



# Environmental Planning Committee



## Agenda

Monday 12 July 2021

6.00pm

Meeting to be held using conferencing  
technology (refer to details over page)

## Compliance with social distancing requirements to limit the spread of COVID-19 virus at Council and Committee Meetings:

Amendments have been made to the *Local Government Act 1993* to allow councils to meet remotely to reduce the risk of COVID-19 and ensure compliance with the Public Health Order.

In line with social distancing requirements to limit the spread of the COVID-19 virus Woollahra Council will be webcasting Council (i.e. Ordinary and Extraordinary) and Committee meetings (i.e. Environmental Planning (EP), Finance, Community & Services (FC&S) and Strategic & Corporate (S&C) (until further notice).

The Mayor, Councillors and staff will be participating in meetings by **attending in person**, however given social distancing requirements members of the public are unable to attend meetings in person. Members of the public are invited to watch and/or listen to Council meetings live by either using conferencing technology or by teleconference. Public participation online or by phone will be managed in accordance with meeting procedures.

Meetings will be webcast and member of the public can watch and listen to meetings live (via Council's website) or dial in to listen to the meetings using a telephone.

You may also submit late correspondence. Instructions on how to do this are provided below:

- **To watch the meeting live (from 6.00pm)**  
Details on how to watch the meeting live will be available at Environmental Planning Committee Agendas, Audio Recordings and Minutes – [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)
- **To submit late written correspondence (submit by 12noon on the day of the meeting)**  
Members of the public may submit late written correspondence on an agenda item being considered at the Council 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 12noon on the day of the meeting.
- **To register to address the meeting (submit by 12noon on the day of the meeting)**  
Members of the public may register to speak on an agenda item being considered at the Finance, Community & Services Committee meeting, by registering via email [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by 12noon on the day of the meeting. Following your registration you will be emailed the details and instructions on how to join the meeting.

If you are experiencing any issues in joining the meeting please call (02) 9391 7001.

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

### Disclaimer:

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By addressing and/or listening to a Council or Committee meeting, members of the public consent to their voice 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.

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

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For further information please visit [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

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

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

### 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

10 June 2021

To: Her Worship the Mayor, Councillor Susan Wynne, ex-officio  
Councillors Mary-Lou Jarvis (Chair)  
Nick Maxwell (Deputy Chair)  
Luise Elsing  
Matthew Robertson  
Isabelle Shapiro  
Mark Silcocks  
Toni Zeltzer

Dear Councillors,

### **Environmental Planning Committee – 12 July 2021**

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 using teleconferencing technology, **on Tuesday 12 July 2021 at 6.00pm.**

Members of the public are advised that you may watch the meeting live via Council's website using conferencing technology. If you would like to register to address the Environmental Planning Committee meeting please email [records@woollahra.nsw.gov.au](mailto:records@woollahra.nsw.gov.au) by 12noon 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)

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

The safety of our community, Councillors and our staff is Council's number one priority and we thank you for your patience and understanding at this time.

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

Craig Swift-McNair  
General Manager



## Meeting Agenda

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**Item No:** D1 Delegated to Committee  
**Subject:** **CONFIRMATION OF MINUTES OF MEETING HELD ON 15 JUNE 2021**  
**Author:** Sue O'Connor, Governance Officer  
**File No:** 21/117825  
**Reason for Report:** The Minutes of the Environmental Planning Committee of 15 June 2021 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.

**Recommendation:**

THAT the Minutes of the Environmental Planning Committee Meeting of 15 June 2021 be taken as read and confirmed.

**Annexures**

1. Unconfirmed Minutes Environmental Planning Committee - 15 June 2021 [↓](#) 



## Environmental Planning Committee



# Minutes

Tuesday 15 June 2021



## Environmental Planning Committee Minutes

Tuesday 15 June 2021

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**Minutes of the Meeting held on  
15 June 2021 at 6.00pm.**

Present: Councillors: Mary-Lou Jarvis (Chair)  
Luise Elsing  
Isabelle Shapiro  
Mark Silcocks

Staff: Nick Economou (Acting Director – Planning & Development)  
Matthew Gollan (Manager – Placemaking)  
Micaela Hopkins (Team Leader - Environment & Sustainability) – via Zoom  
Kelly McKellar (Team Leader – Strategic Planning)  
Carolyn Nurmi (Governance Officer)  
Sue O'Connor (Governance Officer)  
Flavia Scardamaglia (Strategic Heritage Officer)  
Kristy Wellfare (Strategic Heritage Officer)  
Anne White (Manager – Strategic Planning)

Also in Attendance: Nil

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### **Leave of Absence and Apologies**

Apologies were received and accepted from Councillor Matthew Robertson, Councillor Toni Zeltzer & Councillor Nick Maxwell and leave of absence granted.

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### **Late Correspondence**

Nil

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### **Declarations of Interest**

Nil

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Unconfirmed

Woollahra Municipal Council  
Environmental Planning Committee Minutes

15 June 2021

**Items to be Decided by this Committee using its Delegated Authority**

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**Item No:** D1 Delegated to Committee  
**Subject:** **CONFIRMATION OF MINUTES OF MEETING HELD ON 10 MAY 2021**  
**Author:** Sue O'Connor, Governance Officer  
**File No:** 21/91839  
**Reason for Report:** The Minutes of the Environmental Planning Committee of 10 May 2021 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.

**(Elsing/Shapiro)**

**Resolved:**

THAT the Minutes of the Environmental Planning Committee Meeting of 10 May 2021 be taken as read and confirmed.

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**Item No:** D2 Delegated to Committee  
**Subject:** **ECOLOGICAL SUSTAINABILITY TASKFORCE MINUTES - 17 MAY 2021**  
**Author:** Micaela Hopkins, Team Leader Environment & Sustainability  
**Approver:** Tom O'Hanlon, Director - Infrastructure & Sustainability  
**File No:** 21/104289  
**Reason for Report:** To circulate the minutes of the Ecological Sustainability Taskforce meeting held on 17 May 2021.

**(Shapiro/Elsing)**

**Resolved:**

THAT Council receive and note the minutes of the Ecological Sustainability Taskforce meeting held on 17 May 2021.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

***4/0***

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15 June 2021

**Item No:** D3 Delegated to Committee  
**Subject:** **DOUBLE BAY WORKING PARTY MINUTES - 25 MAY 2021**  
**Author:** Kate Burgess, Temp Coordinator Placemaking  
**Approver:** Matthew Gollan, Manager - Placemaking  
**File No:** 21/107004  
**Reason for Report:** To report the minutes of the Double Bay Working Party meeting that took place on 25 May 2021

(Silcocks/Elsing)

**Resolved:**

THAT the Minutes of the Double Bay Working Party meeting from 25 May 2021 be received and noted.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

**4/0**

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**Item No:** D4 Delegated to Committee  
**Subject:** **OXFORD STREET & PADDINGTON WORKING PARTY MINUTES - 27 MAY 2021**  
**Author:** Kate Burgess, Temp Coordinator Placemaking  
**Approver:** Matthew Gollan, Manager - Placemaking  
**File No:** 21/107063  
**Reason for Report:** To report the minutes of the Oxford Street & Paddington Working Party that took place on 27 May 2021.

(Elsing/Shapiro)

**Resolved:**

THAT the Minutes of the Oxford Street & Paddington Working Party meeting held on 27 May 2021 be received and noted.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

**4/0**

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15 June 2021

**Item No:** D5 Delegated to Committee  
**Subject:** **SMALL BUSINESS WORKING PARTY MINUTES - 28 MAY 2021**  
**Author:** Kate Burgess, Temp Coordinator Placemaking  
**Approver:** Matthew Gollan, Manager - Placemaking  
**File No:** 21/107174  
**Reason for Report:** To report the minutes of the Small Business Working Party meeting that took place on 28 May 2021.

(Silcocks/Elsing)

**Resolved:**

THAT the Minutes of the Small Business Working Party meeting held on 28 May 2021 be received and noted.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

4/0

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

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**Item No:** R1 Recommendation to Council  
**Subject:** **PLANNING PROPOSAL - HERITAGE LISTING OF THE CADRY'S BUILDING AT 133 NEW SOUTH HEAD ROAD, EDGECLIFF & PLANNING PROPOSAL - REMOVAL OF THE LAND RESERVED FOR ACQUISITION ALONG NEW SOUTH HEAD ROAD, EDGECLIFF**  
**Author:** Kristy Wellfare, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/73189  
**Reason for Report:** To present the heritage significance assessment prepared by Council's Strategic Heritage Officer: Kristy Wellfare for the Cadry's building at 133 New South Head Road, Edgecliff. To recommend that Council resolves to prepare a planning proposal to list the Cadry's building (including interiors) as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014. To recommend that Council resolves to prepare a planning proposal to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.

**Note:** Bob Cadry, addressed the Committee.

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**(Shapiro/Silcocks)**

**Recommendation:**

- A. THAT a planning proposal be prepared to list the Cadry's building, including interiors at 133 New South Head Road, Edgecliff as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT a planning proposal be prepared to remove the land reserved for acquisition along New South Head Road and Glenmore Road in Edgecliff.
- C. THAT these planning proposals are referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.
- E. THAT the heritage significance of the properties at 543-549 Glenmore Road be assessed and recommendations provided regarding the listing of these properties in Schedule 5 of the Woollahra LEP 2014 and on the State Heritage Register.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

**4/0**

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**Item No:** R2 Recommendation to Council  
**Subject:** **DRAFT DCP TO ENHANCE THE NEIGHBOURHOOD HERITAGE CONSERVATION AREAS CONTROLS**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/87548  
**Reason for Report:** To respond to a Notice of Motion adopted by Council on 10 December 2018 requesting a review of the provisions for Neighbourhood Heritage Conservation Areas in the Woollahra Development Control Plan 2015. To obtain Council's approval to exhibit a draft development control plan to amend the Woollahra Development Control Plan 2015.

**(Shapiro/Elsing)**

**Recommendation:**

- A. THAT the report on the review of the provisions for Neighbourhood Heritage Conservation areas in the Woollahra Development Control Plan 2015 be received and noted.

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- B. THAT Council resolves to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No.19)* as contained in **Annexure 1** of the report to the Environmental Planning Committee on 15 June 2021.

*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

**4/0**

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**Item No:** R3 Recommendation to Council  
**Subject:** **DRAFT LOCAL HOUSING STRATEGY, DRAFT AFFORDABLE HOUSING POLICY AND DISCUSSION PAPER: LOCAL CHARACTER IN WOOLLAHRA**  
**Author:** Kelly McKellar, Team Leader Strategic Planning  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/99771  
**Reason for Report:** To present the Draft Woollahra Housing Strategy 2021, Draft Woollahra Affordable Housing Policy 2021 and the Discussion Paper: Local Character in Woollahra. To obtain Council's approval to publicly exhibit the Draft Woollahra Housing Strategy 2021 and Draft Woollahra Affordable Housing Policy 2021 concurrently with community consultation on the Discussion Paper: Local Character in Woollahra

**Note:** The Committee amended Part B (i) of the recommendation.

**(Elsing/Shapiro)**

**Recommendation:**

- A. THAT the report on the *Draft Woollahra Local Housing Strategy 2021, Draft Woollahra Affordable Housing Policy 2021 and Discussion Paper: Local Character in Woollahra Character* is received and noted.
- B. THAT Council resolves to publicly exhibit the following documents:
- i. *Draft Woollahra Local Housing Strategy 2021* (at **Annexure 1**) subject to updating the indicative timeframes for actions related to housing affordability from 'ongoing' to 'short term / ongoing'.
  - ii. *Draft Woollahra Affordable Housing Policy 2021* (at **Annexure 2**)
  - iii. *Discussion Paper: Local Character in Woollahra* (at **Annexure 3**).
- C. THAT submissions received during the public exhibition are reported to a future Committee meeting of Council.

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*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 Elsing  
Councillor Jarvis  
Councillor Shapiro  
Councillor Silcocks

Nil

**4/0**

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**Item No:** R4 Recommendation to Council  
**Subject:** **PADDINGTON MARKETING STRATEGY**  
**Author:** Kate Burgess, Temp Coordinator Placemaking  
**Approver:** Matthew Gollan, Manager - Placemaking  
**File No:** 21/107300  
**Reason for Report:** To report the Paddington Marketing Strategy, prepared for Council by the Sparrowly Group.

**Note:** In accordance with Council's meeting procedures and policy this matter is referred to full Council due to the Committee being divided between the Motion (2 votes) and the Amendment (2 votes) and the Committee resolved that both the Motion and the amendment be submitted to Council for consideration.

**Motion moved by Councillor Elsing  
Seconded by Councillor Silcocks**

THAT The Paddington Marketing Strategy be deferred to a future meeting of the Environmental Planning Committee for the purpose of ensuring that the Strategy is fully considered at the Oxford Street Working Party and that the Strategy outlines initiatives and associated costs.

**Amendment moved by Councillor Shapiro  
Seconded by Councillor Jarvis**

THAT the Environmental Planning Committee note that Council and other stakeholders will use the Paddington Marketing Strategy as provided at Annexure 1, as a strategic resource to utilise in the promotion of Paddington without endorsing the actions identified in the Paddington Marketing Strategy.

**The Amendment was put.  
The vote was 2 votes for the Amendment and 2 votes against the Amendment, both the Motion and Amendment are referred to Council for consideration.**

**Motion submitted to Council**

THAT The Paddington Marketing Strategy be deferred to a future meeting of the Environmental Planning Committee for the purpose of ensuring that the Strategy is fully considered at the Oxford Street Working Party and that the Strategy outlines initiatives and associated costs.

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**Amendment submitted to Council**

THAT the Environmental Planning Committee note that Council and other stakeholders will use the Paddington Marketing Strategy as provided at Annexure 1, as a strategic resource to utilise in the promotion of Paddington without endorsing the actions identified in the Paddington Marketing Strategy.

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

***For the Motion***

Councillor Jarvis  
Councillor Shapiro

***Against the Motion***

Councillor Elsing  
Councillor Silcocks

*2/2*

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There being no further business the meeting concluded at 7.43pm.

**We certify that the pages numbered 292 to 301 inclusive are the Minutes of the Environmental Planning Committee Meeting held on 15 June 2021 and confirmed by the Environmental Planning Committee on 12 July 2021 as correct.**

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**Chairperson**

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**Secretary of Committee**

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**Item No:** R1 Recommendation to Council  
**Subject:** **WOOLLAHRA ABORIGINAL HERITAGE STUDY**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/97199  
**Reason for Report:** To obtain Council's endorsement of the Draft Woollahra Aboriginal Heritage Study.

**Recommendation:**

THAT Council endorses the Draft Woollahra Aboriginal Heritage Study as contained in **Annexure 1** to the Environmental Planning Committee of 12 July 2021.

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**1. Background**

The Woollahra Local Government Area (LGA) is situated on Gadigal and Birrabirragal land along the southern side of Sydney Harbour stretching between South Head and Rushcutters Bay. Woollahra has a long and rich Aboriginal history which continues to be valued by Aboriginal and non-Aboriginal people today.

For thousands of years, Aboriginal people camped and moved around Woollahra and across the surrounding areas. Most of their housing and equipment was made of organic materials such as wood, bark, fibres, shell and bone. All these remains (as well as human burials) break down in the ground or in its acidic soils, unless they are incorporated into lime-rich shell middens which help to preserve them.

The types of physical evidence of ancient Aboriginal life are patterned according to the underlying geology of sandstone and sand. Sandstone is found outcropping around the headlands of Woollahra and generally occurs in parallel bands as you move upslope.

The surviving Aboriginal heritage of Woollahra provides evidence of the area's Aboriginal history stretching back thousands of years and continuing through to the present. Some of it has been documented, but much remains unrecorded in parks and backyards or buried beneath the ground.

**1.1 Relevant legislation**

**National Parks and Wildlife Act 1974**

All Aboriginal objects and places in NSW are protected under the *National Parks and Wildlife Act 1974* (NPW Act). The NPW Act has, among its objects, the 'conservation of places, objects and features of significance to Aboriginal people.'

Differing from other heritage legislation, the NPW Act protects both registered and unregistered sites. In the event of a site disturbance (such as proposed development), there are specific landforms determining the potential sensitivity of an area that need to be taken into account in the impact assessment process.<sup>1</sup>

Under the NPW Act it is an offence to ‘harm’ Aboriginal objects either knowingly (s86(1)) or unknowingly (s86(2)). Exercising due diligence is the only way to afford a legal protection to ‘unknowing harm’ to Aboriginal objects if they are unexpectedly found during construction works.

Activities that will involve harm to an Aboriginal object require an Aboriginal Heritage Impact Permit (AHIP) which can be issued by Heritage NSW. AHIPs can be issued for specific Aboriginal objects or for areas of land. In general, an AHIP application for harm to Aboriginal objects can only be submitted to Heritage NSW after development consent has been granted.

### **Environmental Planning & Assessment Act 1979**

The *Environmental Planning & Assessment Act 1979* (EP&A Act) establishes how Aboriginal heritage should be managed with respect to potential development impacts. The EP&A Act has three main parts of relevance to Aboriginal cultural heritage.

- Part 3 manages the preparation of planning instruments,
- Part 4 relates to development assessment and consent processes. It also describes the process for *integrated development* (Division 4.8) which covers development proposals which require an AHIP.
- Part 5 relates to environmental impact assessment<sup>2</sup> and State Significant Infrastructure.

The *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) is a legal document which regulates land use and development in the Woollahra LGA and has been prepared under the EP&A Act. One of the objectives of Clause 5.10 of the Woollahra LEP 2014 is to ‘conserve Aboriginal objects and Aboriginal places of heritage significance’.

It is therefore a mandatory requirement that Council considers the impact of a proposal on Aboriginal heritage when undertaking impact assessment via the Development Application (DA) process or any other type of development consents.

### **1.2 Local strategic context**

Our *Community Strategic Plan Woollahra – 2030. Our community, our place, our plan* presents a long-term vision for Woollahra. Reconciliation through acknowledging, researching and sharing the area’s Aboriginal history and heritage of Woollahra is a significant component of Council’s goals to have a ‘creative and vibrant community’ and to ‘have a connected, harmonious and engaged community.’

The *Woollahra Local Strategic Planning Statement 2020* (Woollahra LSPS 2020) is a statutory document setting out a 20-year vision and planning priorities for managing future land use and preserving the community’s values and the special characteristics of the Municipality.

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<sup>1</sup> *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* published by the Department of Environment, Climate Change and Water, dated 13 September 2010.

<sup>2</sup> Whilst Council can be the determining authority for our own works, we are still required to exercise due diligence and require AHIP approvals for activities that will involve harm to Aboriginal objects.

The Woollahra LSPS 2020 supports the implementation of legislation for Aboriginal heritage by including Planning Priority 5 *Conserving our rich and diverse heritage* (Action 28 and 29) and consultation with Woollahra's Traditional Owners by including Planning Priority 3 *Working in collaboration with our community, government, businesses and organisation* (Action 24).

The *Draft Library Strategic Plan 2021-2016* recognises the importance of highlighting the indigenous history of Woollahra and fostering public understanding of understanding of Aboriginal history and heritage. The *Draft Library Strategic Plan 2021-2016* contains the following aims:

- *In partnership with La Perouse Land Council investigate options for reflecting the indigenous history of Woollahra.* (p.27)
- *Enhance Indigenous representation as speakers or facilitators at Library events and programs.* ( p.27)

## **2. Study Justification**

Woollahra's surviving Aboriginal heritage represents a history of Aboriginal use stretching back thousands of years and continuing through to the present. Some of it has been documented, but much remains unrecorded in parks and backyards or buried beneath the ground.

Council plays a key role in implement the NSW Aboriginal heritage management procedures as both the consent authority and a land manager. However, the current guidelines and procedures are quite generic, and at times it is difficult for us to determine how they should be applied at a local level. In order for us to meet our Aboriginal heritage protection obligations more effectively, detailed research is required to update Aboriginal heritage records and distil existing requirements into a locally-tailored suite of management processes.

The Woollahra Aboriginal heritage study had become a necessity for staff to manage Aboriginal heritage in accordance with the NSW legislative framework.

### **2.1. Current records**

Aboriginal sites are recorded on the Aboriginal Heritage Information Management System (AHIMS Register). The AHIMS Register is maintained by Heritage NSW as an online database of recorded Aboriginal places and objects, referred to as Aboriginal sites, in NSW. Differing from usual heritage conservation practices, everyone is obliged to record a site with AHIMS when it is discovered, and there is no need to go through a planning proposal process.

The AHIMS Register initially derived from site records held in the Australian Museum, some of which date back to the first half of the twentieth century. Over the past 40 years Aboriginal sites have been registered by professional and amateur archaeologists, as well as Aboriginal community members, employees of organisations such as Councils, and members of the general public.

Due to its age and the differing authors, the AHIMS Register which applies to the Woollahra LGA contains a number of inaccuracies in relation to sites' exact location and associated information. This has implications when we carry out works on Council managed land, as well as difficulties during the assessment of DAs. Accurate and up to date records are required for Council to fulfil the statutory requirements to conserve Aboriginal heritage under the NPW Act and the Woollahra LEP 2014.

## 2.2. Development application process

Currently, Council has no publicly available mapping which assists applicants determine whether they need to consider Aboriginal Heritage impacts in their development. A requirement for an Aboriginal Heritage Impact Assessment is only identified by staff once a DA is lodged with Council. This creates unnecessary delays in development assessment, and is a source of frustration for applicants who are required to provide additional documentation at the cost of time and money.

Furthermore, the consideration of Aboriginal Heritage impacts at the development lodgement stage is not best heritage practice. Mitigation of Aboriginal Heritage Impacts should be considered at the design inception stage.

## 3. Project team and methodology

In March 2020, Council appointed *Coast History & Heritage* to prepare the Woollahra Aboriginal Heritage Study. The consultant team is led by historian and archaeologist Dr Paul Irish who has extensive experience as an Aboriginal heritage archaeologist, and is deeply involved with local Aboriginal communities,

The study aims were to:

- research Aboriginal cultural heritage in the Woollahra LGA,
- review and update existing listings in AHIMS,
- identify areas with Aboriginal cultural heritage sensitivity, and
- provide Council with a recommended Aboriginal heritage management strategy to manage Aboriginal heritage during development process (both DAs and development under Part 5 of the *Environmental Planning & Assessment Act 1979*).

These aims were achieved via the four staged methodology summarised in **Table 1** below.

**Table 1: Methodology of the Woollahra Aboriginal Heritage Study**

Stage	Main actions
Stage 1: Review and update AHIMS listings	<ul style="list-style-type: none"> <li>• Develop a consultation methodology in collaboration with the La Perouse LALC,</li> <li>• Undertake review of previous Aboriginal records,</li> <li>• Undertake field survey of public land in the Municipality in conjunction with La Perouse LALC</li> </ul>
Stage 2: Identify and map sensitive areas	<ul style="list-style-type: none"> <li>• Seek community input through advertising and public talks</li> <li>• Undertake targeted field survey of private land in conjunction with La Perouse LALC,</li> <li>• Survey Woollahra landform from Sydney Harbour in conjunction with La Perouse LALC and The Gamay Rangers</li> <li>• Present to the La Perouse LALC board and Woollahra Councillors (on 16 September 2020) on the initial study findings.</li> </ul>
Stage 3: Draft report and recommendations	<ul style="list-style-type: none"> <li>• Identify and map of all areas of Aboriginal heritage sensitivity,</li> <li>• Provide recommendations in relation to the Aboriginal management strategy,</li> <li>• Partnership with educational institution (Griffith University) to record Aboriginal sites</li> <li>• Submission of revised draft sensitivity mapping and draft Aboriginal heritage study report</li> </ul>

Stage	Main actions
Stage 4: Finalise report	<ul style="list-style-type: none"><li>Finalise report with La Perouse LALC and submit to Council.</li><li>Submit updated and new AHIMS listings</li></ul>

#### 4. Consultation

Consultation with the Traditional Custodians of the Woollahra LGA has been fundamental to the preparation of the study, and the consultation methodology was prepared in collaboration with the *La Perouse Local Aboriginal Land Council* (La Perouse LALC). In preparing the Draft Woollahra Aboriginal Heritage Study the project team sought feedback and involvement from multiple stakeholders at different stages of the study.

##### 4.1. Traditional Custodians of the Land

The Woollahra LGA is located in the La Perouse LALC area. This organisation, represents Aboriginal affairs in the area of La Perouse which includes the LGAs of Woollahra, Waverley, City of Sydney (in part), Randwick, Bayside (in part) and Sutherland Shire (in part).

The La Perouse LALC was established under the *Aboriginal Land Rights Act 1983 (NSW)* as the representative body for those belonging to the La Perouse Aboriginal community. The La Perouse LALC has a responsibility under the *Aboriginal Land Rights Act 1983* ‘to promote the protection of Aboriginal culture and the heritage of Aboriginal persons’ within its boundaries, which includes the Woollahra LGA. The La Perouse LALC also represents families with cultural and historical ties to coastal Sydney.

The La Perouse LALC has been involved in the project from inception to finalisation (as summarised in **Table 1** above). A letter of support from the La Perouse LALC is attached at Appendix A in **Annexure 1**.

Two additional organisations connected to the La Perouse LALC were consulted and provided input into the study. The first being the Gamay Rangers<sup>3</sup> who are Australia’s first urban Indigenous Ranger group. They facilitated a water based survey of Woollahra’s landforms from Sydney Harbour on 23 February 2021, attended by representatives from La Perouse LALC, Coast History & Heritage and Council staff (see **Figure 1** below).

On the advice of the La Perouse LALC, the study involved input from the Gujaga Foundation<sup>4</sup>, which is the peak organisation leading language, cultural and research activities within the La Perouse Aboriginal community. The Gujaga Foundation (Gujaga) have been consulted throughout all stages of the project and have reviewed and supports the final draft report. A letter of support from the Gujaga Foundation is attached at Appendix A in **Annexure 1**.

<sup>3</sup> <https://www.niaa.gov.au/indigenous-affairs/environment/indigenous-rangers-working-country/gamay-botany-bay-rangers>.

<sup>4</sup> <https://www.gujaga.org.au/about>

#### 4.2. State and Commonwealth Agencies

During the study, consultation and land access was sought from other State and Commonwealth Government bodies, such as the NSW National Parks and Wildlife Service, HMAS Watson and Sydney Living Museums. These bodies facilitated access to:

- The HMAS Watson precinct managed by the Commonwealth of Australia,
- Nielsen Park managed by NSW National Parks and Wildlife Service and
- Vaucluse House and grounds, managed by Sydney Living Museums.



*Figure 1: Photo taken from the boat during the water based survey of Woollahra's landforms*

#### 4.3. Private landowners

During Stage 2 of the study, approximately 35 AHIMS listings were identified as being on privately owned land. These landowners were contacted and asked to provide external access to their properties to determine the precise location of the Aboriginal site and verify their status. Thirteen landowners provided access to their properties.

#### 4.4. Council managed land

Council's parks, reserves and lookouts have been extensively inspected as part of the study across several days of field surveys in collaboration with key outdoor Council staff. This also includes areas owned by Crown Lands and managed by Council.

Concurrently with the preparation of the Woollahra Aboriginal Heritage Study, the Open Space & Trees team engaged Coast History & Heritage to undertake a parallel heritage study for the Crown Land Reserves Plans of Management. This work greatly informed and complemented the Aboriginal Heritage Study.



#### 4.5. Public exhibition

Through July to November 2020, we advertised the Study to raise awareness and seek input from our community. The following mechanisms were used:

1. A notice in the Woollahra Newsletter on 9 July 2020.
2. A notice in the “Message from the Mayor” in the Wentworth Courier on 18 August 2020
3. Thirteen weekly notices in the Wentworth Courier providing details of the exhibition from Wednesday 2 September 2020 to 25 November 2020.
4. A notice in the What’s on Woollahra newsletter on 25 September 2020. This is a monthly e-news covering Council news, projects and events with over 5,000 subscribers signed up on an opt-in basis.
5. An online talk on 13 October 2020 which focused on the Study and its intention. This talk was presented by Dr Paul Irish and Council staff.
6. A second online talk on 3 December 2020 which presented the research team from the Gujaga Foundation at La Perouse LALC and Dr Paul Irish. This talk aimed to explain how Aboriginal people identify with Country across coastal Sydney and how these connections were maintained in colonial Sydney

In response to this exhibition, we received five written submissions, and a redacted copy of these submissions is attached at **Annexure 2**. The submissions were received from the following individuals:

- Dr Richard Barz
- Prof. Patricia Armati
- Andrew Woodhouse (President, Potts Point & Kings Cross Heritage & Residents’ Society)<sup>5</sup>
- Rob Joyner (Paddington resident); and
- Jilian Blackall (Historical Officer, Darling Point Society)

These submissions included nominations for additional sites and some provided additional historical information. This information was provided to consultant team and La Perouse LALC. In some cases, the team consulted further with the authors, seeking clarification over the locations and historical knowledge of the areas mentioned. Following this, and in consultation with La Perouse LALC, the sites were inspected and surveyed and, where relevant, AHIMS listings have been updated or created.

#### 5. Draft Woollahra Aboriginal Heritage Study

The Draft Woollahra Aboriginal Heritage Study (the Study) was prepared over 16 months from March 2020 to July 2021 and is attached at **Annexure 1**. It provides us with a wealth of information and recommendations to ensure that we are respecting and celebrating our Aboriginal heritage whilst ensuring that development is undertaken with a greater awareness of this important heritage.

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<sup>5</sup> The extract from the Chapter from *Paddington: A History* by Dr Paul Irish has been removed.

The Study involved extensive consultation with various internal and external stakeholders, historic research, surveys of private and public land and mapping of Aboriginal sensitive land. The study involved:

- close collaboration and consultation with the La Perouse LALC;
- detailed research into existing records of Aboriginal heritage and Aboriginal history;
- review of historical impacts to land across the Local Government Area;
- survey by land (see **Figure 2** below) and water to find Aboriginal sites and identify areas where they may be present;
- public engagement through media and Council notices and a public talk series;



*Figure 2: Land survey with La Perouse LALC heritage officers, Consultant Team and Council staff*

In preparing this study, the consultant team were able to discover new items of Aboriginal heritage significance that will now be listed and protected via the AHIMS register, and significantly improved existing AHIMS listings that have now been accurately reviewed and recorded.

The Study at **Annexure 1** is divided into the following chapters.

1. Introduction to the study
2. Aboriginal Cultural Values
3. The local setting of Woollahra LCA
4. Aboriginal people in Woollahra
5. Aboriginal heritage in Woollahra
6. Woollahra Aboriginal heritage management strategy
7. Study recommendations
8. References
  - A series of Appendixes which includes a confidential updated AHIMS Register

### 5.1. Draft Woollahra Aboriginal heritage management strategy

Chapter 6 of the Study identifies the proposed *Aboriginal heritage management strategy* (the Strategy). The Strategy provides a step-by-step process to inform how aboriginal heritage should be managed in the Woollahra LGA. This will inform development applicants, development assessment planners and Council staff undertaking activities on Council managed land.

The Strategy seeks to strike a balance between the need to protect Aboriginal heritage, and the need to ensure fairness for applicants by providing clear and consistent reasons for where and why Aboriginal heritage assessments are required. It is based on the research undertaken for this study and the current legal and policy requirements regarding Aboriginal heritage. Implementation of its recommendations will require the development of internal policies and procedures.

The Strategy consists of the following key elements:

1. An interactive GIS Aboriginal Heritage Sensitivity Map which incorporates the Aboriginal Heritage Place List. This is intended to be a live map that will be updated as information is submitted to Council.
2. Procedures for DAs based on a simplified public version of the Aboriginal Heritage Sensitivity Map and revised DA guide (see **Figure 3**).
3. Procedures for Council planners in their assessment of DAs.
4. Procedures for Council workers undertaking activities.



*Figure 3. Public version of the Aboriginal Heritage Sensitivity Map.*

If the Study is supported by Council, this Strategy will provide Council with:

- Increased protection for Aboriginal sites,
- Awareness of Aboriginal heritage upfront in the conveyancing process by including a notation on a 10.7 Planning Certificate<sup>6</sup>,
- An LGA wide sensitivity mapping for Aboriginal heritage clearly identifying the level of sensitivity of each parcel of land and providing accurate location and information of AHIMS listings,
- Enhancement of the involvement of La Perouse LALC during the assessment process,
- Recommended training for all relevant Council staff, and
- A best practice framework for applicants and staff to identify our requirements under the relevant legislation.

## 5.2. Recommendations

Chapter 7 of the Study provides a series of short, medium and long term actions to ensure that the Strategy is enacted and embedded into the functions of Woollahra Council. Whilst most of these are related to the best practice management of Aboriginal heritage in the development process, some of these suggestions go beyond to ensure that Aboriginal heritage in Woollahra is protected, understood and celebrated. Examples include:

- Develop an *Aboriginal Cultural Mapping Project* in consultation with the La Perouse LALC and Gujaga Foundation to identify areas of cultural and historical significance that may not be associated with material culture (such as archaeological remains) including traditional pathways, waterways and camping sites that offer less tangible aspects of Woollahra's Aboriginal heritage.
- Continue developing activities to foster public understanding of Aboriginal history and heritage, such as:
  - history talks and exhibitions,
  - guided walks on Council lands,
  - enhancing electronic information resources available at Woollahra Libraries and
  - preparing interpretative and educational materials on public land.
- Develop a project brief for the Aboriginal site monitoring program to provide ongoing monitoring of registered AHIMS sites to check their condition and identify potential threats.

## 6. Conclusion

Council's current Aboriginal heritage management measures draw on the available (and inaccurate) information in the AHIMS register and the broad and generic guidelines produced by Heritage NSW. Within the development assessment process, Aboriginal heritage is usually only considered post DA lodgement which causes delays and frustration to applicants.

In order for Woollahra to meet its Aboriginal heritage protection obligations more effectively, Council staff engaged Coast History & Heritage to undertake the Woollahra Aboriginal Heritage Study in consultation with La Perouse LALC.

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<sup>6</sup> A 10.7 Planning Certificate is a legal document issued under Section 10.7 of the EP&A Act. Planning Certificates give information to a purchaser on the development potential of a parcel of land including the planning restrictions that apply to the land on the date the certificate is issued.

The Study is recommending a locally-tailored suite of best practice management processes to ensure Aboriginal heritage can be protected, managed, valued and celebrated in the Woollahra LGA for generations to come. The Study provides us with a Strategy to manage development across the LGA, and promote a greater awareness of local Aboriginal heritage in the community and across Council in a culturally appropriate manner.

Should Council endorse the Study, Council staff will commence implementation of the Strategy, and prioritise the enhancements of the development assessment process to ensure that we are meeting our obligations under the NPW Act and the EP&A Act.

It is recommended that the Draft Woollahra Aboriginal Heritage Study is received and endorsed by Council.

### **Annexures**

1. Draft Woollahra Aboriginal Heritage Study Report - July 2021 [↓](#) 
2. Redacted copy of submissions received from Woollahra community [↓](#) 



## Woollahra Local Government Area

### Aboriginal Heritage Study



June 2021

Draft report prepared for Woollahra Municipal Council

**WARNING: Aboriginal & Torres Strait Islander readers should note that this document contains images of deceased Aboriginal people**



DRAFT Aboriginal Heritage Planning Study  
Woollahra Municipal Council

The authors acknowledge with respect that this study has taken place on the lands and waters of the Gadigal and Birrabirragal people, the traditional custodians of Woollahra.

