeting on 11 April 2023, it was also resolved:

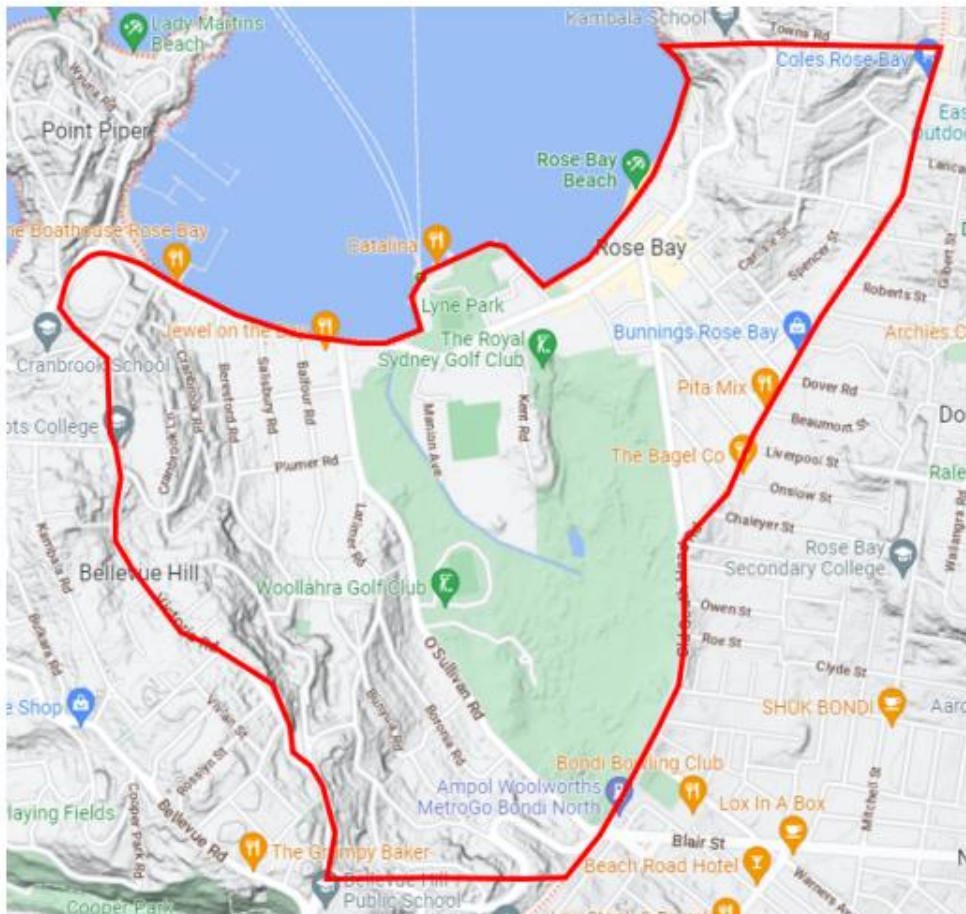
*THAT:*

- A. *Council resolves to exhibit minor amendments to the Woollahra Development Control Plan 2015 to:*
  - i *improve the nexus between the excavation provisions and the groundwater (hydrogeology) provisions; and*
  - ii *enhance the prominence of the groundwater (hydrogeology) provisions in Chapter E2 Stormwater and Flood Risk Management.*
- B. *Subject to A, the amendment to Woollahra Development Control Plan 2015 is undertaken concurrently with another DCP amendment, having regard to the minor nature of the amendment and the resources involved in amending the DCP.*

Study of hydrogeological and geotechnical impacts in the Rose Bay area

In response to Council's resolution of 14 June 2022, engineering consultants GHD Pty Ltd (GHD) were engaged to provide Council with a better understanding of the geotechnical and hydrogeological risks associated with developments in the Rose Bay area. The findings would then inform proposed amendments to Council's local planning controls. GHD has previously undertaken a similar study for the Double Bay catchment, which led to amendments to the Woollahra LEP 2014, Woollahra DCP 2015 and Council's DA Guide.

The study area is shown in **Map 1**. The area covers Rose Bay, part of Bellevue Hill east of Victoria Road and part of Vacluse south of Towns Road. The extent of the study area on the south is defined by Old South Head Road, which is the boundary of Woollahra Council local government area (LGA).



**Map 1: Rose Bay study area**  
(Source: GHD Study)

GHD undertook the study in four stages:

- Stage 1 Identification of the hydrogeological study area
- Stage 2 Desktop review
- Stage 3 Engineering analysis and assessment
- Stage 4 Review of Council's planning controls

The scope, methodology and findings of the study are set out in the document *Rose Bay - Hydrogeological and Geotechnical Impacts* (May 2024) (the GHD Study) (see **Attachment 1**).

The GHD Study primarily focuses on a detailed geotechnical assessment of short term construction dewatering in terms of risk of damage to adjacent buildings, but also addresses long term impacts when the basements are constructed below the water table and alter the natural flow regime, landform instability, construction induced vibrations and environmental impacts of dewatering.

In summary the GHD Study identifies that:

- *There is high potential for future developments to interact with groundwater due to the shallow water table in the low-lying Rose Bay area. The nature of interaction may be short term, during construction when the water table is lowered to enable dry excavations, or long term when the basements are constructed below the water table and alter the natural flow regime.*

- *The short-term dewatering impact has been assessed to be significant in areas of Rose Bay due to the presence of peat and deep sand deposition. However, the long-term impact is assessed to be insignificant for a typical residential or commercial development due to relatively wide open areas would mean insignificant impediment to groundwater flow.*
- *Excessive dewatering if uncontrolled can potentially result in substantial amount of drawdown which can induce a total settlement in the order of up to 200 mm. Relatively high magnitude of total settlement and spatial variability in ground conditions are expected to increase the differential settlement. It should be noted that some structures, particularly old buildings and buried pipes, are sensitive to differential settlement. Consequently, an allowable settlement limit of 15 mm has been proposed for the purpose of this study. The corresponding dewatering drawdown to cause 15 mm settlement varies between 0.3 m and greater than 2 m for area defined as Settlement Zone A (red).*
- *Imposing a drawdown limit to an acceptable value of 0.3 m is expected to assist in limiting the settlement and differential settlement to values related to 'aesthetic' damage category. The risk of settlement impact to the structures is still present if the assessed groundwater drawdown due to uncontrolled dewatering exceeds 0.3 m in some areas. The developed settlement zones can be used to highlight various areas and their sensitivity of settlement response to various drawdown depths.*
- *For practical and constructability purposes, a drawdown which is greater than the acceptable limit may be required to allow for a dry condition in a multi-level basement construction. In this case, additional control measures should be put in place such as the reinjection of groundwater, controlled provision of full depth cut-off system or base seal capable of resisting uplift pressure. Alternatively, a review of this limit can be considered on a case-by-case basis by undertaking additional site investigations and impact assessment for the affected structures.*
- *The landform and geological conditions on part of the hillsides east and west of the golf course area indicates landslides or slope instability are possible where a deep sand profile overlies bedrock. Rock fall and erosion hazards have also been identified in parts of the study area. Therefore, these risks must be managed by proper risk assessment and analysis as required. The requirements for assessment of these hazards should be considered in development control plans.*
- *Vibration limits with respect to human comfort have been suggested in accordance with the methods described in Department of Environment and Conservation (DEC, 2006) NSW. These limits are based on British Standards BS 6472-1992. Vibration limits with respect to building damage have been suggested in accordance with BS 7385.2- 1993. However, the German Standard DIN 4150-3 includes guidelines for residential buildings together with criteria for both commercial/ industrial buildings and high sensitivity structures and may be considered more appropriate in most cases. Due to various factors affecting the vibration criteria, it is suggested that the applicant's consultant should assess the acceptable vibration limits based on the considerations of a number of factors such as construction equipment and activities, setting (commercial/residential), sensitivity and type of building, frequency of vibration, direction of vibration, time of activity in a day, duration, etc,. Vibration monitoring as well as pre and post construction dilapidation surveys should be carried out at the boundary with adjacent properties of a construction site. Settlement resulting from densification of loose sand due to vibration should also be considered, but was assessed to be limited generally, and is not likely to contribute to significant building damage.*

(GHD Study, page 38)

Proposed amendments to Woollahra DCP

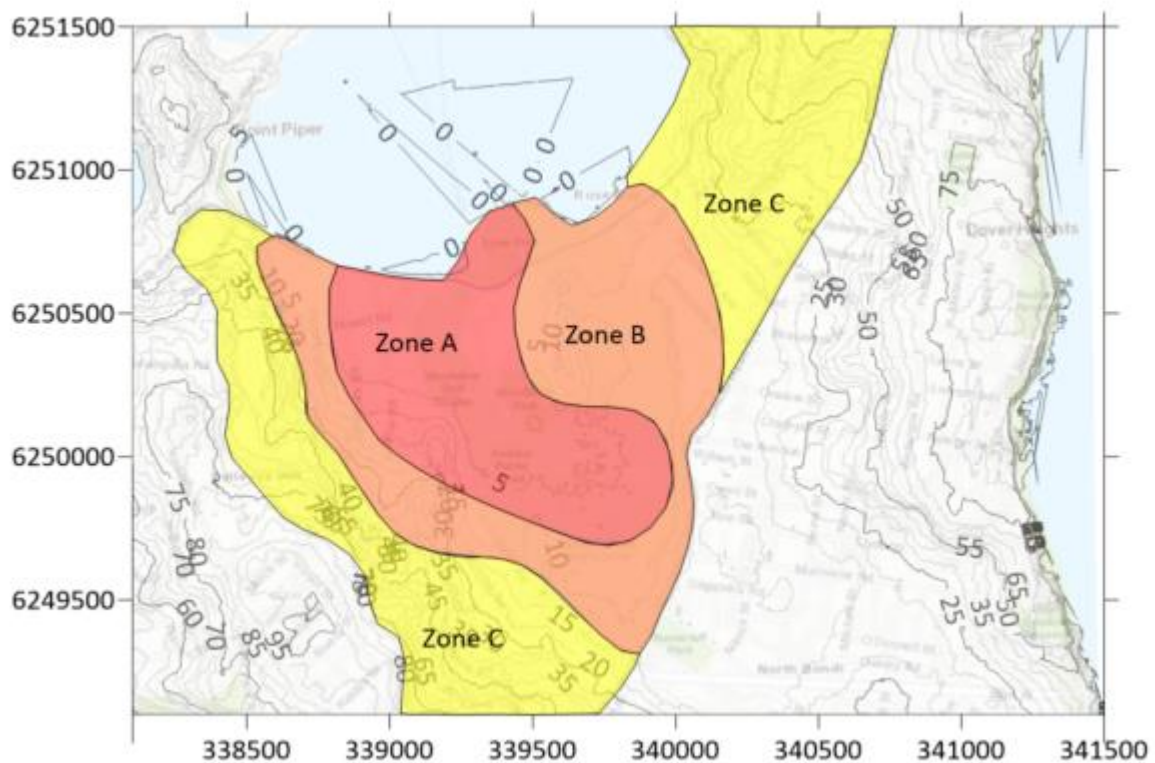
The GHD Study includes an assessment of Council's existing local planning provisions and recommends amending the Woollahra DCP 2015 to better address potential impacts to existing structures caused by the excavation and lowering of groundwater table, and to limit construction induced vibration to acceptable levels.

GHD's proposed amendments are set out in the GHD Study, Appendix B *Proposed changes to DCP and DA Guidelines* in **Attachment 2**, and summarised in below.

- *Groundwater drawdown limit in zones A and B of the Rose Bay settlement area*

Introduce a new control to set a groundwater drawdown limit of 0.3m which will apply to land within Settlement Zones A and B in the Rose Bay study as identified in **Map 2**.

The control will establish that temporary changes to the groundwater level, due to construction, must not exceed 0.3 m from the average monitored pre-construction groundwater level.



