

Woollahra Section 7.12 Development Contributions Plan 2021

30 August 2021

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1. Introduction

Section 7.12 of the *Environmental Planning and Assessment Act 1979* (the Act) authorises the consent authority to impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage of the proposed cost of carry out the development.

For the consent authority to impose a condition under section 7.12, a contributions plan that complies with clause 27(1) of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), must be in place and the condition must be authorised by the plan. The contributions plan must specify whether or not a registered certifier is required to impose a condition under section 7.12 on the granting of a complying development certificate.

The Woollahra Section 7.12 Development Contributions Plan 2021 (this Plan) authorises a condition of development consent or a complying development certificate to require the payment of a fixed percentage levy.

The percentage of the levy and the types of development application which attract the levy are set out in other clauses of this plan.

Levies paid to the Council will be applied towards the provision, extension or augmentation of public facilities, or towards recouping the cost of their provision, extension or augmentation.

The following summary schedule is included in this plan:

Schedule 1

▶ Summary of works for which levies are required. The schedule was adopted on 26 July 2021 and provides an estimated cost of works and the estimated time frame for their implementation.

2. Administration and operation

2.1. Name of plan

This plan is called the Woollahra Section 7.12 Development Contributions Plan 2021 (this Plan).

2.2. Purposes of plan

The purposes of this plan are:

- a) To authorise the imposition of conditions on development consents and complying development certificates requiring that the applicant pay to the Council a levy determined in accordance with this Plan.
- b) To enable Council to have funds to ensure that adequate public facilities are provided to meet the demand created by development.
- c) To assist the Council in the provision, extension or augmentation of public facilities.
- d) To provide a comprehensive framework for the assessment, collection, expenditure, accounting and indexing of development contributions on an equitable basis.
- e) To enable the Council to be both publicly and financially accountable in its assessment and administration of the Plan.

2.3. Land and development to which plan applies

2.3.1. Land to which plan applies

This Plan applies to all land within the Woollahra Municipal Council local government area.

2.3.2. Development to which plan applies

This Plan applies to all development applications and applications for complying development certificates in respect of development on land to which this Plan applies, other than applications made by or on behalf of the Council.

2.3.3. Transitional provision

This Plan applies to an application for development or a complying development certificate made on or after the date on which this Plan was first publicly exhibited and not determined on the day this Plan took effect.

2.4. What this Plan authorises

This Plan authorises the consent authority in respect of a development application to impose a condition on a development consent granted for development to which this Plan applies requiring the applicant to pay to the Council a levy of up to 1% of the

proposed cost of carrying out the development, provided that the consent authority does not also impose on the consent a condition pursuant to *Woollahra Section 94*Contributions Plan 2002 or otherwise under section 7.11 of the Act.

This Plan requires a registered certifier in respect of an application for a complying development certificate to impose a condition on a complying development certificate for development to which this Plan applies requiring the applicant to pay to the Council a levy of up to 1% of the proposed cost of carrying out the development. Section 4.28(9) of the Act requires a registered certifier to impose such a condition when granting a complying development certificate for development to which this Plan applies.

Conditions authorised by this Plan are subject to any direction given by the Minister under section 7.17: Directions by Minister of the Act from time to time.

2.5. Relationship with relevant legislation and other plans and policies

This Plan has been prepared under the provisions of Part 7 Division 7.1 of the Act and Part 4 of the Regulation.

Nothing in this Plan affects the operation and application of *Woollahra Section 94 Contributions Plan 2002*.

A condition under section 7.11 of the Act authorized by *Woollahra Section 94 Contributions Plan 2002* may be imposed on a development consent as an alternative to imposing a condition authorised by this Plan, depending on the nature of the development and the demand for public facilities.

However, the consent authority cannot impose conditions under both *Woollahra Section* 94 Contributions Plan 2002 and this Plan on the same development consent.

This plan repeals Woollahra Section 94A Development Contributions Plan 2011.

Notes

- 1. Section 7.12(2) of the Act prevents a condition under section 7.12 as well as a condition under section 7.11 being imposed on the same development consent.
- 2. The Council may enter into a planning agreement (under section 7.4 of the Act) with an applicant as an alternative and/or in addition to imposing a condition authorised by this Plan.