We acknowledge the Gadigal and Birrabirragal people and all of the coastal Aboriginal people of Sydney who have cultural and historical links to Woollahra, and pay respect to their Elders past and present. We also acknowledge all of the Aboriginal and Torres Strait Islander people who today call Woollahra home.



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## 1 Introduction to the study

Coast History & Heritage ('Coast') have prepared this Aboriginal Heritage Study ('the study') to assist Woollahra Municipal Council ('Council') to develop management procedures in relation to Aboriginal heritage on Gadigal and Birrabirragal land in the Woollahra Local Government Area (**Figure 1**). The study was informed by goals outlined Council's 2018 Community Strategic Plan (*Woollahra – 2030. Our community, our place, our plan*) for 'a connected, harmonious and engaged community for all ages and abilities', and 'a creative and vibrant community'. It was informed more specifically by actions outlined in the 2020 Woollahra Local Strategic Planning Statement to undertake a study in conjunction with the La Perouse Local Aboriginal Land Council to support the implementation of Aboriginal heritage legislation in the Woollahra Local Government Area.<sup>1</sup> Sharing, acknowledging and respecting Aboriginal heritage and history forms part of these goals, and the study aims to assist in this regard and ensure that future development is undertaken with a greater awareness of this important heritage.

The study was commissioned in early 2020 and completed over the following 15 months. It has involved:

- close collaboration and consultation with the La Perouse Local Aboriginal Land Council;
- detailed research into existing records of Aboriginal heritage and Aboriginal history;
- review of historical impacts to land across the Local Government Area;
- survey by land and water to find Aboriginal sites and identify areas where they may be present;
- public engagement through media and Council notices and a public talk series;
- development of Aboriginal heritage sensitivity mapping to guide management procedures; and
- determination of an Aboriginal heritage management strategy and study recommendations.

The results of these main steps are detailed in this report. This draft report has been provided to Council for consideration and formal adoption. Implementation of its recommendations will require the development of internal policies and procedures that will be guided by the processes outlined in the management strategy.

### 1.1 The Woollahra Local Government Area

The Woollahra Local Government Area (LGA) is situated on Gadigal and Birrabirragal land along the southern side of Sydney Harbour between the harbour mouth at South Head and Rushcutters Bay. It covers an area of approximately 12km<sup>2</sup> (1,220 hectares) comprising the suburbs of Bellevue Hill,

<sup>1</sup> Woollahra Municipal Council 2020. *Woollahra Local Strategic Planning Statement*, Planning Priority 5, Actions 28, 29 and 30.



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Darling Point, Double Bay, Edgecliff, Paddington (part), Point Piper, Rose Bay, Vaucluse (part), Watsons Bay and Woollahra (**Figure 1**). In this study Woollahra means the LGA, and to avoid confusion we use the term ‘the suburb of Woollahra’ if we are discussing that specific area.

Woollahra is defined by landform, and this has strongly influenced how both Aboriginal people and more recent arrivals have lived there. Its northern boundary is the shoreline formed by the creation of the harbour around 7,000 years ago (see **Section 3.1**) while its southern boundary is the ridgeline between the harbour and Gamay (Botany Bay) that is now traced by Oxford Street and Old South Head Road. The land drains north into the harbour via a series of long buried creeks interspersed by rocky and sandy ridges and headlands.

Woollahra Municipality has had its current form since 1968 after several boundary changes in the century after it was first proclaimed in 1860. As of the 2016 census, it was home to around 54,000 residents, including 160 Aboriginal and Torres Strait Islander people (though many more live in surrounding suburbs). The LGA is wholly within the administrative boundaries of the La Perouse Local Aboriginal Land Council.



Figure 1. Woollahra Local Government Area and its suburbs.



## 1.2 What is Aboriginal heritage?

This study is about the identification and protection of Aboriginal heritage – so what do we mean by that? Aboriginal heritage includes places and landscapes that relate to Aboriginal culture and history. These can be ancient but they are not just things of the past. For Aboriginal people these places and landscapes can continue to hold meaning; meaning that is embedded in the land and held in the hearts and minds of people today. Aboriginal heritage can and should be considered important by non-Aboriginal people, but Aboriginal people are the only ones who can determine the cultural significance of this heritage, and the significance they give to particular places can change over time. For this reason it is essential, as this study has done, to actively involve Aboriginal people in the protection and management of their ancestral places.

Places do not have to contain physical remains of the past to have Aboriginal heritage significance. They can include 'natural' features like:

- **places of cultural significance** to Aboriginal people, such as those associated with creation stories.
- **areas and landscapes** like Sydney Harbour itself, which are culturally important as places of connection, places of history, and places of plenty.

Aboriginal heritage also includes the places in which Aboriginal history 'happened'. We often call these Aboriginal 'sites' and imagine them to be ancient, but they can include historical and contemporary places also. Some examples already documented in Woollahra are shown in **Figure 2** and include:

- **living places** where Aboriginal people camped around the harbour shores and creeks and in the bush behind. These include sandstone rockshelters or camps in the open that can contain substantial physical evidence of past Aboriginal use such as food remains (shells, animal and fish bones), tools of stone, bone or shell and the remains of cooking fires. Sometimes though, all that has survived are isolated, discarded implements.
- **ceremonial and cultural places** like engravings carved on rock, hand stencils and other figures painted in rockshelters and places where ceremonial activities like payback contests took place.
- **resource places**, where water or food was sourced, or bark was removed from trees for making containers, shields and other implements.
- **places of burial**, where loved ones were laid to rest.
- **visited places**, where axes and other tools were sharpened, or in later times, where Aboriginal people interacted with Europeans in and around historical buildings, estates and other places.
- **contemporary places** of work or recreation.



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**Figure 2. Examples of Aboriginal heritage places within Woollahra.**

[Precise locations of places are not identified and burial places have not been shown. A) Shoreline within Nielsen Park that contains living places and art. B) A rockshelter above the shore that contains a shell midden. C) A piece of glass found in sand dunes at Rose Bay that has been transformed into a cutting edge. D) Red painted motifs in a rockshelter. E) Engraved figure on a sandstone outcrop. F) Vaucluse House in and around which Aboriginal people lived and worked in the nineteenth century. Photos by Coast 2015 - 2021].

There are a number of definitions applied to Aboriginal heritage in legislation and policy in NSW. Of most relevance are the definitions of 'Aboriginal object' and 'Aboriginal place' in the *National Parks & Wildlife Act 1974* (the 'NPW Act'). The NPW Act defines an 'Aboriginal object' as



*'any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains'<sup>2</sup>*

They are commonly referred to as Aboriginal sites (e.g. campsites, scarred trees, rock engravings), while Aboriginal remains refers to human remains such as burials or any skeletal remains of Aboriginal people.

An 'Aboriginal place' is defined as 'any place declared to be an Aboriginal place under section 84' of the NPW Act. It is a place which *'in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.'*<sup>3</sup> There are no Aboriginal places currently registered within Woollahra Local Government Area.

In the Woollahra Local Environmental Plan 2014, the definition of 'Aboriginal object' follows the NPW Act definition, but includes a broader definition of 'Aboriginal places of heritage significance'. In addition, items listed on heritage registers for their non-Aboriginal heritage significance or natural values can also have Aboriginal values. Added to this, much Aboriginal heritage is not found on any formal register; instead it exists in museum collections, newspaper recollections of historical Aboriginal camps or burials dug up long ago by workmen, not to mention intangible heritage of continuing significance to Aboriginal communities.

None of these existing definitions capture the breadth of Aboriginal heritage. For this reason, in this study the term 'Aboriginal heritage' is used to speak of all of these types of places and associations, while the term 'Aboriginal heritage place' refers more specifically to locations in which Aboriginal heritage values have been defined. We recognise that neither of these terms has broadly accepted meaning, but we consider it preferable to use these in favour of existing definitions which are much more restrictive and narrow.

Many types of Aboriginal heritage are protected by law, but these laws are most readily applied to surviving physical traces of the Aboriginal past. As a result, this study and the Aboriginal heritage management strategy it contains, focus on the identification and protection of these physical 'sites' in relation to developments and other impacts. However we have also considered other types of Aboriginal heritage places and have provided recommendations about how other values could be recorded and celebrated in Woollahra to ensure that we do not lose a sense of the living, ongoing vitality of Aboriginal heritage.

### **1.3 How is Aboriginal heritage currently managed and protected?**

The following is a brief summary of the applicable laws and policies in place in New South Wales to protect and manage Aboriginal heritage, with a focus on the roles and responsibilities of local

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<sup>2</sup> NPW Act Section 5(1).

<sup>3</sup> NPW Act Section 84.



government. A more detailed overview of Aboriginal heritage legislation and policy is contained in **Appendix E**.

### **1.3.1 State legislation**

Aboriginal heritage is protected in NSW primarily through the following legislation:

#### ***National Parks and Wildlife Act 1974***

Legal protections are provided to Aboriginal heritage under the *National Parks & Wildlife Act 1974* (the 'NPW Act'). The Aboriginal heritage provisions of the NPW Act are currently administered by Heritage NSW, Department of Premier & Cabinet. The NPW Act gives statutory protection to Aboriginal 'objects' under Section 90, and to 'Aboriginal Places' under Section 84.

Under the NPW Act it is an offence to cause 'harm' to Aboriginal objects, which includes destroying, defacing, damaging and moving them. There are penalties for both knowingly and unknowingly harming Aboriginal objects (s86(1) & (2)), but there are a number of situations which provide exceptions or defences for unknowing harm. These include having undertaken a process of Due Diligence which concluded that a proposed activity would not result in harm to Aboriginal objects, and exceptions for a range of minor activities on land defined as disturbed.

Activities that will involve harm to an Aboriginal object require an Aboriginal Heritage Impact Permit (AHIP) under s90 of the NPW Act, which can be issued by Heritage NSW. AHIPs can be issued for specific Aboriginal objects or for areas of land. In general, an AHIP application for harm to Aboriginal objects can only be submitted to Heritage NSW after development consent has been granted. The application must be accompanied by an Aboriginal Cultural Heritage Assessment Report (ACHAR) which must be prepared in accordance with current guidelines, and include full documentation of a prescribed process of Aboriginal community consultation in accordance with s60 of the National Parks and Wildlife Regulation 2019.<sup>4</sup>

#### ***Environmental Planning & Assessment Act 1979***

The way in which Aboriginal heritage is managed with respect to potential development impacts is set out in the provisions of the *Environmental Planning & Assessment Act 1979* (the 'EP&A Act'). The EP&A Act has three main parts of direct relevance to Aboriginal cultural heritage. Namely, Part 3 which governs the preparation of planning instruments, Part 4 which relates to development assessment and consent processes and Part 5 which relates to environmental impact assessment and State Significant Infrastructure. Councils can be determining authorities in relation to their own works and often do not require the same assessment rigour as other proponents (although under the NPW Act with its strict liability provisions, Councils are still required to exercise Due Diligence and require AHIP approvals for harm to Aboriginal objects).

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<sup>4</sup> DECCW 2010. *Code of Practice of Archaeological Investigation of Aboriginal Objects in NSW*; DECCW 2010. *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks & Wildlife Act 1974*; OEH 2011. *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*.





Part 4 deals with the process of obtaining development consent from local government authorities, including the requirement for documentation of an assessment of potential development impacts in certain cases. It also describes the process for *integrated development* (Division 4.8) which covers those development proposals requiring an AHIP under s90 of the NPW Act.

The EP&A Act provides for the preparation of Local Environmental Plans (LEPs) according to a standard template to guide future development within local government areas. LEPs have mechanisms to protect Aboriginal heritage through listing of 'Aboriginal places of heritage significance' on Schedule 5 (Environmental Heritage) and inclusion on the Heritage Map of the LEP, or through identification in an Aboriginal heritage study. Protection through listing in Schedule 5 and the Heritage Map can be useful, however this was designed primarily to protect non-Aboriginal heritage, and does not neatly fit in with existing legal protections and processes for Aboriginal heritage under the NPW Act (for example the need to keep two separate registers updated for the same places). For this reason, the Aboriginal heritage management strategy developed for Woollahra does not make use of these LEP mechanisms.

### 1.3.2 Policy guidelines

The following documents (described in **Appendix E**) provide current guidelines as to how to investigate Aboriginal heritage and apply for Aboriginal Heritage Impact Permits.

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* published by the Department of Environment, Climate Change and Water, dated 13 September 2010;
- *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* published by the Department of Environment, Climate Change and Water, dated 24 September 2010;
- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* published by the Office of Environment & Heritage, dated April 2011; and
- *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks and Wildlife Act 1974* published by the Department of Environment, Climate Change and Water, dated April 2010.

### 1.3.3 The role of local government

Local government plays a key role in the protection and management of Aboriginal heritage, as a planning and consent authority, as a land manager, and as part of its overall role to serve the needs of local residents, which includes Aboriginal people and non-Aboriginal residents for whom Aboriginal heritage is also important. Some key legal and policy imperatives for the active involvement of Council which underpin the current study are:

- Council as a land manager is subject to the legal requirements of the NPW Act, the National Parks and Wildlife Regulation 2019 and the EP&A Act.



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- Council as a consent authority is required by Section 5.10(8) of the Woollahra LEP 2014 to consider the effects of a proposed development on Aboriginal heritage, before granting development consent.
- Council as a planning authority has a stated aim to conserve Aboriginal heritage under Planning Priority 5 of the 2020 Woollahra Local Strategic Planning Statement,<sup>5</sup> which aligns with similar aims in the Regional Plan (Objective 13) and District Plan (Priority E16) under which it sits.<sup>6</sup>

Local government can also play an important role in fostering Aboriginal heritage protections through increasing public awareness and appreciation of Aboriginal culture and history. The Local History team at Woollahra Library and Council's Community Development team undertake a range of valuable public activities including:

- hosting Aboriginal history talks and exhibitions.
- conduct Bush Tucker walks each year with Bush Tukka Dreaming.
- holding a range of activities to acknowledge and celebrate NAIDOC Week and Reconciliation Week each year.
- the Local History team also provides Council staff with Aboriginal history information to assist with the development of historical interpretation.

More activities continue to be planned. For example the current draft Library Strategic plan 2021 – 2026 includes the following actions:

- In partnership with La Perouse Land Council investigate options for reflecting the indigenous history of Woollahra.
- Enhance Indigenous representation as speakers or facilitators at Library events and programs.<sup>7</sup>

The possibilities for building on this important work are discussed further in **Section 6.8.7**.

#### 1.3.4 Future changes

Since 2013, there has been a proposal to take the Aboriginal heritage provisions out of the NPW Act and create a new, standalone Aboriginal heritage act. The new act would make some significant changes to the way in which Aboriginal heritage is managed under state law. However, as yet there is little detail about how the system will work in practice, nor when it will come into effect. Legislation enabling the establishment of an Aboriginal Cultural Heritage Authority, which will

<sup>5</sup> Woollahra Municipal Council 2020. *Woollahra Local Strategic Planning Statement*.

<sup>6</sup> Greater Sydney Commission 2018. *Our Greater Sydney 2056. Eastern City District Plan – connecting communities*; Greater Sydney Commission 2018. *Greater Sydney Region Plan. A Metropolis of Three Cities – connecting people*.

<sup>7</sup> Woollahra Libraries and Think Place 2021. *Draft Library Strategic Plan. Co-designing Library Strategic Plan 2021-2026*, p. 27.



establish the parameters of a new system, is yet to pass the NSW Parliament. Once passed, it is still expected to be at least several years before the new system is ready to operate.

At this stage then, there is little that can be done with respect to preparing Woollahra for any possible future changes to the state Aboriginal heritage legislation, and it is not considered further in this study. However while the detail of the possible new system is still largely unknown, it is clear from public discussions to date that any new system will be based on a more detailed understanding of the known and potential Aboriginal heritage of different areas than is provided by the state Aboriginal site register. In particular, the new system is likely to draw on the results of projects like the current study.

#### ***1.4 Why was this study needed?***

The surviving Aboriginal heritage of Woollahra represents a history of Aboriginal use stretching back thousands of years and continuing through to the present. Some of it has been documented, but much remains unrecorded in parks and backyards or buried beneath the ground. It has endured natural environmental changes such as erosion, the gradual reshaping of the environment through farming and market gardening in the nineteenth century and the subdivision of former farms into a carpet of housing in the twentieth century, each of which have destroyed some other Aboriginal heritage places.

With the exception of some apartment buildings and shopping centres, most development until the last few decades has been built over the underlying sandstone rock and sand dunes rather than into them. In the twenty-first century, a rising Sydney population and increasing land values have made it more desirable to cut through rock and sand to maximise the use of space within properties; a transformation that can readily be seen on building sites across Woollahra on any given day. For the first time, we risk losing many of the remaining traces of the Aboriginal past, sometimes before we even knew they were there.

For more than forty years state laws have provided legal protections for Aboriginal heritage, and provided a framework for considering the potential Aboriginal heritage impacts of developments. Since 2011, the current statewide Aboriginal heritage management procedures have been in force, supported by a series of guidelines and a state register of Aboriginal sites. In theory, local government plays an important role in implementing these – as both a consent authority and a land manager, and there is also a growing awareness of the ethical and moral responsibilities of local government to take action to protect, promote and celebrate the Aboriginal history and heritage of their area. But the procedures are quite generic, and it is difficult for Councils to determine how they should be applied at a local level. At the same time, the state Aboriginal site register, on which many of these processes rely, is an incomplete and inaccurate record which is poorly suited to providing information about the presence or absence of Aboriginal sites in any area.

At present, Council's Aboriginal heritage management measures draw out of necessity on the available information in the state Aboriginal site register and the broad and generic guidelines produced by Heritage NSW. In order for local Councils like Woollahra to meet their Aboriginal heritage protection obligations more effectively, detailed research is required to update Aboriginal



heritage records and distil existing requirements into a locally-tailored suite of management processes. That is why this study was undertaken, and what it has provided. Hopefully it will help to ensure that Aboriginal heritage can be recorded, protected and valued in Woollahra for generations to come.

### **1.5 How was the study undertaken?**

The Aboriginal heritage study involved the main components outlined in **Sections 1.5.1 – 1.5.5** following. Some tasks or their timing had to be modified in light of COVID-19 restrictions which were in place in some form throughout most of the study. This primarily affected the ability to hold face to face meetings, however overall results were not impacted by these restrictions. Many of the tasks below resulted in the production of mappable information which was compiled and analysed using QGIS mapping software in order to output map products for Council in ESRI Shapefile format.

#### **1.5.1 Aboriginal community consultation**

All aspects of the study were undertaken in close collaboration with the La Perouse Local Aboriginal Land Council ('LALC'). The La Perouse LALC has a responsibility under the *Aboriginal Land Rights Act 1983* 'to promote the protection of Aboriginal culture and the heritage of Aboriginal persons'<sup>8</sup> within its boundaries, which includes the Woollahra LGA. The La Perouse LALC also represents families with cultural and historical ties to coastal Sydney. The involvement of the La Perouse LALC included:

- An initial meeting in April 2020 between the Coast team, La Perouse LALC and Council staff to introduce the study and determine appropriate consultation protocols. Based on the results of this meeting, an Aboriginal community consultation strategy was drafted to guide the study.
- Involvement of La Perouse LALC heritage officers in field survey for the study over 15 days between June and November 2020. This included discussions with senior heritage officer David Ingrey and La Perouse LALC Chief Executive Officer (CEO) Chris Ingrey to design the survey priorities, and briefings and provision of maps and plans ahead of each day of survey to explain the aims for the day. LALC heritage officers were actively involved in all aspects of the survey, including locating and recording sites, record keeping and the interpretation of landscape features (**Figure 3A & B**). An additional day of survey was undertaken by boat in February 2021 in conjunction with the La Perouse based Gamay Rangers (**Figure 3C**).
- La Perouse LALC CEO Chris Ingrey was provided with updates on the study and a presentation was made to the LALC board in September 2020. In addition LALC Chairperson Noeleen Timbery attended and addressed a Councillor briefing on the study in September 2020.
- The proposed Aboriginal heritage management strategy was discussed with La Perouse LALC heritage officers in April 2021 and updates were provided to senior heritage officer David Ingrey following subsequent amendments to the strategy based on the results of meetings with Council staff.

<sup>8</sup> *Aboriginal Land Rights Act 1983*, s52(1)(m).



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- A further meeting was held with La Perouse LALC CEO Chris Ingrey and senior heritage officer David Ingrey on 3 June 2021 to discuss the final amended procedures.
- The draft report was provided to the La Perouse LALC for review and comment in June 2021, and Paul Irish of Coast and Anne White and Flavia Scardamaglia from Council presented the draft study report to the La Perouse LALC board on 16 June 2021.
- Paul Irish subsequently discussed the management strategy and recommendations with La Perouse LALC Senior Heritage Officer David Ingrey on 22/6/21.
- The La Perouse LALC have provide a letter of support for the study as attached in **Appendix A**. The LALC has strongly supported the recommendations of the study and congratulated Council ‘for their genuine interest in the protection and appreciation of Aboriginal heritage within its area’.



**Figure 3. Aboriginal community engagement in the Aboriginal heritage study.**

[A) Pre-survey briefing by Coast Director Paul Irish. B). Survey in progress with Coast, LALC heritage officers and Rudi Adlmeyer from Council. C) Boat survey in February 2021 with the Gamay Rangers. D) Public talk with the Gujaga Foundation. Source: A & C Woollahra Municipal Council 2021. B & D Coast 2021].



In addition, on the advice of the La Perouse LALC, we discussed the study with the Gujaga Foundation, which is the peak organisation leading language, cultural and research activities within the La Perouse Aboriginal community.<sup>9</sup> We met with the Gujaga Foundation in May and October 2020 to discuss the study and any particular cultural and historical associations that should be considered. In addition Ray Ingrey, Dr Shane Ingrey, Kodie Mason and Sophie Youngberry of the Gujaga Foundation co-presented a well-attended online public talk through Woollahra Library about the study with Coast Director Paul Irish in December 2020 (**Figure 3D**).

The Gujaga Foundation was also provided with a copy of the draft report for comment in June 2020, and its findings were discussed with Gujaga Foundation Chairperson Ray Ingrey on 18/6/21. The Gujaga Foundation wrote in support of the study (see **Appendix A**) and 'looks forward to future works undertaken to further protect and promote the rich local Aboriginal heritage of Woollahra in an authentic and culturally appropriate way'.

### 1.5.2 Archival research

Extensive archival research informed the study, drawing on existing information held by Coast, and additional information in local and state archives. The research had two main components:

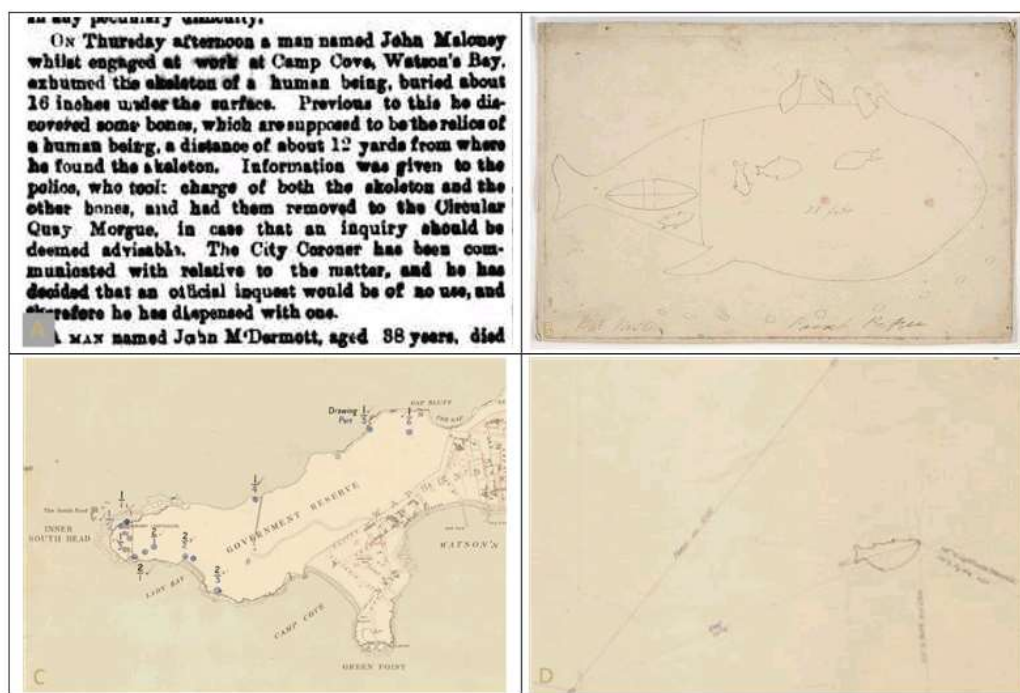
#### Aboriginal site records

A detailed study was made of records of Aboriginal sites within Woollahra with the aim of revisiting all previously recorded sites on public lands and on private lands (with permission). The main repository of this information is the Heritage NSW Aboriginal Heritage Information Management System ('the AHIMS Register') which includes a register of Aboriginal sites within NSW and a catalogue of archaeological reports. Data from the AHIMS Register was obtained through an existing Aboriginal Heritage Information Licence Agreement between Council and AHIMS. This data consists primarily of archaeological sites, each with a unique ID number, grid coordinates and one or more site 'features'. Many of the listed coordinates are known to be incorrect to varying degrees, and the AHIMS Register largely contains sites recorded by archaeologists rather than those known from other sources. For this reason, the study involved the creation of a mappable Aboriginal Heritage Place List that brought together all of the available records from the AHIMS Register and other sources and contained consistent and updated information about locations and conditions (see **Appendix B**). The main tasks in the compilation of the Aboriginal Heritage Place List were as follows:

- Mapping and analysing AHIMS Register data using QGIS.
- Obtaining and reviewing original site cards for all sites within the LGA from Council and the AHIMS Register and adding details from these into a more detailed Aboriginal Heritage Place List spreadsheet.
- Examining and adding other records of Aboriginal heritage places from:
  - Historical newspaper reports of the discovery of Aboriginal burials and objects (**Figure 4A**).

<sup>9</sup> <https://www.gujaga.org.au/about> [accessed 25/3/21].

- Australian Museum records of objects collected or donated from Woollahra (see **Appendix C**).
- Previous Aboriginal heritage investigations with details of recorded but unregistered Aboriginal sites (see **Appendix D**).
- Archival records of Aboriginal site recordings held at the NSW State Library, and the National Parks & Wildlife Service, such as images and maps of rock engravings by W.A. Miles in the 1840s at Camp Cove and Point Piper, William Campbell in the 1890s across Woollahra and J.C. Lough and Rosemary Taplin in the 1960s and others (**Figure 4B & C**).
- Using information from the above records to update site location information on AHIMS. In particular the recordings of Campbell in the 1890s include a set of detailed maps at the NSW State Library with bearings and distances of recorded engravings from landmarks which allow checking using functions of QGIS (**Figure 4D**). This revealed some AHIMS Register coordinates to be inaccurate by up to several hundred metres in some instances.



**Figure 4. Archival records of Aboriginal heritage places outside of the AHIMS Register.**

[A] An Aboriginal burial found at Camp Cove in 1883 (*Sydney Morning Herald* 28/7/1883, p. 9). B). Rock engravings recorded at Point Piper in the 1840s by W.A. Miles (NSW State Library A610 [CY979]). C) Map of Aboriginal engraving locations at South Head by Campbell in the 1890s (NSW State Library PXD224 Plan No. 1). D) Bearings and distances from an engraving recorded by Campbell in the 1890s that allows detailed reconstruction of its location (NSW State Library PXD223 Drawing No. 1).

- Examining selected Woollahra Municipal Council property files for properties in which Aboriginal sites had been recorded or were suspected to be located.



- Updating the Aboriginal Heritage Place List with information about site location and condition from the Aboriginal heritage survey (see below) and adding records of potential Aboriginal heritage sites (such as rockshelters with the potential to contain evidence of occupation).

On completion of the study, updating the AHIMS Register with more accurate location and condition information, and the records of any newly recorded sites or potential sites.

#### **Aboriginal and European land use history**

Archival research was also undertaken to understand how Aboriginal people have used the Woollahra area since the arrival of Europeans. This research built on detailed existing data and publications by Coast Director Dr Paul Irish.<sup>10</sup> Further research was also undertaken to understand how Europeans have used the Woollahra area since 1788 and particularly the impacts that this may have had on Aboriginal heritage places. This research initially reviewed secondary reports and publications about Woollahra, and particular suburbs and places within it.

Further primary archival research was then undertaken at the State Library of NSW, NSW State Archives and Records, the National Library of Australia and in particular the invaluable Woollahra Library Local History Collection of maps, images and other archival material. Online sources such as the National Library Trove website, *Dawn* magazine and NSW Geological Survey DIGS database were also searched. In addition, in order to resolve questions about the geology of Woollahra (see **Section 5.4**) several hundred geotechnical studies from recent development applications were reviewed and mapped.

#### **1.5.3 Field survey**

The study involved extensive archaeological field survey to locate previously recorded Aboriginal heritage places; to identify previously unrecorded Aboriginal sites and potential sites; and to assess the broader landscape of Woollahra for its Aboriginal heritage sensitivity (the likelihood that Aboriginal heritage places may survive). Survey was undertaken collaboratively by Coast with the La Perouse LALC and was informed by detailed mapping of Aboriginal sites and environment from the background research for the study. It was primarily done over 15 days in June and October/November 2020 in teams of three to six people in a series of planned walks around streets, through parks and (with permission) onto private properties (see **Figure 3**). Participants included Coast archaeologists Fenella Atkinson, Rebecca Bryant, Bonnie Clark and Paul Irish and La Perouse LALC heritage officers Uncle David Ingrey, Donna Daly, Steven Ella, Shane Ingrey and Richard Silva. We were joined on some days by Woollahra Municipal Council heritage officers Flavia Scardimaglia, Shona Lindsay and Charlotte Simons, and also benefited from the extensive local knowledge of Council Bushcare Liaison Officer Rudi Adlmayer. In addition a boat survey was undertaken in conjunction with the La Perouse LALC and the Gamay Rangers in February 2021 and some additional field checking of geology was undertaken by Coast in March 2021.

Most of the survey took place on public lands including Council managed reserves and national parks, as well as along streets. As Aboriginal sites were known to be recorded on a number of private

<sup>10</sup> E.g. Irish & Ingrey 2011; Irish & Ingrey 2013; Irish 2017; Irish 2019.





properties, letters were sent to residents in September 2020 requesting access as part of the study and noting appropriate COVID-19 precautions to be undertaken. As precise site locations were not always known, these letters were often sent to all properties that could contain the recorded sites. On the basis of these letters and promotion of the study through the Council website and an online public talk delivered by Coast Director Paul Irish in October 2020 access was granted to thirteen properties that potentially contained Aboriginal sites. Some owners chose to withhold access and many others did not reply. As a result, some recorded Aboriginal sites on private lands were not inspected for the study.

Detailed photographic records and notes were taken during the survey and the results were used to update the Aboriginal Heritage Place List as well as mapping of historical land use impacts and areas of Aboriginal heritage sensitivity.

#### **1.5.4 Assessment and strategy**

Following the site survey and research, the results were analysed and combined to produce a map of Aboriginal heritage sensitivity across Woollahra, incorporating known and potential Aboriginal site locations, documented land use impacts and the extent of different geological contexts (see **Section 5.4**). The Aboriginal Heritage Sensitivity Map was used as the basis for the development of the Aboriginal Heritage Management Strategy including procedures for development applicants, Council planners and projects on Council managed lands. This strategy was discussed and refined in April and May 2021 with the La Perouse LALC and through a series of meetings between Coast and Council planning, heritage, open space and public works personnel. Based on these discussions the mapping and procedures outlined in **Section 6** were developed for consideration by Council.

#### **1.5.5 Public engagement**

Aboriginal heritage and history are poorly understood by most non-Indigenous Australians, which can provide a barrier to acceptance of Aboriginal heritage management strategies such as those detailed in this report. An important part of the study was therefore to demystify and explain the study, and Aboriginal heritage and history more broadly to Woollahra residents. This was done primarily through:

- Placing a public notice in the *Wentworth Courier* to alert residents to the study.
- Posting details and frequently asked questions about the study on the Council News website in November 2020,<sup>11</sup> and inviting residents to contact Council.
- Coast Director discussing Aboriginal heritage and history on local radio station Eastside FM in August 2020.
- A series of well-attended online Woollahra Aboriginal Heritage Talks via Woollahra Library in October 2020 and December 2020 (in conjunction with the Gujaga Foundation), with a third to

<sup>11</sup> [https://www.woollahra.nsw.gov.au/news/articles/aboriginal\\_heritage\\_study\\_for\\_the\\_woollahra\\_municipality](https://www.woollahra.nsw.gov.au/news/articles/aboriginal_heritage_study_for_the_woollahra_municipality) [accessed 25/3/21]



occur on completion of the study (see **Figure 3D**). These were promoted by Council through its website and Facebook page as well as through Woollahra Libraries.

- Discussions with private landowners who were contacted and/or visited as part of the study, explaining the study and Aboriginal history and heritage more generally.

As a result of these actions, several residents contacted Coast via Council with comments or questions about the study or in relation to particular Aboriginal heritage sites. These included:

- Dr Richard Barz who had researched Aboriginal rock art and had a particular interest in the engravings located around South Head and was interested in the study more generally.
- Professor Patricia Armati, who has a strong interest in the protection of Aboriginal and European heritage in Woollahra, particularly the area from Rose Bay to South Head and was interested to know more about the study.
- Andrew Woodhouse (President, Potts Point and Kings Cross Heritage and Residents' Society) who provided information about the Aboriginal history of the Rushcutters Bay area, mostly drawn from previous publications by Coast Director Dr Paul Irish.
- Rob Joyner of Paddington who provided information from his personal family records about Aboriginal people living around the Paddington area around the 1870s.

These contributions were gratefully received and were considered in the study.

### **1.6 What this report contains**

This report contains:

- the background to the study and the work and people involved (**Section 1** and **Appendix E**);
- a discussion of Aboriginal cultural values associated with Woollahra (**Section 2**);
- an overview of changes to the environment from its formation to the present day (**Section 3**);
- an overview of Woollahra's Aboriginal history (**Section 4**);
- a description of what we know about Woollahra's Aboriginal heritage and what else might survive (**Section 5** and **Appendices B, C and D**);
- the Aboriginal Heritage Management Strategy for Woollahra (**Section 6**);
- ongoing, immediate and longer term recommendations based on the results of the study (**Section 7**); and
- the references used in our report (**Section 8**).

Please note that specific permission to publish graphic materials obtained from previous publications or archival records has not been obtained for the current study. Should it be proposed



to publish the current study, such permission would need to be sought from copyright holders and/or custodians. In addition, where possible, permission should be sought from people depicted in photographs within the report in the event of publication of the current study, or proposed use of this material for other purposes.

### **1.7 Who contributed to the study**

This report was written by Coast Director Dr Paul Irish, with contributions from Coast Senior Heritage Consultant Fenella Atkinson. The Aboriginal Heritage Sensitivity Map was created by Coast GIS Analyst Nathan Spooner based on field survey, information review and GIS mapping by Fenella Atkinson, Rebecca Bryant, Bonnie Clark and Paul Irish. The environmental history provided in **Section 3.1** was written by Coast associate Professor Stephen Gale.