**Map 2: Settlement zones and their extent on a plan overlaying elevation contour**  
(Source: GHD Study)

This control is based on the assessment in Stage 3 of the GHD Study which concludes a drawdown of about 0.3m could induce a settlement of 0.15m in some locations within the Rose Bay area. The allowable settlement of 0.15m was recommended on the basis of the equivalence of Class S site as defined in AS2870-2011, and is proposed to limit the risk of any damage relating to no worse than a typical "aesthetic" damage to buildings.

Because the groundwater drawdown caused by dewatering at a given site could extend over a long distance, the minimum drawdown of 0.3mm has been recommended for settlement zones A and B in the Rose Bay study area.

Notwithstanding the proposed 0.3m drawdown limit, a number of design measures may be available to limit the groundwater drawdown whilst allowing for the dewatering. These measures include the provision of groundwater recharge/reinjection wells, cut-off walls, etc. These design measures, if introduced, should be assessed and presented in the reports lodged as part of the DA submission.

- *Limit vibration to address human comfort and structural damage*

Introduce a control to limit vibration to acceptable levels having regard to human comfort and structural damage. This control will apply to across the Woollahra LGA.

As a minimum, the vibration limits for human comfort is to comply with *Assessing Vibration - a technical guideline by Department of Environment and Conservation NSW (DEC), 2006* and the vibration limits for structural damage is to comply with *German Standard DIN 4150-3 - Vibrations in buildings - Part 3: Effects on structures*. There is one Australian Standard in relation to vibration limits. However, AS 2187.2-2006 "Explosives - Storage and use" is primarily focused on vibration caused by explosives instead of construction activities.

The assessment on expected vibration levels is to be based on the proposed construction activities and plant. A statement/report will need to be submitted specifying methods for reducing vibrations within acceptable levels.

A vibration monitoring program and contingency plan will also be required. It should include the locations of vibration monitoring sensors, trigger levels for anticipated vibration types and buildings in the neighbourhood and frequency of monitoring. As a minimum, vibration monitoring sensors are to be installed and monitored at adjacent properties. If the vibration limit are exceeded at any time during construction, the construction activity causing vibration will need to be ceased until the measures to limit the vibration are implemented.

At the end of construction, a post construction dilapidation survey of the adjacent properties is to be carried out and compared with pre-construction dilapidation survey for identification of defects (if any) that were likely caused by vibration from construction activities.

- *Administrative changes*

Various administrative changes are proposed such as updating the title of the DCP Chapter E2 Stormwater and Flood Risk Management, section E2.2.10 Groundwater (hydrogeology), and introduction paragraphs to include references to geotechnical or hydrogeological impacts.

Additional definitions are also included in Appendix 1 of Chapter E2 to support the new provisions.

The amendments to Woollahra DCP 2015 proposed by GHD were developed in consultation with both Council's Engineering and Planning teams. The intent of these proposed amendments are reflected in the draft DCP in **Attachment 2**.

These amendments also address matters raised in Council's resolution of 11 April 2023, to improve the nexus between the excavation provisions and the groundwater (hydrogeology) provisions and enhance the prominence of the groundwater (hydrogeology) provisions in Chapter E2 Stormwater and Flood Risk Management. These are minor administrative amendments only.



Other DCP amendments to address excavation

A separate report on the application and effectiveness of current excavation controls is also being presented to the EPC meeting of the 03 June 2024. That report proposes amendments to the Woollahra DCP 2015 to minimise excavation by:

- addressing vehicular turning areas and mechanical vehicular turntables for dwelling houses, which commonly contribute to non-compliant volumes of excavation, and
- permitting mechanical parking structures in certain circumstances.

If Council resolves to exhibit those amendments, staff recommend that the draft DCP amendments identified in both reports should be prepared and exhibited concurrently.

**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 30)* in **Attachment 2**. This option is the staff recommendation and reflects the intent of the proposed DCP amendments in the GHD Study.
2. Request staff to amend the *Draft Woollahra DCP 2015 (Amendment No 30)* in **Attachment 2** before it is placed on public exhibition.
3. Not make any changes to the Woollahra DCP 2015.

Having regard to the nature of the proposed amendments and the resources and cost involved in exhibiting and amending the Woollahra DCP 2015, if Option 1 or 2 is resolved, staff also recommend that the amendments should be made concurrently with any amendments adopted from the EPC report on the *Application and effectiveness of the volume of excavation controls and recommendations to reduce excavation in development applications*.

If Council supports the proposed amendments to 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 GHD and staff from Council's Engineering Services and Development Assessment team.

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 relevant government agencies and community groups including the Rose Bay Residents Association.

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.

GHD has also identified proposed changes to Council's DA Guide to support the DCP amendments. Changes to the DA Guide do not need to be publicly exhibited, and if the DCP amendments are exhibited and then adopted by Council, staff will update the DA Guide accordingly. Council's standard conditions of consent will also be updated.

### 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.

As identified above, it is a more effective use of resources to make and exhibit the amendments recommended in this report concurrently with any draft DCP amendments adopted from the EPC report on the *Application and effectiveness of the volume of excavation controls and recommendations to reduce excavation in development applications*.




### Conclusion:

In response to Council's resolution of 14 June 2022, engineering consultants GHD were engaged to undertake an assessment of hydrogeological and geotechnical impacts associated with development in the Rose Bay area, particularly works involving excavation and below ground structures.

Having regard to that assessment, GHD recommends amending the Woollahra DCP 2015 to establish new provisions to address groundwater drawdown in certain parts of the Rose Bay area, and to apply vibration limits having regard to human comfort and structural damage which will apply to the whole LGA.

Council staff support the proposed amendments and have reflected the intent of these changes in the *Draft Woollahra DCP Amendment No 30 - Hydrogeological and Geotechnical Impacts*. It is recommended that Council resolves to exhibit the draft DCP contained in **Attachment 2**. We recommend that these amendments be prepared and exhibited concurrently with any amendments adopted from the EPC report on the *Application and effectiveness of the volume of excavation controls and recommendations to reduce excavation in development applications*.

### Attachments

1. Rose Bay Hydrogeological and Geotechnical Impacts (May 2024) by GHD Pty Ltd  
(circulated under separate cover) 
2. Draft Woollahra Development Control Plan No 30 - Hydrogeological and Geotechnical Impacts  



**Draft Woollahra  
Development Control Plan  
2015  
(Amendment No. 30) -  
Hydrogeological and Geotechnical  
Impacts**

Prepared Date:	24 May 2024
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning and Place and Engineering Services
HPE CM Record Number:	24/78268

**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.*

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## Woollahra Development Control Plan 2015 (Amendment No 30) - Hydrogeological and Geotechnical Impacts

### Part 1 Preliminary

#### 1.1 Background

Council is concerned about impacts associated with excavation, particularly the potential impact of groundwater drawdown on the structural and geological integrity of buildings in the Rose Bay area, and the impacts of construction induced vibration.

At the Council meeting on 14 June 2022, it was resolved:

*THAT Council:*

- A. Request the General Manager commence drafting an appropriate scope of works for the hydrogeological and geotechnical study for the entire Rose Bay basin area from the Bellevue Hill ridgeline (with the initial focus of this work to be in the vicinity of Drumalbyn Road Bellevue Hill), with a view to engaging a consultant to undertake this study urgently, preferably commencing in early July 2022.*
- B. Note that the request as detailed in A) above is subject to the hydrogeological and geotechnical study for the entire Rose Bay basin being adopted as a line item by Council at the 27 June 2022 Council meeting, as included in the draft 2022-2023 budget at \$120,000.*

Further to this, in April 2023 in response to Councillor feedback, the impacts of vibration associated deep excavation were requested to be considered as part of this study.

At the Council meeting on 11 April 2023, it was also resolved:

*THAT:*

- A. Council resolves to exhibit minor amendments to the Woollahra Development Control Plan 2015 to:*
  - i improve the nexus between the excavation provisions and the groundwater (hydrogeology) provisions; and*
  - ii enhance the prominence of the groundwater (hydrogeology) provisions in Chapter E2 Stormwater and Flood Risk Management.*
- B. Subject to A, the amendment to Woollahra Development Control Plan 2015 is undertaken concurrently with another DCP amendment, having regard to the minor nature of the amendment and the resources involved in amending the DCP.*

In response to Council's resolution of 14 June 2022, engineering consultants GHD Pty Ltd were engaged to undertake a geotechnical and hydrogeological study of the Rose Bay area, and preliminary assessment of landform stability and impacts of construction induced vibration.

The study identified that the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) would be strengthened by including provisions to address the impact of groundwater drawdown and land stability within parts of the Rose Bay area. The study also found that vibration limits, guidelines and monitoring requirements should be considered to address human comfort and structural damage.

This draft DCP seeks to amend Chapter E2 Stormwater and Flood Risk Management, with specific focus on section *E2.2.10 Groundwater (hydrogeology)*. The amendments aim to:

- address the impacts of groundwater drawdown by setting a groundwater drawdown limit of 0.3m which will apply to land identified as Settlement Zones A and B in the *Rose Bay - Hydrogeological and Geotechnical Impacts* (May 2024) prepared by GHD Pty Ltd; and
- limit vibration to acceptable levels having regard to human comfort and structural damage, based on compliance with *Assessing Vibration - a technical guideline by Department of Environment and Conservation NSW* (DEC), 2006 and *German Standard DIN 4150-3 - Vibrations in buildings - Part 3: Effects on structures*. These will apply to the across the local government area (LGA).

Other administrative amendments are also made to Chapter B3 General Development Controls, Chapter D3 General Controls for Neighbourhood and Mixed Use Centres, Chapter D5 Double Bay Centre and Chapter D6 Rose Bay Centre. These are minor and seek to identify that provisions for groundwater (hydrogeology) and geotechnical impacts are set out in Chapter E2 Stormwater, Flood and Geotechnical Risk Management.

## 1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 30) - Hydrogeological and Geotechnical Impacts*.

## 1.3 Objectives of the plan

The objective of the plan is to establish new provisions to address groundwater drawdown in parts of the Rose Bay study area, and to limit vibration having regard to human comfort and structural damage which will apply to the whole LGA.

## 1.4 Land to which this plan applies

This plan applies to land within the Woollahra Municipality where Chapter E2 Stormwater and Flood Risk Management applies.

## 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*.

*Woollahra Local Environmental Plan 2014* (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 strikethrough~~

Comments/notes in the right hand margin provide further explanation of the proposed amendments. These are for advice and information purposes only and do not form part of the draft DCP.