2.6. Approval and commencement of plan

This Plan was approved by Woollahra Municipal Council on 26 July 2021 and commenced on 30 August 2021.

Note: Amendments carried out to this Plan are listed in the table contained in **Annexure 2**.

2.7. Section 7.12 levy rates

The summary schedule below sets out the levies that this Plan authorises to be imposed in respect of development to which this Plan applies.

Summary Schedule	Levy rate		
Development that has a proposed cost of carrying out the development			
Up to and including \$100,000	Nil		
More than \$100,000 and up to and including \$200,000	0.5% of the cost		
 More than \$200,000 	1% of the cost		

The levy will be determined on the basis of the rate as set out in the summary schedule above. The levy will be calculated as follows:

Levy payable = %LR x \$C

Where

%LR is the levy rate applicable in the summary schedule

\$C is the proposed cost of carrying out the development.

2.8. Determining the proposed cost of development

A development application or an application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out development prepared by the following people:

- a) the applicant of the application, or a person acting on behalf of the applicant, where the estimated cost is below \$750,000, or
- b) a registered quantity surveyor engaged by or on behalf of the applicant, at the applicant's cost, where the estimated cost is \$750,000 and above.

Upon reviewing an estimated cost that is below \$750,000, the Council may require a further estimate to be provided by a registered quantity surveyor at the applicant's cost.

Despite (a) and (b), the Council may appoint a person to review the estimate provided by a quantity surveyor who was engaged by the applicant or a person on behalf of the applicant. The review is to be undertaken at the applicant's cost.

Notes:

- 1. Refer to part 2.12 for provisions relating to the adjustment of the proposed cost of development prior to the payment of a section 7.12 levy.
- 2. The quantity surveyor must be registered by the Australian Institute of Quantity Surveyors.
- 3. The review of a quantity surveyor's estimate also applies to an estimate provided a person of equivalent qualifications.

2.9. Timing of payments

A levy must be paid to Council at the time specified in the condition that imposes the levy. If no such time is specified, the levy must be paid prior to the issue of any certificate issued in respect of the development including a Subdivision Certificate, Construction Certificate or Complying Development Certificate.

The amount to be paid will be calculated at the indexed rate(s) applicable at the time of payment. Refer to part 2.12.

2.10. Application of levy

Money paid to the Council under a condition authorised by this Plan is to be applied by the Council towards the cost of the public facilities listed in the works schedule in this Plan as the Council in its discretion may from time to time determine.

2.11. Deferred or periodic payment

Where the applicant makes a written request supported by reasons for payment of the section 7.12 levy, the Council may accept deferred or periodic payment at a later time than is required by the applicable condition. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- a) the reasons given;
- b) whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c) whether any prejudice will be caused to the efficacy and operation of this Plan; and
- d) whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council will, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- a) the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b) the bank unconditionally and irrevocably agrees to pay the guaranteed sum to the Council on written request by Council prior to the issue of an occupation certificate;
- c) the bank agrees to pay the guaranteed sum without recourse to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d) the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or outstanding component of the section 7.12 levy will be adjusted in accordance with part 2.12.

Every development consent (including every complying development certificate) issued subject to a condition requiring a section 7.12 levy under this Plan must include a standard condition setting out the terms of this clause.

Note: The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not return the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

2.12. Adjustment of levies and proposed cost of development

To ensure that the value of contributions are not eroded over time by increases in construction costs, the contribution amount will be adjusted at the time of payment. In this way, the section 7.12 levy will accurately reflects the actual cost of the proposed development at the time of construction,

In accordance with section 25J(4) of the *Environmental Planning and Assessment Regulation 2000* this Plan requires that the section 7.12 contributions levy set out in the development consent is adjusted at the time of payment by applying the *Consumer Price Index (All Groups Index)* for Sydney for the most recent quarter.

Contributions are indexed for inflation at the time of consent and again at the time of payment using quarterly updates to the *Consumer Price Index (All Groups Index)* for Sydney.