This study has benefited from, and depended upon, the contributions and assistance of a wide range of people. We would especially like to thank the La Perouse Local Aboriginal Land Council and Gujaga Foundation for their active involvement and ongoing support of the study from start to finish. In particular we would like to thank La Perouse LALC Chairperson Noeleen Timbery, CEO Chris Ingrey, Senior Aboriginal Heritage Officer David Ingrey, and LALC Heritage Officers Donna Daley Steven Ella, Shane Ingrey and Richard Silva. We would also like to thank Ray Ingrey, Sophie Youngberry and Kodie Mason of the Gujaga Foundation for their time and input, and Gamay Rangers Robert Cooley (Senior Ranger), April Allende, Terice Ingrey, David Johnson, Harley Lester, Bryce Liddell and Robert Russell for assisting with the field survey and knowledge of the harbour waters.

The study would not have come about without the tireless support of Council Strategic Heritage Officer Flavia Scardimaglia, who we thank greatly for her ongoing support and enthusiasm to ensure a better future for the Aboriginal heritage of Woollahra. Many other current and former Council staff have contributed to the study and we apologise for any who have been omitted from the following list – Rudi Adlmeyer, Richmond Alcorn, Chris Bluett, Vince Caccavo, Sharon Campisi, Jonathan Chan, Allan Coker, Yasas De Silva, Nick Economou, Roger Faulkner, George Fotis, Paul Fraser, Lynn Garlick, Elizabeth Hartnell, Micaela Hopkins, Richard Ladlow, Robert Lam, Aurelio Lindaya, Shona Lindsay, Craig Swift-McNair, Max Moratelli, Vicki Munro, Tom O’Hanlon, Mark Ramsay, Charlotte Simons, Nola Urquhart, Kristy Wellfare and Anne White. Coast also benefited from a concurrent project, preparing plans of management for the Crown land reserves managed by Council as Crown land manager. This project was managed by Megan Holdsworth who also provided comments on a draft of this report. The support of Woollahra Mayor Susan Wynne and other Councillors, expressed through the Councillor presentation on 16 September 2020 was also very significant for the study and is gratefully acknowledged.

The study was also greatly assisted by the Woollahra Local Studies collection and the Local History Team at Woollahra Library. The extensive collection contains a range of unique and valuable historical records that have great value to historical and heritage research, and which are becoming increasingly accessible through an ongoing digitisation project undertaken by the Local History Team. We would like to acknowledge in particular the superlative efforts of Woollahra Local Studies



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Librarians Jane Britten and Barbara Swebeck who went above and beyond in locating and providing access to a range of records which greatly assisted with research for the study. Jane and Barbara and colleagues Lauren Shiels and Danielle Aynsley are also thanked for organising and promoting the Woollahra Aboriginal Heritage Talks series.

Information was also provided by Council in the form of heritage reports and records and GIS data compiled by Jonathan Chan. We would also like to thank the Woollahra History and Heritage Society (WHHS) for their compilation of a range of very valuable local history resources, Peter Poland of the WHHS for taking time to discuss the study with Coast Director Paul Irish, and the staff of the Australian Museum in assisting with enquiries about objects from Woollahra within their collections.

Survey for the study was assisted by the following people who provided access, information and local knowledge about areas across Woollahra - Rudi Adlmeyer (Woollahra Municipal Council Bushcare Liaison Officer), Melody Puckridge (National Parks and Wildlife Service Ranger, Sydney South), Edward Champion and Susan Sedgwick (Sydney Living Museums) and Commander Ken Marr (Royal Australian Navy) and Emma Hook (HMAS Watson).

We would also like to thank Woollahra residents Professor Patricia Armati, Dr Richard Barz, Rob Joyner and Andrew Woodhouse who contributed information to the study, and those residents who provided access to their properties during the field survey.



## 2 Aboriginal cultural values

### 2.1 Aboriginal people and Woollahra

Today Woollahra has a relatively small number of residents who identify as Aboriginal or Torres Strait Islander, compared to surrounding areas. This is not an accident, but is one of many tragic consequences of past government policies, as we outline in **Section 4**. In Woollahra, the rise of the Aborigines Protection Board in the 1880s led to most Aboriginal people leaving their settlements around the harbour shore for the La Perouse Aboriginal reserve and mission by the end of the nineteenth century. In the early twentieth century many Aboriginal people fled the punitive segregation policies in rural New South Wales for the relative freedoms of the city.<sup>12</sup> Those with relatives at La Perouse tended to move around this area, while others formed a strong community around Redfern and surrounding suburbs. Large scale post-war Aboriginal migration to the city followed a similar path, drawing more and more people into these existing Aboriginal communities.<sup>13</sup>

As a consequence, while some Aboriginal people live in virtually every suburb across coastal Sydney, the main Aboriginal population centres continue to be clustered around the established Aboriginal communities in the La Perouse/Matraville/Botany area and the Redfern/Waterloo area. The lack of a large and visible Aboriginal community in the local area makes it easy to imagine that Woollahra does not have meaning and importance for Aboriginal people today. This could not be further from the truth.

When Europeans arrived in Sydney in 1788, the harbour was home to a number of Aboriginal clans. The harbour clans traced common descent from a male ancestor and shared totems. Each clan numbered around 25 to 60 people and had primary rights to their clan estate, after which they were named. Most of Woollahra was part of Gadi, the estate of the Gadigal people, which stretched east along the southern shore of the harbour from around Darling Harbour, to the estate of the Birrabirragal associated with the entrance to the harbour.<sup>14</sup>

The harbour clans were bound together by women, who married between clans.<sup>15</sup> This meant that the groups of Aboriginal people who lived on a daily basis in the Woollahra area were made up of a mixture of clans. Each person was also bound by complex webs of spiritual and family connection to areas beyond that of their clan through marriage, by the clans of the parents and grandparents, and by their place of birth.<sup>16</sup> Aboriginal people travelled widely and regularly to meet their cultural obligations.

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<sup>12</sup> Irish 2017, p. 138.

<sup>13</sup> Morgan 2006.

<sup>14</sup> Attenbrow 2010a, pp.22-30, 57-58.

<sup>15</sup> Karskens 2009, p. 37.

<sup>16</sup> Dr Shayne Williams, Dharawal Elder, 'Welcome to Gamay', [www.sydstories.com.au/#/chapter/1](http://www.sydstories.com.au/#/chapter/1) [accessed 25/2/21]; Irish 2017, pp. 17-19.



Just a year after Europeans arrived, a deadly smallpox epidemic swept around the harbour from the colony in Sydney Cove. The epidemic smashed the harbour clans, claiming countless lives and perhaps wiping out some whole families. But there were survivors. They regrouped along old lines, perhaps drawing in more distant family connections to reconstitute their groups.<sup>17</sup> It is these people that we see in the records of nineteenth century Sydney, relabelled as the 'Sydney Tribe', the 'Botany Tribe' and so on. They still had links to the lands in which they lived, but some probably drew on less direct connections through grandparents or marriage. Some of these people came to reside in the La Perouse Aboriginal community where their descendants still live. In this way, while Woollahra does not have a large resident population, there are still many people who consider it part of their traditional homeland.

## **2.2 What people told us**

In this study we have discussed with the La Perouse LALC and Gujaga Foundation, including descendants of people historically and culturally connected to coastal Sydney, what is important to them about the Woollahra area. We have also had further conversations with these and other people over recent years in relation to other history and heritage projects across Sydney. From all of these interactions, and the support and enthusiastic participation of the La Perouse LALC in the current study, it is clear that coastal Sydney descendants regard Woollahra and surrounding areas as part of their cultural area and therefore of significance to them.

Within Woollahra there are places and histories of particular significance. Some of these have cultural significance, such as a traditional punishment ground at Rose Bay, evidence of which survives today in the form of burials. All other Aboriginal sites are also considered significant and important to protect, particularly because so many have been lost through development of the area over the past century. Furthermore the historical camps of ancestors around the harbour bays continue to hold importance for descendants today. As La Perouse LALC CEO Chris Ingrey noted, it was no coincidence that the Land Council boundaries drawn up in the early 1980s included all of Woollahra, as the grandparents of Elders alive at that time had lived in these camps.<sup>18</sup> Among them was Mr Ingrey's own great great grandmother Kate Sims, who was documented living at Rose Bay, Double Bay and Rushcutters Bay in the later nineteenth century.

In addition to these places are other cultural links that remain embedded in the landscape in less tangible ways. For example pathways used by Aboriginal people (some of which may be mirrored by contemporary major roads), provide a means of understanding how places are connected. Aboriginal names also provide a window into traditional land and culture. Woollahra itself has a local Aboriginal name as do a number of features within it. The origins of these names are not always clear, but are beginning to be interrogated by Aboriginal people through the lens of their revived languages. For example the Dharawal Language Program, supported by the Gujaga Foundation, has drawn on the extensive language research and cultural knowledge still held in the community to

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<sup>17</sup> Irish 2017, pp. 22-24.

<sup>18</sup> Chris Ingrey pers. comm. 28/4/2020.



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interpret Aboriginal names elsewhere in coastal Sydney, and a similar approach could be applied to Aboriginal names within Woollahra to understand their meaning.

This intangible heritage is more difficult to define and protect, and has not been the main focus of this study.<sup>19</sup> However it will be an important and complementary aspect of Woollahra's Aboriginal heritage to document, as we have discussed and recommended. This, and other activities recommended in this study will provide further opportunities for Aboriginal community members to engage with Country.

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<sup>19</sup> Byrne *et al.* 2001, English 2002.



### 3 The local setting of Woollahra

Since the 1920s, much of Woollahra has been carpeted in residential housing to an extent that it is difficult to see, let alone imagine, that vast sand dunes and rocky outcrops still survive underneath and between them. If we want to understand where Aboriginal heritage places are, we need to understand this environment – how it formed, how Aboriginal people used and shaped it, how Europeans used and reshaped it, and what this implies for the survival of Aboriginal heritage.

Before we consider these matters in more detail, let us acquaint ourselves with the main features of the Woollahra environment that have been reshaped, covered over or removed over the past century, but which were previously visible to Aboriginal people and Europeans in Woollahra (see **Figure 5**). Imagine we are looking at the shoreline before Europeans arrived. It would have appeared much the same as it did to a visiting Englishman in 1834 as he was being rowed past Woollahra from Sydney on his way to an Aboriginal fishing settlement at Camp Cove. He described:

grey jutting rocks finely contrasted, with the green shrubbery scattered over and among them, while at intervals the gum tree towered up with its fantastically rugged trunk, and light airy foliage – and the wood land (being at a distance) a not unpleasant noise of the locusts [cicadas] was heard on all sides. After about an hours pull through this scenery, the more prominent features of which however kept perpetually changing as we rounded each headland, we reached Camp Cove a beautifully sequestered little spot – having a fine sandy beach surrounded by the bush.<sup>20</sup>

Harbour beaches were often flanked by rocky outcrops and had creeks flowing out to the harbour at one end (**Figure 5A**). Some beaches were also backed by sandstone, sometimes hollowed out to form large rockshelters (**Figure 5B**), while other beaches were at the heads of narrow rocky inlets (**Figure 5C**). Brackish swamps and lagoons were found behind broader sandy bays, sometimes draining across mudflats rather than beaches into the harbour (**Figure 5D**).

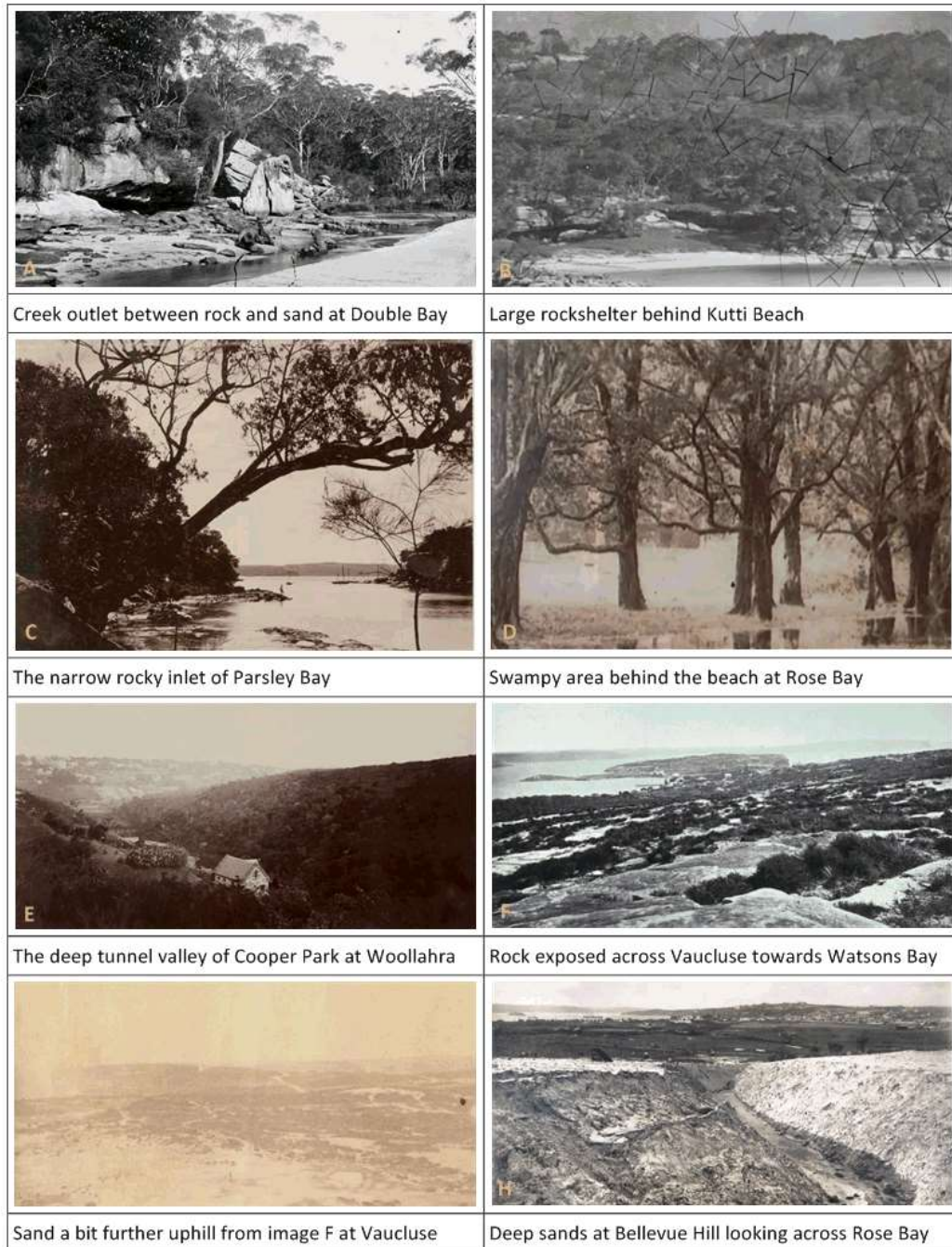
Moving inland up the creeks across these swamps we sometimes pass through deep gullies like Trumper Park at Paddington and Cooper Park at Woollahra (**Figure 5E**). The headlands between the bays and the ridges and elevated area above the creek valleys and ocean shore have rock either outcropping or just below the surface (**Figure 5F**). But in some areas, sand dunes up to many metres in depth sit on top of the rock, and even deeper in the Rose Bay valley (**Figure 5G & H**).

<sup>20</sup> Proctor 1834, p. 118 [fr71]. Our additions in square brackets.





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**Figure 5. Some of the natural features of the Woollahra landscape.**

[Extracts of original images. Sources: A) NSW State Library ON 4 Box 55 No 210. B) NSW State Library ON 4 Box 56 No 241-243. C) NSW State Library SPF/1036. D) Woollahra Local History Collection, Rose Bay Folder. E) NSW State Library SSV/78. F) National Library of Australia PIC P2116/1-29 LOC Album 104. G) NSW State Library DL PX 165, n50a. H) Woollahra Local History Collection pf004648c].



### 3.1 Making the Woollahra landscape

Apart from a tiny patch of Ashfield Shale in its southwest corner (dating from the middle of the 250–200 million year old Triassic period), Woollahra is developed entirely on middle Triassic Hawkesbury Sandstone (Figure 6).

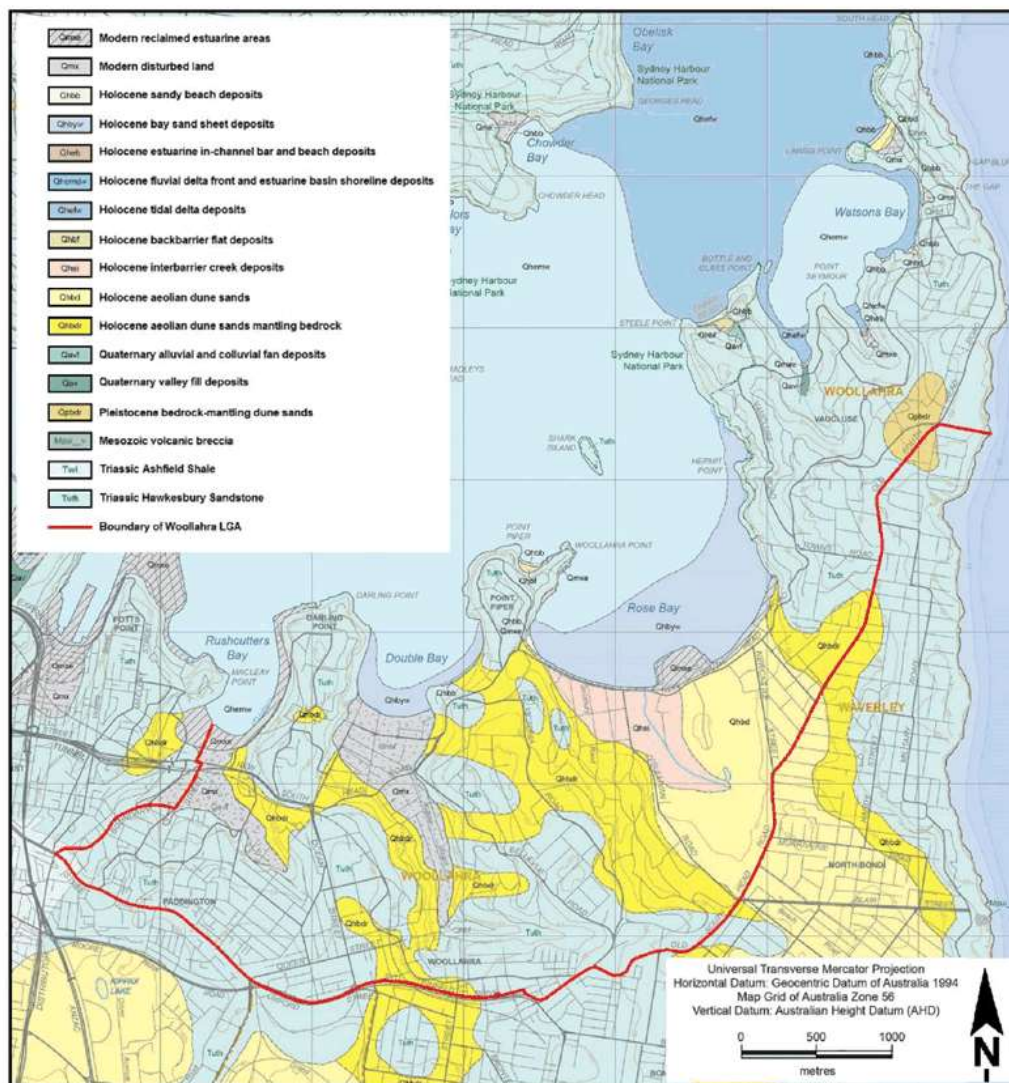


Figure 6. The geology of Woollahra Local Government Area.

[Modified from Troedson (2015)]

The major elements of Woollahra’s landscape are the product of large-scale tectonic (or earth building) processes. To the east is the Tasman Sea. This was formed between 80 and 60 million years



ago by sea-floor spreading, which resulted in the formation of a new ocean, and thus a new margin to southeast Australia. Over the succeeding period this margin has experienced erosion, largely as a result of river and marine processes, and has retreated inland to its present position along the eastern edge of the area.

Meanwhile, beginning over 45 million years ago, the Hornsby Plateau, which forms the dissected sandstone upland to the north and west of Sydney (Figure 7), was upwarped in association with the tectonic movements that gave rise to Australia's Eastern Highlands. Although the highest parts of the Plateau are located well to the north of the city, its south-eastern limb extends across the Harbour where it forms the deeply fretted sandstone surface that characterises Woollahra's landscape.

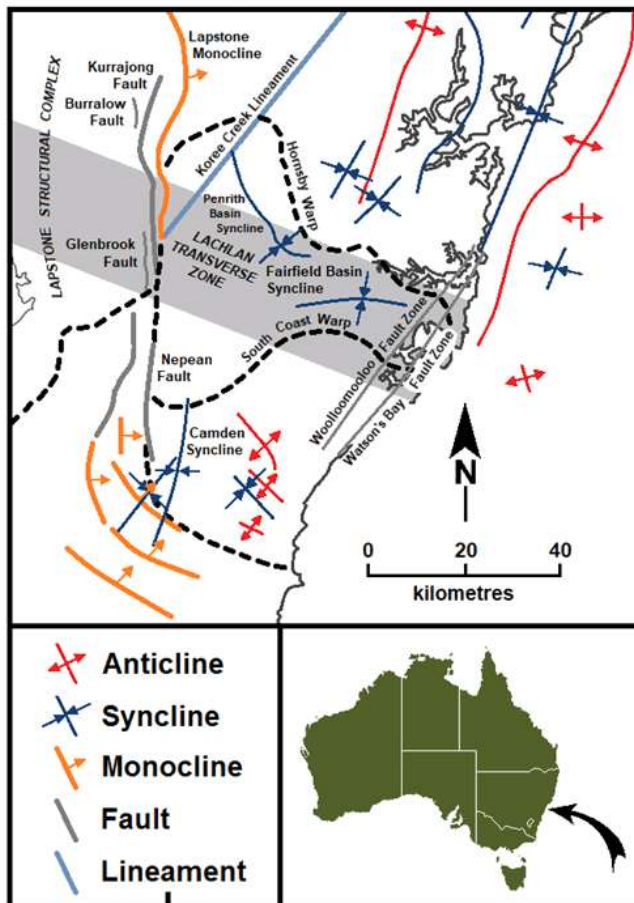


Figure 7. The structural context of Sydney and the Harbour.

[Modified from Gale (2021, p. 300)].

Finally, to the south lies the Botany Basin. At its centre lies Botany Bay, but the Basin extends south to Port Hacking and as far north as the southern boundary of Woollahra. The Botany Basin formed as



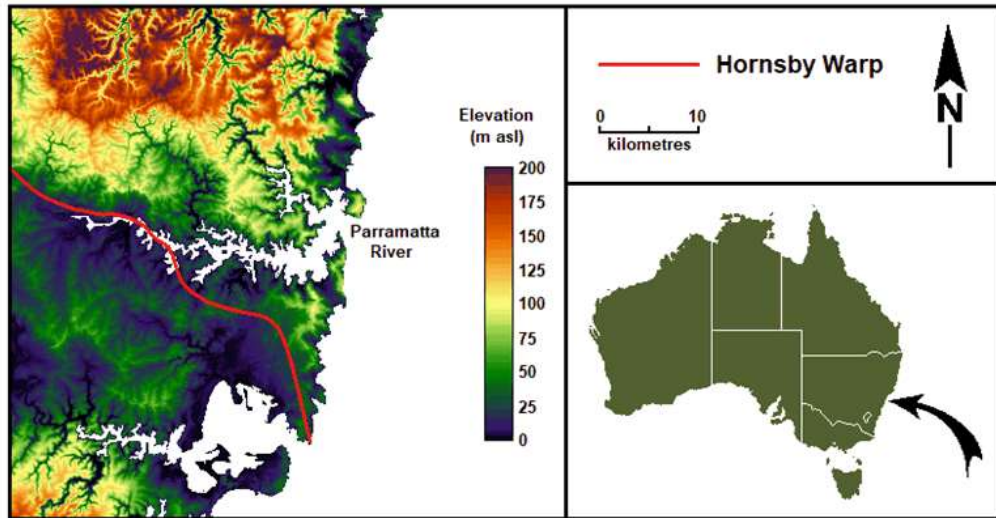
a result of the local sagging of the bedrock basement, a process that began at least 25 million years ago.

At the largest scale, therefore, the Woollahra landscape is the result of the operation of region-wide movements of the Earth's crust. Smaller-scale movements such as folding and faulting have also played a role however. This may be seen most clearly in the curious dog-leg that marks the seaward end of the Harbour and thus the northern edge of the Woollahra plateau. For most of its length, the Harbour is developed along the northern margin of the Lachlan Transverse Zone, a broad, east-southeast-aligned trough that may be traced eastwards into inland New South Wales (**Figure 7**). The lower part of the Harbour, however, is developed along and lies between the north-northeast-aligned Woolloomooloo and Watson's Bay Fault Zones.

Finally, at the smallest scale, many of the deep and elongate inlets along the Harbour shoreline, such as Parsley Bay and Vaucluse Bay, are aligned either north-northeast or northwest by north (**Figure 6**). These lie parallel to two of the major joint and dyke trends in the Sydney region. Dykes (thin, usually magma-filled fissures that cross-cut the rock) are often difficult to identify on the ground because they are narrow and their fill is easily weathered. Nevertheless, throughout the Sydney district these features have focussed local denudation, forming deep inlets along the coast, and it is likely that similar processes have operated here.

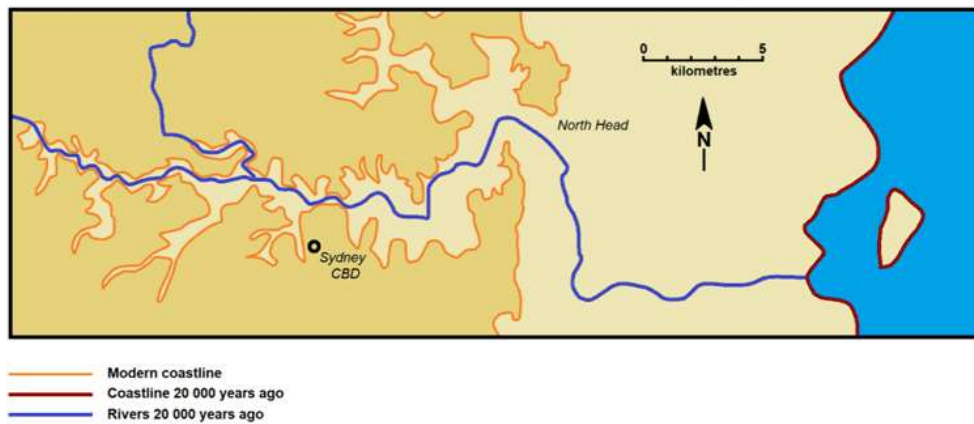
Superimposed on these structural landforms is perhaps the most striking element of the Woollahra landscape, the Harbour that lies along its northern fringe. At one level, the presence of this feature requires little explanation. It represents a line of drainage to the new hydrological target presented by the opening of the Tasman Sea. Other aspects of its form are not so easily explained, however. One peculiarity is its very course. If we trace the harbour upstream into the Parramatta River, we find that, for most of its route, the river flows in a wide, flat and open valley. At its seaward end, however, and against all apparent logic, the river heads directly to the barrier of the Hornsby block and cuts straight through it, ignoring the topographically obvious path to the sea at Botany Bay. The explanation for this behaviour lies in the antiquity of the river. Not only does its course pre-date the development of the Botany Basin, which could not therefore have offered an alternative outlet for the drainage, but it also precedes the formation of the Hornsby Plateau. As a result, once uplift began along the line of the Hornsby Warp, the river was able to maintain its course to the sea and to cut a deep valley through the rising land surface to form what is now Sydney Harbour (**Figure 8**).

Despite the antiquity of its valley, however, the modern Harbour is a recent and transient element of the landscape. It came into existence only 8,000 years ago when a pre-existing terrestrial landscape was drowned by the rising sea levels resulting from the melting ice of the last glacial. Twenty-thousand years ago, at the height of the last glaciation, the Earth's waters were trapped in vast ice masses and sea levels lay perhaps 134 m below those of the present. At that time, what is now Port Jackson was no more than a broad valley occupied by a tiny stream flowing across the expanse of a drained continental shelf to a glacial age coastline located 12 km to the east (**Figure 9** and **Figure 20**).



**Figure 8. The Parramatta River and the Hornsby Warp, central eastern NSW.**

[The 5 m resolution digital elevation model is from Chen (2009). The location of the Hornsby Warp is from Norman (1986, Figures 2 and 44)].

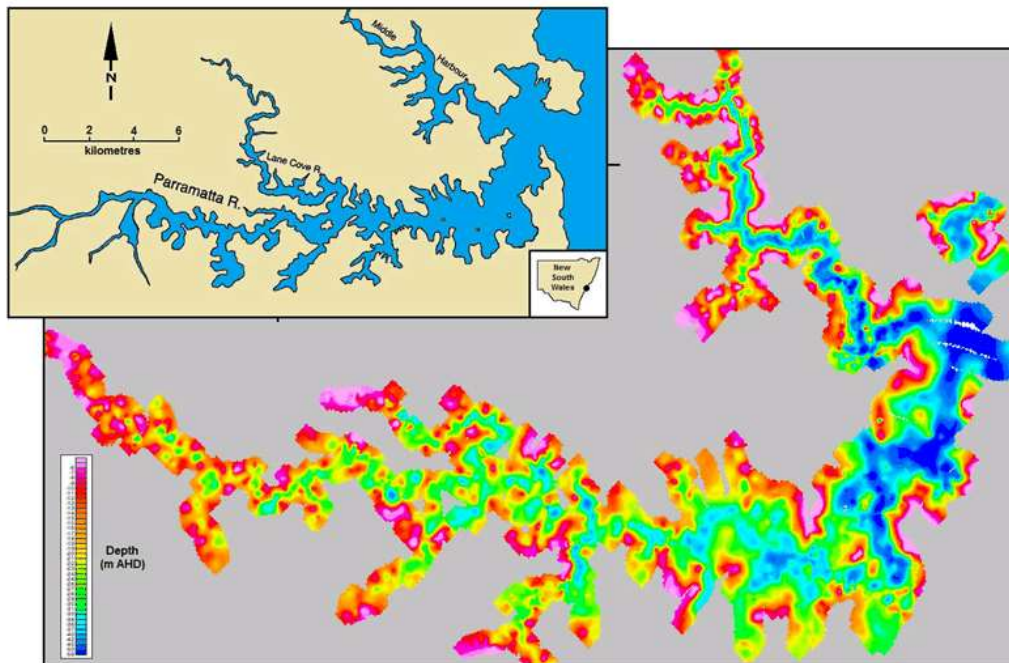


**Figure 9. Sydney and its harbour 20,000 years ago.**

[Data from Derricourt (2010) and Albani et al. (2015). See also Figure 20].

What is less well-known is that the climatic oscillation that caused global ice first to accumulate and then to decay has been repeated over fifty times during the last two and a half million years. As a result, Port Jackson must have experienced repeated drainings and floodings as the Earth’s oceans were successively drawn down to feed the growth of global ice sheets and recharged when the ice sheets decayed. On each of these occasions, sea levels fell by a hundred metres or more, with each fall followed by marine inundation as ice melted during the succeeding interglacial. The overall impact of these marine oscillations is that, for only about ten per cent of this period have the Earth’s oceans been close to their present level. For most of this time, therefore, Port Jackson has been a

terrestrial landscape occupied by the meanders of the Parramatta River. Notwithstanding its size, this stream has been able to cut a sinuous path to depths of up to 85 m below the Harbour (**Figure 10**) and may be traced offshore to depths of over 120 m.



**Figure 10. The submarine bedrock topography of Port Jackson.**

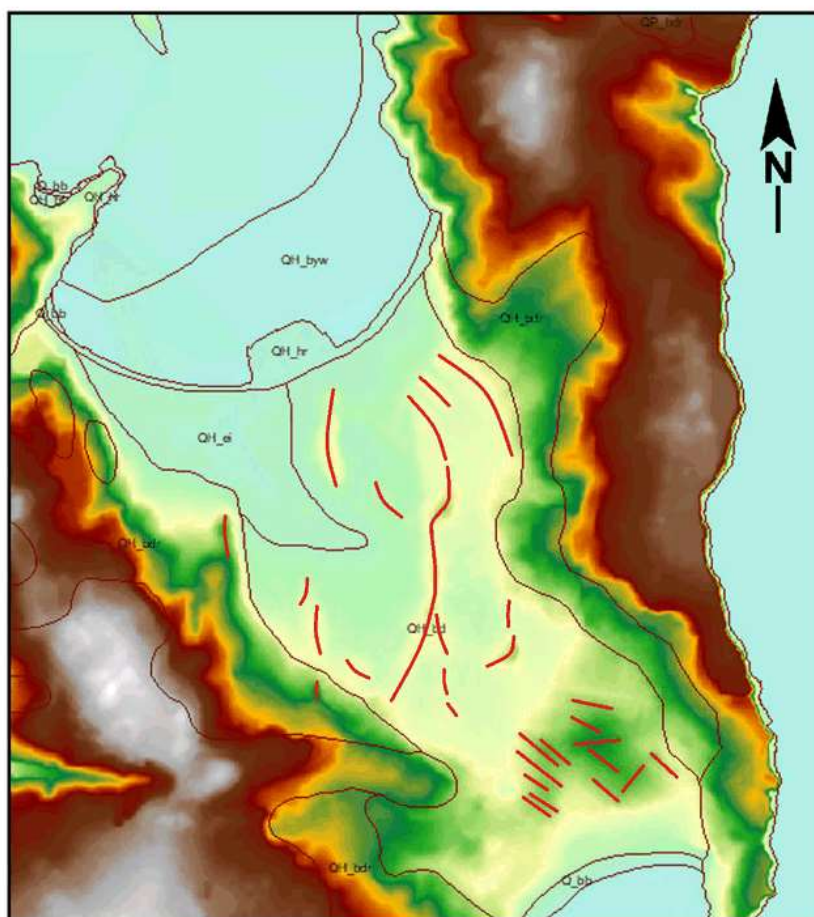
[The bedrock topography is modified from Harris et al. (2001)].

These oscillations in sea level have also played an important onshore role. First, the lowered sea levels allowed the intermittent streams draining Woollahra's sandstone uplands to incise the short and steep valleys that characterise the area.

Secondly, as sea levels rose, their associated beaches would have migrated westward across the continental shelf to re-attach themselves to the modern coastline. Where the shoreline was steep and rocky, the beach sands would have been stripped away as sea levels rose to their modern elevation. By contrast, where the shoreline was gently sloping, the sands would have accumulated, forming pocket beaches such as Double Bay and Rose Bay. Elsewhere, the landward-migrating beach ridge may have blocked the mouths of coastal valleys, as at Camp Cove, where the ridge has partially dammed the freshwater inflows to create a barrier lagoon.