### Chapter A1 Introduction

#### 2.1 Amendments to clause A1.1.9 Savings and transitional provisions relating to development applications

2.1.1 Insert at the end of the clause

[This DCP \(as commenced on 23 May 2015\) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 30 to this DCP.](#)

#### 2.2 Amendments to clause A1.4 List of amendments

2.2.1 Insert at the end of the clause

Amendment		Date of approval and Commencement	Description of amendment
<a href="#">No 30</a>		<a href="#">Date approved – TBC</a>  <a href="#">Date commenced - TBC</a>	<a href="#">Amend Chapter A1 by inserting additional savings and transitional provisions.</a>  <a href="#">Amend Chapter B3 General Development Controls B3.4, Chapter D3 General Controls for Neighbourhood and Mixed Use Centres section D3.4, Chapter D5 section D5.6.7 Geotechnology and hydrogeology, and Chapter D6 section D6.6.8 Geotechnology and hydrogeology, to state that the provisions for groundwater and geotechnical impacts are in Chapter E2.</a>  <a href="#">Amend Chapter E2 section</a>

Woollahra Development Control Plan 2015 (Amendment No. 30)  
Adopted TBC

HPE: 24/78268  
6



			<a href="#">E2.2.10 to address groundwater drawdown and establish vibration limits. Also make other related administrative and minor changes.</a>
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**Chapter B3 General Development Controls**

**2.3 Amendment to section B3.4 Excavation**

2.3.1 In the Introduction after paragraph 3, insert reference to Chapter E2, including the groundwater and geotechnical provisions |

[Note, also refer to Chapter E2 Stormwater, Flood and Geotechnical Risk Management, including section E2.2.10 Groundwater \(hydrogeology\) and geotechnical impacts.](#)

**Commented [Comment1]:** Enhance prominence of the groundwater (hydrogeology) provisions

**Chapter D3 General Controls for Neighbourhood and Mixed Use Centres**

**2.4 Amendment to section D3.4 Built form**

2.4.1 After control C29 insert reference to Chapter E2, including the groundwater and geotechnical provisions |

[Note, also refer to Chapter E2 Stormwater, Flood and Geotechnical Risk Management, including section E2.2.10 Groundwater \(hydrogeology\) and geotechnical impacts.](#)

**Commented [Comment2]:** Enhance prominence of the groundwater (hydrogeology) provisions

**Chapter D5 Double Bay Centre**

**2.5 Amendments to section D5.6.7 Geotechnology and hydrogeology**

2.5.1 Replace title of section 5.6.7 to better reflect the scope of provisions

~~Geotechnology and hydrogeology~~ [Groundwater \(hydrogeology\) and geotechnical impacts](#)

2.5.2 Amend wording in section 5.6.7 to refer to Chapter E2, including the groundwater and geotechnical provisions

~~Repealed by Woollahra DCP 2015 (Amendment 18) on 6 December 2021.~~  
Refer to Chapter E2 Stormwater, ~~and Flood~~ [and Geotechnical](#) Risk Management of Woollahra DCP 2015, [including section E2.2.10 Groundwater \(hydrogeology\) and geotechnical impacts.](#)

**Chapter D6 Rose Bay Centre**

**2.6 Amendments to section D6.6.8 Geotechnology and hydrogeology**

2.6.1 Replace title of section 6.6.8 to better reflect the scope of provisions

~~Geotechnology and hydrogeology~~ [Groundwater \(hydrogeology\) and geotechnical impacts](#)

2.6.2 Delete provisions in section 6.6.8 and refer to Chapter E2, including the groundwater and geotechnical provisions

[Refer to Chapter E2 Stormwater, Flood and Geotechnical Risk Management of Woollahra DCP 2015, including section E2.2.10 Groundwater \(hydrogeology\) and geotechnical impacts.](#)

~~Council will normally require geotechnical and hydrogeological reports for development applications which include below ground structures. Any proposed development with below ground structures must consider the sub-surface conditions and the effects of construction on adjacent properties. In addition, those which are likely to extend below the level of seasonal fluctuations in the groundwater table, must also consider the effect of any changes induced in the sub-surface water levels and the groundwater flow patterns on adjacent properties. Unless site specific information exists to the contrary, excavations deeper than 1m must be assumed to have this potential to intersect the groundwater level. Council's principal objective is to ensure there are no adverse geotechnical and hydrogeological impacts on any surrounding property and infrastructure as a result of development, during and after construction. Typically, adverse geotechnical impacts may include vibration induced settlements from construction methods and equipment and inadequate support of adjacent land during and after construction. Typically adverse hydrogeological impacts may include settlement induced by changes in the groundwater level and seepage problems.~~

~~Objectives-~~

~~Buildings must be designed and constructed with appropriate support and retention systems to ensure that:~~

- ~~Q1 There will be no ground settlement or movement, during and after construction, sufficient to cause an adverse impact on adjoining properties and infrastructure.~~
  - ~~Q2 There will be no change to the ground water level, during and after construction, sufficient to cause an adverse impact on surrounding properties and infrastructure.~~
  - ~~Q3 Vibration during construction is minimised or eliminated to ensure no adverse impact on surrounding properties and infrastructure.~~
  - ~~Q4 The risk of damage to adjacent existing property and infrastructure by the new development will be reduced to a level no greater than that from an event with an "unlikely" likelihood of occurrence and "minor" consequence.~~
- ~~In this control "adverse impact" means any damage caused to the improvements on adjoining properties by the demolition, excavation or construction on the development site.~~

~~Controls-~~

- ~~Q1 Excavation below 1m is accompanied by a geotechnical report and a structural report to demonstrate that the works will not have any adverse effect on the neighbouring structures.~~
- ~~Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. Council may~~

~~also require the preparation and submission of a pre-commencement dilapidation report for properties neighbouring the development. Development applications include a design statement and supporting drawings (if necessary) that show the proposed design measures minimise risk and ensure that no adverse impacts will occur.~~

## Chapter E2 Stormwater and Flood Risk Management

### 2.7 Amendments to chapter title and introduction

2.7.1 Amend the chapter title to better reflect the scope of provisions addressed in the chapter  
Chapter E2 Stormwater, ~~and~~ Flood ~~and~~ [Geotechnical](#) Risk Management

**Commented [Comment3]:** Update title of the DCP Chapter E2 to include reference to geotechnical risks

2.7.2 In section 2.1 Introduction, insert a new point to better reflect the scope of provisions addressed in the chapter

This chapter outlines provisions related to ~~two~~ key interrelated components:

- the management of stormwater drainage collected on and discharged from new developments; ~~and~~
- the minimisation of flood related risks to person and property associated with the development and use of land; ~~and~~
- [groundwater \(hydrogeological\) and geotechnical impacts associated with excavation, dewatering and below ground structures.](#)

In preparing an application for a development, ~~both~~ [all](#) components must be considered.

2.7.3 In section E2.1.1 Land and development to which this chapter applies, insert reference to groundwater and geotechnical risk management

#### **Stormwater drainage**

This chapter applies to all land within the Woollahra Municipality.

#### **Flood risk management**

The flood risk management component of this chapter applies to all land within the Woollahra Municipality that is within a "flood risk precinct".

#### **Groundwater and geotechnical risk management**

[The groundwater \(hydrogeology\) and geotechnical component of this chapter applies to all land within the Woollahra Municipality.](#)

2.7.4 In section E2.1.2 Development types to which this chapter applies, delete references to specific State code and policy, as the chapter will apply broadly to any development requiring consent.

This chapter applies to all development that requires consent.

~~This includes complying development under the NSW General Housing Code, and~~

~~complying development for secondary dwellings under the State Environmental Planning Policy (Affordable Rental Housing) 2009.~~

2.7.5 In section E2.1.3 Objectives, insert an objective to address matters relating to groundwater and geotechnical impacts

O8 To minimise risks and impacts relating to excavation, subterranean building and dewatering works.

## 2.8 Amendments to section E2.2.10 Groundwater (hydrogeology)

2.8.1 Amend the section title and section number within the chapter to reflect the scope of matters addressed in this section and elevate

E2.2.10 Groundwater (hydrogeology) and geotechnical impacts  
Renumber accordingly

2.8.2 In section E2.1 Introduction, include references to geotechnical impacts and vibration to better reflect the scope of provisions in this section.

### Introduction

Council will require geotechnical, ~~and~~ hydrogeological and vibration assessment reports for development applications which include below ground structures.

Any proposed development with below ground structures must consider the sub-surface conditions and the effects of construction on surrounding properties. In addition, those which are likely to extend below the level of seasonal fluctuations in the groundwater table, must also consider the effect of any changes induced in the sub-surface water levels and the groundwater flow patterns on surrounding properties. Unless site specific information exists to the contrary, excavations deeper than 1m must be assumed to have this potential to intersect the groundwater level and shall be considered as below ground structures.

Council's principal objective is to ensure that earthworks and associated groundwater dewatering, during and after construction, will not have any adverse impacts on:

- Environmental functions and processes
- Neighbouring uses
- Cultural and heritage items
- Any features of the surrounding land and infrastructure that could be impacted by geotechnical and hydrogeological changes.

Typically, adverse geotechnical impacts may include vibration induced ~~sed~~ damage and/or settlements from construction methods and equipment; instability of slopes, rock cliffs/faces influenced by excavation, filling or other loading such as footings of structures or construction plants; and inadequate support of adjacent land during and after construction. The vibration during construction can also cause discomfort to people occupying adjoining or nearby buildings.

Typically, adverse hydrogeological impacts may include settlement induced by changes in the groundwater level and seepage problems.

2.8.3 Insert new controls to address vibration and renumber following controls accordingly

**Commented [Comment4]:** Update subtitle as this section does not only include groundwater related impacts but also other geotechnical impacts such as vibration induced settlement, instability of rock cliffs/faces influenced by excavation, filling or other loading such as footings of structures or construction plants

**Commented [Comment5]:** Update to include other geotechnical impacts that need to be considered based on the following:

- Geological, topographical, and geo-morphological conditions within the hillside of the study area in the west and east of the golf course indicate that a landslide or slope instability could be possible, particularly during extreme rainfall events when the sand is saturated and disturbed by construction excavation or loading. Tension cracks, which are often a sign of distress indicating ground movement, have also been observed during site visits.

- Review of the geotechnical reports provided by the Council and observations from the site visits indicates a number of properties with exposed rock cliffs or walls/faces.

**C8** Construction equipment and methodology must be selected such that vibration is limited and complies with the above acceptable levels. Vibration is to be limited to address human comfort and structural damage, and is to comply with the following minimum standards:

- For human comfort - *Assessing Vibration - a technical guideline* by Department of Environment and Conservation NSW (DEC), 2006; and
- For structural damage - *German standard DIN 4150-3 - Vibrations in buildings - Part 3: Effects on structures*.

**Notes:**

Assessment on expected vibration levels are to be based on the proposed construction activities and plants.

The applicant is to submit a statement/report from qualified person, such as Geotechnical Engineer or Acoustic Consultant, that the vibration would be compliant with relevant vibration standards, guidelines and legislation. The statement/report is to specify methods for reducing vibrations within acceptable levels when the proposed construction activity or plant is likely to cause vibration greater than acceptable limit.

**C9** An implementation plan, including a vibration monitoring program and contingency plan, is to be submitted by the applicant. The plan is to include the locations of vibration monitoring sensors, trigger levels for anticipated vibration types and buildings in the neighbourhood, and frequency of monitoring.

As a minimum, vibration monitoring sensors are to be installed and monitored at adjacent properties. The trigger level for the vibration monitoring will be set with the consultation with Structural Engineer following completion of the pre-construction dilapidation surveys of the adjacent buildings, and review geotechnical conditions and construction methodology.

**Notes:**

Should vibration limits be exceeded at any time during construction, the construction activity causing vibration must cease until the measures to limit the vibration are implemented.

At the end of construction, a post construction dilapidation survey of the adjacent properties is to be carried out and compared with pre-construction dilapidation survey for identification of defects (if any) that were likely caused by vibration from construction activities.

These matters will also be reflected in the conditions of consent.

2.8.4 Amend existing control C8 Land in the Double Bay settlement area to delete the alternate standard

Temporary changes to the groundwater level, due to construction, must not exceed 0.2 m from the average monitored pre-construction groundwater level. ~~unless calculations using the results of specific field testing, support a greater change and demonstrate that the change will not induce settlement greater than the characteristic surface movement of a Class S site as defined in Table 2.3 of Australian Standard AS2870-2011.~~

2.8.5 Insert new control to address groundwater settlement in the Rose Bay area

**Commented [Comment6]:** New control is to implement the requirements on acceptable vibration levels. These levels have been proposed following the review of the publications listed below and considered both human comfort and building damage:

- AS ISO 2631.2-2014 Mechanical vibration and shock – Evaluation of human exposure to whole-body vibration. Part 2: Vibration in buildings (1 Hz to 80 Hz).
- AS 2187.2-2006 Explosives – Storage and use. Part 2: Use of explosives.
- Assessing Vibration: A technical guideline, Department of Environment and Conservation NSW (February 2006).
- German standard DIN 4150-3 - Vibrations in buildings - Part 3: Effects on structures.

Reference to Assessing Vibration: A technical guideline, (2006) is made to human comfort level as this document is the most relevant applicable statutory guideline.

For building damage, reference is made to German standard DIN 4150-3 - Vibrations in buildings - Part 3: Effects on structures for the following reasons:

- Available Australian standard AS 2187.2-2006 is primarily focused on vibration caused by explosives.
- AS 2187.2-2006 Appendix J refers to British Standard BS 7385.2-1993 and the United States Bureau of Mines (USBM) report RI 8507. The limits in USBM RI 8507 were developed with respect to vibrations resulting specifically from surface mine blasting, whereas those in BS 7385.2 relate to building damage resulting from ground-borne vibration more generally. The limits from BS 7385.2 are generally applicable when considering the range of vibration sources that could be present on construction sites. However, it does not provide a limit for acceptable vibration limit for sensitive structures
- German standard DIN 4150-3 includes guidelines for residential buildings together with criteria for both commercial/ industrial buildings and high sensitivity structures. The guidelines provide for increased levels of

**Commented [Comment7]:** New control is to implement the vibration monitoring requirements appropriate for a construction site with considerations of ground conditions, neighbouring buildings and construction methodology.