The formula used to adjust the contribution is set out below.

$$L_o \times [current CPI - base CPI]$$

NL = $L_o + \frac{}{base CPI}$

where

NL Is the new section 7.12 levy

L_o Is the original levy (\$)

Current CPI The quarterly Consumer Price Index (All Groups Index) for

Sydney, as published by the Australian Bureau of Statistics (ABS)

immediately prior to the date of payment

Base CPI The quarterly Consumer Price Index (All Groups Index) for

Sydney as published by the ABS immediately prior to the date of

the imposition of the condition requiring payment of the

contribution

Note: In the event that the current CPI is less than the previous CPI, the current CPI shall be taken as not less than the previous CPI.

This Plan authorises a condition under section 7.12 of the Act that contains the above formula.

2.13. Pooling of levies

This Plan authorises section 7.12 levies to be pooled and applied progressively for the purposes set out in the works schedule in this Plan. The priorities for the expenditure of the levies are shown in the section 7.12 levy works schedule in this Plan.

2.14. Payment of section 7.12 levy -complying development certificates

A complying development certificate requiring the payment of a section 7.12 levy in accordance with this Plan must contain a condition requiring the levy to be paid before any work authorised by the certificate commences.

2.15. Payment of section 7.12 levy — issuing of subdivision certificates

A subdivision certificate must not be issued for a subdivision unless a section 7.12 levy required to be paid pursuant to the conditions of the applicable development consent before the subdivision certificate is issued has been complied with.

Payment of section 7.12 levy - issuing of construction certificates, subdivision works certificates and occupation certificates

2.16. Payment of section 7.12 levy — issuing of construction certificates, subdivision works certificates and occupation certificates

A registered certifier must not issue a construction certificate for building work or a subdivision works certificate under a development consent unless it has verified that each condition of the consent requiring the payment of a 7.12 levy in accordance with this Plan before the work is carried out has been complied with.

A registered certifier must not issue an occupation certificate for a building with a proposed cost (as indicated in the relevant development application) of \$10,000,000 or more unless the certifier—

- (a) has received a copy of a document from the Council certifying that a section 7.12 levy required to be paid pursuant to the conditions of the applicable development consent:
 - (i) is not required to be paid before the occupation certificate is issued, or
 - (ii) is required to be paid before the occupation certificate is issued and the requirement has been met, and
- (b) has confirmed with the Council that:
 - (i) the Council issued the document referred to in paragraph (a), and
 - (ii) no contributions or levies have been required since the document was issued.

Note: An agreement referred to in this part may or may not be a planning agreement under section 7.4 of the Act.

3. Demand for public facilities

Section 7.12 levies acquired by condition of consent under this Plan are to be applied to the provision, extension or augmentation of the following categories of public facilities works located across the Municipality:

- Engineering Services
- Open Space and Trees
- Property and Projects Management
- Environmental Works
- Community facilities

The demand for public facilities is related to expected residential, commercial, retail and other non-residential development across the Municipality. Demand for the public facilities has been identified in a series of supporting documents which includes studies, surveys and investigations, which are listed by category in **Annexure 1**.

Council strategies, plans and policies are informed by forecasts provided by the *NSW Department of Planning*, *Industry and Environment* (based on ABS census data) consistent with best planning practice.

As identified in the *Woollahra Local Strategic Planning Statement 2020*, the population of Woollahra in 2016 was 57,800 persons. The population is projected to increase to 59,850 people in the 20 year period from 2016 and 2036.

3.1. Expected residential development

As identified in the supporting documentation at **Annexure 1**, residential development is expected across the Municipality in residential, commercial and special use areas. Types of residential development include dwelling-houses, dual occupancies, multi dwelling housing, manor houses, residential flat buildings, boarding houses, and mixed use development with a residential component.

Residential development will occur in the form of new development and alterations and additions to existing development.

3.2. Expected commercial, retail and other non-residential development

As identified in the supporting documentation at **Annexure 1**, the majority of commercial, retail and other non-residential development is expected mainly in the commercial and mixed use centres throughout the Municipality. Major development is likely to occur in the Double Bay Centre, Edgecliff Centre and Rose Bay Centre.

Development is also expected in the Special Use Zones, particularly those occupied by the large private schools.

Development will occur in the form of new development and alterations and additions to existing development.