Finally, the changes in sea level helped to produce the deposits of sand that are such a feature of Woollahra's landscape. These vary from relatively thin accumulations on the uplands of the region to sequences perhaps 60 m thick in the Rose Bay trough. These deposits are windblown, forming dune ridges up to ten metres high and over a kilometre long in the Rose Bay trough (**Figure 11**). The sands were deposited between 40,000 and 14,000 years ago during the coldest part of the last glacial

when global sea levels would have been at their lowest. At this time, much of the continental shelf offshore of Woollahra would have lain above sea level. Easterly and south-easterly winds blowing across the shelf would have picked up marine sands and deposited them as thin veneers across the uplands and as thick accumulations in major sediment traps such as the Botany Basin and the Rose Bay trough. These traps would have been transformed into inhospitable sand deserts, with highly mobile sands and dunes moulded by the wind into sub-parallel ridges (**Figure 11**). The dramatic variation in the thickness of the sands across the area must have been in part a function of elevation, with the capacity of the air to maintain sand in suspension falling rapidly with height, and in part a consequence of the availability of suitable locations in which the sands might accumulate without being reworked during subsequent storms.



**Figure 11. Digital elevation model of the Rose Bay trough, Sydney, NSW.**

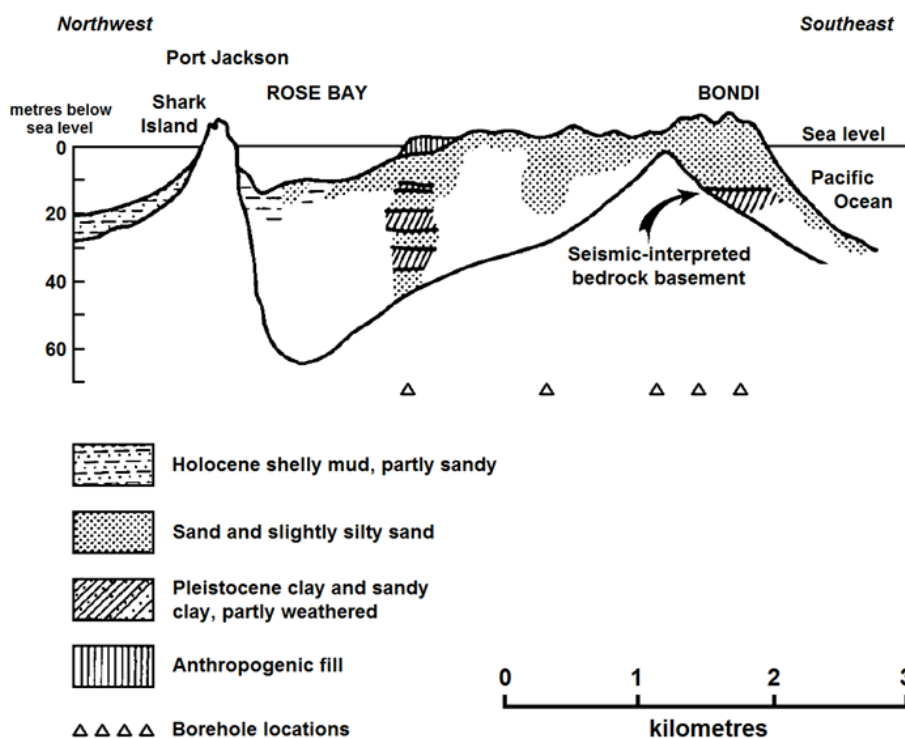
[The LiDAR imagery used to generate the DEM was created solely from ground laser returns and so excludes all surface objects such as buildings and trees. The red lines represent the crests of linear features in the sand surface. The geological overlay is from Troedson (2015). The geological units are defined on **Figure 6**]

The Rose Bay trough forms a northwest by north-aligned flat-floored depression developed within an undulating surface of Hawkesbury Sandstone that reaches elevations of over 100 m AHD. The



trough is about a kilometre wide, its sides rise relatively steeply along its eastern and western flanks and it is open to the sea at its northern and southern ends (**Figure 11**). The bedrock floor of the trough rises gently to the south, where a low divide, reaching just over 20 m AHD, separates the descent to Bondi from the rest of the basin. The origins of the trough are unclear. There is no evidence that the feature is fault-controlled, although faults are often undetectable on the surface in the region and displacement is rarely apparent because of the uniform lithology of the surrounding rocks. Like many of the other inlets around the coast, however, the trough lies parallel to one of the major joint and dyke trends in the Sydney region and it is possible that these have controlled the development of the feature.

The bedrock basement of the trough reaches depths of over 60 m below sea level at its northern end, though it rises to the south to form a buried sill along the divide to the north of Bondi, before descending again beneath the Pacific (**Figure 12**). The presence of this feature alone is enough to discount the widely held belief that the trough is an ancient river valley, forming the former outlet of the Parramatta River and thus the mouth of Sydney Harbour.



**Figure 12. Stratigraphic cross-section along the line of the Rose Bay trough, Sydney, NSW.**

[Modified from Roy (1983, p. 79)]

With the melting of polar and continental ice at the close of the last glacial, global sea-levels would have risen rapidly and, by 8,000 years ago, sea-levels along the coast of eastern Australia would have





reached close to those of the present. Rising sea-levels would have resulted in rising groundwater levels, particularly in those areas where highly permeable dune sands were found along the new coast. In the low-lying parts of the Rose Bay trough, the rising water tables would have intersected the ground surface to form lakes and swamps in which fine-grained sediments and decaying plant-organic matter was able to accumulate. As a result, the floor of the trough would have been occupied by extensive swamplands in which peaty sediments accumulated (**Figure 5D**). These fertile and easily tilled sediments would have provided an attractive target for market gardeners in the early years of European occupation.

The most recent impacts on the form of Woollahra's landscape have been the result of human action. Although human impacts must have begun with the arrival of Aboriginal people in the landscape, they have become particularly dramatic over the last couple of centuries, modifying land cover and hydrology, replacing vegetated surfaces with impermeable materials and superimposing a dense network of artificial and efficient drainage lines onto the landscape, as outlined in the next section. Despite their magnitude, these impacts are largely confined to the subaerial landscape and the effect of human action in reworking the form of the physical landscape is less well appreciated. Yet a glance at **Figure 6** reveals that a major part of Woollahra's land surface is a product of human activity over the past two centuries, a rate of landscape change probably unprecedented in the preceding 50 million years.

### **3.2 Human presence and impacts**

The aim of this section is to highlight the range of impacts that have impacted the landscape and influenced the physical survival of Aboriginal heritage across Woollahra. It reflects the detailed research undertaken for this study to understand the reshaping of the Woollahra landscape as a key element in predicting where and what Aboriginal heritage may have survived. This research has informed the development of Aboriginal heritage mapping which is discussed in **Section 5.4**. Although the overview necessarily outlines some of the major events and processes in the non-Aboriginal history of the area, it is not intended as a detailed account of this history, which is well-covered in a range of Council-wide and suburb or subject specific publications.<sup>21</sup> Similarly, while it refers to the presence and actions of Aboriginal people, a more detailed account of their experiences in Woollahra, including since the arrival of Europeans, is presented in **Section 4**.

#### **3.2.1 Before the 1800s**

Aboriginal people lived through the formation of Woollahra's dune, swamps and beaches, adapting to each change to the opportunities and challenges they presented. For the most part they lived light, caring for, rather than physically altering the form of the land. Their huts, animal and bird traps, and fish weirs across tidal creeks did not leave a lasting imprint.<sup>22</sup> They fired the land to care for it, but precisely how and where they did so across the eastern suburbs landscape is not clear and may have shifted over time. In recent years there has been greater awareness of the role of

<sup>21</sup> See for example Jervis & Kelly 1960-1965, Griffiths 1970, Young ed. 2019; Hughes Trueman Ludlow 1984, Woollahra History & Heritage Society Woollahra Heritage Briefs and other publications and Woollahra Local Studies research files.

<sup>22</sup> Attenbrow & Steele 199, p. 58, West 1882.



Aboriginal burning, but we should be careful not to assume that it was undertaken everywhere, or to simplify its context.<sup>23</sup> It probably also had a cultural significance, in the same way that ceremonies maintained the health of Country.

However light their footprint, Aboriginal uses of the land nonetheless influenced how Europeans used the area. When Europeans arrived in 1788, they saw what they initially perceived as a wilderness from the huddled security of the tent town in a small clearing eked out of the head of Warrane (Sydney Cove). But the more they explored by land and sea, the more they realised that Aboriginal groupings ('clans') were related to different areas of land. They also noted a network of well-maintained Aboriginal pathways through the bush, some of which were probably incorporated into some early colonial roads. Their specific connections to Aboriginal usage were sometimes acknowledged by Europeans. For example, in the 1830s, a walking track that went from the ridge of Oxford Street at Darlinghurst Gaol down to Rushcutters Bay via Darlinghurst and around Bayswater Road was still referred to as the 'maroo' (an Aboriginal name for path).<sup>24</sup>

Within a year of the arrival of Europeans, a devastating smallpox epidemic swept around the harbour, claiming the lives of many across Woollahra and surrounding areas. This cataclysmic event probably drastically altered many Aboriginal land use practices. At the same time, Europeans began to set the template for their use of Woollahra over the next two centuries – setting up fishing villages at places like Watsons Bay, granting (at least on paper) areas of land around Camp Cove, Parsley Bay and Vaucluse, and establishing a look out and signal station at South Head.<sup>25</sup> Importantly though, it was a relatively slow start. Outside the colonial centre in Sydney Cove, most Europeans headed west along major rivers and the Cumberland Plain, searching for fertile land to grow crops and pastureland for grazing, which were in short supply across the rocky and swampy terrain of the east.<sup>26</sup>

### 3.2.2 1800s to 1840s

The signal station at South Head provided the impetus for the construction and subsequent upgrade of Old South Head Road in the 1800s and 1810s, which snaked its way across sand dunes around the southern edge of Woollahra.<sup>27</sup> At the same time, large grants of land were made across the eastern suburbs, many of which soon changed hands to families like the Wentworth and Coopers who amassed and maintained large landholdings over several generations throughout the remainder of the nineteenth century (**Figure 13**).<sup>28</sup> In the 1830s, Daniel Cooper paid for the construction of New South Head Road, which spurred the purchase of the first subdivided lands in Woollahra, a series of 7-15 acre lots across Darling Point (**Figure 14A**).<sup>29</sup>

<sup>23</sup> E.g. Gammage, Pascoe. For more cautious view see Karskens 2018.

<sup>24</sup> For meaning of muru see Philip Gidley King in Hunter 1793[1968], p. 409. For Paddington maroo see 'Law Intelligence: Supreme Court (Civil Side)', *Sydney Morning Herald* Supplement 18/10/1832, p. 1; Marriott 1982 pp. 145-6 and Pl.32.

<sup>25</sup> Bradley 1786-1792 [1969], p. 186, Jervis & Kelly 1960-1965, pp. 4, 7.

<sup>26</sup> Irish 2017, pp34-35.

<sup>27</sup> Atkins 1973.

<sup>28</sup> Hughes Trueman Ludlow 1984, pp.9-16, Jervis & Kelly 1960-1965, pp. 7, 22, 26, 31-32.

<sup>29</sup> *History of Darling Point* (Woollahra Library, LH994.4/WOO/2); Annable 1999, p. 1.



**Figure 13.** A map of central Woollahra in 1844, showing main roads and a few residences present by this time.

[Source: Anon (likely T.L. Mitchell) 1844].

These developments started to have some lasting effects on the landscape. For example, some of the subdivided lands at Darling Point were terraced into gardens, permanently altering the topography (**Figure 14B**).<sup>30</sup> New South Head Road crossed the broad Double Bay swamps on filled beds of rock and sand two metres high (**Figure 14C**).<sup>31</sup> The rock was quarried nearby, starting a long process of removing and reshaping sandstone bedrock which continues to this day.<sup>32</sup> The roads also provided access for other activities, such as extensive tree clearing off the main roads and on the harbour headlands.<sup>33</sup> By the 1830s Darling Point was said to be almost entirely cleared of timber, exposing underlying dune sands.<sup>34</sup> Timber was also cleared for salt pans at Rushcutters Bay, Double Bay and Rose Bay in this period.<sup>35</sup>

<sup>30</sup> Morris 2009, p53.

<sup>31</sup> Woollahra History & Heritage Society 1996, p. 13.

<sup>32</sup> Hughes Truman Ludlow 1984, p. 6.

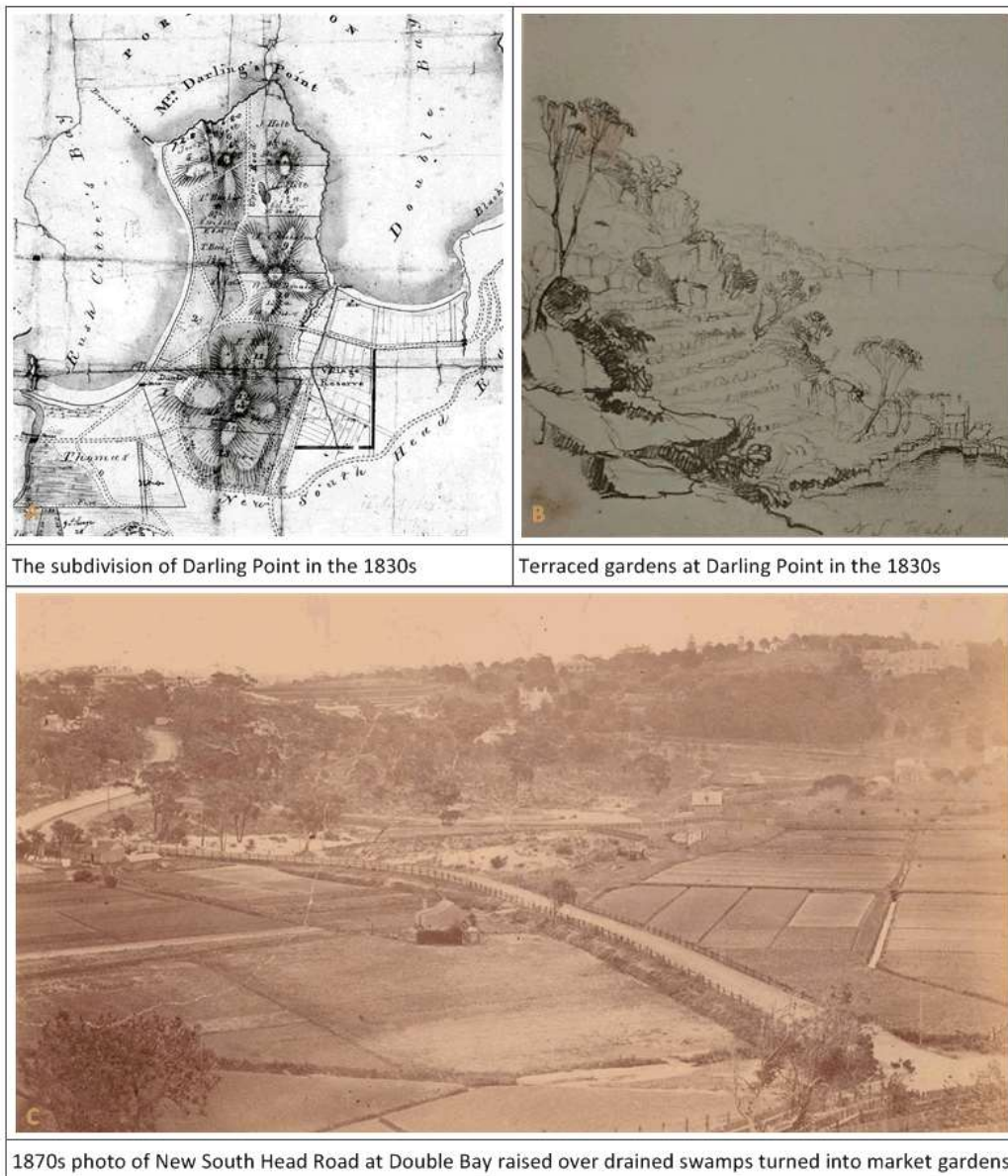
<sup>33</sup> Atkins 1973, p. 4, Hughes Truman Ludlow 1984:3, 12.

<sup>34</sup> *History of Darling Point* (Woollahra Library, LH994.4/WOO/2), p. 1.

<sup>35</sup> Hughes Truman Ludlow 1984:4.



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**Figure 14. Historical impacts from the 1800s – 1840s.**

[Extracts of original images. Sources: A) Anon. c.1833. (SLNSW M2 811.1811/1837/1). B) Morris 2009, p. 53. C). Anon c.1875-1885 (SLNSW SPF651).

We can start to consider how these activities might have impacted Aboriginal heritage. While Aboriginal people continued to live in the area through this time and to create or maintain some places, they could not prevent the impacts of European land use. Today for example there are no culturally modified trees recorded in Woollahra, where Aboriginal people removed bark to create shields, containers and canoes. While some may survive as yet unrecorded, the extensive land



clearing started in the early nineteenth century likely destroyed most. Rockshelters and engravings are generally found on the edges of stone outcrops making them vulnerable to impact from quarrying. At the same time, Europeans began to occupy rockshelters formerly used by Aboriginal people. Watsons Bay resident Elizabeth Macarthur for example, describes a couple who had divided a nearby rockshelter into several apartments in the 1840s.<sup>36</sup>

### 3.2.3 1850s to 1890s

These decades saw a massive increase in population across Woollahra, but very unevenly spread geographically, and more intensively in the closing decades of the century.<sup>37</sup> There were further subdivisions west of Vaucluse, though most houses were still on larger blocks surrounded by bushland (**Figure 15A**), except for parts of Paddington which began to sprout the first townhouses of the area (**Figure 15B**). The increasing population led to the construction of tramways from the 1880s, which in turn prompted further subdivision.<sup>38</sup> To service these new houses sewer and gas pipelines were installed, wells were sunk, and creeks began to disappear into channels and pipelines.<sup>39</sup> The swamps behind Rushcutters Bay, Double Bay and Rose Bay were drained with excavated channels and turned into extensive market gardens (**Figure 15B & C** and **Figure 14C**).<sup>40</sup> By the end of the century, the muddy deltas of these swamps were covered over behind smooth sandstone seawalls (**Figure 15D & E**). Stone for these walls, for housing and for roads, was cut out of large commercial quarries at Paddington and the suburb of Woollahra, a number of smaller local quarries, and on private properties.<sup>41</sup>

Much of the eastern half of Woollahra remained uncleared bushland bound up in the extensive Vaucluse Estate, and other landholdings (**Figure 16A**). The main impacts in this period were around the South Head peninsula. From the 1870s a series of fortifications were cut into rock around the harbour headlands, including at South Head (**Figure 16A**).<sup>42</sup> From the 1850s, the fishing village of Watsons Bay became linked to Sydney by regular ferry services, and became a 'pleasure ground' for Sydneysiders to visit for daytrips and weekends.<sup>43</sup> One of the main attractions was 'a large cave formed by an overhanging ledge of rocks. The floor was boarded, seats were provided and canvas awning were erected to keep out the afternoon sun.'<sup>44</sup> The venue was known as The Caves and was used in the later nineteenth century for dancing, and could 'give accommodation for a large group of

<sup>36</sup> Jervis & Kelly 1960-1965, p. 12.

<sup>37</sup> Hughes Truman Ludlow 1984:7.

<sup>38</sup> Hughes Truman Ludlow 1984:7, Atkins 1973, p. 16.

<sup>39</sup> Woollahra History & Heritage Society 1998, p. 28, Hughes Truman Ludlow 1984:8, Jervis & Kelly 1960-1965, p. 14.

<sup>40</sup> Woollahra Local Studies nd. *Local History Research file – Chinese Market Gardens [Barbara Swebeck]* (Woollahra Local History Library).

<sup>41</sup> Woollahra History & Heritage Society 1996, p. 25; Woollahra Local Studies nd. *Local History Research file - Arnold's Quarry*, 110 Cascade Street, Paddington (Woollahra Local History Library); *Eastern Suburbs Newspapers* 1980, p. 49; Hughes Truman Ludlow 1984, p. 75; Woollahra Local Studies nd. *Local History Research file - Quarry sites near Cooper Park, Bellevue Hill* (Woollahra Local History Library); Griffin 2019, p. 100; Annable 1999, pp. 9-10.

<sup>42</sup> Oppenheim 2005; Doak 1988, p. 42.

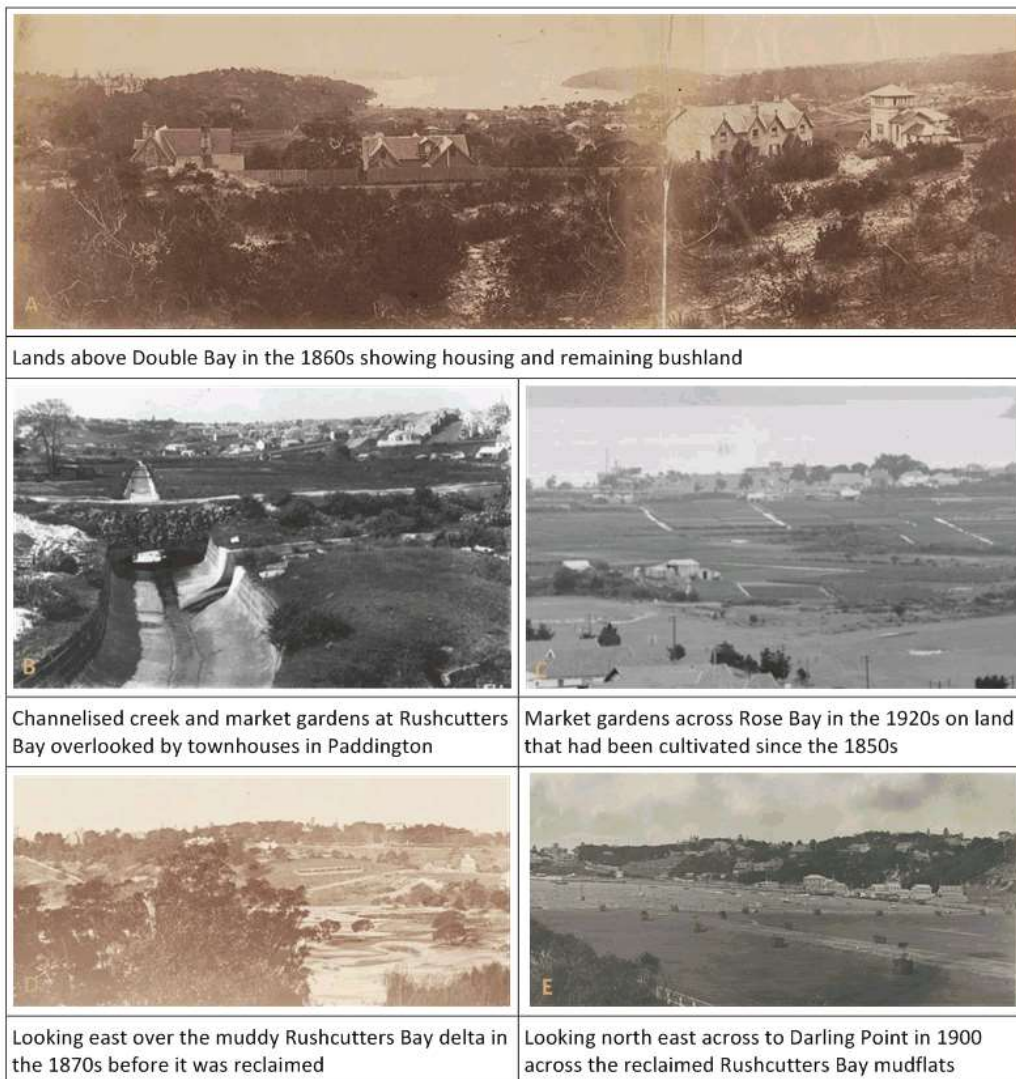
<sup>43</sup> Jervis & Kelly 1960-1965, p. 10, 13.

<sup>44</sup> Jervis & Kelly 1960-1965, p. 13.



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people' (Figure 16B).<sup>45</sup> Other caves around Watsons Bay and Vaucluse were also used by fishermen and hermits.<sup>46</sup> All of them were almost certainly used by Aboriginal people in the past, evidence of which was impacted by their later use. In the case of the Caves, the large shelter was later blasted away to construct houses (Figure 16C).<sup>47</sup>



**Figure 15. Historical impacts from the 1850s – 1890s in the western half of Woollahra.**

[Extracts of original images. Sources: A) State Library NSW, DL PX 165, n50a. B) City of Sydney Archives, A-0069872. C) National Library of Australia PIC P865/14/2 LOC Nitrate store. D) State Library NSW, DL PX 148, n61. E) State Library NSW, DL Pg 38].

<sup>45</sup> 'An Unknown Familiar Resort', *Evening News* 30/1/1884, p.7; Woollahra Local Studies nd. Local History Research file – 45 *Russell Street, Vaucluse, Bayview* (Woollahra Local History Library).

<sup>46</sup> Jervis & Kelly 1960-1965, p. 28, Corkill 1990, Salmon 1908.

<sup>47</sup> Woollahra Local Studies nd. Local History Research file – 45 *Russell Street, Vaucluse, Bayview* (Woollahra Local History Library).



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View east over new gun emplacements at South Head in the 1870s towards the bushland of Vaucluse.



Patrons in 'The Caves' dancefloor at Watsons Bay. Note the massive size of the shelter



The rocky stub of The Caves today, a century after the roof was blasted away for housing

**Figure 16. Historical impacts from the 1850s – 1890s in the eastern half of Woollahra.**

[Sources: A) State Library NSW ON 4 Box 57 No 268. B) Jervis & Kelly 1960-1965, opp p.22. C) Coast 2020. A & B Extracts of original images].

### 3.2.4 1900s to now

In the opening decades of the twentieth century, Woollahra was transformed. Long term residents described the 'unbelievable changes' as the Vaucluse Estate and other large landholdings were broken up into suburban subdivisions, carpeting the entire local government area in houses and roads (Figure 17).<sup>48</sup> At the same time, some areas were also spared development. Market gardens and sand dunes at Rose Bay were transformed into private and public golf courses, and large public parks were created out of the former Vaucluse Estate at Nielsen Park and Parsley Bay, and defence land at South Head.

<sup>48</sup> East 1930, p. 13



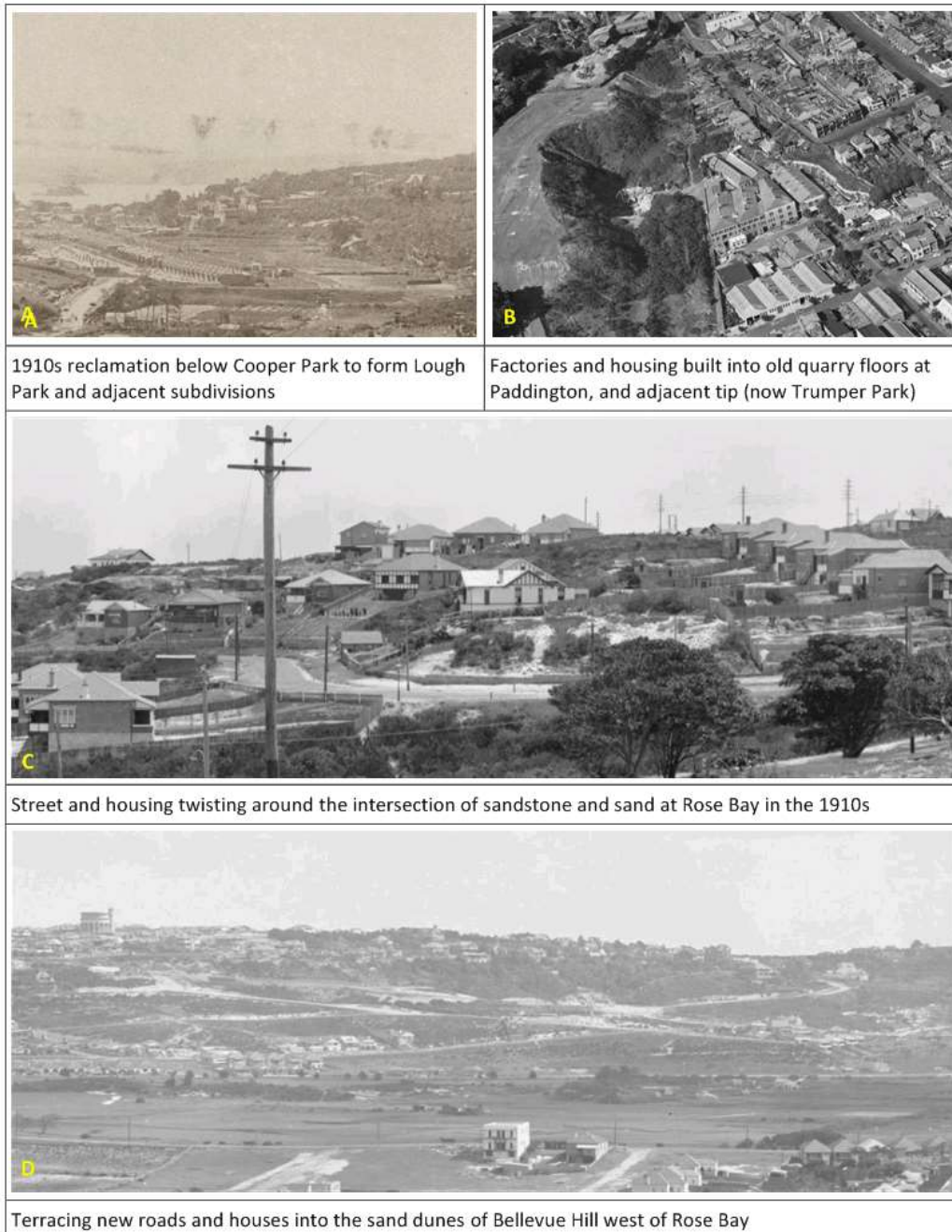
**Figure 17. The Woollahra LGA in 1943, unrecognisable from a century earlier.**

[Source: Metromap 2021. For comparison with 1844 see Figure 13]





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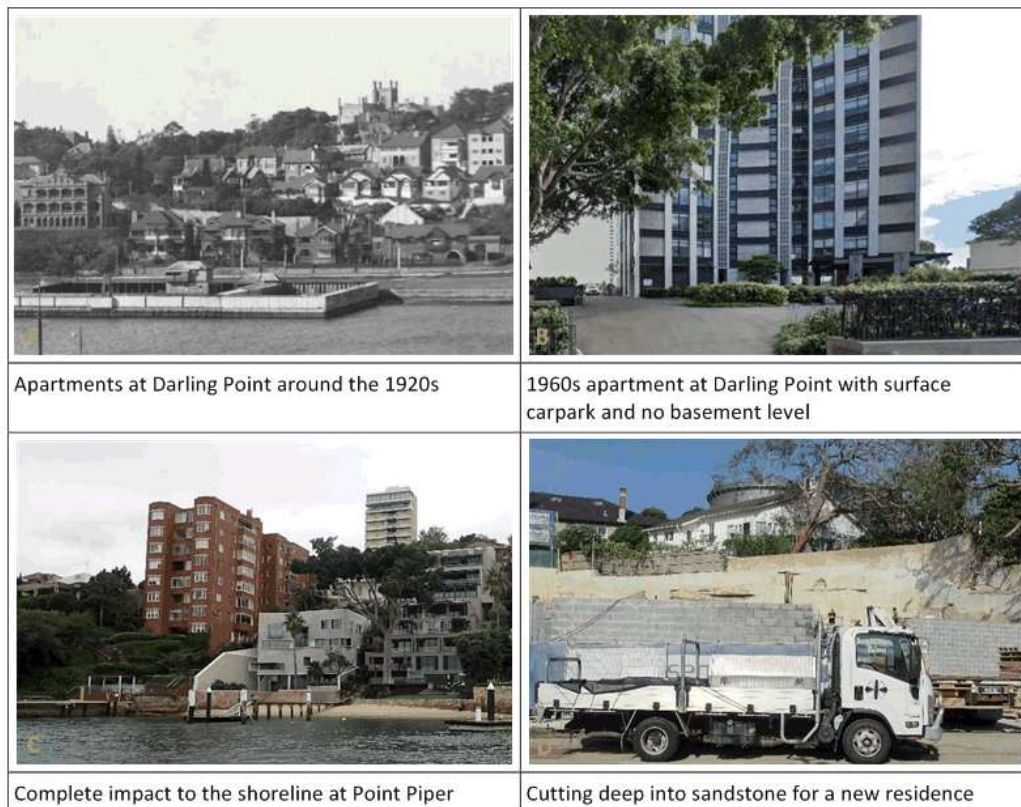


**Figure 18. Historical impacts from the 1900s to the present day.**

[Extracts of original images. Sources: A) Woollahra Local History Library, pf004270. B) State Library NSW, ON 447/Box 099. C) National Library of Australia PIC P865/162/1 LOC Nitrate store. D) National Library of Australia PIC P865/292/1 LOC Nitrate store].



The housing boom included the associated construction of roads and the installation of sewer lines and water services.<sup>49</sup> All creeks were partly or fully enclosed in buried pipelines and swamp areas below Cooper Park and Paddington were filled in (**Figure 18A**).<sup>50</sup> Further foreshore reclamation works were undertaken, creating the current forms of Lyne Park at Rose Bay and Parsley Bay Reserve.<sup>51</sup> Former quarries at Paddington and elsewhere were infilled with houses, factories and tips (**Figure 18B**). The new roads and houses were terraced into the sides of sand dunes, but where sandstone was encountered, roads often curved their way around, giving rise to the many twisting streets in Vaucluse and Bellevue Hill, while houses were perched on top rather than cut into rock (**Figure 18C & D**).<sup>52</sup> While this protected some Aboriginal engravings and rockshelters, others fell victim to development. There was a growing awareness of Aboriginal sites such as rock engravings by this time, and the destruction of some was recorded.<sup>53</sup>



**Figure 19. The impact of residential construction over the past century.**

[Sources: A) National Library of Australia PIC P865/82/3 LOC Nitrate store W217. Extract of image. B) - D) Coast 2020].

<sup>49</sup> Hughes Truman Ludlow 1984, p.8

<sup>50</sup> Morrison 2019, pp. 49-53.

<sup>51</sup> Woollahra History and Heritage Society 2001; Woollahra History & Heritage Society 1996, p. 31.

<sup>52</sup> Woollahra History & Heritage Society 2002.

<sup>53</sup> Barracluff 1960; Palmer & Palmer 1990.



The 1920s and 1930s also saw the construction of the first apartment buildings in the western half of Woollahra, which accounted for more than a third of all dwellings by the 1940s (**Figure 19A**).<sup>54</sup> Like the housing of this era though, most of these buildings sat on top of sand and rock rather than cutting into it, and did not have basement carparks (**Figure 19B**). In recent decades though, partly due to advances in drilling technology and partly due to soaring land values, it has become increasingly common to transform the underlying landform rather than build around it (**Figure 19C**). This is not just large-scale projects like the Eastern Suburbs Railway line and shopping centres, but also residential housing (**Figure 19D**).

### 3.2.5 Implications for Aboriginal heritage

On the face of it, the density of housing and other structures across Woollahra gives the impression that every square inch of the area has been transformed. It would seem logical to conclude that Aboriginal heritage places will have been largely wiped out. A similar assumption was made about the survival of Aboriginal people themselves in Coastal Sydney, but fine-grained research has shown that a story of survival can be recreated, as we outline in **Section 4**. In the same way, in this study we have carefully considered the specific extent of impacts in relation to the different types of Aboriginal heritage sites and their associated geology instead of assuming that the presence of a building or reclaimed shoreline means no trace of past Aboriginal uses can have survived. This has been incorporated into project mapping as the basis for management, as outlined in detail in **Section 5**. We have also been careful to document where historical impacts genuinely have had a total destructive effect on Aboriginal heritage. In fact, it is the increasing frequency of these 'total' impacts on landscape that provides an urgency to this study and the need to understand what may survive, before it is gone.