**Commented [Comment8]:** This control is proposed based on the assessment presented in Stage 3 of the report which concludes a drawdown of about 300 mm could induce a settlement of 15 mm in some locations within the Rose Bay area. The allowable settlement of 15 mm was recommended in our Stage 3 report on the basis of the equivalence of Class S site as defined in AS2870-2011.

This allowable settlement was proposed to limit the risk of any damage relating to no worse than a typical "aesthetic" damage to buildings. Because the groundwater drawdown caused by dewatering at a given site could extend over a long distance, the minimum drawdown of 300 mm has been recommended for assessed settlement zones A and B the Rose Bay area.

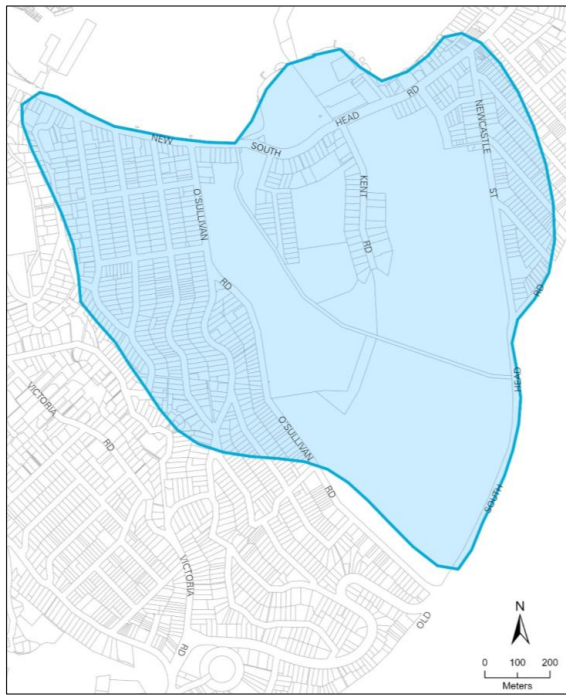
The following points should be highlighted in relation to this new control:

- The proposed 300 mm groundwater drawdown limit has taken into consideration the critical scenario when the baseline level obtained from pre-construction monitoring

Land in the Rose Bay settlement area

In addition to the general controls in this section, the following applies to the land in the Rose Bay settlement area, as shown below.

FIGURE 2 Rose Bay settlement area



C11. Temporary changes to the groundwater level due to construction must not exceed 0.3m from the average monitored pre-construction groundwater level.

## Appendix 1 – Definitions

2.9.1 Insert the following definitions in alphabetical order

below ground structures

Below ground structures means excavation to a depth greater than 300mm below the existing groundwater level.

	<u>for excavations within 1.5 m of the boundary, or otherwise greater than 1.0m in depth.</u>
<u>dewatering</u>	<u>Dewatering is the process of removing groundwater or surface water from a construction site or excavation aiming to lower the groundwater table to a desired level to provide a relatively dry and stable working environment.</u>
<u>dilapidation survey</u>	<u>A dilapidation survey is a detailed inspection and assessment of the condition of buildings, structures, infrastructure, or properties, typically conducted before and after nearby construction or development activities. The purpose of a dilapidation survey is to document and record the existing state of the subject property and any adjoining or neighbouring properties to establish a baseline condition. This baseline condition serves as a reference point for comparison to identify any changes, damages, or impacts that may occur during or after construction work.</u>
<u>drawdown</u>	<u>Drawdown refers to the lowering of the groundwater level due to dewatering activities. It is measured as the difference between the original groundwater level and the level during and after dewatering.</u>
<u>erosion</u>	<u>Erosion refers to the process of wearing away or gradual removal of soil, rock, or other materials from the Earth's surface by natural forces such as water, wind, ice, or gravity. It is a natural geological process that can occur over short or long periods.</u>
<u>excavation</u>	<u>Excavation is the process of removing soil or rock from a site to create an open space, trench, or cavity. This is typically the first step in the construction of foundations, roads, and other structures.</u>
<u>groundwater</u>	<u>Groundwater refers to the water that fills the spaces between particles of soil and rock below the Earth's surface.</u>
<u>groundwater table</u>	<u>The groundwater table, or water table, is the upper surface of the saturated zone in the soil or rock, where the soil pores or rock defects are fully filled with water.</u>
<u>hydrogeology</u>	<u>Hydrogeology is the branch of geology that deals with the distribution, movement, and quality of groundwater in the</u>

	<u>Earth's crust. It encompasses the study of the occurrence, flow, and chemical composition of groundwater, as well as the interaction between groundwater and the surrounding soil and rock.</u>
<u>rock cliff</u>	<u>A rock cliff is a steep, nearly vertical or overhanging rock face.</u>
<u>settlement</u>	<u>Settlement is the downward movement of the ground caused by increase in effective stress in soil by a load, changes in groundwater or other factors, leading to compression of the soil. This can occur immediately after the load is applied or over a period of time.</u>
<u>slope instability</u>	<u>Slope instability refers to the condition where natural or man-made slopes are prone to failure or movement due to factors such as geological conditions, erosion, weathering, water infiltration, seismic activity, human activities, or a combination of these factors. Instability can manifest in different forms, including landslides, rockfalls, debris flows, and slope failures.</u>
<u>vibration</u>	<u>Mechanical oscillation of solid bodies that has the potential to cause discomfort to persons or damage to structures.</u>
<u>structural damage</u>	<u>Any permanent consequence of an action that reduces the serviceability of a structure or one of its components.</u>



**Item No:** R3 Recommendation to Council  
**Subject:** **THE APPLICATION AND EFFECTIVENESS OF THE VOLUME OF EXCAVATION CONTROLS AND RECOMMENDATIONS TO REDUCE EXCAVATION IN DEVELOPMENT APPLICATIONS**  
**Author:** Eleanor Smith, Executive Planner  
**Approvers:** Kristy Wellfare, Acting Manager Strategic Planning & Place  
Scott Pedder, Director Planning & Place  
**File No:** 24/85921  
**Purpose of the Report:** To respond to an Environment Planning Committee resolution seeking a staff report on the application and effectiveness of current excavation controls and recommendations to mitigate the impacts of development applications with increasingly large volumes of excavation.  
**Alignment to Delivery Program:** Strategy 4.1: Encourage and plan for sustainable, high quality planning and urban design outcomes.

**Recommendation:**

THAT Council:

- A. Receive and note the report on the application and effectiveness of the volume of excavation controls and recommendations to reduce excavation in development applications.
- B. Resolve to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No. 31)* as contained at **Attachment 1** of the report to the Environmental Planning Committee of 03 June 2024.
- C. Subject to B, undertake the amendment to the *Woollahra Development Control Plan 2015* concurrently with another DCP amendment, having regard to the nature of the amendment and the resources involved in amending the DCP.

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**Executive Summary:**

This report responds to a decision of the Environmental Planning Committee (EPC) from 7 August 2023, requesting staff investigate:

- the application and effectiveness of current excavation controls,
- amending the excavation controls to mitigate the impacts of development application (DA) proposals with increasingly large volumes of excavation,
- opportunities to limit excavation methods to those with lower impact, and
- charging for excavated materials.

Over the last five years there have been a suite of changes to the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) and *Woollahra Development Control Plan 2015* (Woollahra DCP 2015), Development Application Guide, and conditions of consent, to strengthen Council's assessment of excavation.

In response to the decision of the EPC, staff have:

- reviewed how other Councils address excavation in their Local Environmental Plans,
- undertaken a review of DAs, determined over a 6 month period, to gain an understanding of the application of the volume of excavation controls contained within the Woollahra DCP 2015,
- reviewed the effectiveness and limitations of the volume of excavation controls contained within the Woollahra DCP 2015. This included a review of Land and Environment Court appeals determined over a 12 month period,

- considered the impact of Woollahra LEP 2014 Amendment 33 (floor space ratio for low density residential development) on excavation,
- proposed amendments to Woollahra DCP 2015 to reduce pressure for excavation in DAs,
- investigated restricting excavation and shoring methods to those with lower impact,
- explored charging for excavated material, and
- ensured Council's standard conditions of consent relating to excavation are up to date and comprehensive.

It has been identified that there is opportunity to make changes to the Woollahra DCP 2015 to:

- limit design elements (vehicular turning areas and mechanical vehicular turntables for dwelling houses), which commonly contribute to non-compliant volumes of excavation, and
- in certain circumstances permit mechanical parking structures to minimise excavation.

## **Discussion:**

### Background

The Woollahra LEP 2014 defines excavation as '*the removal of soil or rock, whether moved to another part of the same site or to another site*'. Excavation is a common part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there can be significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council's volume of excavation controls aim to limit excavation to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

On 7 August 2023, the EPC considered a report on the *Woollahra Local Planning Panel Register of Planning Decisions and Analysis*. The report identified the following issue and recommendation:

*Issue: A series of recent Development Applications (DAs) determined by the Woollahra Local Planning Panel had proposals that included large amounts of excavated material. This led the Panel to reflect on options that Council may have to further manage this issue and a Woollahra Local Planning Panel decision to offer advice to assist Council.*

*Recommendation: That Council give consideration to further controlling the impacts of increasingly large proposals to remove rock/soil/sand as a part of DAs.*

The advice offered by the Woollahra Local Planning Panel (WLPP) is summarised as follows:

- examine how other Council's in the Sydney Region address excavation in their Local Environmental Plans (LEPs),
- explore how the provision of a floor space ratio (FSR) control could assist in controlling excavation,
- restrict excavation methods to those with lower impacts (i.e. rock sawing over rock drilling, limiting the size of trucks to access the site, etc.), and
- explore options for charging for excavated material and imposing robust excavation monitoring.

Subsequently, on 7 August 2023, the EPC resolved (under delegation):

*THAT staff report to the Environmental Planning Committee on:*

1. *the application and effectiveness of current excavation controls, limiting excavation to methods with lower impact (contiguous piling )and consider options available to Council for charging for excavated materials; and*
2. *recommendations for amending controls to mitigate impacts of increasingly large DA proposals to remove rock/soil/sand and other excavation material.*

#### History of excavation controls

Council has resolved on several occasions to enhance the planning provisions to address concerns associated with excavation. Provided below is a history of the implementation of the various excavation controls.

- 12 September 2012, Council introduced volume of excavation controls for residential development under an amendment to the Woollahra Residential Development Control Plan 2003.
- 23 May 2015, the Woollahra DCP 2015 commenced, which reinforced and expanded the volume of excavation controls for residential development under Chapter B3 (General Development Controls). It is noted that the volume of excavation controls do not apply to the Business Centres, or the Heritage Conservation Areas (with the exception of the Watson Bay Heritage Conservation Area).
- 23 May 2015, the Woollahra LEP 2014 commenced. Part 6.2 (Earthworks), aims to ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and prescribes the matters the consent authority must consider when deciding whether to grant development consent for earthworks. Clause 6.2 was based on the former Department of Planning's model local provisions.
- 2 January 2019, amendment No. 3 to the Woollahra DCP 2015 introduced a new section B3.5.5 (Internal Amenity) to ensure that rooms in a dwelling, particularly rooms that are located below natural ground level, have high levels of indoor residential amenity by requiring habitable spaces to have direct natural light and ventilation and providing a maximum room depth for subterranean habitable spaces.
- 6 December 2021, amendment No. 18 to the Woollahra DCP 2015 updated and strengthened the existing objectives and controls to minimise the impacts of groundwater drawdown as a consequence of underground structures and ensure there are no adverse hydrogeological impacts on any surrounding properties and infrastructure, both during and after construction. The amendment comprised of changes to Chapter A.1 (Introduction), Chapter D5 (Double Bay Centre), and Chapter E2 (Stormwater and Flood Risk Management).
- 2 September 2022, Part 1.2 (Aims of the Plan) and Part 6.2 (Earthworks) of the Woollahra LEP 2014 was amended to specifically reference dewatering.