4. Definitions	
Registered certifier	means a person who is registered under the Building and Development Certifiers Act 2018 and who may exercise the function of a certifier under the Act.
applicant	means a person, company or organisation submitting a development application or an application for a complying development certificate or a person, company or organisation authorised to act on a development consent (including a complying development certificate).
Consumer Price Index (CPI)	is a standard measure of movements in price indexes over time published by the Australian Bureau of Statistics
Council	means the Council of the Municipality of Woollahra.
Municipality	means the Municipality of Woollahra.
public facilities	means public amenities or public services as referred to in section 7.12 of the Act.
planning agreement	means a voluntary agreement referred to in section 7.4 of the Act.
proposed cost of development	means the cost of development proposed in a development application or a complying development application as determined by the Council in accordance with clause 25J of the Regulation.
section 7.12 levy	means a fixed development consent levy under section 7.12 of the Act.
the Act	means the Environmental Planning and Assessment Act 1979 as amended.
the Regulation	means the Environmental Planning and Assessment Regulation 2000 as amended.

Schedule 1 -Works schedule and map

Notes:

- 1. The works listed in this schedule are to be funded from a mix of sources, including section 7.12 funds.
- 2. Maps provided in this schedule indicate the location of works where possible. Certain services and works are to be provided across the Municipality and therefore are not shown by specific site reference on the maps. The location of certain other works and services has not been determined and therefore they are not shown on the maps. Precise locations will be identified when one or more of the following occurs: the Council locates and acquires appropriate properties; investigations confirm the exact site or location for services and works.
- 3. For the purpose of this plan, short term is 1-2 years and medium term is 3-5 years

1. Engineering Services

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
1	1	Plumer Road Streetscape Stage 2 • Pedestrianisation	300,000	Short
LGA	2	 General Works As identified in accordance with Council's Asset Management Policy and Asset Management Strategy 	100,000	Short
LGA	3	Part funding of interest on Streetscape Loan	100,000	Short

2. Open Space and Trees

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
2	4	Multi-use sports facilities constructionConstruction of multi-courts at Lough Playing fields	310,000	Short
3	5	Eastbourne Reserve upgradeRetaining wall replacement and landscaping	140,000	Short
4	6	Park lighting upgradeInstallation of lighting at Royal Hospital for Woman Park	80,000	Short
5	7	Bellevue Park extension of pathway and landscaping • Bellevue Park Stage 2 Design & Consultation.	35,000	Short - Medium
6	8	Tingira Reserve Landscape upgrades	100,000	Short - Medium

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
		Pathway renewal, irrigation and landscaping improvements		
7	9	 Lyne Park Landscape Upgrade Improved entry garden beds to Lyne Park off New South Head Rd 	50,000	Short
8	10	 Landscape improvements Landscaped improvements to Moncur Reserve, Plumb Reserve and Raoul Wallenburg Reserve 	100,000	Short
9	11	 Trumper Park Pathway renewal Pathway renewal from the Trumper Park Tennis Courts to Edgecliff Train Station (Bowes Avenue) 	195,000	Short - Medium
10	12	 Chester St Embankment landscaping Revegetation and landscaping of the Chester St embankment 	60,000	Short
11	13	Parsley Bay cliff columnsRenewal of columns under cliff edges	105,000	Short
12	14	 Figtree Reserve landscaping Landscaping works due to flood damage to Figtree Reserve overlooking Cooper Park 	190,000	Short
13	15	 Dillion Street Reserve Stage 2 upgrade of Dillon Street Reserve including landscaping and play equipment 	200,000	Short
14	16	Rushcutters Bay Park Youth Facility • Construction	325,000	Short
15	17	Yarranabbe ParkNorthern Plaza and stairs construction	290,000	Short
16	18	Sayonara SlipwayConstruction of improvements	150,000	Short
17	19	Playground - renewalLyne Park Playground Design & Consultation.	30,000	Short to Medium
18	20	 Synthetic Cricket wicket upgrades Replacement of synthetic on Rushcutters Bay Park and Lough Playing Fields cricket pitches 	30,000	Short to Medium
LGA	21	Park & Street Tree Planting	150,000	Short