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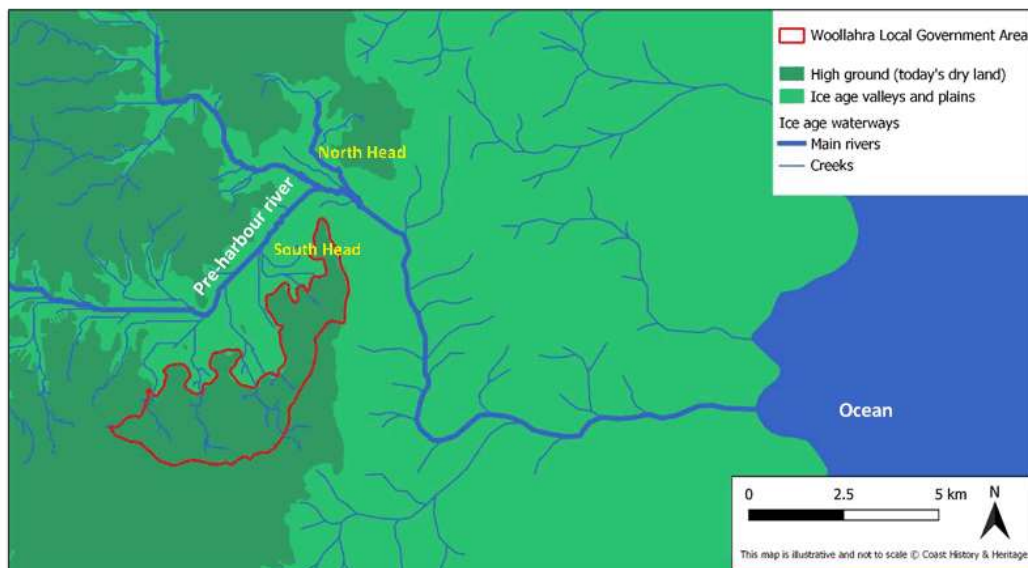
<sup>54</sup> Hughes Truman Ludlow 1984, p. 8, Broomham 2006, p. 9, Sherrington 1988, p. 14.



## 4 Aboriginal people in Woollahra

This section provides an overview of the long history of Aboriginal connections to the Woollahra area. It draws on summaries previously prepared for Woollahra Council and is particularly focussed on highlighting some of the places associated with that history, rather than providing a detailed chronology or a broader account of Aboriginal Sydney, which can be found in other books.<sup>55</sup>

### 4.1 First occupation to 1800s



**Figure 20. Before the harbour formed.**

[This map shows roughly how the harbour river and its creeks might have looked around 20,000 years ago. Source: Developed by Coast 2021 based on data and maps in Albani et al 2015, Derricourt 2010, Wilson & Power 2018 and other data from Spatial Services NSW].

The Gap at Watsons Bay is so well known as an ocean lookout that it is hard to imagine a time when the cliffs towered over a coastal plain instead of water. Yet for most of the human history of Woollahra, this was the case. Around 20,000 years ago, the world was at the peak of the last ice age and temperatures were much cooler. There were no glaciers in Sydney, but vast icesheets elsewhere in the world had absorbed the oceans, leaving sea levels more than 100m lower than today.<sup>56</sup>

By this time, Aboriginal people had already been living the Sydney region for more than 1,000 generations.<sup>57</sup> From any one of today's vantage points along the coastal cliffs, they looked out over a vast coastal plain covered in forest. Turning to the west, they did not see Sydney Harbour because it did not yet exist. Instead, they saw a deep timbered river valley much like you can see from Blue

<sup>55</sup> E.g. Attenbrow 2010a, Karskens 2009, Irish 2017.

<sup>56</sup> Attenbrow 2010a, pp. 37-38.

<sup>57</sup> Stockton 2009, pp. 41-72; Attenbrow 2010a, pp. 18-21; Williams *et al.* 2014.



Mountains lookouts today. 'Sydney Harbour' was a river flowing down the bottom of that valley. Point Piper, Darling Point and Vaucluse were rocky promontories looking out over this valley – and certainly not on the waterfront. But from about 18,000 years ago, the tide turned. Global temperature rose, melting glaciers and ice caps and causing sea levels to rise for the next ten thousand years.

Hundreds of generations of coastal Sydney people could have watched from the Gap as the waters steadily consumed their coastal plain a metre or two every year.<sup>58</sup> Turning west from these vantage points, they would have seen the deep harbour river valley slowly fill with water. By 6,000 – 7,000 years ago, a vastly longer shoreline came into being, made up of jagged harbour bays and headlands, coastal cliffs and beaches. The harbour headlands of Woollahra took their current form, transforming from long rocky ridges overlooking a forested valley, into short, rounded points lapped by waves. Once Aboriginal people had been able to walk along the rocky spine of Darling Point to the low hill of Clark Island at its end, but now they had to paddle canoes from the end of the point to the newly formed island. The rising seas also created beaches, and behind many of them lagoons filled by spring-fed creeks. Aboriginal people quickly learned to fish the new waters, and honed their food gathering skills on land as new types of vegetation and environments were created across Woollahra.



**Figure 21. Looking south-west across Woollahra and the harbour in 1788.**

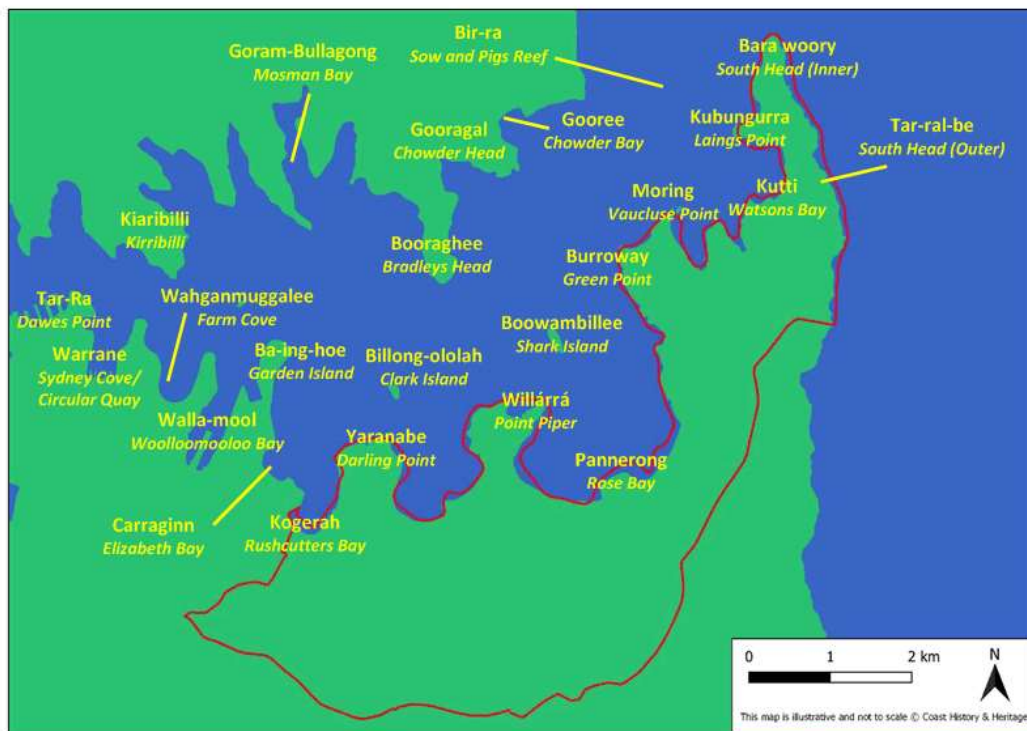
[This is the closest image we have to what Woollahra and the harbour looked like before Europeans (ignoring the tall ship). Note the flotilla of canoes fishing around Bara woory (South Head). Source: 'View in Port Jackson from the South Head leading up to Sydney ; Supply sailing in', in Bradley 1786-1792 [1969], opp. p. 123. Annotations by Coast 2021. Extract of original image].

In the few thousands years before Europeans arrived, Woollahra looked more or less as it did in 1788 (Figure 21). It was an Aboriginal landscape, laced with networks of pathways connecting camps and ceremonial places, peppered with engraved motifs on rock. It had meaning; it was named and it was interconnected. Smoke from campfires could be seen rising from the bush during the day, and flaming torches winked at night from canoes fishing the bays and men wading out into the shallows

<sup>58</sup>Irish 2017, pp.13-15.



to spear fish. We can get a sense of this area as an Aboriginal landscape by replacing our colonial geography with some documented Aboriginal place names (**Figure 22**). But we need to be careful not to overinterpret these as there are alternate spellings and names documented for many places, and meanings are often unclear or based on colonial assumptions. Before using these names, meanings and applications need to be determined through cultural mapping with the Aboriginal community to work out if they are correct, appropriate and how they could be used. Nonetheless, just placing these names around the harbour helps to understand that Woollahra is Aboriginal land.



**Figure 22. Some of the documented Aboriginal names in and around Woollahra.**

[Spelling of Aboriginal place names follows official Geographical Names Board dual namings where available, or Attenbrow 2010a:Table 2.1. Consultation with the local Aboriginal community should be undertaken before using these names]

The harbour was home to a number of Aboriginal clans. The Sydney clans traced common descent from a male ancestor, and shared totems. Each clan numbered around 25 to 60 people and had primary rights to their clan estate, after which they were named. Most of Woollahra was part of Gadi, the estate of the Gadigal people, which stretched east along the southern shore of the harbour from around Darling Harbour, to the estate of the Birrabirragal associated with the entrance to the harbour.<sup>59</sup>

<sup>59</sup> Attenbrow 2010a, pp.22-30, 57-58.



The harbour clans were bound together by women, who married between clans.<sup>60</sup> This meant that the groups of Aboriginal people who lived on a daily basis in the Woollahra area were made up of a mixture of clans. Each person was also bound by complex webs of spiritual and family connection to areas beyond that of their clan through marriage, by the clans of the parents and grandparents, and by their place of birth.<sup>61</sup> Aboriginal people travelled widely and regularly to meet their cultural obligations.

They also had trade networks that covered vast distances to obtain raw materials and other goods which were not found in their own lands. A stone axe found in a midden at Milk Beach in Vacluse for example, originally came from west of the Blue Mountains.<sup>62</sup> At the same time, the coastal clans drew a clear distinction between themselves and those further inland and this was reflected in the implements they made.<sup>63</sup> Around 1,500 years ago, coastal people began to favour locally outcropping quartz pebbles as well as bone and shell as raw materials for their implements over stone cobbles they had previously sourced from western Sydney and elsewhere.<sup>64</sup> For example they mounted sharpened cockle shells on the end of their wooden spear-throwers as chisels as opposed to the stone used by inland groups.

After the harbour was created about 7,000 years ago, Aboriginal people set up fishing camps along the harbour shore and learned how to read the new waters. Women and men developed a mastery of fishing that, for women, was further heightened by their adoption of shell fishhooks about a thousand years ago (see **Figure 33**).<sup>65</sup> An insight into this coastal fishing life is provided by one of the few Aboriginal sites in Woollahra to be investigated in detail by archaeologists – a rockshelter in Nielsen Park. It was used by Aboriginal people from around 1,300 years ago up until the arrival of Europeans in the late 1700s. The excavated remains from the shelter included a wide range of shellfish species, mammal and fish bones, along with a number of flaked stone artefacts. After cataloguing and analysing the fish bones from the site, archaeologists concluded that fish may have been caught using fish traps such as stone tidal weirs, as opposed to spearing or angling.<sup>66</sup>

Aboriginal people also lived on the dunes at Rose Bay. Another campsite excavated in the dunes above the swamps and mudflats in the centre of the bay contained more than 5,000 artefacts concentrated in a roughly 5m x 5m area, and was probably used in the last 2,000 years. The stone artefacts included a number of backed artefacts (which were known to have been used as hafted barbs on spears), as well as a hammerstone and stone cores used in the production of artefacts. More than three quarters of the artefacts were made of quartz, which can be found in outcropping sandstone either side of the bay, as well as other stone raw materials traded from further afield.

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<sup>60</sup> Karskens 2009, p. 37.

<sup>61</sup> Irish 2017, pp. 17-19.

<sup>62</sup> Attenbrow et al. 2012, pp.47-52

<sup>63</sup> Attenbrow 2010a:156-7.

<sup>64</sup> Attenbrow 2010a:156-157.

<sup>65</sup> Attenbrow 2010b, pp. 16-34.

<sup>66</sup> Attenbrow & Steele 1995, pp. 47-60.



This campsite may have been associated with a tribal punishment ground nearby, where transgressions of the law with settled in ritual, through armed combat.<sup>67</sup> This was one example of how traditional law and ceremony governed Aboriginal people's lives. They also inscribed animal, human and spiritual figures onto the sandstone around the harbour as places of ceremony and of teaching. They had a spiritual duty to care for the lands and waters around Woollahra, which held deep cultural significance and meaning as part of their Dreaming.

This rationale underpinning their way of life was tested in profound ways by the coming of Europeans in 1788. On 18 January in that year, word probably reached the harbour clans shortly after the first of the eleven ships of the first fleet arrived in Gamay (Botany Bay). Several days later on 21 January, Aboriginal people along the eastern coastline of Woollahra watched three small boats led by Governor Arthur Phillip work their way towards the harbour from the anchored fleet at Gamay. Several groups called out 'warra, warra, warra', meaning 'you are all dead', as Aboriginal people had a belief about the dead returning to the land, which they believed was now happening.<sup>68</sup> Phillip and his party of naval officers and a party of marines explored the harbour before spending their first night at Camp Cove.<sup>69</sup> After further explorations over the next two days, Phillip picked Warrane (Sydney Cove) as the site for the new penal colony, and soon after the entire fleet rounded Bara woory (South Head) and sailed down the harbour past Woollahra to set up camp (Figure 23).



**Figure 23. The invasion... the first fleet enters the harbour in January 1788, passing along the Woollahra shore.**

[Source: 'Entrance of Port Jackson 27 January 1788', in Bradley 1786-1792 [1969], opp. p. 65. Extract of original image].

<sup>67</sup> Attenbrow 2010a, p.137.

<sup>68</sup> Collins 1910, p. 11; Ingrey et. al. 2020.

<sup>69</sup> Nagle 1829, p. 82.





In the first year of the colony, Europeans tentatively explored their surroundings on land and water, monitored closely by Aboriginal people. There were both peaceful and violent encounters. At Camp Cove for example, Lieutenant William Bradley describes coming ashore at Camp Cove while surveying the harbour in the week after the arrival of the first fleet, where he was 'cordially received by three men, who left their women sitting in a canoe at the other end of the beach'.<sup>70</sup> The Aboriginal men left their spears on the sand and observed while the visiting party cooked their dinner on the shore.<sup>71</sup> Just over a month later though, Bradley again visited Camp Cove, where an Aboriginal man showed him how he had been beaten by other visiting Europeans.<sup>72</sup>

As the year progressed violent incidents grew as it became clear that Europeans meant to stay, cutting down trees and taking foods, tools and weapons without permission or protocol (though the often quoted spearing of convicts in May 1788 that apparently gave Rushcutters Bay its name did not occur there).<sup>73</sup> The toll of this sporadic violence was dwarfed however by a deadly smallpox epidemic which swept around the harbour the following year. Europeans saw bodies strewn around the harbour 'as if, flying from the contagion, they had left the dead to bury the dead'.<sup>74</sup> The epidemic shattered families and broke traditional practices. It is hard to overstate the rapid devastation wrought by the disease, and the ongoing trauma that the survivors must have felt. But they found ways to regroup along old lines, perhaps drawing in more distant family connections through parents and grandparents in light of their diminished numbers to reconstitute their groups.<sup>75</sup> It is these people who have occupied Woollahra and coastal Sydney since that time.

#### 4.2 1800s to 1840s



**Figure 24. Panoramic view toward the harbour from above Rose Bay in 1830.**

[Source: Anon 1830].

In the early decades of the colony, Europeans did not intensively occupy the Woollahra area, instead seeking fertile and flat lands to the west of the harbour and up the major rivers for food production. The effect was that much of Woollahra remained uncleared bushland for more than a century after Europeans arrived (**Figure 24** and see **Figure 16A**). The regrouped Aboriginal survivors could continue to access the bays and headlands of Woollahra, establishing fishing settlements that often

<sup>70</sup> Clendinnen 2003, p. 90.

<sup>71</sup> Bradley 1786-1792 [1969], p. 67.

<sup>72</sup> Derricourt 2010:18

<sup>73</sup> Irish 2019, p. 24.

<sup>74</sup> Collins 1798[1975], p. 496.

<sup>75</sup> Irish 2017, pp. 22-24.



lasted for decades (**Figure 25**). Europeans began to refer to them by the areas where they most often lived – the Sydney tribe, the Botany tribe and so on. But as before, these groups were inter-related and also had connections far beyond these areas. They generally lived in groups of up to around twenty people, in rockshelters or traditional bark shelters, but also in huts and houses.

Cultural practices continued. For example, a tribal punishment ground at Rose Bay continued to be used to settle disputes and transgressions of tribal law by ritual combat using spears and clubs, perhaps into the 1820s or later based on burials found in the area.<sup>76</sup> One of these ritual combats in 1796 was described as follows by David Collins:

we heard that a large party of natives belonging to different tribes, being assembled at Pan-ner-rong (or, as it is named with us, Rose Bay), the spot which they had often chosen for shedding blood, after dancing and feasting over-night, early in the morning, Mo-roo-ber-ra, the brother, and Cole-be, another relation of Bone-da, seized upon a lad named Tar-ra-bil-long, and with a club each gave him a wound in his head, which laid the skull bare. Dar-ring-ha, the sister of Bone-da, had her share in the bloody rite, and pushed at the unoffending boy with a doo-ull or short spear.<sup>77</sup>



**Figure 25. Aboriginal people fishing at Queens Beach at Vaucluse in the 1830s.**

[Source: Martens 1837].

<sup>76</sup> David Ingrey pers. comm. 28/3/19; Collins 1798[1975], pp.466, 489-90. For burials see Donlon 2008.

<sup>77</sup> Collins 1798[1975], pp. 489-90.



In the 1810s, Governor Macquarie tried to encourage Aboriginal people to adopt a more settled 'European' way of life. He initiated annual feasts for Aboriginal people at Parramatta in December 1814 in order to encourage parents to place their children in the newly constructed Parramatta Native Institution school. The next month he established a farm and village at Middle Head for Aboriginal people, including the family of coastal Sydney woman Cora Gooseberry and her husband Bungaree, who had moved to the harbour from the north of Sydney.<sup>78</sup> Aboriginal people showed a reluctance to use the Middle Head farm as a permanent settlement, and in 1820, Macquarie tried again to 'establish some native settlers', this time from the Sydney tribe south of the harbour with a similar farm and fishing village. The Sydney people chose Gurrain (Elizabeth Bay) a place which was acknowledged as 'much frequented and delighted in by the Sydney blacks, to a family of whom indeed it belonged' (Figure 26).<sup>79</sup> It was used for several years, sometimes with several dozen residents, but by 1824 like the Middle Head farm, it had also been abandoned.<sup>80</sup>



**Figure 26. The Aboriginal fishing village at Elizabeth Bay in the early 1820s.**

[Note the layout and form of the huts and the presence of fishing boats. Source: Mason 1821-23: Image 42, though it must be a copy of an earlier image as Mason did not arrive in Sydney until 1853 according to Smith 1992, p.118]

A number of the Elizabeth Bay settlement residents died and were buried nearby.<sup>81</sup> The locations of these historical burials, such as that of Botany Bay man Mahroot (Snr) was still known to Europeans in the area many decades later.<sup>82</sup> Further east at Rose Bay, two of the residents of the Middle Head settlement were also buried together – Matora in 1828 (Figure 27) followed by her husband Bungaree in 1830.<sup>83</sup> Although we know little about Matora, her burial at Rose Bay presumably meant

<sup>78</sup> Irish 2017, pp. 29-30.

<sup>79</sup> Macquarie 1787-1824, p. 256 [fr672]; Hall 1828, pp. 596-597.

<sup>80</sup> <https://www.sydneybarani.com.au/sites/elizabeth-town/> [accessed 22/4/21].

<sup>81</sup> West, O. "Old and New Sydney. To the Editor of the Herald," *Sydney Morning Herald* 24/5/1882, p. 3.

<sup>82</sup> Hill & Thornton 1892, p. 7.

<sup>83</sup> Smith 1992, pp. 143-145; 'Boongarie', *The Australian* 3/12/1830, p. 3.



that this was part of her traditional Country.<sup>84</sup> We have more information about another of Bungaree's wives Cora Gooseberry (1770s – 1852) who was an acknowledged 'queen' of coastal Sydney and continued to live around Woollahra with her family in the years after Bungaree's death (Figure 27).<sup>85</sup>



**Figure 27. Cora Gooseberry at Camp Cove in the 1840s and Matora in 1820.**

[Source: (left) Angas 1845a. (right) Barratt 1981 p.37. [permission required to publish](#)]

In 1845 for example, Cora was living with a dozen Aboriginal people around a tidal lagoon at Camp Cove, next to the rich fishing grounds of the harbour mouth.<sup>86</sup> A decade earlier around a hundred Aboriginal men, women and children were seen camped around the lagoon, each family with their own hut and hearth.<sup>87</sup> Numerous burials found in the vicinity suggest that their ancestors had used this place for generations.<sup>88</sup> Men and women fished the cove in flotillas of canoes during the day (Figure 21), and at night men stepped off the beach with pronged fishing spears and flaming torches

<sup>84</sup> Irish 2017, p. 27. Historian K.V. Smith speculates that Matora was from the Central Coast because a similar sounding word in the Central Coast/Newcastle language means 'snapper', but this possible association is too tenuous to attach Matora's identity to (see Smith 2011).

<sup>85</sup> Europeans acknowledged Cora Gooseberry as a "Queen of Sydney and Botany", see Cleary 1993, pp107-109; Attenbrow 2010a, Plate 13.

<sup>86</sup> Angas 1847[1969], p. 202.

<sup>87</sup> Irish 2017, pp. 32-33, 37-38; Proctor 1834, pp.119-121 [fr 71-72].

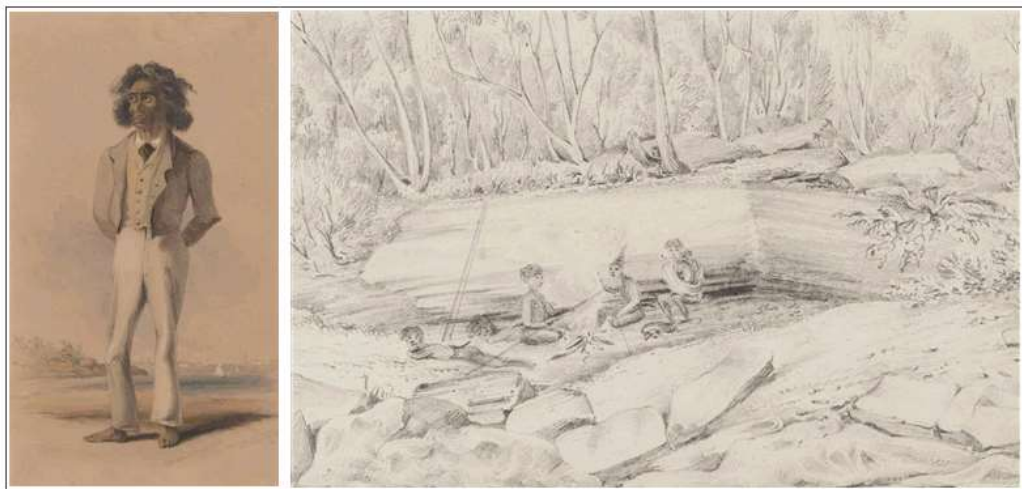
<sup>88</sup> E.g. 'Brevities', *Evening News*, 27/7/1883, p. 3; 'Early Watson's Bay. Good Old Days Recalled', *Evening News* 13/12/1919, p. 4; 'News of the Day', *Sydney Morning Herald*, 28/7/1883, p. 9; 'News of the Week', *Maitland Weekly Mercury* 4/3/1899, p. 10; Brown 1938/40, p. 7; AHIMS Register site record for #45-6-2353.



to catch some more.<sup>89</sup> The lagoon has since been filled but you can still sense its presence where the landscape dips down behind the beach, and today's Camp Cove Reserve sits in the middle of the former open water.

One of the probable reasons that Cora and others lived there was that it was sufficiently distant from Sydney to allow them to continue living as they wished. But that does not mean that they were forced to be there, or that they chose to shut themselves off from the colony. They sought instead to interact with the colony and its economy as much as possible on their own terms. For example, at Camp Cove, residents used their acknowledged fishing expertise not just to feed themselves, but to run commercial fishing trips from the city to pay for supplies they needed.<sup>90</sup>

A similar strategy was used at Double Bay. Here, a group of around twenty Aboriginal men, women and children lived in a large sandstone rockshelter in 1845. This was the 'Sydney tribe' led by Thomas Tamara (1810s-1860s?) and his Botany Bay wife Nanny Nellola (**Figure 28**). Though a European fishing village was set up along the beach, the surrounding area was still largely uncleared and sparsely unoccupied by Europeans. The overhang provided their shelter, and Tamara and his group slept around a fire on its bare earth floor, wrapped in blankets and surrounded by their dogs.<sup>91</sup>



**Figure 28. Thomas Tamara and others at Double Bay in the 1840s.**

[Sources: (left) Angas 1845b. *permission required to publish*; (right) Campbell 1842. Extracts of original images.]

Like at Camp Cove, fishing was a major activity at Double Bay, and small groups like Thomas Tamara's could use their intimate local knowledge to feed themselves and make a living. They caught fish in the adjacent bay using traditional pronged spears (**Figure 28**) but also owned a

<sup>89</sup> Irish 2017, p. 37.

<sup>90</sup> Irish 2017, pp. 32-33.

<sup>91</sup> Laracy 1845; Irish 2017, pp. 39-40, 48-49.



wooden boat which they used to fish the harbour and bring their catch to town.<sup>92</sup> Tamara's group followed the fish. In 1846, the year after they were at Double Bay, they took their boat to Botany Heads and fished their way down the coast to the Illawarra, before returning to the harbour to set up a fishing camp at Vacluse.<sup>93</sup> In addition to their earnings from fishing, they sold eucalyptus gum harvested by Aboriginal women from the extensive surviving forests east of the town, as well as returning boomerangs expertly crafted by Tamara.<sup>94</sup> It was probably also Tamara and Nanny's group who were recorded helping their European neighbours fight a bushfire at Point Piper in 1845.<sup>95</sup>

### 4.3 1850s to 1890s

In the second half of the nineteenth century, Woollahra became more densely populated by Europeans as suburbs began to form and subdivision of large estates began. However, Aboriginal people were still able to access the water and maintain settlements in the harbour bays, even when access to some areas was blocked. This is illustrated well by the building that houses Woollahra Council – Redleaf House at Double Bay (see **Figure 36D**). There are several different versions of the story, each providing different dates and details.<sup>96</sup> It appears that one of the early residents of the house in the 1860s or 1870s did not like the fact that Aboriginal couple Gurrah and Nancy were living just outside the property fence, and did not wish to move away. The facts are hard to distil in this local legend, but some form of payment (seven shillings is suggested) was negotiated as recognition of the Aboriginal couple's rights to the area, and compensation for their moving away. Gurrah and Nancy viewed the transaction differently however, moving a few hundred metres up the hill to a sympathetic neighbour, and returning soon after when more accommodating owners took over at Redleaf. After Nancy died and was buried at Double Bay in the early 1870s, Gurrah continued to visit Redleaf, probably to fish the bay from Seven Shillings Beach, the very spot named in recognition of the unsuccessful attempt to dislodge Aboriginal connections with a few coins.<sup>97</sup>

Other Aboriginal settlements were located either side of Double Bay. The Rushcutters Bay settlement was present by the 1850s (possibly earlier), and over the ensuing decades shifted around the edges of the extensive mudflats that fed into the bay (**Figure 29**).<sup>98</sup> It was well-known to local residents, who recalled men spearfishing and ceremonies taking place in the 1870s, as well as Aboriginal women bailing up the carriages of rich passersby by standing in front of them, in order to ask for money or gifts for their children. There were altercations between local European youths and Aboriginal people, as well as a number of assaults and alcohol-related deaths at the settlement, and

<sup>92</sup> Irish 2017, pp. 48-49, 63.

<sup>93</sup> 'Aborigines', *Sydney Morning Herald* 20/4/1846, p. 2; Townsend 1846, frame 87.

<sup>94</sup> Laracy 1980, pp. 179, 181.

<sup>95</sup> 'Incendiarism and its Effects', *Sydney Morning Herald* 22/1/1845, p. 3.

<sup>96</sup> A.D.M.B., 'Seven Shilling Beach. A Quaint Story', *Sydney Morning Herald* 5/4/1941, p. 9; Irish 2017, p. 73; Jervis & Kelly 1960-1965, p. 44.

<sup>97</sup> Irish 2017, pp. 84-85.

<sup>98</sup> Irish 2017, pp. 72-73.



some residents feared passing by the settlement.<sup>99</sup> But despite this, and the increasing European population in the area, there were no calls to move Aboriginal people away until the 1890s.<sup>100</sup>



**Figure 29. Rushcutters Bay in the 1870s.**

[The view is east along New South Head Road and the settlement was somewhere beyond the stone cottage behind the tollgates. Source: American & Australasian Photographic Company 1870-1875. *Horse and cart at the tollgates, New South Head Road, Rushcutters Bay* (SLNSW ON 4 Box 13 No [38]).

There were other settlements documented around Rushcutters Bay over the years, and it is not clear whether they represent places used by the same group of people at different times, or completely separate places. For example, there are records of camps around Edgecliff and also further up Rushcutters Creek in Paddington. Local resident Robert Joyner later recalled that in the 1870s this area was still 'covered by a dense forest of big trees' and he remembered 'seeing their campfires and hearing their cries when doing their corroborees'.<sup>101</sup>

Another major settlement in this period was at Rose Bay, and may also have shifted location around the bay over time. From the late 1840s, Sydney man William Warrell (1790s-1863) lived in a hut along New South Head Road, near what is now Norwich Road (**Figure 30**).<sup>102</sup> Warrell was a cousin to Cora Gooseberry, and had lived and travelled with her in and around Sydney town in previous years.<sup>103</sup> He spoke fluent Aboriginal language and continued to reside on his traditional Country until his death in 1863. Although he was spoken of as the so-called 'last of his tribe' other Aboriginal people continued to live in Rose Bay after his passing. An Aboriginal man named Bungela (William

<sup>99</sup> Gelding 1938; East 1930; 'Sydney News', *Maitland Mercury & Hunter River General Advertiser* 14/2/1863, p. 3; 'Accidents and Offences', *Sydney Morning Herald* 25/11/1878, p. 8.

<sup>100</sup> Irish 2017, pp. 127-8.

<sup>101</sup> Joyner 1919. Recollections. Thank you to Rob Joyner for providing this information.

<sup>102</sup> Irish 2017:69-70.

<sup>103</sup> Irish 2017, pp. 43, 48, 59. 69-70.

Lynes) was working as a 'farm servant' and living with his father William Snr, a farmer, at Rose Bay in 1864.<sup>104</sup> **Figure 31** shows what the area looked like around this time. Later in the nineteenth century Aboriginal woman Kate Sims (1850s-1930), who has descendants today in the La Perouse Aboriginal community, was also recorded at Rose Bay, and it remained an Aboriginal settlement until the end of the nineteenth century.<sup>105</sup>



**Figure 30. William Warrell outside his hut at Rose Bay in 1853.**

[Source: Hardwick, c.1853].

Aboriginal people tried to live at Rose Bay as much as possible on their own terms. They did so by cultivating strategic relationships with key Europeans in the area. William Warrell for example was well known to the Cooper family at Rose Bay, and the Wentworths and Hills at Vaucluse and Point Piper.<sup>106</sup> Other Aboriginal people worked for, and traded with the Wentworths at Vaucluse House, and visited other residents like Richard Hill at Greycliffe House in Vaucluse, Edward Smith Hill at the Woollahra House Stables building at Point Piper and William Bede Dalley at Clairvaux in Vaucluse.<sup>107</sup>

They also continued traditional practices. At the mouth of Rose Bay Creek for example, they 'staked out a weir, or, as the blacks called it, a moul for the purpose of obtaining a supply of fish.'<sup>108</sup> In the

<sup>104</sup> Reid, J. 'To The Editor of the Herald', *Sydney Morning Herald* 21/5/1864, p. 13.

<sup>105</sup> W.H.D. 'A Dying Race. The Blacks at La Perouse', *Molong Argus* 10/1/1908, p. 8.

<sup>106</sup> Irish 2017, pp.70-71.

<sup>107</sup> Irish 2017, chapter 4; 'Harry, the King of Kissing Point', *Sydney Morning Herald* 17/7/1880, p. 7.

<sup>108</sup> West, O. "Old and New Sydney XIX. Our Harbour and Ocean Bays", *Sydney Morning Herald* 12/10/1882, p. 9.





1870s a group of Aboriginal people including Johnny Baswick (also known as Bankey or Pankey) and his wife Rachel were seen spearfishing at Rose Bay and trading fresh fish and oysters with the residents of nearby Woollahra House at Point Piper.<sup>109</sup> As a local resident later recalled:

The aboriginals were amazingly expert spearmen. Standing on rocks above the water, and with spear poised to strike, they seldom failed in their unerring aim. I have never seen a blackfellow use the same kind of spear since then. It was about ten feet long, and had three prongs made of umbrella wires, barbed at the points, and tightly bound to the end of the spear. Many of the rock carvings on Point Piper...were the work of the aboriginals of 60 years ago, and most of them were carved by Pankey's son "Freddy."<sup>110</sup>



**Figure 31. Painting looking west over Rose Bay in the 1860s.**

[Source: Elyard 1862-1873]

One of the reasons Aboriginal settlements like Rose Bay and Rushcutters Bay were able to survive, was that the government had no policies or laws about where Aboriginal people could live in this period. In this absence of government scrutiny Aboriginal people were more or less left to work things out with Europeans in Sydney, which made cultivating relationships with influential European residents important. But this way of life began to unravel in the 1880s. The government was being urged by missionaries and by parliamentarian George Thornton to develop an approach to Aboriginal welfare. Thornton had a longstanding interest in Aboriginal people in Sydney and surrounding areas, many of whom visited him at his home in Darling Point.<sup>111</sup> By the 1870s though he was of the view that no Aboriginal people in Sydney were 'from' Sydney, and that the government should discourage them from visiting by dispensing assistance only in their 'home district'.<sup>112</sup>

<sup>109</sup> Irish 2017:66, 70-72.

<sup>110</sup> East 1930.

<sup>111</sup> Tucker 1883; 'The Aborigines', *Maitland Mercury & Hunter River General Advertiser* 24/11/1863, p. 2.

<sup>112</sup> Irish 2017, p. 112.