- On 5 December 2022, amendment No. 20 to the Woollahra DCP 2015 updated and strengthened the requirements for excavation works in Chapter B3 (General Development Controls), Section B3.4 (Excavation). The changes included amendments to the objectives, the revision of setback requirements and a reduction of development types where flexibility on excavation volume may be permitted. The changes were introduced to assist Council staff in refusing unjustified non-compliances with the volumetric excavation controls, and to help improve environmental design outcomes resulting from projects that involve excavation. The amendments were drafted with the assistance of Lindsay Taylor Lawyers to ensure the provision of robust DCP objectives.

Council staff have prepared a Geotechnical and Hydrogeological Report on the Rose Bay Basin (also presented to the EPC meeting of the 3 June 2024) which proposes amendments to the Woollahra DCP 2015 by including provisions to address the impact of groundwater drawdown and land stability within the Rose Bay area, and introducing vibration limits which would apply across the whole local government area.

#### The Woollahra LEP 2014 Part 6.2 (Earthworks)

The Woollahra LEP 2014 addresses excavation at Part 6.2 (Earthworks). Part 6.2 states:

#### **6.2 Earthworks**

- 1) *The objective of this clause is to ensure that earthworks and associated construction dewatering for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*
- 2) *Development consent is required for earthworks and associated construction dewatering unless—*
  - a) *the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
  - b) *the earthworks and associated construction dewatering are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.*
- 3) *In deciding whether to grant development consent for earthworks and associated construction dewatering (or for development involving ancillary earthworks), the consent authority must consider the following matters—*
  - a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
  - b) *the effect of the development on the likely future use or redevelopment of the land,*
  - c) *the quality of the fill or the soil to be excavated, or both,*
  - d) *the effect of the development on the existing and likely amenity and structural integrity of surrounding properties,*
  - e) *the source of any fill material and the destination of any excavated material,*
  - f) *the likelihood of disturbing relics,*
  - g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
  - h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

#### **Note—**

*The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.*

The recommendations from the WLPP to the EPC on 7 August 2023, suggested that Council explores how other Sydney Region Councils have addressed excavated material in their LEPs.

Part 6.2 (Earthworks) is contained under Part 6 (Additional local provisions) of the Woollahra LEP 2014. The former Department of Planning's (the Department) LEP practice note *Preparing LEPs using the Standard Instrument* (Reference PN 11-002) encouraged Councils to use the Department's local model clauses for additional local provisions. This included a model 'Earthworks' clause, which Part 6.2 (Earthworks) of the Woollahra LEP 2014 is primarily based upon.

A review of the LEPs for the following Councils has been undertaken: Waverley, Randwick, Bayside, City of Sydney, Inner West, Canada Bay, Hunters Hill, Lane Cove, North Sydney, Mosman, Willoughby and the Northern Beaches. With the exception of City of Sydney (which remains silent on specific earthwork provisions), the remaining twelve Councils all incorporate earthworks provisions within the 'additional local provisions' part of their LEPs to address excavation.

The earthworks provisions contained within these LEPs generally follow the model layout and are similar in content. However, there are some variances, which include:

- the LEPs for Woollahra, Hunters Hill, and the Northern Beaches (Manly Local Environmental Plan 2013) include additional wording relating to dewatering, and
- the LEPs for Mosman, and North Sydney require the consent authority to also consider the likely disruption of, or any detrimental effect on the natural features of, and vegetation on, the land and adjoining land.

Part 6.2 (Earthworks) of the Woollahra LEP 2014 was amended on 2 September 2022 to specifically reference dewatering. Part 6.2 is generally consistent with the LEP provisions of neighbouring Councils and is considered to be robust.

#### The application of Council's Woollahra DCP 2015 volume of excavation controls

Chapter B3 (General Development Controls – Residential) of the Woollahra DCP 2015 provides a maximum volume of excavation control for residential development in Section B3.4 (Excavation). The volume of excavation controls do not apply to the Business Centres or the Heritage Conservation Areas (with the exception of the Watson Bay Heritage Conservation Area). Excavation controls in these areas generally comprise of excavation setbacks and qualitative excavation controls (i.e. the preservation of original footings, etc.).

To gain a detailed understanding of the application of Council's excavation controls, a review of DAs determined over a 6 month period (19 June 2023 to 19 December 2023) was undertaken.

It was determined that the review should solely look at the application of the volume of excavation controls. This approach was adopted for the following reasons:

- the volume of excavation controls apply to the majority of the Woollahra Municipality area (this was supported by the findings of the 6 month review, which identified that the volume of excavation controls applied to 76% of the DAs during the review period which involved bulk excavation),
- reviewing the volume of excavation controls enables both a quantitative and qualitative analysis,
- significant bulk excavation is generally less prevalent within the Paddington and Woollahra Heritage Conservation Areas due to site constraints, and
- the non-compliant DAs, referenced in the advisory note from the WLPP presented to the EPC on 7 August 2023, all related to non-compliances with the volume of excavation control.

During the 6 month period from 19 June 2023 to 19 December 2023, Council determined 240 DAs (excluding S4.55 applications). The pie chart below (Diagram 1) provides a breakdown of the DA determinations and identifies that:

- 136 DAs (57%) did not involve bulk excavation (excluding bulk excavation for swimming pools, as the excavation volume controls do not apply to swimming pools),
- 36 DAs (15%) complied with the volume of excavation control,
- 14 DAs (6%) were refused due to a non-compliance with the volume of excavation control,
- 29 DAs (12%) involved a non-compliance with the volume of excavation control, which was supported, and
- 25 DAs (10%) involved excavation but were located in a HCA (19 DAs), or Business Centre (6 DAs) (where the volume of excavation controls do not apply).

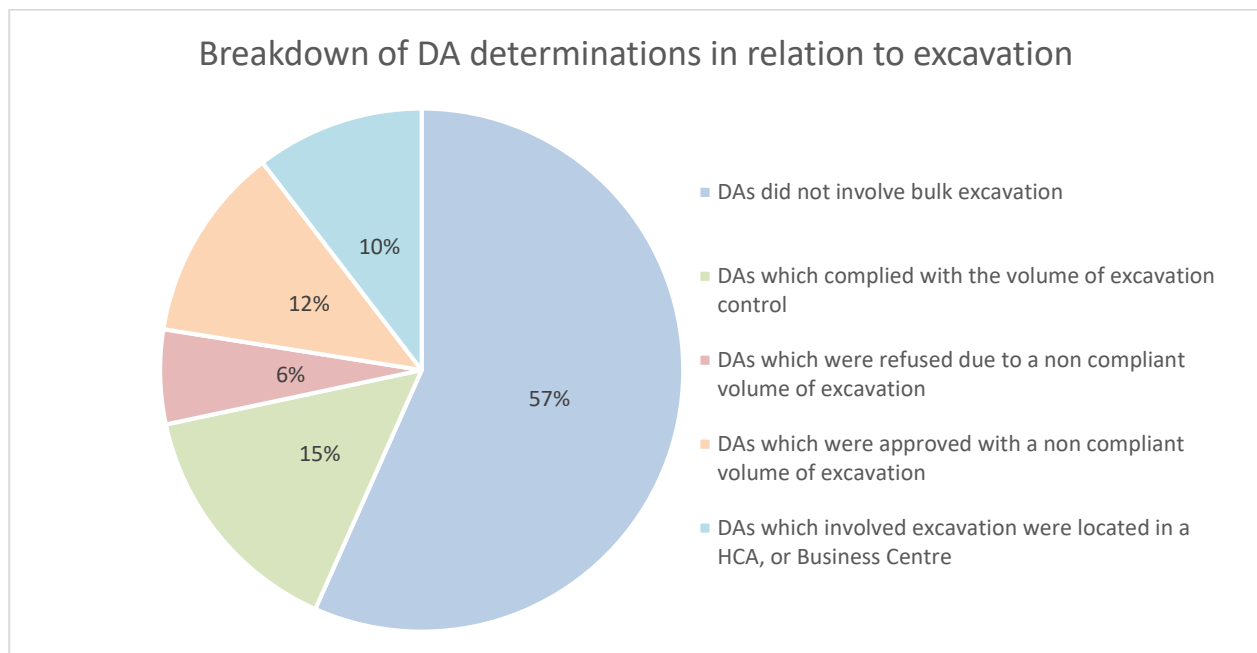


Diagram 1: Pie chart depicting the breakdown of DA determinations in relation to excavation

The volume of excavation controls applied to 79 of the 240 DAs (33%). The pie chart below (Diagram 2) depicts the outcome of Council's assessment against the volume of excavation controls for the 79 DAs, and identifies that:

- 36 DAs (45%) complied with the volume of excavation control,
- 14 DAs (18%) were refused, in part, due to a non-compliance with the volume of excavation control, and
- 29 DAs (37%) supported a non-compliance with the volume of excavation control.

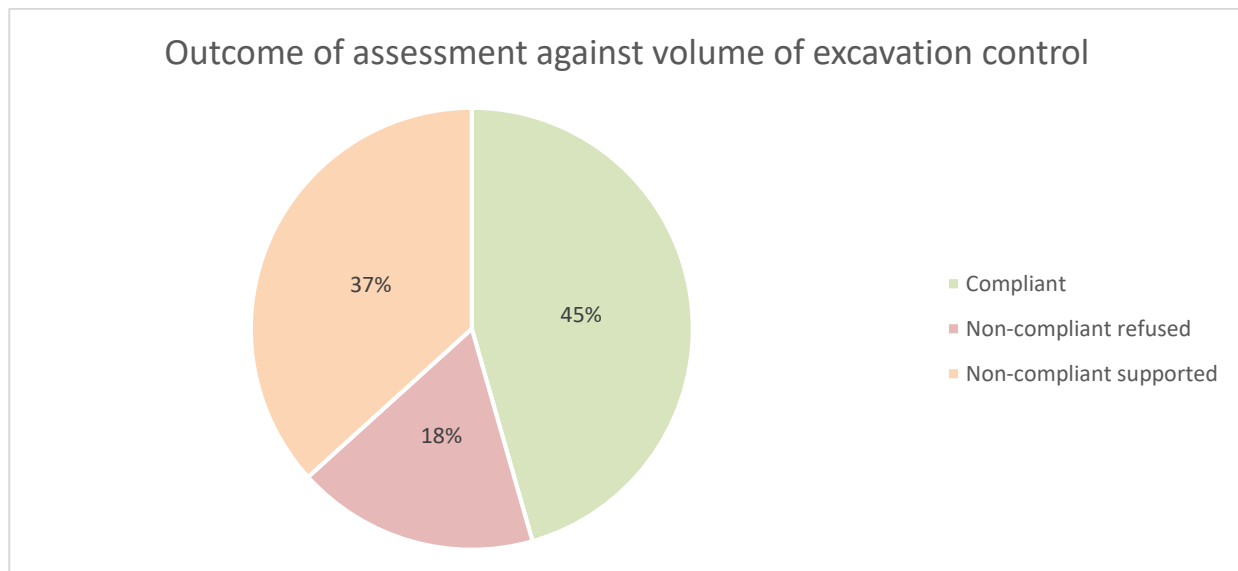


Diagram 2: Outcome of DA assessment against volume of excavation control

An analysis has been undertaken of the 29 DAs, which supported a non-compliance with the volume of excavation control. The characteristics of these DAs are depicted in the pie chart below (Diagram 3), it is identified that:

- 4 DAs (14%) largely reused the non-compliant volume of excavation within the site,
- 4 DAs (14%) resulted in less than a 10% non-compliance with the volume of excavation control,
- 7 DAs (24%) resulted in a volume of excavation non-compliance, which was largely due to compliant parking and internal access,
- 7 DAs (24%) were on steeply sloping sites (with a fall of greater than 7m),
- 1 DAs (3%) resulted in a volume of excavation non-compliance, which was largely due to compliant parking and permissible GFA, and
- 6 DAs (21%) were classified as other (as they did not share any of the characteristics above).