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
		 Annual planting programs of street and park trees including maintenance 		
LGA	22	 Park furniture Renewal and new park furniture replacement in parks across the LGA. 	150,000	Short
LGA	23	 Park and Venue Signage Renewal and new park signage in parks across the LGA. Identified in the asset register 	60,000	Short
LGA	24	Park Fencing - New and ReplaceRenewal of park fencing identified in the asset register	150,000	Short
LGA	25	Softfall renewalSoftfall renewal as identified in asset register	100,000	Short
LGA	26	Fitness Station Renewal • Various upgrades	100,000	Short
LGA	28	Project Management • Designs for future capital projects	50,000	Short
LGA	29	 General works As identified in accordance with Council's Asset Management Policy and Asset Management Strategy 	100,000	Short

3. Property and Projects Management

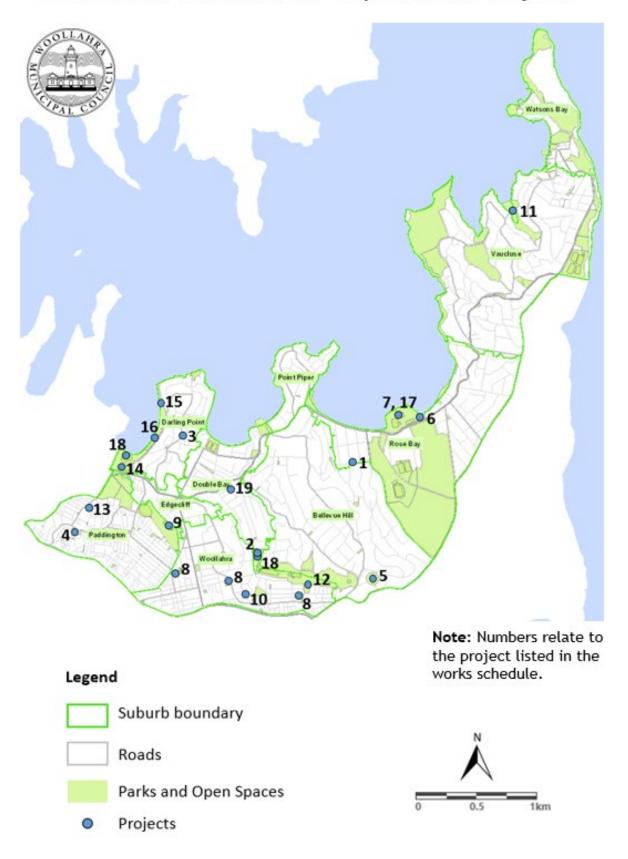
Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
LGA	30	 General Works As identified in accordance with Council's Asset Management Policy and Asset Management Strategy 	100,000	Short
LGA	31	 Disabled access improvements Disabled access improvements as determined annually on inspection by Council's Property team 	50,000	Short
19	32	Part funding of interest on Kiaora Place Loan	275,000	Short
LGA	33	 Essential services upgrades Upgrade of fire safety and essential services as determined annually on inspection by Council's Property team 	15,000	Short

4. Environmental Works Item **Estimated Estimated** Мар Public facility works No. cost (\$) ref time (term) General works As identified in accordance with 100,000 **LGA** 34 Short Council's Environmental Sustainability Action Plan 2013-2025

5. Community facilities

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
LGA	35	Public Art throughout municipalityInstallations at locations to be identified	100,000	Short

Section 7.12 Contributions - Capital Works Projects



Annexure 1: Supporting documents

General

- Development contributions Practice Note: Section 94A development contributions plans, Department of Planning, December 2006
- Woollahra Local Environmental Plan 2014
- Woollahra Development Control Plan 2015
- Woollahra Local Strategic Planning Statement 2020
- Draft Edgecliff Commercial Centre Planning and Urban Design Strategy

Note: It is anticipated that the Draft Woollahra Housing Strategy will be reported to a committee of Council by mid 2021:

Floodplain management - Woollahra Council

- Double Bay Catchment Flood Study (2008)
- Double Bay Floodplain Risk Management Study and Plan Part 1 (2011)
- Double Bay Floodplain Risk Management Study and Plan- Part 2 (2011)
- Double Bay Floodplain Risk Management Study and Plan Part 3 (2011)
- Paddington Floodplain Risk Management Study and Plan (2019)
- Rose Bay Catchment Flood Study (2010)
- Rose Bay Floodplain Risk Management Study and Plan (2014)
- Rushcutters Bay Catchment Flood Study (2007)
- Rushcutters Bay Floodplain Risk Management Study And Plan (2012)
- Draft Watsons Bay Floodplain Risk Management Study and Plan May 2016 (2016)