Thornton brought these issues to a head in 1881 in relation to the Government Boatshed at Circular Quay, where Aboriginal people from Rushcutters Bay and other coastal Sydney settlements stayed when they wanted to buy and sell goods in the city. By the end of the year he had been appointed the state's first 'Protector of Aborigines', with sole powers to distribute government assistance to Aboriginal people across New South Wales. By 1883, this position had changed to an Aborigines Protection Board, with Richard Hill of Vacluse as its inaugural chair. The Board made government assistance available to coastal Sydney people only at the Aboriginal fishing village of La Perouse.<sup>113</sup> By the 1890s they also, through the police, increasingly monitored the various Aboriginal settlements and intervened to shut them down in response to complaints from Europeans residents or if they were perceived to get too large or unruly in the Board's view. For example, they acted on a resident complaint to try to shut down the Rushcutters Bay settlement. Police were also sent to Watsons Bay where Aboriginal people were busking by giving 'spear and boomerang throwing exhibitions in front of the Greenwich Pier Hotel' to move them on from their camp nearby.<sup>114</sup>

The result of this surveillance and intervention, and the pull of available assistance at La Perouse, was that most Aboriginal people in the harbour camps came to live there by the end of the century.<sup>115</sup> They were further encouraged by members of the evangelical Christian Endeavour movement, who established a mission at La Perouse in the mid-1890s.<sup>116</sup> For Woollahra, this meant that there were few if any Aboriginal settlements remaining in the area by the turn of the century. It became less common to see Aboriginal people in the area, just at the time when interest was growing among Europeans in rock engravings and other traces of the Aboriginal past. The increasing dislocation of Aboriginal people from traditional Country and places of significance such as rock engravings, allowed a view to develop that Aboriginal culture was a thing of the past with no living continuity, and that this past could be interpreted by non-Aboriginal 'experts'.<sup>117</sup> We are still dealing with the legacy of this today, and this study has tried to redress that imbalance.

Many of the Europeans central to these developments in government and religious intervention, and the perceived transfer of 'authority' from Aboriginal to non-Aboriginal people were Woollahra residents. These included:

- Darling Point resident and inaugural Woollahra mayor **George Thornton**, who was the first Protector of Aborigines in 1881 and 1882.
- **Richard Hill**, who lived at Vacluse and the city, and was the inaugural chair of the Aborigines Protection Board from 1883 until his death in 1895. Hill maintained close relationships with Aboriginal people at La Perouse, which were continued by several generations of his descendants.<sup>118</sup>

<sup>113</sup> Irish 2017, chapter 6, pp. 125-130.

<sup>114</sup> Irish 2017, pp. 126-127.

<sup>115</sup> Irish 2017, pp. 125-130.

<sup>116</sup> Irish 2017, pp. 126-128.

<sup>117</sup> Byrne 1996, pp. 88-93.

<sup>118</sup> Irish 2017, pp. 129.



- **Harriet Baker**, the first missionary at La Perouse, who lived at Paddington and was governess to the Rowe family at Darling Point in the 1890s, right next to the Rushcutters Bay Aboriginal settlement.<sup>119</sup>
- Paddington resident **William Campbell**, who made extensive recordings of Aboriginal rock art around Woollahra and across Sydney in the 1890s.
- **C.W. Peck**, who also lived at Paddington and recorded traditional Aboriginal stories from Dharawal woman Ellen Anderson in the 1920s.

In addition, many other residents interacted with Aboriginal people, including later Woollahra mayor Leo Whitby Robinson and his mother Eliza, who continued to visit their Aboriginal friends in the early twentieth century after they moved to La Perouse.<sup>120</sup>

#### 4.4 1900s to now

Soon after most Aboriginal people in Woollahra moved to La Perouse, the area was covered in a carpet of suburban housing and roads; most creeks went underground, and mudflats disappeared under lawns and playing fields. Coastal Sydney people still continued to visit the area, though this was rarely documented, and was in the context of high levels of government monitoring and control. For example an historical pageant was held at Vaucluse House in 1932 on the occasion of the opening of the Sydney Harbour Bridge. Aboriginal people at La Perouse had embraced the occasion in the lead up to the opening, making replica bridges decorated with shells and engraving boomerangs with bridge motifs. When an opportunity arose to set up a 'traditional camp' at Vaucluse House as part of the celebrations, dozens of Aboriginal people from La Perouse, probably among them descendants of others who have lived their in the past, were able to camp for several days on the property.<sup>121</sup>

Aboriginal people (particularly women) were also hidden away in private houses in Woollahra throughout much of the twentieth century, working as domestic servants.<sup>122</sup> In the nineteenth century, the 'apprenticing' of Aboriginal and other children was organised through Ormond House in Paddington, but by the twentieth century the Aborigines Protection Board presided over a government legislated system of child removal, where Aboriginal children were taken from their families and trained in specialised children's homes for eventual domestic service. By the 1920s, hundreds of Aboriginal girls as young as 12 were working as domestic servants across Sydney.<sup>123</sup> Though most Aboriginal domestic servants would have been girls from outside the area, at least one had connections to the La Perouse community.

<sup>119</sup> Nugent 2005, p. 55; Irish 2017, pp. 127-128.

<sup>120</sup> Irish 2017, p. 128.

<sup>121</sup> Irish & Ingreys 2011, pp. 40-46.

<sup>122</sup> E.g. Wilson 2001, Walden 1995.

<sup>123</sup> Goodall 1995, Walden 1995.



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Lena Bungary (c1907–1968) was from La Perouse and between the 1930s and her death she lived with and worked for the Stephen family at Jersey Road in Paddington. Elders from La Perouse recalled visiting Lena at the house on Jersey Road in Paddington, and this connection is still recognised by community members today.<sup>124</sup> Over recent decades, coastal Sydney descendants from the La Perouse community have re-engaged with the Woollahra area, researching its history and holding community events at places like Vacluse House and running tours at South Head. The Aboriginal heritage study has also provided an opportunity for some coastal Sydney people to walk the area, looking for Aboriginal heritage places and thinking about the past connections that continue to resonate across Woollahra.

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<sup>124</sup> Michael Ingrey, pers. comm. 5/8/2015.



## 5 Aboriginal heritage in Woollahra

In this section we look at the heritage of Woollahra's Aboriginal history. This consists of both tangible and intangible heritage, though the primary focus of the study is the physical traces of the long history of Aboriginal connections to the Woollahra area. There is no central place to find all existing information about Aboriginal heritage. What is available is generally scattered, incomplete and hard to interpret. We have drawn on the environmental information, land use impact overview and Aboriginal history in previous sections to consider what could once have been present, what might survive, how we know about it and what we still don't know. A consideration of all these things has allowed us to create a list of known and potential Aboriginal heritage places and to determine the 'sensitivity' of different parts of Woollahra to contain undocumented Aboriginal heritage. This is the basis for the management strategy outlined in **Section 6**.

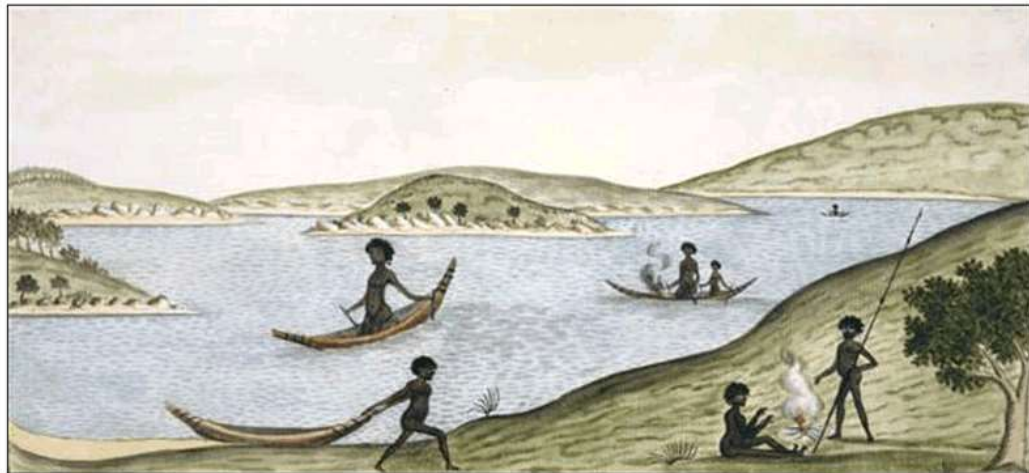
### 5.1 *What has been lost and what could remain?*

It is hard to get a sense of this now, but Woollahra would have been an environment of bountiful natural resources for Aboriginal people – rich fishing grounds in the harbour bays fed by freshwater creeks flowing through lagoons full of plants, shellfish and waterbirds and forests full of foods, fibres and animals.

For thousands of years, Aboriginal people camped and moved around Woollahra and across the surrounding areas. Many of the physical traces of their presence were only ever ephemeral. Most of their housing and equipment was made of organic materials such as wood, bark, fibres, shell and bone. All these remains (as well as human burials) break down on the ground or in its acidic soils within a matter of decades or centuries, unless they are incorporated into lime-rich shell middens which help to preserve them. Trees which were scarred or marked by Aboriginal people only last as long as that tree remains standing.

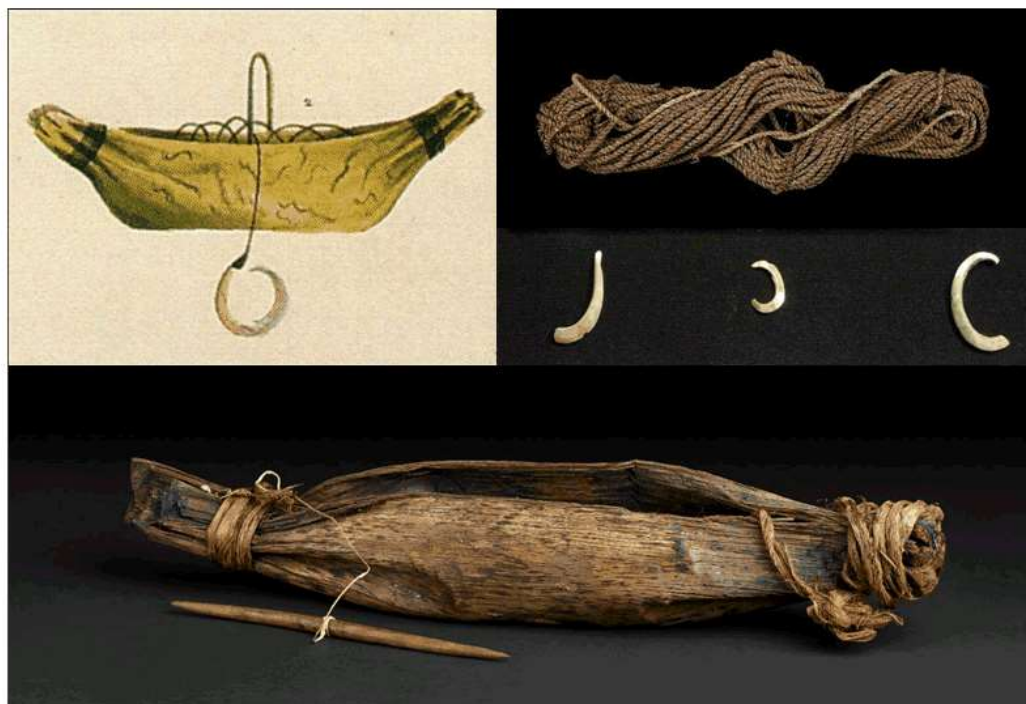
For this reason surviving archaeological evidence does not represent many of the most basic aspects of Aboriginal life that were so frequently described and pictured by early Europeans. Consider typical scenes of Aboriginal women and men fishing the harbour from their nawi (bark canoes) and cooking their catch on the shore, as you can see in **Figure 32**. The only surviving physical traces of these activities on the ground are likely to be shell fish-hooks, fish bones and some charcoal from a fire, while a few examples of fishing line, tool boxes and fishing spears survive in overseas museums (**Figure 33**). There are no traces of the nawi themselves, their paddles, cooking fires or the foods cooked on them, let alone the huts of harbourside camps.

Historical impacts have also destroyed physical remains and some cultural knowledge of Aboriginal heritage places, which we consider in the following sections in relation to different types of places and values.



**Figure 32. Aboriginal people fishing and camping around the harbour.**

[Source: Port Jackson Painter, [Untitled harbour scene, with people paddling canoes], between 1788 and 1798 (Thomas Watling Collection, Natural History Museum, London, Port Jackson Drawing - no. 45). Extract of original image; [permission required to publish](#)].



**Figure 33. Women's fishing equipment from historical images and surviving objects.**

[Source: (top left): Extract from Port Jackson Painter, [Fishing scene with aboriginal implements], between 1788 and 1797 (Thomas Watling Collection, Natural History Museum, London, Port Jackson Drawing - no. 71); (top right) Fishing line (British Museum Oc4062) and fish hooks from Kurnell (Coast 2021); (bottom) Workbox (British Museum Oc1872). Courtesy of the Trustees of the Natural History Museum and Trustees of the British Museum. [permission required to publish](#)].



### 5.1.1 Aboriginal heritage on sandstone

The types of physical evidence of ancient Aboriginal life are patterned according to the underlying geology of sandstone and sand. Sandstone is found outcropping around the headlands of Woollahra and generally occurs in parallel bands as you move upslope. These bands can contain large outcrops of rock or isolated boulders. Within and on these can be found the following:

#### Rockshelters

Rockshelters were used variously as living places, art sites and/or places of burial. They vary greatly in size from those that could contain large groups to others big enough for one or two people (**Figure 34A & B**). Some art in Woollahra is also found in small eroded scallops of rock that are not big enough to fit a person. Rockshelters generally form in sandstone outcrops of sufficient size and exposure (from sloping ground) to erode into overhangs. For this reason, they are rarely found on flat ground, except behind beaches, which were also once sloping ground before the sea level rose.

Traces of past Aboriginal use can be found on and under the floors of rockshelters, where soil has accumulated. In the acidic soils across Sydney, the only remains that survive for any length of time are usually implements of stone, and the charcoal or hearthstones from cooking fires. The exception is where Aboriginal people cooked, ate and discarded shellfish, the lime rich shells of which buffer against the acid in the soil and can preserve a wide range of organic materials such as human bone, animal and fish bone, and tools made of bone and shell. These sites are called 'middens' or 'shell middens' and can be found in the open or within rockshelters. The walls and roofs of rockshelters formed the canvas for galleries of Aboriginal art. These can be painted, drawn or stencilled figures. Sometimes figures were also engraved vertically on rockshelter walls (**Figure 34E**).

#### Rock engravings

They may be present where flat, or relatively level, areas of bedrock are exposed, either as outcrops or isolated boulders, and occasionally in rockshelters as noted above. They can consist of extensive galleries with dozens of motifs, or isolated figures of human and spirit figures, sea and land animals and implements (**Figure 34C-E**). Rock engravings were created by joining a series of holes created by striking with a rock (pecked) to form the outlined figures and have sometimes later been re-cut as they erode away. Some engravings were used as teaching places, others were places of ceremony.

#### Grinding grooves

These can be found anywhere on outcropping sandstone, but generally next to creeks or potholes that can hold water on rock platforms. The grooves are formed from the repeated rubbing of hard stone to create edges or sharpen them, usually with water as a lubricant. Sites can contain one, two or dozens of grinding grooves. Most grinding grooves documented around Sydney appear to have been for the sharpening of axes, however others were probably used for sharpening smaller flaked stone tools like spear points. Few grinding grooves have been documented within Woollahra, but this is not surprising given the massive impacts to waterways through channelising and reclamation.



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<p>Large shelter with art at the base of an escarpment</p>	<p>Small shelter with midden and art (as well as graffiti)</p>
<p>Fish engraved on private property overlooking the harbour</p>	<p>Fish engraved at Point Piper and preserved under the floor of a former residence, now a garage</p>
<p>Fish engraved vertically on the rear wall of a shelter</p>	<p>Grinding grooves [image not from Woollahra].</p>

**Figure 34. Aboriginal heritage associated with sandstone.**

[Sources: A), B), E) Coast 2020. C) AHIMS Register. D) Stanbury & Clegg 1990, p. 26. F) Paul Irish 2011].





There have been massive impacts to some areas of sandstone outcrop in Woollahra, through quarrying, road cuttings and landscaping. Many engravings, rockshelters and grinding grooves have no doubt been destroyed. Some remain preserved in public reserves and national parks, where they have been shielded from these impacts. However as we have noted, most residential construction in the early nineteenth century was built on top of sandstone rather than cutting through it, and left large escarpments unscathed. We know that rockshelters have survived in good condition in some properties and rock engravings lie preserved under some houses (some of which are recorded and known about by the owners, others which may be buried under floorboards). There are also instances where engravings were recorded many years ago and have since been covered by sand. Only small areas of rock need survive to preserve grinding grooves or part or all of a rock engraving, or even a small rockshelter. The chances are that more of these types of site exist than are currently documented, surviving between or under houses or concealed by vegetation in a park.

### 5.1.2 Aboriginal heritage on sand

Sand covers much of Woollahra, either as beachfront dunes, inland dunes or thinner veneers of sand formed from eroding sandstone bedrock. Much more is known about the coastal fringe than the inland dunes, but the main types of evidence found in these various landforms include:

#### Shell middens

As we discussed in relation to rockshelters, when Aboriginal people ate and discarded sufficient quantities of shellfish at one location, these act to preserve other organic materials such as mammal and fish bones, as well as human burials. They can be considered coastal campsites because they are usually located close to environments where shellfish are found, such as along the rocky shore or near mudflats, and are often called 'middens' or 'shell middens'. They are generally within a few hundred metres of these sources of food. Shellfish were probably eaten at other camps as well, but not in sufficient quantities to have survived and preserved other organic materials.

Middens found in the open (as opposed to within rockshelters) were probably associated originally with bark and bough huts, but no trace of these has been found. They can be small, discrete heaps of shell, thin bands of shell within sand, or thick layers of shell that cover stretches of beachfront dunes or entire headlands (**Figure 35A & B**). Apart from fishing and shellfishing, Aboriginal people do not appear to have used these coastal campsites particularly differently to others further inland. It is just that the presence of shellfish remains preserves a wider range of evidence of past uses than at these other campsites.

#### Other campsites

Where Aboriginal people camped and did not consume shellfish, organic materials generally do not survive. In these other campsites, it is most often tools of stone that are found (**Figure 35C**). Sometimes, evidence of cooking fires is found as concentrations of charcoal or stone-lined hearths, even though the food remains themselves are no longer there. These campsites can be located anywhere around Woollahra, including close to the shore in thin deposits of sand, or deep in the



dune deposits across Rose Bay (**Figure 35D**). They could also be present within the elevated dunes at Vaucluse, the suburb of Woollahra, Bellevue Hill, Darling Point and Point Piper.

Stone artefacts can be found across the current ground surface or buried within the sands. They might represent repeatedly used camps or places where people discarded broken tools while passing through the landscape. The sand dunes were formed between 40,000 and 14,000 years ago – within the period that Aboriginal people are known to have lived elsewhere across the Sydney region, but so far the artefacts found in the dunes at Rose Bay are likely to date from the last few thousand years and into the nineteenth century, overlapping with the early European uses of the area. In similar deep dunes further south at Randwick, several stone-lined hearths have been found, one of which was used 8,000 years ago to cook freshwater fish from an adjacent swamp.<sup>125</sup> It is possible that older artefacts or fireplaces like this are also found within Woollahra.



**Figure 35. Aboriginal heritage associated with sand.**

[Sources: Coast 2020].

<sup>125</sup> Dallas et. al. 1997; <https://www.sydstories.com.au/#/chapter/1> [accessed 21/2/21]



Middens around the shoreline can be found in dunes behind beaches. While there have been many impacts to the shoreline of Woollahra, these have sometimes covered rather than removed the original shore, for example through reclaiming land. Middens can also survive on small rocky outcrops behind the shore, potentially under the footings of houses or between buildings. While many of these sites may not be intact, the remains they contain are significant from both a cultural and archaeological perspective, and they may also include human burials.

Back from the shoreline, we know relatively little about other campsites that could be located in the deeper dune deposits of Rose Bay and the elevated dunes either side of Rose Bay and on the harbour headlands at Darling Point and Point Piper. There have been only three archaeological excavations to date, and all have been within the Rose Bay dunes. Nothing is currently known about what the elevated dunes may contain. Two of the Rose Bay excavations found small quantities of artefacts, while the third found a concentration of more than 5,000 artefacts as well as human remains.<sup>126</sup> More information is needed to be able to predict where larger campsites may occur. However it is clear from Rose Bay, and from investigations in similar sand bodies further south at Randwick, that archaeological remains could be found deep in the dunes, below the current reach of house or apartment building footings.

### 5.1.3 Historical places

Aboriginal people continued to live across Woollahra throughout the nineteenth century, as we have outlined in **Section 4**. While they continued to live in some ways as their ancestors had, their lives were also influenced by the constraints and opportunities of the expanding colony. For this reason, geology is a less useful guide to the types of Aboriginal historical places than it is for those used before the arrival of Europeans. Instead we need to look at the historical record, which can provide some details about the locations of some places used by Aboriginal people – their settlements, the places they visited and the places they buried their dead. Many of these activities will have left little or no discernible or enduring physical trace. For example, at Rose Bay we know that a traditional ceremonial punishment ground continued to be used into the nineteenth century, and that the area was also an Aboriginal settlement across that century (**Figure 36A**), but so far the only physical traces of those uses have been a burial most likely related to the punishment ground, and a single glass artefact (**Figure 35C**).

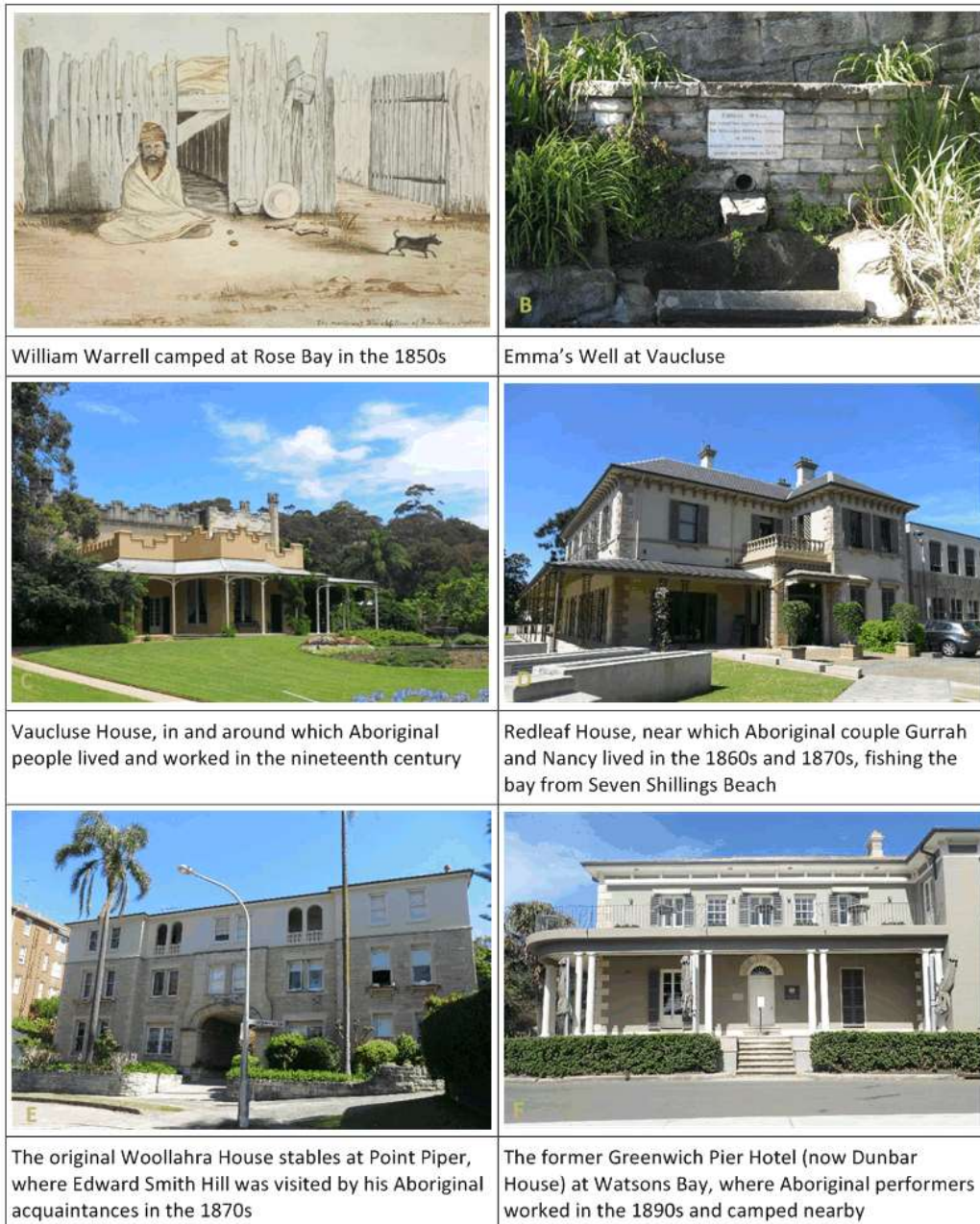
Most of the physical remains currently known that relate to the Aboriginal historical use of Woollahra are more indirect traces. They are the associations bound up in historical buildings or places. For example Emma's Well along New South Head Road at Vaucluse is probably associated with Aboriginal woman Emma Collins who was said to have been a custodian of the natural spring, now trough (**Figure 36B**). Other historic houses such as Vaucluse House and Redleaf House are among many that have Aboriginal historical associations (**Figure 36C - F**). Though little or no physical evidence of Aboriginal people may be preserved at these places, the stories associated with them keep that history of ongoing Aboriginal occupation alive.

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<sup>126</sup> Jo McDonald Cultural Heritage Management Pty Ltd, 2010.



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**Figure 36. Aboriginal historical places.**

[Sources: A), Hardwick 1853. B) - E) Paul Irish 2011. F). Coast 2020].



We have considered the documented Aboriginal historical places across Woollahra and added them into the list of heritage places compiled for this study (see **Section 5.3** and **Appendix B**). Within and beyond these places, it is likely that archaeological remains of historical Aboriginal uses of Woollahra will be scant, but it is important to consider what these remains may be in order to ensure that they are not overlooked.<sup>127</sup> For example, we need to be careful that we consider Aboriginal uses of items such as clay smoking pipes, which are usually thought to be associated with non-Aboriginal people.

#### 5.1.4 Intangible heritage

The places considered in the previous sections primarily relate to the survival of physical or archaeological traces of the Aboriginal past before the arrival of Europeans, but we need to be careful not to confuse physical survival with significance. The partial or complete destruction of physical traces of the past does not mean that their locations have no ongoing significance to Aboriginal people, and these values still need to be considered in heritage management. Any of the types of places outlined in the previous sections can have values to Aboriginal people today that are independent of physical remains. These values may be cultural or spiritual – relating to the creation stories of particular landforms, or the use of particular places like rock engravings for teaching or ceremony, or tribal punishment grounds for enforcing Aboriginal law. They can also be associated with the historical associations of ancestors, or the endurance of traditional names.



**Figure 37. View north-east across Rose Bay, which has cultural and historical significance today.**  
[Source: Coast 2020].

Rose Bay is an example that encapsulates some of these values (**Figure 37**). This was an area which contained a tribal punishment ground, where disputes and transgressions of tribal law were settled.<sup>128</sup> Early Europeans observed some of these ceremonial contests and noted the name of the area as Pannerong.<sup>129</sup> However the area this refers to specifically is not known, and further Aboriginal community and linguistic research is needed to determine what it most likely means.

<sup>127</sup> Irish & Goward 2012.

<sup>128</sup> David Ingreys pers. comm. 28/3/19; Collins 1798[1975], pp.466, 489-90.

<sup>129</sup> Collins 1798[1975], pp. 489-90.



Apart from this ceremonial use, Rose Bay was a major Aboriginal settlement throughout the nineteenth century, visited and lived in by people whose ancestors still live in coastal Sydney today. These associations remain important, linking them to a place which otherwise contains few discernible traces of its Aboriginal past. Many other areas have values and knowledge embedded in them that require more detailed research with Aboriginal knowledge holders.

## **5.2 What has been recorded?**

In this section we review what has been recorded about Aboriginal heritage before and during the Aboriginal heritage study, which forms the basis for the Aboriginal heritage place list described in **Section 5.3** and attached as **Appendix B**.

### **5.2.1 Existing records and registrations**

#### **The AHIMS Register**

The Heritage NSW Aboriginal Heritage Information Management System (the 'AHIMS Register') is the central New South Wales repository that compiles information on Aboriginal archaeological sites and other places of Aboriginal significance. Primarily it contains records of archaeological sites created before the arrival of Europeans rather than places used by Aboriginal people after that time. The AHIMS Register initially derived from site records held in the Australian Museum, some of which date back to the first half of the twentieth century. Over the past 40 years Aboriginal sites have been registered by professional and amateur archaeologists, as well as Aboriginal community members, employees of organisations such as Councils, and members of the general public.

Because of its disparate sources, and its variable levels of curation over time, the AHIMS Register is riddled with data errors and discrepancies about precise site locations and site descriptions. It is also unclear in some cases whether sites still exist. Although the current NSW planning system currently integrates the AHIMS Register as a statutory register and assumes its accuracy, it cannot be relied upon for accuracy without close checking of original records. The AHIMS Register does not show where all Aboriginal sites are, but simply where they have been searched for and found. The vast majority of land within Sydney has not been subject to detailed inspection, so the absence of registered sites in some areas does not indicate an absence of past Aboriginal use or of surviving physical traces of that use.

Woollahra is a good example. Records were obtained from the AHIMS Register under an Aboriginal Heritage Information Licence Agreement in March 2020. This information contained records of 59 Aboriginal sites, one of which was found to be a duplicate record. However, because many site locations are inaccurately recorded, a check of Coast records for surrounding areas revealed a further 19 sites which were located just outside of the LGA (one of which was again found to be a duplicate recording). This left a total of 76 Aboriginal sites on the AHIMS Register that appear to be located within the Woollahra LGA. These records formed the basis for the Aboriginal Heritage Place list developed for the study.



Original records were obtained for all of the sites listed on AHIMS. These are files which provide further information than is summarised on the AHIM Register about the original recording of the site, its context, and details of any subsequent recordings. A thorough review of these records revealed that many coordinates were inaccurate and corrections were made on the Council heritage list.

#### **Other Registers**

Further searches were made of the following registers in March 2020 and again in March 2021 for records within the Woollahra LGA, as these sometimes contain listings that relate partly or wholly to Aboriginal heritage values:

- The Australian Heritage Database
- The Commonwealth Heritage Database
- The State Heritage Register and Inventory
- State Agency S170 Heritage Registers
- Interim Heritage Orders

No relevant places were identified on the national lists and no places were identified on other heritage lists that were not already incorporated into the study via the AHIMS Register or historical records previously compiled by study author Dr Paul Irish (see **Section 5.2.3**). A number of listed items make general reference to registered Aboriginal sites and occasionally to records of historical Aboriginal camps. For example the NSW Maritime s170 Register notes the prior use of Milk Beach by Aboriginal people before the arrival of Europeans, but does not specify which of the several Aboriginal sites documented on the AHIMS Register it refers too. Others mention the Aboriginal names (usually non-local) given to the listed property or similarly irrelevant information to a consideration of Aboriginal heritage.

In most cases these references to Aboriginal history are too general to be considered in the assessment of significance for the places, but the following places have considered the heritage implications of their Aboriginal associations more specifically:

- The State Heritage Register (SHR) listing for Rushcutters Bay and Yarranabbe Parks (SHR #02041) notes the continuing use of the area by Aboriginal people based largely on research by study author Paul Irish. As this was already incorporated into the research for this study, this was not further considered.
- The SHR listing for Nielsen Park (SHR #01988) itemises the documented Aboriginal sites as part of the description of the place, but all of these are already incorporated into the AHIMS Register and were already considered for the study. They were also further investigated during the field survey (see **Section 5.2.5**).



- The SHR listing for Macquarie Lighthouse (SHR #00677) mentions shell midden and at least one possible stone artefact being incorporated into the mortar of the lighthouse walls, and this was considered in the heritage study.
- The SHR listing for Vaucluse House (SHR #00955) discusses the ongoing use of the area by Aboriginal people through the nineteenth century based on research by Paul Irish and La Perouse community researcher Michael Ingrey for Sydney Living Museums in 2011.<sup>130</sup> This was already incorporated into the current study.
- The State Heritage Inventory listing for Emma's Well (SHI #A3) refers to the likely historical associations of Aboriginal woman Emma Collins with the spring in the nineteenth century. As this was already a registered place on the an AHIMS Register it was incorporated into that record.

#### Museum Collections

Research was undertaken to determine whether Aboriginal objects from the Woollahra area are held in local or state collections. Enquiries during the Aboriginal heritage study revealed that no Aboriginal objects from Woollahra were held in Woollahra Libraries or the Woollahra History and Heritage Society. Archival records of rock art enthusiast John Lough (a Woollahra Local) were also checked at the State Library of NSW and were found to contain a number of collected stone artefacts, however none of these appeared to related to Woollahra. During research for the study, reference was found in a newspaper article to a piece of a collapsed rockshelter from Nielsen Park which contained Aboriginal art having been provided to the Australian Museum but no records of this have been found and the donation appears unlikely to have occurred.<sup>131</sup>

The Australian Museum was found to be the only repository containing material derived from the Woollahra LGA, but there were few items, and most were associated with Aboriginal sites already registered on the AHIMS Register (see **Appendix C**). No further places were added on the basis of this research.

#### 5.2.2 Aboriginal community knowledge

Aboriginal community knowledge was incorporated into the current study through conversations held during the study (see **Section 1.5.1**), as well as numerous discussions over the preceding decade between study author Paul Irish and Aboriginal community researchers and knowledge holders. This has identified places of historical association and provided insights into connections between places and the significance they hold today, which has been incorporated into the relevant place listings and is also discussed in **Section 4**.

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<sup>130</sup> Irish & Ingrey 2011.

<sup>131</sup> 'Drawings Found in Cliffs Near Beach', *Sydney Morning Herald* 2/2/1965, p.10.





### 5.2.3 Previous historical research

Historical documentation of continuing Aboriginal associations with the Woollahra area started with the eyewitness accounts of European residents and visitors in the nineteenth century and later reminiscences. Some of these found their way into early histories of the area, usually as short anecdotes about Aboriginal people living in camps around the area.<sup>132</sup> Research commissioned by Woollahra Council in 2002 for an intended website began to collate some of these fragments.<sup>133</sup> Following this, detailed research involving the study author and Aboriginal researchers from the La Perouse Aboriginal community over the past decade or so has pieced these and many other isolated stories together. This research involved documenting the places that Aboriginal people repeatedly used by in the nineteenth century (as both settlements and visited places), by assembling the scattered records for each place and mapping them on a GIS.<sup>134</sup>

The more records were added, the more connections between these places and their residents began to emerge. Eventually, it was possible to tease out a story of how Aboriginal people had adapted and regrouped in the wake of the arrival of Europeans, their diseases and the theft of land, and how this adaptation remained grounded in culture and connection.<sup>135</sup> The basis for this research in a mappable database allowed the records of historical Aboriginal settlements and other places to be added into the list of places for the current study and also forms the basis for the outline history in **Section 4**. Uncertainties however with pinpointing precise locations has had to be taken into account.