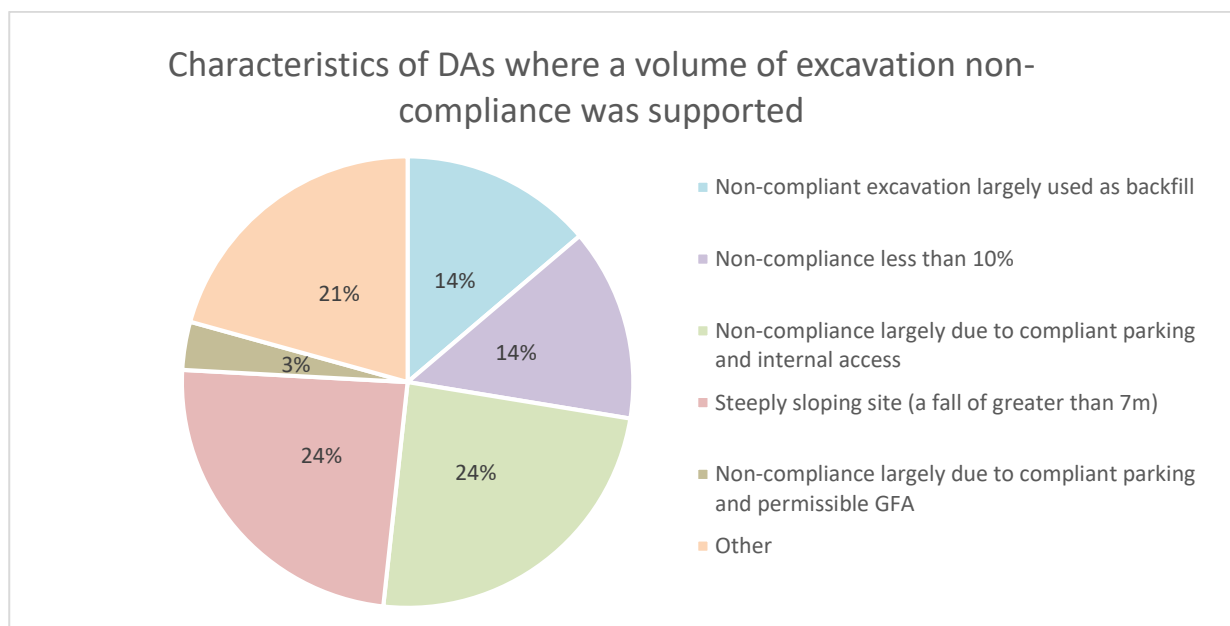


Diagram 3: Pie chart depicting the characteristics of DAs where a volume of excavation non-compliance was supported

The extent of non-compliance with the volume of excavation controls ranged from 4% to 463%. The majority of DAs resulted in a non-compliance of 150% or less. Generally, there did not appear to be any correlations between the extent of non-compliance and the characteristics of the development.

The extent of non-compliance with the volume of excavation controls as a percentage is detailed in the following table (table 1).

Extent of non-compliance with the volume of excavation control as a percentage (%)	No. of DAs
Less than 10%	4
11% to 100%	7
101 to 150%	8
151% to 200%	2
201% to 300%	2
300% +	6

Table 1: The extent of non-compliance with the volume of excavation control as a percentage

The purpose of the DA review was to gain a qualitative and quantitative understanding of the application of the volume of excavation controls. This revealed that 12% of DAs determined during the review period supported a non-compliance with the volume of excavation control. Typically, there were environmental planning grounds, such as use of backfill and topography, to justify the non-compliance.

It is noted that Section B.3 (Excavation) of the Woollahra DCP 2015, allows flexibility with the excavation volume control for residential flat buildings, where the excavation is required for permissible parking and storage.

The WLPP is required to determine all residential flat buildings, where Chapter 4 (Design of residential apartment development) of the State Environmental Planning Policy (Housing) 2021 (formerly State Environmental Planning Policy 65) applies.

The requirement for the WLPP to determine the majority of residential flat building DAs, may result in the WLPP assessing a higher number of DAs, which include a non-compliance with the volume of excavation control.

#### Effectiveness of the Woollahra DDCP 2015 volume of excavation controls

In considering the effectiveness of DCP controls, regard must be given to Section 4.15 (3A)(b) of the *Environmental Planning and Assessment Act 1979*, which requires Development Control Plans to be applied flexibly, and consent authorities to allow reasonable alternate solutions to DCP requirements. For example, if a proposal breaches a development control, but upholds the objectives of the development control, Council should be flexible with the application of the control.

Furthermore, whilst the objectives of a development control plan become central where there is non-compliance with the standards in a development control plan, case law has established that strict compliance with the objectives is not required: see for example *Yessaeian v City of Ryde* [2018] NSWLEC 1474 and *90 Croatia Properties Pty Ltd v Liverpool City Council* [2021] NSWLEC 1177 [63].



Therefore, Council and the WLPP cannot assume that the Court will uphold the refusal of a development that does not comply with the controls or objectives of the Woollahra DCP 2015. The Court may still grant consents despite a non-compliance with the objective(s), or apply its own consideration to whether the objective(s) are met. Developments are often considered as a whole, therefore if a breach of DCP control enables a better planning outcome overall it is likely to be supported.

In some cases, there are strong planning grounds for supporting a non-compliance with the volume of excavation control. These could include the use of excavation to:

- enable a more skillful design to minimise view, solar access or visual impacts to neighbouring properties,
- enable a development to successfully respond to a steeply sloping site,
- improve accessibility within a building by removing the need for split levels,
- ensure the provision of adequate off street car parking for residential flat buildings,
- locate off street car parking at basement level to minimise the visual impact of parking structures on the streetscape,
- improve the connectivity between a dwelling and external areas of private open space,
- minimise the visual impact of plant equipment and services, and
- enable below ground additions to heritage items to retain the setting of the heritage item.

Unlike other impacts from development, such as loss of solar access, outlook, privacy and views, the impacts from excavation are often temporary. In many cases, once the development is complete the extent of excavation is no longer evident. There are also often engineering solutions, or conditions of consent, which can address amenity or environmental concerns arising from excavation.

To gain an understanding of the effectiveness of Council's volume of excavation controls, a review of appeals determined over a 12 month period (January 2023 to December 2023) was undertaken.

During the review period 61 appeals were determined, with 28 (46%) of the appeals raising volume of excavation as grounds for the appeal to be refused. The pie chart below (Diagram 4) depicts the outcome of the 28 appeals, which were determined as follows:

- 18 (64%) of the appeals were resolved via a section 34 agreement following a reduction in excavation or fill volume,
- 6 (22%) of the appeals were resolved via a section 34 agreement following the submission of additional information (i.e. engineering certification, fire safety certification, detailed excavation breakdowns, etc.), and
- 4 (14%) of the appeals were discontinued.

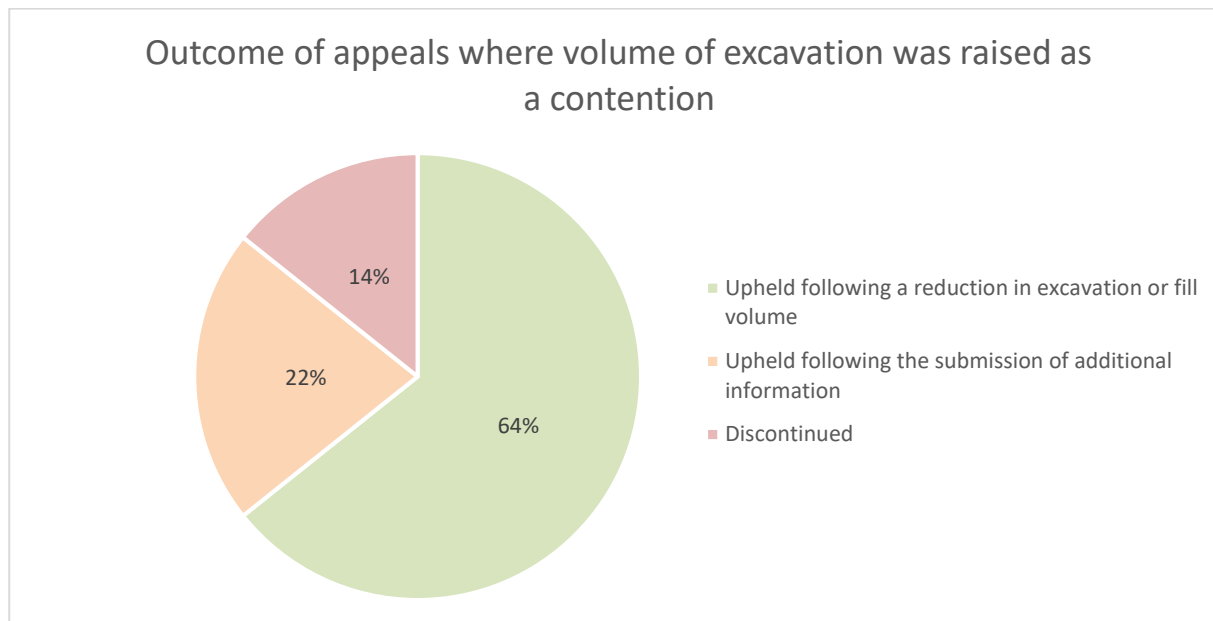


Diagram 4: Outcome of appeals where volume of excavation was raised as a contention

The review identified that 78% of appeals, which included volume of excavation as a contention, resulted in either a discontinued appeal or a reduction in excavation volume or fill. Therefore, in the majority of cases it appears that the volume of excavation controls have assisted Council's planning experts in seeking a reduction in excavation volume or fill, or discontinuance where appropriate. The level of reduction in excavation volume varied in each appeal and was dependent on the specific environmental planning considerations of the case.

#### The impact of Woollahra LEP 2014 Amendment 33 (floor space ratio for low density residential development)

Woollahra LEP 2014 Amendment 33 commenced on 14 July 2023. For dwelling houses, semi-detached dwellings or dual occupancies, the amendment replaced the floorplate controls in the Woollahra DCP 2015 with floor space ratio (FSR) controls in the Woollahra LEP 2014.

The gross floor area definition used for calculating FSR includes habitable rooms within a basement. This is in contrast to the definition for measuring floorplate, which did not include levels below 1m above existing ground level as floorplate. Unlike the Woollahra DCP 2015 floorplate control, the FSR control is a development standard, which requires a formal written request where a development does not comply with FSR control.

The introduction of the FSR control for dwelling houses, semi-detached dwellings and dual occupancies, may result in a reduction to the amount of habitable rooms proposed at basement level for such developments, as such rooms would be included in the FSR, and a non-compliance with the development standard would require a formal written request to justify the departure.

#### Proposed Amendments to the Woollahra DCP 2015:

Staff have identified that there is scope to strengthen controls in the Woollahra DCP 2015 to reduce pressure for excessive volumes of excavation.

The review of recent DA and appeal determinations revealed that off street car parking design often contributed to excessive excavation volume, and two specific issues were identified.

The first issue relates to the design of car parking areas for dwelling houses. Neither the Australian Standards, nor Chapter E1 (Parking and Access) of the Woollahra DCP 2015, require the design of driveways for a dwelling house to enable vehicles to enter and exit the site onto a local road in a forward direction. Given the relatively low number of traffic movements typically associated with two car parking spaces (the maximum off street car parking generation rate) used in conjunction with a single residential dwelling house, it is generally acceptable for vehicles to enter or exit a dwelling house driveway in reverse.

Notwithstanding the above, it is not uncommon for the off street car parking layouts for dwelling houses to incorporate either a large turning area or a mechanical vehicular turntable to enable vehicles to enter and exit in a forward direction. Examples of this are depicted in the plan extracts below. Figure 1 details a double garage for a dwelling house, which incorporates a turning area resulting in a parking area with an internal floor area of approximately 170m<sup>2</sup>.