Plans of management - Woollahra Council

- Chiswick Gardens Plan of Management 2010
- Christison Park Plan of Management 1996
- Cooper Park Plan of Management 2001
- Cooper Park Plan of Management Action Plan 2001
- District Park Plan of Management 1996
- Drainage Reserves Plan of Management 1997
- Gap Park Masterplan 2008
- General Community Use (Reserves) Plan of Management 1996
- Harbourview Park Plan of Management 2014
- Local Parks Plan of Management 1996

- Lyne Park Plan of Management 2003 (Volume 1)
- Lyne Park Plan of Management 2003 (Volume 2)
- McKell Park and Darling Point Reserve Plan of Management 2013
- Natural Area (Foreshore) Plan of Management 1996
- Redleaf and Blackburn Gardens Plan of Management and Master Plan 2017
- Regional Parks Plan of Management 1996
- Robertson Park Action Plan (2004)
- Robertson Park Masterplan 2004
- Robertson Park Plan of Management 2004
- Royal Hospital for Women Park Plan of Management 2005
- Rushcutters Bay Park, Yarranabbe Park & Plantation Reserve Plan of Management
 2005
- Sir David Martin Reserve Plan of Management 2004
- Trumper Park Plan of Management 1996
- Woollahra Park Plan of Management 2001
- Woollahra Park Plan of Management 2013
- Yarranabbe Park Plan of Management 2012
- Woollahra Street Tree Master Plan 2014
- Woollahra Social and Cultural Plan 2018-2030

Note: It is anticipated that the following projects will be reported to a committee of Council in mid 2021:

- Draft Recreational Needs Strategy & Action Plan
- Draft Plans of Management for Crown Lands
- Draft Woollahra Play Space Strategy

Public Domain Improvements Plans - Woollahra Council

- Double Bay Centre Public Domain Improvements Plan 2002
- Double Bay Centre Public Domain Strategy 2016
- Rose Bay Centre Public Domain Improvement Plan 1999

Policies - Woollahra Council

- Asset Management Policy (2010)
- Commercial Fitness Training Activities on Public Open Space (2014)
- Community and Cultural Grants Policy (2019)
- Community Gardens Policy (2019)

- Community Services Policy (2013)
- Disabled Accessible Parking Procedure (2014, reviewed 2019)
- Placemaking Grants Policy (2017)
- Playground Policy (2002)
- Public Art Policy (2019)
- Sale of Council Land Policy (2004, reviewed 2019)
- Specification for Roadworks, Drainage and Miscellaneous Works 2012
- Tree Management Policy (2011)
- Water craft storage on public land policy (2007)
- Woollahra Voluntary Planning Agreement Policy 2020

Reports - Woollahra Council

- Community Capacity Survey Report 2017
- Double Bay Centre Public Domain Strategy 2016
- Estuary Planning Levels Report 2015
- Rose Bay Centre Urban Design Study 1999
- Traffic And Transport Study 2000
- Woollahra Community Facilities Study 2019

Strategies - Woollahra Council

- Asset Management Strategy 2011-2021 (2011)
- Carbon Reduction Strategy and Action Plan 2010-2025 (2010)
- Children's Services Strategy 2005
- Library Strategic Plan (2007)
- Library Strategic Plan Appendix 1: Market Research and Consultation Report (2007)
- Library Strategic Plan Appendix 2: Industry Trends and Relevant Case Studies (2007)
- Playground Strategy 2002
- Recreational Needs Assessment and Strategy 2006
- Woollahra Bicycle Strategy (Draft 2009)
- Woollahra Biodiversity Conservation Strategy 2015-2025 (2015)
- Woollahra Disability Inclusion Plan 2017
- Woollahra Integrated Transport Strategy (Draft 2021)
- Woollahra Environmental sustainability Action Plan 2013-2025
- Woollahra Traffic Management Strategy 2014

Annexure 2: Amendments to Plan

Amendment No.	Dates of approval and commencement	Description of amendment

Note: This table of amendments does not form part of the approved Woollahra Section 7.12 Development Contributions Plan 2021. It is provided to assist with interpretation and will be changed from time to time as amendments are made.