### 5.2.4 Previous Aboriginal heritage assessments

#### The first investigations

Aboriginal sites have been recorded by Europeans in Woollahra since the 1840s and were probably observed much earlier still. Importantly, these first recordings relied on Aboriginal knowledge. Senior coastal Sydney woman Cora Gooseberry (**Figure 27**) was with a dozen Aboriginal people living around the lagoon behind Camp Cove beach in 1845 when she was visited by the artist George French Angas and Police Superintendent and keen ethnologist William Augustus Miles (who lived in a hut nearby).<sup>136</sup> They asked Cora about rock engravings, and she took them to see some examples across the harbour at North Head, nothing that she had learned about the sacred nature of these places from her father.<sup>137</sup> Perhaps based on Cora's knowledge or their own explorations, Miles later sketched engravings at South Head and Point Piper (**Figure 38A & B**).

<sup>132</sup> Dowling 1906, Griffiths 1970, Jervis & Kelly 1960-1965.

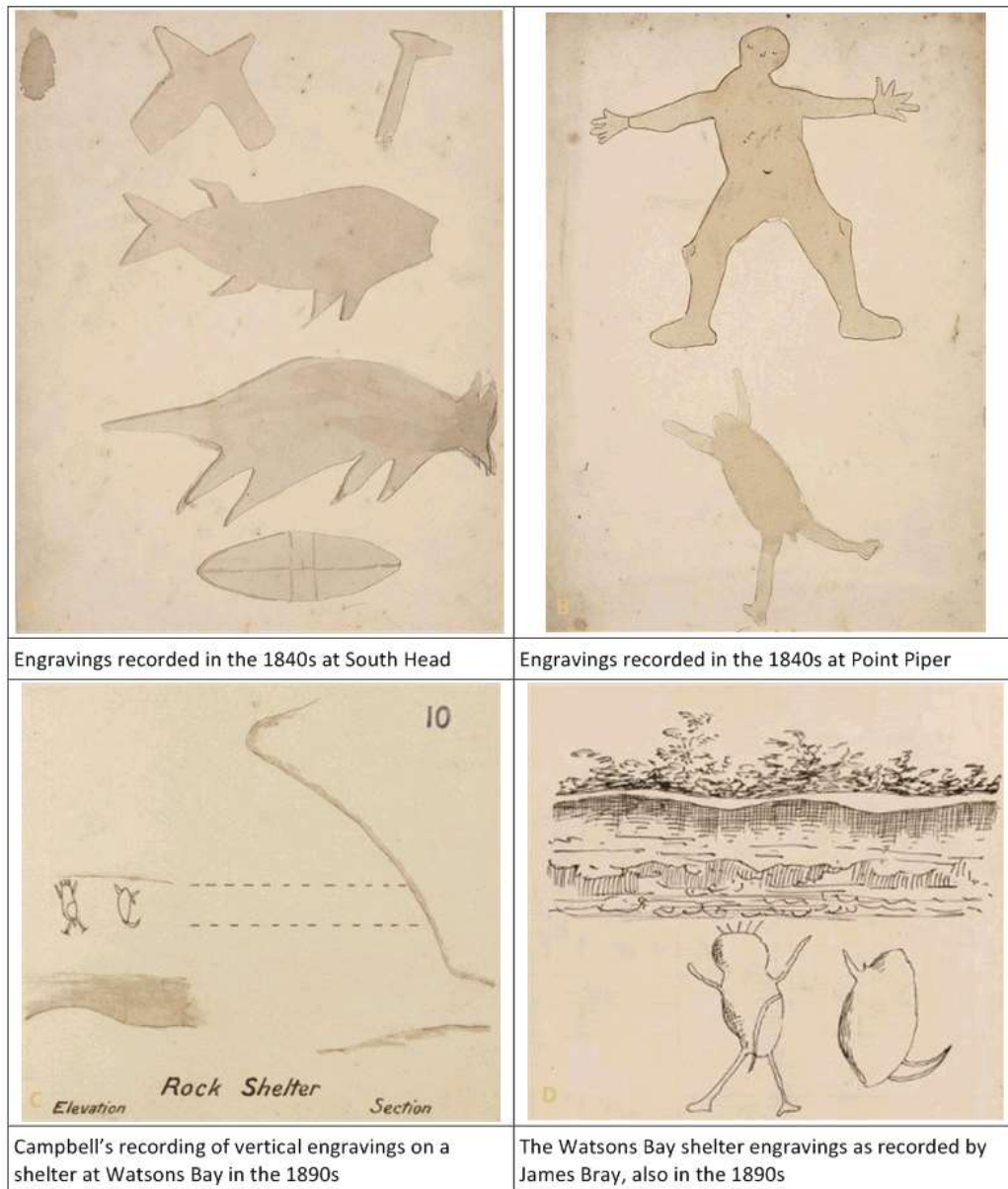
<sup>133</sup> Heiss 2001. See also [www.woollahra.nsw.gov.au/community/about\\_our\\_community/history\\_and\\_heritage/aboriginal\\_heritage](http://www.woollahra.nsw.gov.au/community/about_our_community/history_and_heritage/aboriginal_heritage) [accessed 25/3/21].

<sup>134</sup> Irish 2011.

<sup>135</sup> E.g. Irish & Ingrey 2011, Irish & Ingrey 2013, Irish 2017, Irish 2019.

<sup>136</sup> Angas 1969 [1847], p. 202.

<sup>137</sup> Angas 1969 [1847], p. 202; Angas 1877.



**Figure 38. Early records of Aboriginal sites around Woollahra.**

[Sources: A) & B) Miles c.1850, p. 205, 207. C) Campbell 1893-1896 Drawing 1/10. D) Bray 1895. Extracts of original images]

Fifty years later, government surveyor William Campbell made a detailed study of the engravings that he could see north and south of the harbour, which formed the basis for his 1899 book on the subject.<sup>138</sup> Importantly, this research took place prior to the subdivision of much of the Woollahra

<sup>138</sup> Campbell 1899.



area, where sites still remained in bushland settings, or at least not yet built over. Many of Campbell's published drawings and descriptions have formed the basis for AHIMS Aboriginal site registrations, however the low level of detail about many engravings in his 1899 book has led to many of these recordings being inaccurate on the AHIMS Register. Fortunately, Campbell's original records (recently digitised by the NSW State Library) include sketches and detailed survey drawings which have allowed many corrections to be made. This has proved crucial in relation to a rare vertical engraving on the rear wall of a rockshelter at Watsons Bay, which was recorded by both Campbell and James Bray in the 1890s but had been registered 200m away and has now been pinpointed in its correct location (**Figure 38C & D**).

After a half-century hiatus, interested amateurs began recording rock engravings and other Aboriginal sites once more around Woollahra. In the 1960s both Rosemary Taplin and John Lough (the son of a Woollahra Council clerk) recorded Aboriginal sites in the area, and corresponded with one another.<sup>139</sup> Taplin recorded sites around Nielsen Park in particular, some of which intriguingly have not been able to be relocated in later surveys. Photographer and writer Jon Rhodes has explored John Lough's work in detail in a recent book (which also considers the extensive engraving site at Point Piper first recorded by Angas in the 1840s), including a later survey in the 1970s of engravings around South Head.<sup>140</sup> In the 1980s, locally-based National Parks & Wildlife Service rangers tried to locate previously recorded sites and have also contributed valuable records, though sometimes compounding existing location errors on the AHIMS Register.

#### Cultural heritage assessments

The vast majority of Aboriginal heritage research has taken place over the past 40 years since the passing of the *National Parks & Wildlife Act* (1974) and *Environmental Planning & Assessment Act* (1979) created a context for protecting Aboriginal sites and investigating the potential impacts of development proposals (see **Section 1.3** and **Appendix E**). These studies have been undertaken by professional archaeological consultants, generally in consultation with Local Aboriginal Land Councils. They have been triggered by various planning requirements, and have investigated areas of variable size.

Comprehensive research was undertaken for this study to locate previous assessment reports, but there is no central and complete list that can be searched. The AHIMS Register contains a catalogue of thousands of archaeological survey and excavation reports that have been lodged with the register over time, but it can only be searched by suburb location and other keywords and is incomplete. Many reports created over the past 20 years are not listed or held by the AHIMS Register for various reasons, and these are difficult to locate. We have located and reviewed more than 50 previous studies, which have been summarised in **Appendix D**, and some of which are shown in **Figure 39**.

<sup>139</sup> Taplin papers (NSW NPWS), Lough papers (State Library NSW).

<sup>140</sup> Rhodes 2018.



From this map it can be seen that many areas of Woollahra have not been investigated. One of the reasons is that current Council triggers for assessments are related in part to the presence of existing Aboriginal site recordings nearby, which are overwhelmingly clustered in the eastern part of the LGA (see **Figure 40**). In this way fewer investigations have been triggered in the western part of Woollahra (partly also because of the generally higher density of historical impacts there), leading in turn to fewer new site recordings. Most assessments have not resulted in the recording of Aboriginal sites, and few have led to archaeological test excavations being undertaken (see **Section 4.1**). However all have helped to refine what is known (and not yet known) about Woollahra’s Aboriginal heritage.



**Figure 39. Some of the previous Aboriginal heritage assessments undertaken within Woollahra.**

[Each number is a unique reference code for the assessments summarised in **Appendix D**].

In addition to these assessments, other studies have considered larger areas for Council and other management plans. These have included a desktop overview by archaeologist Laila Haglund in 1984 for the Woollahra Heritage Study.<sup>141</sup> Although no survey was undertaken, Haglund’s considered observations about the likely locations of Aboriginal sites have been taken into account in the current study. Other management studies have been undertaken for Nielsen Park and South Head at different times, though they have mostly focussed on the re-recording previously documented

<sup>141</sup> Haglund 1984.



Aboriginal sites and make few observations about the potential of these areas to contain further unrecorded Aboriginal heritage.<sup>142</sup>

### Research projects

Aboriginal living places around the harbour were examined in detail through a long-term study conducted by Dr Val Attenbrow of the Australian Museum, called the Port Jackson Archaeology Project.<sup>143</sup> The project was undertaken from the late 1980s to mid 1990s and included a detailed study of existing site information, extensive survey to find and update this information and to record additional sites, and a series of archaeological excavations. As discussed in **Section 4.1**, the excavations undertaken by Attenbrow included a rockshelter within Nielsen Park and a shell midden at Milk Beach. Attenbrow's meticulous and reliable records have been an important source of information for this study.

A ground-edge stone hatchet found at the Milk Beach midden was one of the first to be analysed by Attenbrow and others, in a long-term research project into the changing character of edge-ground axes in south-eastern Australia over time and space.<sup>144</sup> Central to this work is non-invasive examination of the chemical composition of ground-edged implements to determine the origin of the volcanic stone used to make them, as each source area has a unique chemical signature. The work is ongoing, and includes Coast archaeologist Rebecca Bryant, and will help to illustrate networks of Aboriginal movement and trade across and beyond coastal Sydney.

### 5.2.5 Further research for this study

The research undertaken for the current study has been outlined in **Section 1.5**. The following are the key outcomes from that research with respect to Aboriginal heritage places:

- archival research led to the definition of an additional 25 places of historical Aboriginal association including settlements as well as historical burials, visited places and resource places. Records of these places varies markedly between single references to large numbers of records over many decades. Many are difficult to pinpoint on the basis of historical records alone, and for this reason have not been added to the AHIMS Register, however their general vicinity has been factored into this study.
- archival research also identified seven Aboriginal sites that were most likely used before the arrival of Europeans including engravings, burials and a tribal punishment ground.
- examination of the detailed 1890s recordings of rock engravings by Campbell, including triangulations using GIS, and confirmation in the field, resulted in location corrections to around a dozen rock engravings.

<sup>142</sup> AHMS 2004; Negerevich 1978, Comber Consultants 2008.

<sup>143</sup> See summary in Attenbrow 2010a, pp. 50-53, and numerous reports and publications referred to in that summary and the rest of the book.

<sup>144</sup> Attenbrow *et al.* 2012; Attenbrow *et al.* 2017; Corkill *et al.* 2012; Stokes *et al.* 2013; Stokes 2015.



- field survey resulted in corrections to most other previously recorded sites in terms of location and updates to descriptions of their condition. It also identified errors in four existing recordings, where two sites had been recorded together, that allowed these to be registered as new sites.
- the field survey also resulted in the recording of one previously unrecorded site and 36 potential sites (mostly rockshelters). Records of these, and corrections of all existing sites, have been submitted to the AHIMS Register.

All of these records were then combined into an amalgamated list as described in the next section.

### 5.3 Documented and potential Aboriginal heritage places

A total of 149 documented and potential Aboriginal Heritage Places have been identified as part of the study. These are summarised below and listed in **Appendix B**. The Aboriginal Heritage Place list has helped to inform the development of Aboriginal heritage management procedures as outlined in **Section 5.4** and **Section 6**, but it is not designed to form a standalone list or register. This was not considered practical or desirable, as the AHIMS Register is the statutory register of Aboriginal heritage places in NSW, and is updated independently of Woollahra Council. Instead, these places have been incorporated into GIS mapping of Aboriginal heritage sensitivity (see **Section 5.4**) which can be updated to accommodate changes in the AHIMS Register to ensure ongoing compatibility.



**Figure 40. Approximate locations of Aboriginal heritage places in Woollahra**

[Note that some place locations are only approximate, so the 'dot' does not represent exactly where they are. For sensitivity reasons the locations of burials and ceremonial places are not shown].



As many Aboriginal heritage places are vulnerable to impact and/or are culturally sensitive, exact locations are not shown or disclosed in this report and will not be made public. However, a map is shown in **Figure 40** which gives a sense of their distribution and type. This represents only those which have so far been documented, and it is anticipated that more Aboriginal heritage places remain to be uncovered. We have excluded a further 15 places initially considered, which were found through closer inspection to either be outside of the LGA (6), duplicate recordings (2), general heritage listings of large areas that mention but do not specify Aboriginal heritage places (3), artefacts held in museums from sites already listed (3) and a place previously recorded as having historical Aboriginal associations that was found to be incorrect (1).

By way of summary, the following can be said about the Aboriginal heritage places documented for this study:

- There are 107 places with documented physical or historical evidence and 40 places that have the potential to contain physical remains of past Aboriginal use. The vast majority of these potential sites (34) are rockshelters, which may contain as yet undocumented archaeological remains in the shelter floor or art on the walls or roof. Research elsewhere in Sydney has shown that many such shelters contain evidence of Aboriginal use. The final two places are items on the AHIMS Register which have been found not to be sites through research and survey for this study. They have been retained on the list because these records cannot be removed from the AHIMS Register and therefore need to be consistent on any Council records so as to avoid confusion in future. These, and other AHIMS listings which have been destroyed since being recorded, have been clearly described as such on the mapping and lists provided to Council (see **Appendix B**).

Place type	Total number	% of total
Art site (engraving in the open)	26	24%
Art site (engraving in rockshelter)	3	3%
Art site (pigment in rockshelter)	8	7%
Art site and living place (rockshelter with art and midden)	3	3%
Living place (open)	11	10%
Living place (rockshelter)	20	19%
Living place (historical settlement)	16	15%
Burial place	9	8%
Visited place (grinding grooves)	2	2%
Visited place (historical)	4	4%
Resource place	3	3%
Ceremonial place	1	1%
Collected/disturbed Aboriginal cultural material	1	1%
<b>TOTAL</b>	<b>107</b>	<b>100%</b>



- The 107 places with recorded evidence can be summarised as shown above. Around 75% of them are places used as art sites, living places or burial places before the arrival of Europeans. However some of these places may have continued to be used after this time also. Similarly, some of the historical settlements documented may also have been Aboriginal camps before the arrival of Europeans.
- The table above also shows that nearly 60% of places are associated with outcropping sandstone (as art sites, rockshelters or grinding grooves). That number is even higher if we include only places used before the arrival of Europeans, but it does not mean that sandstone was a more intensively used landform. It really just indicates how rockshelters and engravings were more obvious and interesting to archaeologists and others who have recorded them over the past century or so. It is only in the past 15 years that any archaeological investigations have been undertaken in the Rose Bay sand dunes, and none have been undertaken in the elevated dunes elsewhere around Woollahra. The lack of recorded Aboriginal heritage places within the dunes highlights the importance of not basing management on documented places alone.

#### **5.4 Aboriginal Heritage Sensitivity Map**

The research and considerations outlined in previous sections were the basis for the creation of an Aboriginal Heritage Sensitivity Map. In this context 'sensitivity' refers to the possibility of any particular area of having surviving traces of past Aboriginal use. Essentially, any parcel of land can be an:

**Area of Aboriginal Heritage Sensitivity** – where Aboriginal heritage is known or likely to exist.

OR

**Area of Potential Aboriginal Heritage Sensitivity** – where Aboriginal heritage may exist, but this, and/or management measures require further information to determine, as explained further in **Section 5.4.1**.

OR

**Area of No Sensitivity** – where Aboriginal heritage is unlikely to exist, generally because of high levels of past impact, or because this has been concluded by a previous Aboriginal heritage assessment.

The map essentially provides a tool for considering where Aboriginal heritage places are, or may be, located within Woollahra as a basis for management. It is a GIS map layer compiled in QGIS mapping software in order to output map products for Council in ESRI Shapefile format. A static version of the map is shown in **Figure 42**, but the map is able and intended to be updated as new information is received.



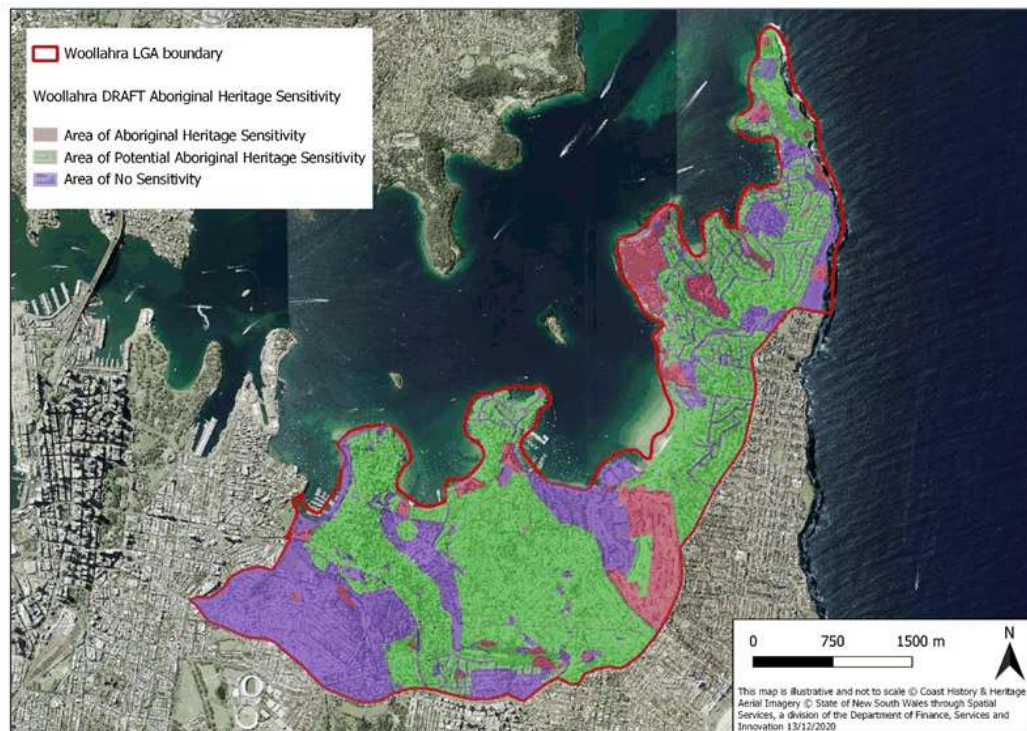


Figure 41. Woollahra Aboriginal Heritage Sensitivity Map.

#### 5.4.1 Creating the map

The creation of the Aboriginal Heritage Sensitivity Map can be summarised as follows. It included:

- compiling Aboriginal site information as outlined in **Section 5.2**, leading to the Aboriginal Heritage Place list described in **Section 5.3** (and see **Appendix B**). These places were assumed to have Aboriginal heritage sensitivity unless it could be demonstrated that they had been completely destroyed/impacted.
- reviewing more than 50 previous Aboriginal heritage investigation reports across Woollahra and incorporating their conclusions about the sensitivity of the lands investigated.
- detailed review of historical land use impacts from local historical sources, field observation and review of historical aerial photography. This allowed the identification of numerous areas in which historical impacts (e.g. quarrying, reclamation, pipelines, construction) had most likely removed any physical traces of past Aboriginal use. These areas were found to have no sensitivity.
- review of current zonings and land use to identify current construction that may have impacted Aboriginal heritage. This identified further areas that could be considered to have no sensitivity.



- there is a focus in Aboriginal heritage management generally on predictive modelling of where Aboriginal sites are likely to occur. Often this relies on correlations between particular landforms and site types as a way of predicting where they are likely to occur. For example, the recorded distance of most middens from the shore, or of campsites from sources of permanent water. The work of archaeologist Val Attenbrow around Sydney Harbour is of particular relevance.<sup>145</sup> However, we have found that many of the potential correlations between landform, resources and site types are complicated in Woollahra by the high number of permanent watercourses (springs), bays and ridges across a relatively small area – this makes it hard to draw conclusions about what Aboriginal camps were situated in proximity to, not to mention cultural factors which remain unseen. Overall it has been determined that geology and landform very broadly are the most useful ways to consider what Aboriginal heritage may survive.
- detailed review of geological and geotechnical information to understand the distribution of sandstone outcrop, sand dunes and swamp areas within Woollahra, and therefore the types of Aboriginal heritage often associated with them, as outlined in **Section 5.1**. This proved challenging as it emerged that current geological mapping of the extent of inland sand dune deposits is not accurate. Further field inspection and a review of more than 200 geotechnical reports from past developments was undertaken to try to refine these uncertainties, but these remained significant. Because Aboriginal heritage management depends to some extent on the nature of the underlying geology, it was determined that this uncertainty had to be built into the Aboriginal Heritage Sensitivity Map and associated management strategy. Essentially, areas where geology cannot currently be determined have been designated as areas of potential Aboriginal heritage sensitivity. Further information, often held by owners of individual properties or determined through geotechnical studies for proposed developments, in conjunction with the nature of the proposed development will allow Aboriginal heritage management procedures to be determined.

#### 5.4.2 Features of the map

The Aboriginal Heritage Sensitivity Map contains sensitive Aboriginal site information. For this reason it is intended for internal use by Council. However a public version of the map has also been developed to enable development applicants to determine Aboriginal heritage management requirements for proposed activities (see **Section 6.2.1**). Every piece of land within Woollahra contains the following key information in the Aboriginal Heritage Sensitivity Map:

- the level of sensitivity – being either an Area of Aboriginal Heritage Sensitivity, an Area of Potential Aboriginal Heritage Sensitivity or an Area of No Sensitivity.
- the reason for the sensitivity designation e.g. registered Aboriginal site, previous Aboriginal heritage assessment, high level of historical impact, and some further details about the specific information held about that area.

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<sup>145</sup> Attenbrow 2010a, pp. 50-53.



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- a brief summary of any Aboriginal Heritage Places that are, or may be, located within the area.
- the Aboriginal heritage management action/s required in relation to proposed activities (as outlined in **Section 6**), including any specific Aboriginal sites or other features that need to be considered in that particular area.

As noted above, the Aboriginal Heritage Sensitivity Map is designed to be updated, and can respond to information as it is received. For example, where an Aboriginal heritage impact assessment is undertaken and finds that there are no Aboriginal heritage places present or likely across a property, this can be updated on the map such that future development applications will not require assessment.



## 6 Woollahra Aboriginal heritage management strategy

The Aboriginal heritage management strategy outlined in this section aims to provide the simplest and clearest process for determining Aboriginal heritage management requirements in Woollahra for development applicants, for planners assessing those applications and for Council workers undertaking activities. It seeks to strike an appropriate balance between the need to protect Aboriginal heritage, and the need to ensure fairness for applicants by providing clear and consistent reasons for where and why Aboriginal heritage assessments are required. It is based on the research undertaken for this study as outlined in preceding sections, and on the current legal and policy requirements around Aboriginal heritage (as outlined in **Section 1.3** and **Appendix E**) and the principles discussed in **Section 6.1**.

The management strategy consists of the following elements:

1. An interactive GIS Aboriginal Heritage Sensitivity Map (as outlined in **Section 5.4**), which incorporates the Aboriginal Heritage Place List (**Section 5.3** and **Appendix B**).
2. Procedures for development applicants based on a simplified public version of the Aboriginal Heritage Sensitivity Map and revised DA guide (see **Section 6.2**).
3. Procedures for Council planners in their assessment of development applications (see **Section 6.3**).
4. Procedures for Council workers undertaking activities (see **Section 6.4**).

### 6.1 Principles of the strategy

The principles which underpin heritage management at all levels across Australia are outlined in the Burra Charter.<sup>146</sup> A fundamental principle is that an understanding of the significance of a place should be the basis for management decisions. Turning this around, we can say that management decisions should not be made about heritage places without understanding why they are significant. This can be lost or overlooked in the reactive way that heritage is only considered when an impact is proposed, and is further obscured by complex legislation and policy. The Burra Charter reminds us that Aboriginal heritage has a broader context outside the planning system, as an expression of the culture and history of contemporary Aboriginal communities; a culture that should be recognised, valued and celebrated. Any actions undertaken to protect or promote Aboriginal heritage should be guided by the following principles.

<sup>146</sup> Australia ICOMOS. 2013. *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance* (Australia ICOMOS, Burwood).



### Aboriginal involvement

- Aboriginal people have the right to be involved in decisions and actions which affect Aboriginal cultural heritage.
- Aboriginal people should primarily determine the cultural significance of Aboriginal heritage.
- Local Aboriginal Land Councils, registered Native Title claimants and Aboriginal Owners should be involved in any decisions concerning Aboriginal heritage.<sup>147</sup> The most appropriate organisation to be actively involved in Aboriginal heritage management within Woollahra is the La Perouse Local Aboriginal Land Council, which represents Aboriginal people within Woollahra and includes families with traditional and historical ties to the area. There are currently no registered Native Title claimants relevant to Woollahra. A process was initiated in 2019 to determine whether Aboriginal Owners can be defined within the coastal Sydney area.<sup>148</sup>
- There may also be other Aboriginal individuals or organisations with historical or cultural links to particular places under consideration. They may be informed or involved appropriate to their wishes, rights and interests.
- Aboriginal connections do not conform to Local Government Area boundaries. Because of this, Aboriginal people or organisations relevant to heritage management within Woollahra may not reside within that area.

### Significance

- Management of Aboriginal heritage should be in accordance with policies that are based on an understanding of the significance of the place.<sup>149</sup> In other words, it is essential to understand what heritage places are, and why they are significant BEFORE deciding how to manage them.
- 'Cultural significance' has a specific meaning in heritage management. It is described as 'aesthetic, historic, scientific, social or spiritual value for past, present or future generations'.<sup>150</sup>
- Determining the significance of Aboriginal heritage places may include other values outside of their value to the Aboriginal community. This is particularly the case for places of historical Aboriginal association, which may also be significant to other groups in the community.
- Cultural significance can shift over time and may not be tied to the presence of physical remains.

### Keeping records

- Records of all actions taken at Aboriginal heritage places should be kept as the basis for future management decisions.

<sup>147</sup> Registered Native Title Claimants and Aboriginal Owners are specific terms under the Commonwealth Native Title Act 1993 and NSW Aboriginal Land Rights Act 1983 respectively.

<sup>148</sup> The investigation of this has been coordinated by the Office of the Registrar, Aboriginal Land Rights Act 1983. A determination is expected during 2021.

<sup>149</sup> Burra Charter Article 6.

<sup>150</sup> Burra Charter Article 1.2.



## 6.2 Procedures for development applicants

The Aboriginal Heritage Management Strategy aims to make Aboriginal heritage requirements clear for development applicants, so that it is easy to determine whether an Aboriginal Heritage Impact Assessment is required for their proposed activity, and to encourage them to undertake that assessment prior to lodgement of their application. This not only provides greater scope for Aboriginal heritage protection, but provides greater certainty for applicants and less potential for additional information being requested by Council during consideration of the application.

### 6.2.1 Information provided to applicants

It is recommended that the following information is made available to development applicants:

#### 1. Public Aboriginal Heritage Sensitivity Map

This version of the Aboriginal Heritage Sensitivity Map is a simplified version of the map discussed in **Section 5.4**. It shows whether any parcel of land within the Woollahra LGA is in an Area of Aboriginal Heritage Sensitivity or is in an Area of Potential Aboriginal Heritage Sensitivity (**Figure 42**). For details of how to proceed, users are directed to the DA Guide and Aboriginal heritage webpage on the Council website. It is anticipated that this will be a live map that will be updated as information is submitted to Council.



Figure 42. Public version of the Aboriginal Heritage Sensitivity Map.



## 2. Updated DA Guide and Council Aboriginal heritage webpage

It is recommended that the DA Guide requirements relating to Aboriginal heritage assessments are updated. The DA Guide could be supplemented by an illustrated Aboriginal heritage brochure and a new webpage which would provide further explanations and illustrations for applicants. As all DAs are now lodged online through the NSW Planning Portal, the specific requirements of individual Councils are not apparent to applicants at lodgement. Therefore, it is important that the DA guide and any supplementary materials provide clear and concise information about Council's requirements in relation to Aboriginal heritage.

It is recommended that the proposed DA Guide attachment on Aboriginal heritage, and accompanying brochure and webpage contain the following information:

- **Introduction** to the Aboriginal heritage management requirements and the legal protections afforded to Aboriginal heritage in NSW.
- **What is an Aboriginal Heritage Impact Assessment?** Explanation of the Council definition of an Aboriginal heritage assessment and its purposes.
- **Why is an Aboriginal Heritage Impact Assessment required?** Outline of the legal and policy context of Aboriginal heritage requirements.
- **When is an Aboriginal Heritage Impact Assessment required?** Outlines the actions required depending on the location of the activity in relation to the Aboriginal Heritage Sensitivity Map.
- **Timing of the preparation of an Aboriginal Heritage Impact Assessment.** When Aboriginal heritage assessments should be undertaken in the development application process.
- **Who should prepare an Aboriginal Heritage Impact Assessment?** Outlines the requirement for assessments to be undertaken by suitably qualified Aboriginal heritage consultants with the involvement of the La Perouse Local Aboriginal Land Council, and provides details for the member directory of the professional association of heritage consultants (the Australian Association of Consulting Archaeologists Incorporated).
- **What should an Aboriginal Heritage Impact Assessment report contain?** Outlines the requirements for assessment reports (as discussed further in **Section 6.3.4**).



**6.2.2 Determining whether an Aboriginal Heritage Impact Assessment is required**

Using the DA Guide in conjunction with the public version of the Aboriginal Heritage Sensitivity Map, applicants can determine which of the following applies to their activity:

1. If the proposed activity is partly or wholly located within an Area of Aboriginal Heritage Sensitivity applicants will be required to prepare an Aboriginal Heritage Impact Assessment, unless all proposed works, access and materials storage are to occur within an existing dwelling/structure. The DA Guide would provide the general requirements for these assessments. Applicants are also advised to contact Council to find out if there are any further specific issues that need to be addressed in the assessment.
2. If the proposed activity is partly or wholly located within an Area of Potential Aboriginal Heritage Sensitivity (and is not partly within an Area of Aboriginal Heritage Sensitivity) the following questions will determine whether an Aboriginal Heritage Impact Assessment is required:

2a) Does the proposal involve excavation as defined in the Woollahra LEP:  <i>Definition - "excavation" means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.</i>	Yes	An Aboriginal Heritage Impact Assessment is required
	No	See question 2b.
2b) Is there sandstone (rock) exposed anywhere within the property containing the proposed activity?	Yes	An Aboriginal Heritage Impact Assessment is required unless all proposed works, access and materials storage are to occur within an existing dwelling/structure
	No	No Aboriginal Heritage Impact Assessment is required

3. If the proposed activity is completely outside an Area of Aboriginal Heritage Sensitivity and an Area of Potential Aboriginal Heritage Sensitivity, then no Aboriginal Heritage Impact Assessment is required. However applicants are informed through the DA Guide that this does not remove the legal protections provided by the *National Parks & Wildlife Act* against ‘unknowing harm’ to Aboriginal objects. It will be recommended that all applicants who are not asked by Council to provide an Aboriginal Heritage Impact Assessment satisfy themselves that they have still met Due Diligence Aboriginal heritage requirements in accordance with the Heritage NSW Code of Practice.<sup>151</sup> This does not need to be presented to Council as part of a development application, but will provide applicants with a legal defence to the offence of ‘unknowing harm’ if Aboriginal objects are unexpectedly found during construction works.

<sup>151</sup> DECCW 2010 *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*.





### 6.3 Procedures for Council planning staff

The Aboriginal Heritage Management Strategy aims to make Aboriginal heritage requirements clear for Council planning staff, so that it is easy for them to advise development applicants, and to assess the adequacy of information provided to them as part of development applications. This will be supported by Council heritage officers, and is recommended to be supplemented by staff training as outlined in **Section 6.8**.

#### 6.3.1 Information available to Council planning staff

It is recommended that Council planning staff have access to the following resources.

##### 1. Aboriginal Heritage Sensitivity Map

The Aboriginal Heritage Sensitivity Map is a GIS map available for internal use by Council planners and land managers. It provides more information than the public version, and outlines the basis for Aboriginal heritage requirements for every parcel of land within the Woollahra LGA. It can also be cross-checked with other information available on the Council GIS e.g. environmental and contamination data. It is anticipated that this will be a live map that is updated as information is submitted to Council.

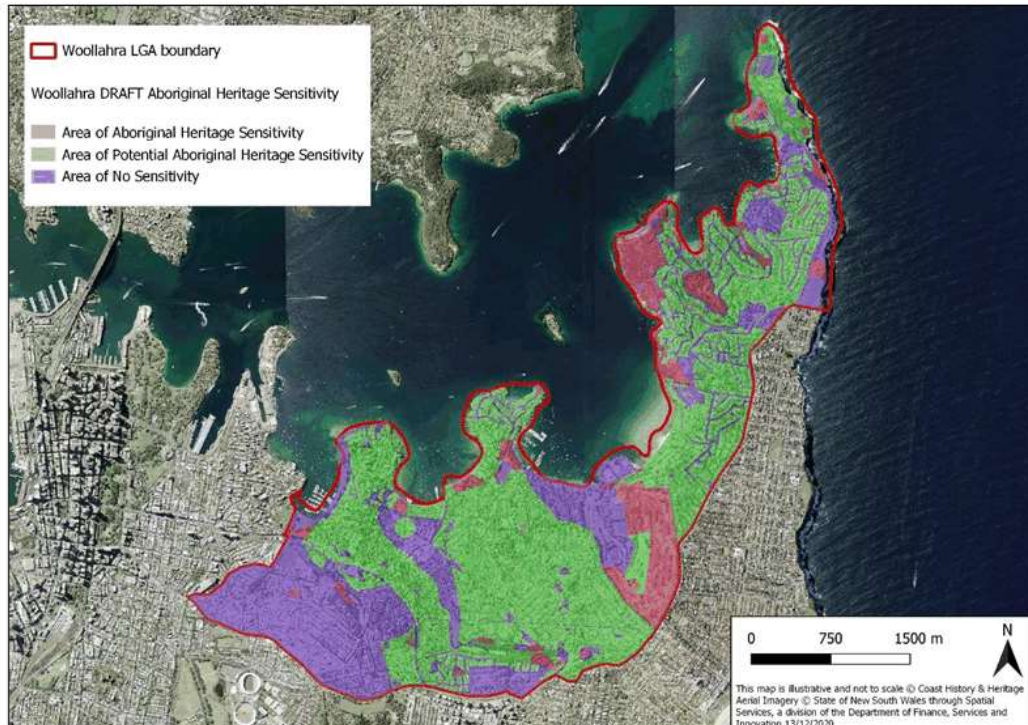


Figure 43. Council version of the Aboriginal Heritage Sensitivity Map.