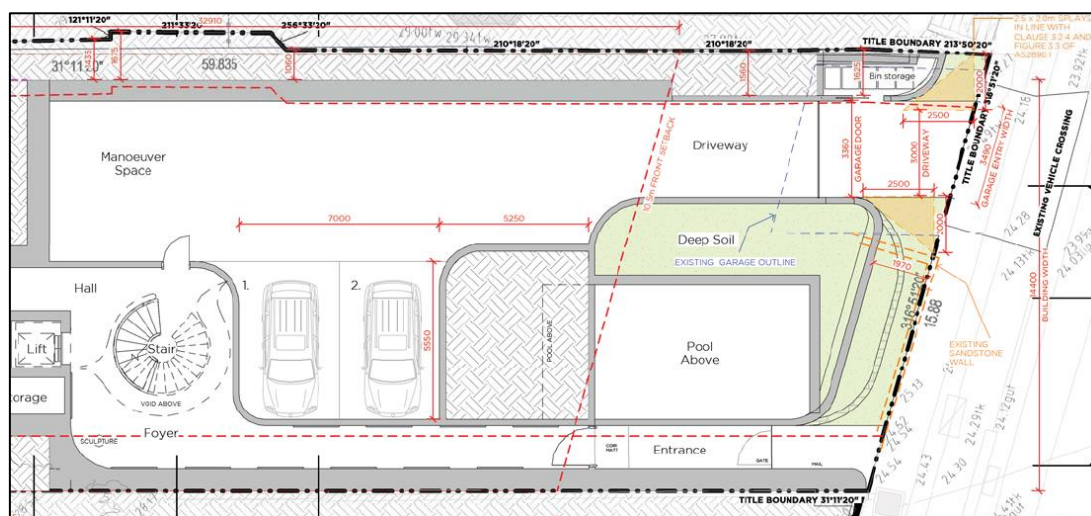


Figure 1: Example of a vehicle turning area in the basement level of a dwelling house

Figure 2 details a double garage for a dwelling house, which incorporates a mechanical vehicular turntable resulting in a parking area with an internal floor area of approximately 72m<sup>2</sup>.

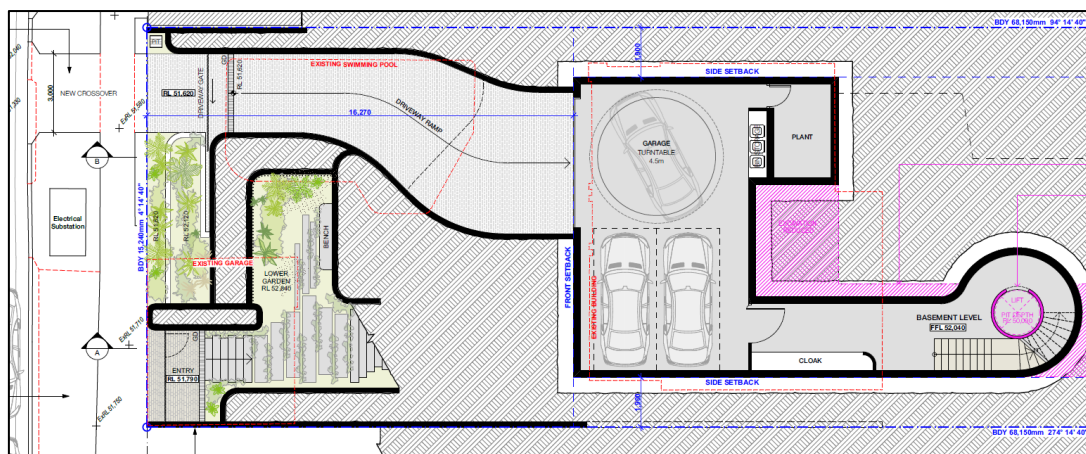


Figure 2: Example of a vehicle turntable in the basement level of a dwelling house

The provision of turning areas or mechanical vehicle turntables within a basement garage raises the following issues:

- The additional area required to accommodate the turning area or vehicle turntable increases the proposed volume of excavation.

- There is no guarantee that the turning area will be used for its intended purpose and instead could be utilized as additional car parking, exceeding council's maximum car parking generation rate.

Driveways for dwelling houses do not require vehicle entry and exit onto a local (unclassified) public road to be made in a forward direction. Therefore it is proposed to amend section B3.4 (Excavation) of the Woollahra DCP 2015, to advise that turning areas or mechanical vehicular turntables for off-street basement car parking for dwelling houses will only be considered where:

- the proposal complies with the maximum excavation volume, or
- it is demonstrated that vehicle entry and exit in a forward direction is required for the safe movement of vehicles and/or pedestrians.

The proposed amendment has been reviewed by the Manager Engineering Services, the Team Leader Traffic and Transport, and the Team Leader Development Engineering who have advised that the proposed amendment is acceptable and supported from a traffic and engineering perspective.

The proposed amendment is set out in Draft Woollahra DCP (Amendment No. 31) at **Attachment 1**.

The second issue relates to the current limitations on the use of mechanical parking installations. Mechanical parking installations, such as car lifts and car stackers, have the potential to significantly reduce excavation volumes by reducing the area required for excavation. For example, the introduction of a car lift on a sloping site can reduce the need for a lengthy graded driveway, and using car stackers can reduce the area required for car parking.

However, mechanical parking installations have a number of limitations, which include:

- ongoing maintenance requirements,
- the operation times for mechanical parking installations can result in vehicle queuing, and
- installations are not always easy to use.

For these reasons Section E1.15 (Mechanical parking installations and paid parking stations) of Chapter E1 (Parking and Access) of the Woollahra DCP 2015, advises that mechanical parking installations are generally not desirable, and will only be considered in exceptional circumstances, where one or more of the following apply:

- the topography or lot size does not reasonably allow a simpler, more conventional parking arrangement,
- an existing building is being refurbished and there is no land available for additional parking, and
- in the case of residential development, the installations are for resident rather than visitor parking.

Furthermore, in the event that a mechanical parking installation is acceptable in principle, Section E1.15 of the Woollahra DCP 2015 requires:

- the vehicle access to the mechanical parking installation must be made in accordance with the Australian Standards, and
- the design must include sufficient size to ensure that vehicles queuing to enter the mechanical parking installations are contained within the subject site.

The Woollahra DCP 2015, does not include limiting excavation as an exceptional circumstance to justify the use of mechanical parking installations.

In the Land and Environment Court appeal *Merman Investments Pty Ltd v Woollahra Municipal Council* [2021] NSWLEC 1582, the Court considered a proposal for the construction of a replacement flat building containing four apartments and two basement levels of car parking (containing 9 car parking spaces) on an extremely steeply sloping site. The development proposed 5,962m<sup>3</sup> of excavation, which represented a 5,162.5m<sup>3</sup> non-compliance with the 800m<sup>3</sup> volume of excavation control. During the proceedings the court considered an alternative design which reduced the volume of excavation by approximately a third through the introduction of a vehicular turntable and a car stacker. The commissioner rejected the alternative design, in part, on the basis that 'mechanical parking installations are discouraged by the Council, at Section E1.15 of DCP 2015 as "not desirable" and should "only be considered in exceptional circumstance'.

Whilst the use of mechanical parking installations is not always appropriate due to the limitations outlined above, in some circumstances they can be used successfully to reduce the volume of excavation and result in an appropriate outcome. Therefore, it is proposed to amend section E1.15 (Mechanical parking installations and paid parking stations) of the Woollahra DCP 2015, to advise that mechanical parking installations may be considered in the case of residential development, where the inclusion of mechanical parking installations reduces excavation in order to uphold the excavation controls and objectives set out in Chapter B3 (section B3.4) of the Woollahra DCP 2015.

The proposed amendment has been reviewed by the Manager Engineering Services, the Team Leader Traffic and Transport, and the Team Leader Development Engineering who have advised that the proposed amendment is acceptable and supported from a traffic and engineering perspective.

The proposed amendment is set out in Draft Woollahra DCP (Amendment No. 31) at **Attachment 1**.

#### Excavation and shoring methods:

Consideration has been given to the introduction of a Woollahra DCP 2015 control, which prescribes specific excavation and shoring methods that must be adopted at the construction stage to minimise the impacts of excavation.

A large range of factors influences the most appropriate method of excavation and shoring. These factors may include:

- the ground conditions (i.e. type of soil or rock, the presence of groundwater, etc.),
- the nature and extent of the proposed excavation works,
- site constraints (i.e. site access, the surrounding road network, the size of the site, topography, existing services, etc.),
- public safety,
- the conditions surrounding the site (i.e. services, vegetation, stability of adjacent structures, etc.), and
- the relevant Australian Standards.

The Woollahra DCP 2015 and Council's DA Guide, requires any DA with the potential to adversely affect surrounding properties during excavation and construction works, to be accompanied by a Geotechnical and Hydrogeological Report (the Geotechnical Report).

The Geotechnical Report is to be prepared by a qualified and experienced geotechnical and/or hydrogeological engineer, and must include:

- field investigations of the geotechnical conditions of the site,
- recommendations as to appropriate temporary and permanent site support and retention measures,

- a hydrogeology assessment,
- a site specific risk assessment matrix,
- an assessment which demonstrates there will be no unreasonable impacts on the surrounding properties and infrastructure as a result of vibration created by the method of construction, and
- appropriate plant, equipment and construction methods to limit vibration.

The most appropriate method of excavation and shoring may differ for each DA. For example, the use of contiguous concrete piling (a retaining wall consisting of concrete bored piles with space between each consecutive pile) to create subterranean retaining walls has many benefits, as the piles:

- are flexible in shape and design,
- are bored rather than driven resulting in less vibration during construction,
- are commonly used when inserting substructures close to an existing structure, and
- can be relatively compact when compared to other subterranean retaining walls, and are therefore often suitable for confined spaces.

However, due to the spacing between the contiguous piles, this method works best in dry and firm soil. Therefore, contiguous piles may not be the most appropriate methodology where the soil has a high water content.

Another example of this is a site where the surrounding road network is constrained, but adjacent properties are not sensitive to vibrations. In these circumstances, driven piles may be determined to be the most appropriate method of construction. Whilst driven piles create higher levels of vibration, they are faster to build and therefore could reduce potential disruption to the local road network.

Introducing a Woollahra DCP 2015 control, which prescribes specific excavation and shoring methods, without having regard to the individual characteristics of each development is not supported. Instead, a geotechnical and/or hydrogeological engineer should determine the most appropriate method of excavation following a geotechnical site investigation, and having regard to the scale and nature of the development, the conditions on and surrounding the site, and any other pertinent factors.

Council's Engineering Services staff review any submitted Geotechnical Report to ensure they are prepared in accordance with Council's 'Guidelines for geotechnical and hydrogeological reports'. In the event that the development is found to be satisfactory, development consent conditions are imposed which require Geotechnical and Hydrogeological design, certification and monitoring to occur. Depending on the specifics of the development, further conditions are often imposed requiring dilapidation reports, piezometers for monitoring ground water, restrictions on ground anchors and vibration monitoring.

This approach ensures that, a qualified and experienced geotechnical and/or hydrogeological engineer determines the appropriate method of excavation, following on site investigations, the preparation of a site specific risk assessment matrix, and having regard to the nature of the development and the sensitivity of the surrounding properties and infrastructure.

Prescribing specific excavation and shoring methods within the Woollahra DCP 2015, prevents a case by case assessment to determine the most appropriate method of excavation. The inclusion of such a control is not supported.

#### Charging for excavation:

The possibility of imposing a charge for the volume of material to be excavated in connection with a DA has been explored.

There are only very limited ways in which a payment can be required through a condition of development consent. Whilst a condition may be imposed requiring a monetary contribution towards local infrastructure, under s7.11 and s7.12 of the Environmental Planning and Assessment Act 1979 (the EPA Act) the contribution must be in accordance with an adopted contributions plan.

Contributions sought under the Woollahra Section 7.12 Development Contributions Plan 2022 are calculated as a percentage of the cost of works of the development. The cost of works includes the cost of excavation, therefore the cost of excavation works already influences the contributions required under s7.12 of the EPA Act.

These local infrastructure contributions have been held to be the exclusive way to require the payment of monetary contributions under a DA. Furthermore, the EPA Act and case law has established that a monetary contribution condition should not be imposed to deal with general planning considerations.

There are other payments, which can be required under a DA, such as the long service levy. However, such a payment can only be sought when there is legislation which authorises the request for payment. There is no statutory authorisation for a condition of consent to require payment for the volume of material to be excavated from a development site.

It would be possible to enter into planning agreements requiring payment of an amount in connection with a DA determined based on the volume of excavated material, if the planning agreement identified the public purpose to which the payment was to be directed. However, planning agreements are, of course, voluntary.

There is also no power under the Local Government Act 1993 to require a fee to be paid in respect of a DA based on the proposed volume of excavated material.

Whilst it is not possible to impose a charge for the volume of material to be excavated in connection with a DA, the cost of excavated works is to be included in the quantity surveyor report or cost estimate report submitted with a DA. Therefore, the cost of excavated works already influences the DA fee which is payable under the EPA Regulations.

#### Development consent conditions relating to excavation:

In response to the former Department of Planning and Environment's introduction of standard format notice of determinations, a detailed review of Council's standard DA conditions was undertaken in July 2023. As part of the review staff considered the former Department of Planning and Environment's standard conditions, and the advice of Council Development Assessment, Compliance and Enforcement, and Engineering staff. Based on this information the existing conditions were reviewed, and where necessary updated.

Council's standard conditions include comprehensive measures to manage the impacts of excavation and include conditions which relate to:

- structural adequacy,
- engineering details,
- geotechnical and hydrogeological design, certification and monitoring,
- ground anchors,
- environmental controls (i.e. dust mitigation and erosion and sediment controls),
- dilapidation reports (for neighbouring properties and public infrastructure),
- construction management plans and work zones,
- vibration monitoring, and
- support of adjoining land and buildings.

Under the July 2023 DA condition review, the following new standard conditions were introduced to further manage the impacts of excavation works:

- Condition A.31 (No Underpinning Works), which states that no approval is given for any underpinning works outside the boundaries of the subject property.
- Condition D.37 (Engineer Certification), which requires engineer certification confirming that the structural design does not incorporate any temporary or permanent underpinning works or ground anchors, bolts, etc. which encroach outside the boundaries of the subject property.

The amendments ensure that:

- the structural design for excavation does not include elements that encroach beyond the boundaries of the subject site,
- a Geotechnical Engineer with National Engineering Register (NER) credentials provides a detailed geotechnical report prior to the issue of a construction certificate, which includes a monitoring programme, and civil and structural engineering details for foundation retaining walls, footings, basement tanking, and subsoil drainage systems, as applicable, and
- excavation impacts are appropriately managed.

The conditions are an integral part of a consent and it is a criminal offence to fail to comply with or breach any development consent condition. The conditions of a development consent apply to all parties who are relying on the development consent to undertake work. A breach of the conditions can result in formal orders, civil enforcement proceedings, criminal prosecution, or fine.

The Geotechnical and Hydrogeological Report on the Rose Bay Basin (also presented to the EPC meeting of the 03 June 2024) proposes amendments to the Woollahra DCP 2015 by including provisions to address the impact of groundwater drawdown and land stability within the Rose Bay area, and introducing vibration limits which would apply across the whole local government area. In the event that the proposed amendments are adopted, if necessary, Council's standard DA conditions will be updated to align with the adopted amendments.

### **Options:**

As a consequence of this report Council may resolve to make amendments to Woollahra DCP 2015 to improve the operation of the excavation controls. This is the staff recommendation.

Having regard to the nature of the proposed amendments and the resources and cost involved in exhibiting and amending the Woollahra DCP 2015, it is recommended that the amendments should be made concurrently with any amendments adopted from the Geotechnical and Hydrogeological Report on the Rose Bay Basin.

Alternatively, Council may decide to take no further action, or resolve in a different manner.

### **Community Engagement and / or Internal Consultation:**

This report was prepared in consultation with Council staff from Engineering Services, Development Assessment and Building and Compliance staff.

Should Council resolve to support the changes to Woollahra DCP 2015, staff will prepare the DCP amendment. The Draft DCP must be publicly exhibited for a minimum of 28 days and then reported back to Council.

### **Policy Implications:**

As a consequence of this report Council may resolve to make amendments to Woollahra DCP 2015.



### Financial Implications:

If Council adopts the recommendation to make amendments to Woollahra DCP 2015, there will be financial costs associated with preparing and exhibiting the DCP amendment.

### Resourcing Implications:

If Council adopts the recommendation to make amendments to Woollahra DCP 2015, there will be resourcing implications associated with staff time to prepare, exhibit and report on the DCP amendment. As identified above, it is a more effective use of resources to make the amendments concurrent with any DCP amendments adopted from the Geotechnical and Hydrogeological Report on the Rose Bay Basin.

### Conclusion:

In response to the resolution from 7 August 2023, staff propose amendments to the Woollahra DCP 2015 to improve the operation of the excavation controls.

Having undertaken a review of recent DA and LEC appeal determinations, it has been determined that generally the volume of excavation control is being appropriately applied and in the majority of relevant LEC appeal cases the control assists Council's planning experts in seeking a reduction in excavation volumes.

However, staff do identify that the operation of the excavation controls could be improved by making amendments to the Woollahra DCP 2015.

Staff recommend that Council resolve to exhibit the *Draft Woollahra Development Control Plan 2015 (Amendment No. 31)* as contained in **Attachment 1**, and these amendments should be prepared and exhibited concurrently with any amendments adopted from the Geotechnical and Hydrogeological Report on the Rose Bay Basin.

### Attachments

1. Draft Woollahra Development Control Plan 2015 (Amendment No. 31)  



# Draft Woollahra Development Control Plan 2015 (Amendment 31)

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Prepared Date:	June 2024
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning and Place
HPE CM Record Number:	24/77510

**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.*

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## Woollahra Development Control Plan 2015 (Amendment No 31)

### Part 1 Preliminary

#### 1.1 Background

Excavation is a common part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there can be significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

The volume of excavation controls contained within the Woollahra Development Control Plan 2015 (Woollahra DCP 2015) aim to limit excavation to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

On 7 August 2023, the Environmental Planning Committee resolved (under delegation):

*THAT staff report to the Environmental Planning Committee on:*

- 1. the application and effectiveness of current excavation controls, limiting excavation to methods with lower impact (contiguous piling) and consider options available to Council for charging for excavated materials; and*
- 2. recommendations for amending controls to mitigate impacts of increasingly large DA proposals to remove rock/soil/sand and other excavation material.*

This draft DCP seeks to amend sections *B3.4 – Excavation*, and *E1.15 – Mechanical parking installations and paid parking stations* of the Woollahra DCP 2015. The amendments aim to:

- advise that turning areas or mechanical vehicle turntables for off-street basement car parking for dwelling houses on a local road will only be considered where the proposal complies with the maximum excavation volume, or it is demonstrated that vehicle entry and exit in a forward direction is required for the safe movement of vehicles and/or pedestrians, and
- allow, in some circumstances, the use of mechanical parking installations to reduce excavation volumes associated with off-street basement parking.

#### 1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 31)*.

#### 1.3 Objectives of the plan

The objective of the plan is to minimise excavation associated with car parking.

#### 1.4 Land to which this plan applies

This plan applies to land within the Woollahra Municipality where chapter *B3 - General Development Controls* and *Chapter E1 – Parking and Access* of the Woollahra DCP 2015 apply.

### **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*.

*Woollahra Local Environmental Plan 2014* (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](#)

### Chapter A1 Introduction

#### 2.1 Amendments to clause A1.1.9 Savings and transitional provisions relating to development applications

##### 2.1.1 Insert at the end of the clause

[This DCP \(as commenced on 23 May 2015\) continues to apply to development applications, applications to modify consents under section 4.55 of the EP&A Act and applications for review of determination under Division 8.2 Reviews of the EP&A Act that were made prior to but not determined before the commencement of Amendment No 31 to this DCP.](#)

#### 2.2 Amendments to clause A1.4 List of amendments

##### 2.2.1 Insert at the end of the clause

Amendment	Date of approval and Commencement	Description of amendment
<a href="#">No 31</a>	<a href="#">Date approved – TBC</a>  <a href="#">Date commenced - TBC</a>	<a href="#">Amend Chapter A1 by inserting additional savings and transitional provisions.</a>  <a href="#">Amend Part B, Chapter B3, section B3.4, 'Excavation' to state that turning areas or mechanical vehicular turntables for off street basement car parking for dwelling houses with access to a local road will only be considered where the proposal complies with the maximum excavation volume, or it is demonstrated that it is required for vehicle and/or pedestrian safety.</a>  <a href="#">Amend Part E, Chapter E1, section E1.15 'Mechanical parking installations and paid parking stations' to state that mechanical parking installations may be considered for residential developments, where they reduce excavation in order to uphold the excavation controls and objectives set out in Chapter B3 (section B3.4) of this DCP.</a>

## Chapter B3 General Development Controls

### 2.3 Amendments to section B3.4 Excavation

2.3.1 Add a note under control C1 to ensure that the off street car parking design for dwelling houses on local roads does not result in excessive excavation.

Objectives	Controls
<p>O1 To set maximum acceptable volumes of excavation which:</p> <ul style="list-style-type: none"> <li>a) require buildings to be designed and sited to relate to the existing topography of the site;</li> <li>b) ensure excavation, including the cumulative impacts of excavation, does not adversely impact land stabilisation, ground water flows and vegetation;</li> <li>c) avoid structural risks to surrounding structures;</li> <li>d) ensure noise, vibration, dust and other amenity impacts to surrounding properties during construction are reasonable;</li> <li>e) enable deep soil planting in required setbacks;</li> <li>f) ensure traffic impacts and impacts on local infrastructure arising from the transfer of excavated material from the development site by heavy vehicles are reasonable; and</li> <li>g) satisfy the principles of ecologically sustainable development (including the energy expended in excavation and transport of material and the relative energy intensity of subterranean areas in dwellings).</li> </ul>	<p>C1 For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 13A.</p> <p><u>Note: Driveways for dwelling houses do not require vehicle entry and exit onto a local road to be made in a forward direction. For off street basement car parking for dwelling houses, turning areas or mechanical vehicular turntables to a local road will only be considered where the proposal complies with the maximum excavation volume, or it is demonstrated that travel in a forward direction is required for the safe movement of vehicles and/or pedestrians.</u></p> <p>C2 For a residential flat building, manor houses, multi dwelling housing, multi dwelling housing (terraces), or attached dwelling development (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 13B.</p> <p>C3 For any other use (including attached and detached garaging) not addressed in C1 and C2 above—the maximum volume of excavation permitted is no greater than the volume shown in Figure 13B.</p>



## Chapter E1 Parking and Access

### 2.4 Amendments to section E1.15 Mechanical parking installations and paid parking stations

- 2.4.1 Add an additional bullet point under section E1.15.1 'Locations and land use' to advise that mechanical parking installations will be considered for residential development where there inclusion reduces excavation in order to uphold the excavation controls and objectives set out in Chapter B3 (section B3.4) of the Woollahra DCP 2015.

#### E1.15.1 Location and land use

Mechanical parking installations such as car lifts and car stackers are generally not desirable, and will only be considered in exceptional circumstances.

Mechanical parking installations may be permitted for residential and non-residential development where one or more of the following applies:

- The topography or lot size does not reasonably allow a simpler, more conventional parking arrangement.
- An existing building is being refurbished and there is no land available for additional parking. Refurbishment does not include extension of the building so as to increase site coverage or any other works to increase site coverage, all of which have the effect of reducing site area which could be used for conventional parking arrangements.
- In the case of non-residential development, the installations are for long-stay parking.
- In the case of residential development, the inclusion of mechanical parking installations reduces excavation in order to uphold the excavation controls and objectives set out in Chapter B3 (section B3.4) of this DCP.
- In the case of residential development, the installations are for resident rather than visitor parking.