Aboriginal heritage sensitivity may vary within individual allotments. The following information can be seen on the GIS by clicking on the area in question:

Field Name	Definition
Area Name	Each area has a unique number for reference and consists of one or several lots or part of a lot.
Sensitivity	Each area is either an: <ul style="list-style-type: none"> <li>• <u>Area of Aboriginal Heritage Sensitivity</u>;</li> <li>• <u>Area of Potential Aboriginal Heritage Sensitivity</u>; or an</li> <li>• <u>Area of No Sensitivity</u></li> </ul> Some lots may contain areas with different levels of sensitivity e.g. where an Aboriginal site or outcropping sandstone is known to occur in one portion of the lot only.
Reason	The reason for the assessment of sensitivity e.g. previous Aboriginal heritage assessment, or documented historical impact.
Action Required	<ul style="list-style-type: none"> <li>• For an <u>Area of Aboriginal Heritage Sensitivity</u>, an Aboriginal Heritage Impact Assessment is required unless all proposed works, access and materials storage are to occur within an existing dwelling/structure.</li> <li>• For an <u>Area of Potential Aboriginal Heritage Sensitivity</u>, further information is needed to determine if an Aboriginal Heritage Impact Assessment is required.</li> <li>• For an <u>Area of No Sensitivity</u>, no further assessment is required by Council.</li> </ul>
AHIA Requirements	Lists any specific Aboriginal Heritage Impact Assessment requirements for the area. In most cases, the general requirements for assessment will be sufficient, but some areas have specific information that needs to be considered e.g. in relation to a documented Aboriginal site.
Sites	Details of registered Aboriginal sites or other Aboriginal heritage places that fall within the area.
Details	Description of the source/s of information and other relevant details.

## 2. Aboriginal Heritage Information Management System information

Through the research undertaken for this study, and to be updated via an ongoing Aboriginal Heritage Information Licence Agreement with Heritage NSW, Council planning staff will have access to information about registered Aboriginal sites, including original site recordings.

## 3. Summary procedure flowcharts

As outlined in the following sections, these provide an easy-to-follow visual aid to determine applicable requirements and to assess the adequacy of information supplied.

## 4. Internal guidelines and manuals

As discussed in **Section 6.8**, it is recommended that Council develop specific procedure guidelines/manuals to assist Council planning staff to implement Aboriginal heritage requirements consistently, and in accordance with other planning and administrative requirements.



### 6.3.2 Pre-lodgement enquiries about Aboriginal heritage requirements

All applicants who require an Aboriginal Heritage Impact Assessment are advised to contact Council to check any additional specific assessment requirements for that property. On receipt of applicant enquiries, Council planning staff can consult the 'AHIA Req' field on the GIS Aboriginal Heritage Sensitivity Map for the property in question. This will have one of two outcomes.

1. If no specific requirements are listed, applicants should be advised to follow the general requirements for Aboriginal Heritage Impact Assessment in the DA Guide.
2. If any specific requirements are listed, these can be copied from 'AHIA Req' field on the GIS Aboriginal Heritage Sensitivity Map and provided to the applicant. For example:

*Any AHIA required must meet general assessment requirements and consider potential impacts to AHIMS site #45-6-1677*

OR

*Any AHIA required must meet general assessment requirements and specifically consider the potential for Aboriginal burials to be present in the area (see "The Human Remains Found at Rose Bay", Empire 22/2/1865:4 for details).*

Any such specific requirements form part of the criteria for the evaluation of Aboriginal Heritage Impact Assessments by Council heritage officers (see **Section 6.3.4**). Applicants are advised in the DA Guide that failure to address specific requirements may result in further information being requested as part of DA assessment.

Applicants may also contact Council planning staff for clarification about the Aboriginal heritage requirements for their proposed activity. Where applicants are unsure whether an Aboriginal Heritage Impact Assessment is required, this can be determined using the processes outlined in **Section 6.3.3**.

### 6.3.3 Initial DA assessment of adequacy

When DAs are received by Council, the initial assessment of the application will determine whether an Aboriginal Heritage Impact Assessment should have been provided. This will involve checking the Aboriginal heritage sensitivity map and using the flowchart processes shown in **Figure 44** and detailed in this section. In summary, the three possible outcomes will be:

1. If the activity is partly or wholly located within an Area of Aboriginal Heritage Sensitivity notification of the DA should be provided to the La Perouse LALC. An Aboriginal Heritage Impact Assessment is required unless all proposed works, access and materials storage are to occur within an existing dwelling/structure. An assessment should be requested if one has not been provided.



2. If the activity is partly or wholly located within an Area of Potential Aboriginal Heritage Sensitivity, notification of the DA should be provided to the La Perouse LALC. Applicants are only required to prepare an Aboriginal Heritage Impact Assessment in certain circumstances. This can be checked using the flowchart shown in **Figure 44**, and could be supplemented by more detailed guidelines.
3. If the proposed activity is completely outside both an Area of Aboriginal Heritage Sensitivity and an Area of Potential Aboriginal Heritage Sensitivity then no further Aboriginal heritage assessment is required. However standard DA conditions relating to the management of unexpected Aboriginal heritage finds of and a requirement for an Aboriginal heritage induction may apply.

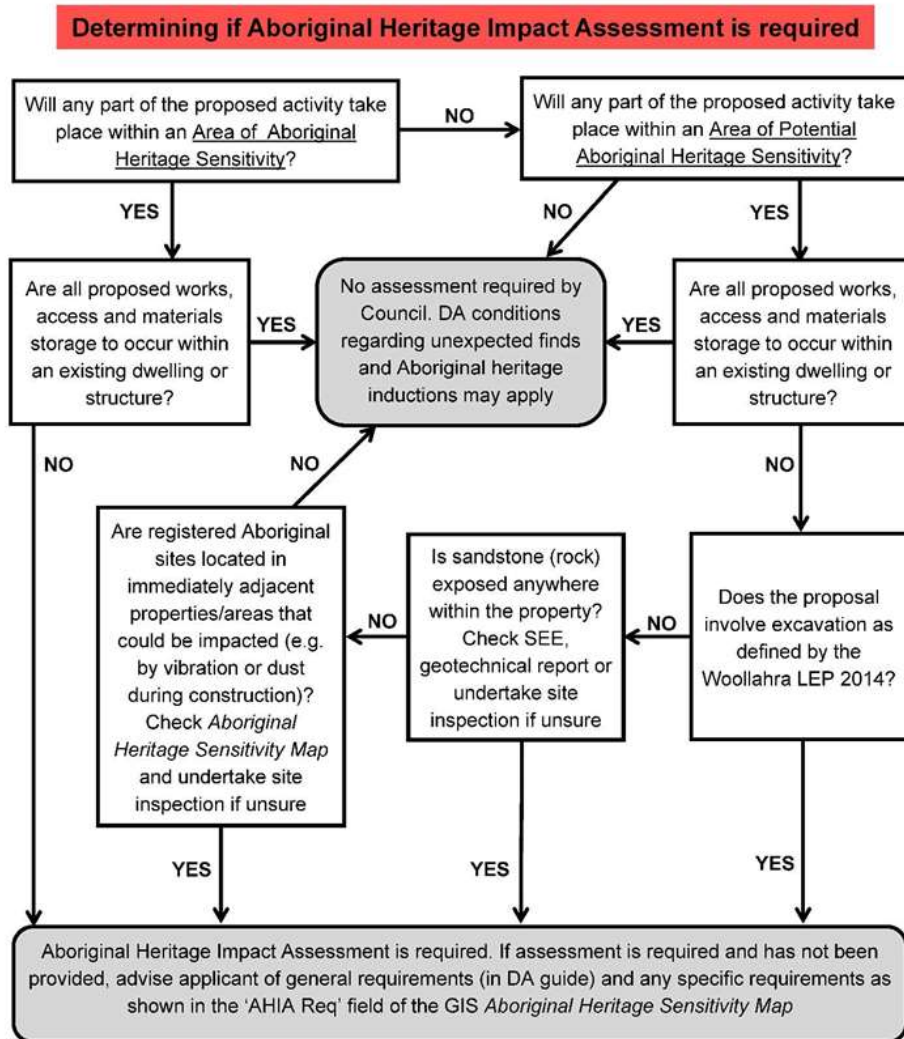


Figure 44. Summary flowchart for determining Aboriginal heritage assessment requirements.



### 6.3.4 Evaluation of Aboriginal Heritage Impact Assessments

When assessing Aboriginal Heritage Impact Assessments supplied to Council with development applications, heritage officers will need to consider the following four criteria, with reference to the flowchart shown in **Figure 45**, and potentially supplemented by more detailed guidelines. In the event that any of these criteria are not met, further information may be required from applicants.

#### 1. Does the report meet the general requirements for Aboriginal Heritage Impact Assessment?

Specifically, the report should:

- also meet the requirements for Due Diligence as per the Heritage NSW *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*;
- contain evidence of the involvement of the La Perouse Local Aboriginal Land Council in the assessment;
- include evidence of a current search of the AHIMS Aboriginal Sites Register (no more than three months old and with at least a 200m buffer around the property), and consideration of any relevant previous Aboriginal heritage investigations in or near the property;
- consider relevant environmental and historical context to determine the possible presence of sensitive landforms or features and to assess the impact of past historical activities;
- involve a field inspection, or justification as to why an inspection was not considered necessary;
- document the measures considered to avoid harm to known or potential Aboriginal objects from the proposed activity;
- contain clear recommendations for the protection of known or potential Aboriginal objects and/or any further investigations or Aboriginal Heritage Impact Permit approvals that are considered appropriate.

#### 2. Does the report meet any specific requirements for Aboriginal Heritage Impact Assessment?

These can be checked by consulting the 'AHIA Req' field on the GIS Aboriginal Heritage Sensitivity Map for the property in question.

**3. Do the report recommendations allow a determination in relation to Aboriginal heritage?** As outlined in **Figure 45**, there may be no impacts likely, or measures to avoid impacts, a need for further investigation or a recommendation for seeking an Aboriginal Heritage Impact Permit to harm Aboriginal objects. In some cases, further investigations may be required prior to the determination of the development application. In other cases, further investigations, actions or permits will be a condition of consent. These possibilities are outlined in **Section 6.5**.

**4. Does the report recommend updating the Aboriginal Heritage Sensitivity Map?** Assessments should be able to refine Aboriginal heritage sensitivity for part or all of the area investigated, either to acknowledge a newly recorded Aboriginal site or potential site or to conclude that part or all of the investigated area is not sensitive.

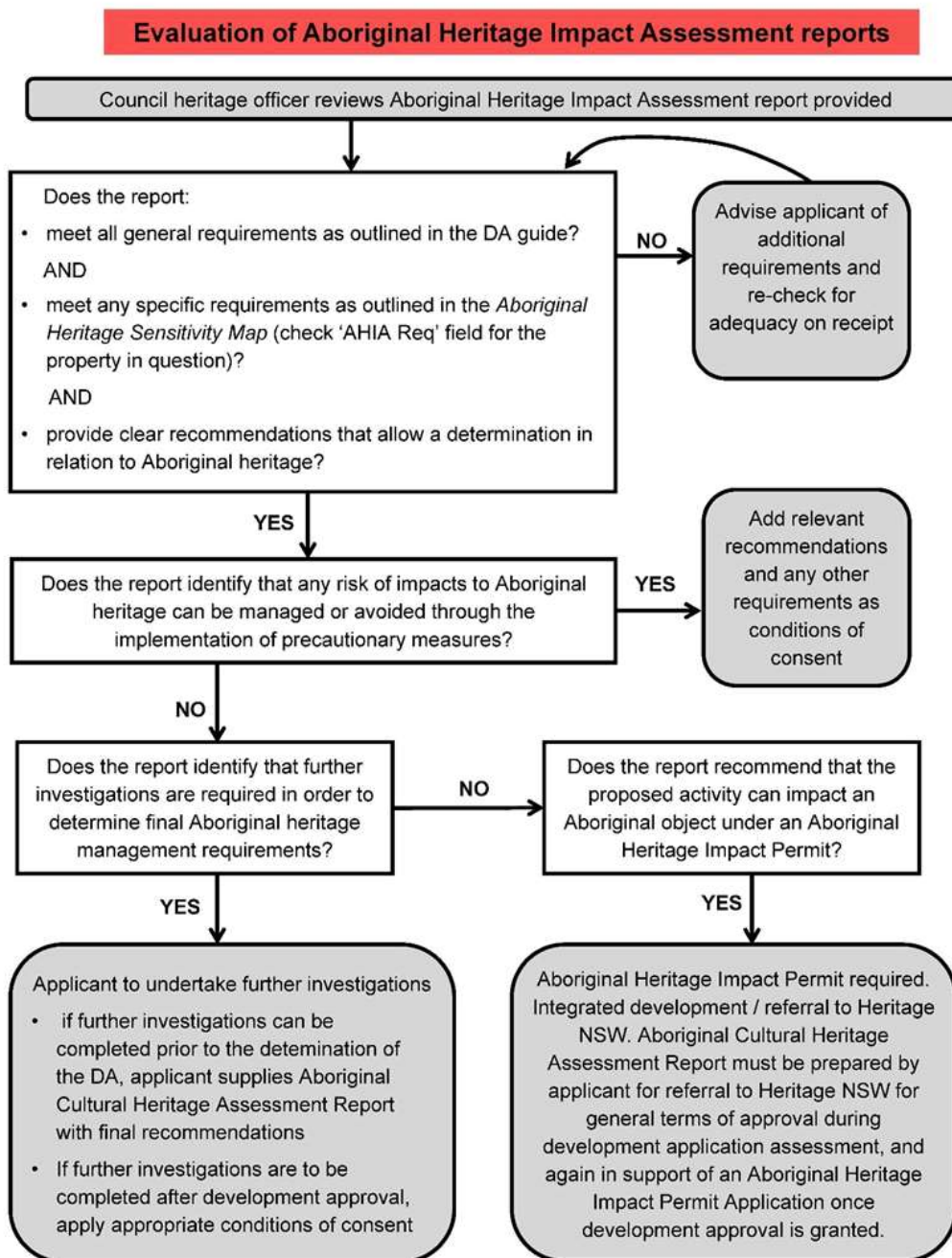


Figure 45. Summary flowchart for evaluating Aboriginal Heritage Impact Assessments.



## **6.4 Procedures for activities undertaken or managed by Council**

Proposed activities to be undertaken or managed by Council are subject to the same Aboriginal heritage laws as for external development applications. Some activities are approved through the submission of a development application while others are approved internally through a Review of Environmental Factors (REF). The main difference is that in the planning of these activities, staff will have access to the full range of Aboriginal heritage information held by Council, as well as to advice from Council heritage officers. In addition, staff involved may have access to training and manuals or guidelines developed by Council as recommended in **Section 6.8**. This may lead to more informed outcomes and may require the input of external Aboriginal heritage consultants less often. As such, the following procedures have been recommended to specifically apply to these activities.

### **6.4.1 Information available to Council staff**

It is recommended that Council staff involved in the planning of proposed activities have access to the following resources.

#### **1. Aboriginal Heritage Sensitivity Map**

The full version of the Aboriginal Heritage Sensitivity Map will be available for internal use by Council planners and land managers. Details are provided in **Section 6.3.1**.

#### **2. Aboriginal Heritage Information Management System information**

Council staff involved in the planning and management of development activities can request information about registered Aboriginal sites, including original site recordings, from Council heritage officers.

#### **3. Summary flowcharts and tables for determining Aboriginal heritage requirements**

As outlined in **Section 6.3**, these provide information to allow project planners and managers to determine applicable requirements.

#### **4. Internal guidelines and manuals**

As discussed in **Section 6.8**, it is recommended that Council develop specific procedure guidelines/manuals to assist Council staff planning or undertaking activities to implement Aboriginal heritage requirements consistently, and in accordance with other planning and administrative requirements.

#### **5. Plans of Management for Crown land reserves**

Plans of management have been prepared in 2021 for the Crown land reserves managed by Council as Crown land manager. These plans of management contain specific Aboriginal heritage requirements which mirror those in this report, but are specific to the Crown land reserves and should be followed in these areas.



**6.4.2 Determining whether an Aboriginal Heritage Impact Assessment is required**

Council project managers and planners should consider the following in determining whether an Aboriginal Heritage Impact Assessment is required for their proposed activity:

**What is the full scope of the activity?**

It is important to consider all aspects of the proposed activity that may harm Aboriginal heritage as part of preparation of a project brief for the works. This may include things beyond the immediate site of works, such as where materials will be stockpiled, how the worksite will be accessed and whether heavy vehicles will be used and may disturb the ground surface.

**Is the project within a Crown land reserve?**

Confirm if the proposed activity is to take place within a Crown land reserve, managed by Council as Crown land manager. If so, refer to the relevant plan of management and Native title manager advice reports for more detail. The recommendations created for these lands broadly mirror those in the Aboriginal Heritage Sensitivity Map, however specific plan of management requirements for any Crown land reserves should be followed rather than the procedures outlined in this report.

**What is the Aboriginal heritage sensitivity of the area in which the activity is proposed?**

Check the Aboriginal Heritage Sensitivity Map and follow the procedures outlined in **Figure 46** and any supporting documentation that may be produced. This will have one of the following outcomes:

1. If the proposed activity is partly or wholly located within an Area of Aboriginal Heritage Sensitivity an Aboriginal Heritage Impact Assessment may be required and will be determined in relation to the additional questions shown in **Figure 46**.
2. If the proposed activity is partly or wholly located within an Area of Potential Aboriginal Heritage Sensitivity (and is not partly within an Area of Aboriginal Heritage Sensitivity) the following questions will determine whether an Aboriginal Heritage Impact Assessment may be required:

2a) Does the proposal involve excavation as defined in the Woollahra LEP <i>Definition - "excavation" means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.</i>	Yes	An Aboriginal Heritage Impact Assessment may be required and will be determined in relation to the additional questions shown in <b>Figure 46</b> .
	No	See question 2b.
2b) Is there sandstone (rock) exposed anywhere within the area containing the proposed activity?	Yes	An Aboriginal Heritage Impact Assessment may be required and will be determined in relation to the additional questions shown in <b>Figure 46</b> .
	No	No Aboriginal Heritage Impact Assessment is required





3. If the proposed activity is completely outside an Area of Aboriginal Heritage Sensitivity and an Area of Potential Aboriginal Heritage Sensitivity then no Aboriginal Heritage Impact Assessment is required. However, approval conditions including an unexpected finds protocol and Aboriginal heritage induction may be required.

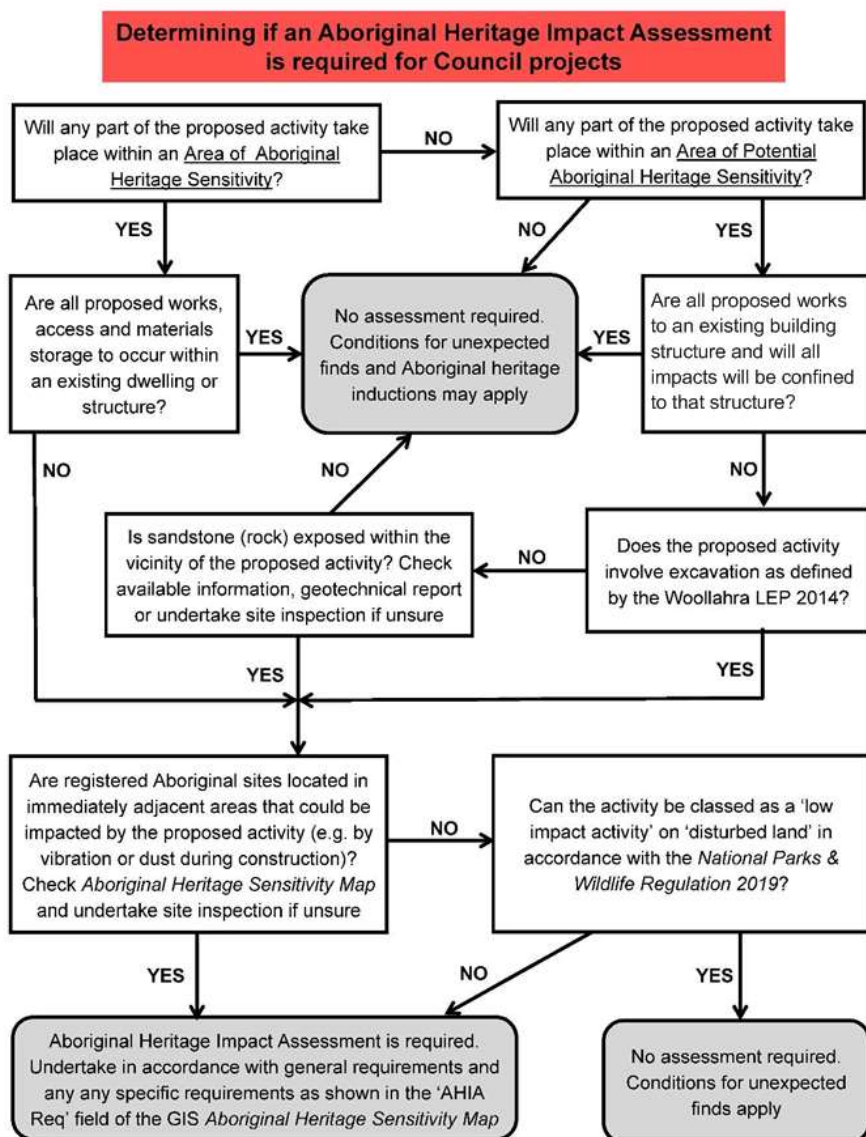


Figure 46. Determining Aboriginal heritage management procedures for Council projects.



**Determining if an Aboriginal Heritage Impact Assessment is required**

If the Aboriginal Heritage Sensitivity Map suggests that an Aboriginal Heritage Impact Assessment may be required, apply the additional questions outlined below and summarised in **Figure 46**.

<p>A) Are registered Aboriginal sites located in immediately adjacent areas that could be impacted by the proposed activity?</p> <p>Check the Aboriginal Heritage Sensitivity Map, obtain records of nearby Aboriginal sites from heritage officers, if unsure about the extent or location of sites, and undertake a site inspection to confirm if needed.</p>	Yes	An Aboriginal Heritage Impact Assessment is required.
	No	See question B.
<p>B) Can the activity be classed as a 'low impact activity' on 'disturbed land' in accordance with the National Parks &amp; Wildlife Regulation 2019?</p> <p>Many Council land management activities and asset maintenance activities are covered by these provisions. If applicable, those undertaking the activities are exempt from prosecution for the offence of 'unknowing harm' to Aboriginal objects under the <i>National Parks &amp; Wildlife Act 1974</i>. However this only applies if the activity is both 'low impact' and on 'disturbed land'. It does not apply to the offence of harm to an Aboriginal object that is already recorded as being present. See <b>Appendix E</b> for the definitions and list of included activities as of 2021 and see <a href="http://www.legislation.nsw.gov.au">www.legislation.nsw.gov.au</a> for up-to-date Regulations.</p>	Yes	An Aboriginal Heritage Impact Assessment is not required. However approval conditions including an unexpected finds protocol and Aboriginal heritage induction may be required.
	No	An Aboriginal Heritage Impact Assessment is required.

**Undertaking an Aboriginal Heritage Impact Assessment**

If an Aboriginal Heritage Impact Assessment is required, it must be undertaken in accordance with the general requirements of Council, as outlined in **Section 6.3.4** (or as provided in more detail in any Council guidelines or manuals produced) and any specific requirements which can be determined by consulting the 'AHIA Req' field on the Aboriginal Heritage Sensitivity Map for the area in question. It is strongly recommended that any assessments undertaken for projects in Council managed reserves should consider the entirety of the reserve where possible rather than just the immediate footprint of the proposed works, as the costs of the assessment are unlikely to be significantly greater and will provide information that can be used in future projects (such as a refinement of Aboriginal heritage sensitivity). Consideration could also be given to whether other projects are being planned concurrently in other reserves and include these in the assessment to further save on costs.

The completed assessment will be provided to Council heritage staff for review as outlined in **Section 6.3.4**.



#### **Proceeding in accordance with Aboriginal heritage management recommendations**

- If the assessment makes heritage management recommendations, these should be incorporated into a Construction Environmental Management Plan or other appropriate documentation.
- An unexpected finds protocol, as outlined in **Section 6.5**, should be incorporated into all Construction Environmental Management Plans or other appropriate documentation.
- An Aboriginal heritage induction may be required for some activities. This requirement can be determined in consultation with Council heritage staff or in accordance with any internal Council Aboriginal heritage management guidelines or manuals produced to enact this strategy.

### **6.5 Possible Aboriginal heritage outcomes for proposed activities**

This section outlines some of the common Aboriginal heritage management outcomes that will apply to proposed activities. Due to the diverse nature of activities, the precise application of these is likely to vary between projects. As discussed in **Section 6.8**, it is recommended that Council develop guidelines for Council planning staff to provide greater detail about the different situations in which outcomes may apply. These guidelines should contain standard Aboriginal heritage conditions that are typically applied to development consents.

#### **6.5.1 When no Aboriginal Heritage Impact Assessment is required**

Where an Aboriginal Heritage Impact Assessment is not required for a proposed activity, the following conditions should apply:

- **Condition 1 (Due Diligence responsibilities):** This condition is included because anyone proposing an activity is subject to the Aboriginal heritage protections of the *National Parks & Wildlife Act 1974*, whether or not Council has requested an Aboriginal Heritage Impact Assessment.
- **Condition 2 (Unexpected finds):** This condition applies to all proposed activities to ensure that the legal protections of the of the *National Parks & Wildlife Act 1974* are observed.
- **Condition 3 (Aboriginal heritage induction):** This applies only where excavation is to occur, as defined by the Woollahra LEP.<sup>152</sup> In these cases an Aboriginal heritage induction should be provided, prior to the commencement of excavation works, by a representative of the La Perouse LALC (or a suitably qualified Aboriginal heritage consultant if the La Perouse LALC is not available).

<sup>152</sup> The 'removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land'.



### 6.5.2 When a low risk of harm to Aboriginal heritage has been identified

Where an Aboriginal Heritage Impact Assessment concludes that there is a low risk of harm to Aboriginal heritage, the following conditions should apply:

- **Condition 2 (Unexpected finds):** This condition applies to all proposed activities to ensure that the legal protections of the of the *National Parks & Wildlife Act 1974* are observed.
- **Condition 3 (Aboriginal heritage induction):** This applies only where excavation is to occur, as defined by the Woollahra LEP.<sup>153</sup> In these cases an Aboriginal heritage induction should be provided, prior to the commencement of excavation works, by a representative of the La Perouse LALC (or a suitably qualified Aboriginal heritage consultant if the La Perouse LALC is not available).

### 6.5.3 When precautionary measures have been recommended

Where an Aboriginal Heritage Impact Assessment or an Aboriginal Cultural Heritage Assessment Report concludes that harm to identified or potential Aboriginal objects can be avoided through the implementation of precautionary measures, the following conditions should apply:

- Any specific recommendations of the assessment should be made conditions of development consent if considered appropriate by Council heritage staff.
- **Condition 2 (Unexpected finds):** If not already contained in the assessment recommendations, this condition should be applied to ensure that the legal protections of the *National Parks & Wildlife Act 1974* are observed.
- **Condition 3 (Aboriginal heritage induction):** If not already contained in the assessment report recommendations, this condition should be applied only where excavation is to occur, as defined by the Woollahra LEP.<sup>154</sup> In these cases an Aboriginal heritage induction should be provided, prior to the commencement of excavation works, by a representative of the La Perouse LALC (or a suitably qualified Aboriginal heritage consultant if the La Perouse LALC is not available).
- **Condition 4 (Aboriginal Heritage Management Plan):** This condition should only be required where assessment recommendations are not able to be enacted without further documentation after the DA approval stage. For example, where protective measures can only be determined once a building contractor is appointed and construction methods are known. In such cases, it may be appropriate to prepare an Aboriginal Heritage Management Plan as a condition of consent to ensure the assessment recommendations are appropriate manifested in practice. In these instances, this condition should be applied to ensure consistency across plans.

<sup>153</sup> The 'removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land'.

<sup>154</sup> The 'removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land'.



#### **6.5.4 When an Aboriginal Heritage Impact Permit is required (Integrated Development)**

An Aboriginal Heritage Impact Assessment may conclude that harm to Aboriginal objects is likely, and that it is appropriate to impact or archaeologically salvage or collect those objects under an Aboriginal Heritage Impact Permit (AHIP) issued by Heritage NSW under s90 of the *National Parks & Wildlife Act 1974*. A requirement for an AHIP means that the proposal is Integrated Development as defined in Division 4.8 (s4.46) of the *Environmental Planning & Assessment Act 1979*. As such, Council's assessment of the development application will be subject to the advice of Heritage NSW in relation to Aboriginal heritage management.

AHIP applications must be accompanied by an Aboriginal Cultural Heritage Assessment Report that meets the requirements of the Heritage NSW *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* and which documents Aboriginal community consultation in accordance with Clause 60 of the National Parks & Wildlife Regulation 2019.<sup>155</sup> The Aboriginal Cultural Heritage Assessment Report needs to be submitted to Council prior to any development approval, for referral to Heritage NSW. Heritage NSW will review the Aboriginal Cultural Heritage Assessment Report on two separate occasions.

1. To provide advice and general terms of approval to Council on Aboriginal heritage matters relating to the development application.
2. If no further Aboriginal heritage investigations are requested prior to approval, and the development is approved, the Aboriginal Cultural Heritage Assessment Report will be submitted by the applicant to Heritage NSW as part of the AHIP application process. This can only occur once development approval has been given.

Because AHIP applications to harm Aboriginal objects (excluding those required to undertake test excavations) can only be lodged with Heritage NSW after DA approval, the obtaining of an AHIP and undertaking any works under an AHIP have to be conditions of development consent.

#### **6.5.5 When further Aboriginal heritage investigations are recommended**

Aboriginal Heritage Impact Assessments may conclude that further investigations are required to determine the presence/absence and extent of Aboriginal objects, and appropriate final management recommendations. There are many types of possible investigations but the most common are archaeological test excavations. Archaeological test excavations generally require an Aboriginal Heritage Impact Permit ('AHIP') under s90 of the NPW Act. There are some exceptions to this, where excavations can be undertaken in strict accordance with the Heritage NSW *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW*, however this is unlikely in most cases within Woollahra.

<sup>155</sup> As detailed in DECCW 2010 *Aboriginal cultural heritage consultation requirements for proponents 2010. Part 6 National Parks & Wildlife Act 1974*



Archaeological test excavations can be undertaken prior to the lodgement of a development application, or after lodgement. The timing and scope of these excavations will vary depending on the nature of the recommended works, the type of development, the existing condition of the land and buildings within it, and the nature of the potential Aboriginal heritage to be investigated. For this reason, any development approval conditions will be determined by Council in relation to the specific characteristics of each proposal, and potentially in consultation with Heritage NSW.

## **6.6 Some examples of proposed activities**

The following sections provide some examples of typical activities with different Aboriginal heritage outcomes. Examples include both private development applications and Council works and development projects.

### **6.6.1 Examples of external development applications**

#### EXAMPLE 1: Demolition and replacement of an existing house

The area is searched on the Aboriginal Heritage Sensitivity Map. The proposal is not within an Area of Aboriginal Heritage Sensitivity or an Area of Potential Aboriginal Heritage Sensitivity. The proposal therefore does not require any further Aboriginal heritage assessment. If approved, the DA should include the Standard Conditions outlined in **Section 6.5.1**, including an unexpected finds protocol and an Aboriginal heritage induction prior to the commencement of excavation works.

#### EXAMPLE 2: Conversion of an existing residential property into three villas

The area is searched on the Aboriginal Heritage Sensitivity Map. Part of the property is within an Area of Aboriginal Heritage Sensitivity because part of the property contains outcropping sandstone with the potential to contain Aboriginal sites. An Aboriginal Heritage Impact Assessment is undertaken, which concludes that no Aboriginal sites are present within the portion of the outcrop that is within the property. The proposal therefore does not require any further Aboriginal heritage investigation. If approved, the DA should include the Standard Conditions outlined in **Section 6.5.2**.

#### EXAMPLE 3: Extension of an existing dwelling, including new basement levels

The area is searched on the Aboriginal Heritage Sensitivity Map. It is within an Area of Potential Aboriginal Heritage Sensitivity because it is not clear whether the geology is sand or sandstone. The applicant is proposing extensive excavation for new basement levels. An Aboriginal Heritage Impact Assessment is undertaken, which concludes that no Aboriginal sites are present within the area of the proposed extension. However, an area of outcropping sandstone (obscured by vegetation) is observed at the rear of the property in an area not proposed for development. As this area could contain Aboriginal rock engravings, the assessment recommends protective measures are undertaken during construction (e.g. temporary fencing to protect the potential site). If approved, the DA incorporates the recommendation as a condition of consent, along with an unexpected finds protocol and Aboriginal heritage induction as outlined in **Section 6.5.3**.



EXAMPLE 4: Demolition of 10 existing houses and construction of an apartment block with basement carpark

The area is searched on the Aboriginal Heritage Sensitivity Map. The proposal is within an Area of Potential Aboriginal Heritage Sensitivity because it is not clear whether the geology is sand or sandstone. The applicant identifies that an Aboriginal Heritage Impact Assessment is required, because excavation is proposed. The Aboriginal Heritage Impact Assessment involves a detailed review of land use history and a field survey. An Aboriginal site (a scatter of stone artefacts in disturbed soil) is found. The assessment concludes that it would be appropriate to collect the artefacts under an Aboriginal Heritage Impact Permit (AHIP) as a condition of development consent. The development becomes Integrated Development and an Aboriginal Cultural Heritage Assessment Report (ACHAR) will now need to be prepared for Council's referral to Heritage NSW, and also to accompany the eventual AHIP application after development consent is granted. DA approval makes consent conditional on approval of an AHIP by Heritage NSW to undertake the collection of the artefacts.

EXAMPLE 5: Demolition of 10 existing houses and construction of an apartment block with basement carpark

This is the same scenario as Example 4 but with a different outcome. The area is searched on the Aboriginal Heritage Sensitivity Map. The proposal is within an Area of Potential Aboriginal Heritage Sensitivity because it is not clear whether the geology is sand or sandstone. The applicant identifies that an Aboriginal Heritage Impact Assessment is required, because excavation is proposed. The Aboriginal Heritage Impact Assessment involves a detailed review of land use history and a field survey. It concludes that an area of Aboriginal archaeological potential is present within the property and may be impacted by the proposal. Archaeological test excavations are recommended but cannot be undertaken until demolition due to the presence of existing buildings. An Aboriginal Cultural Heritage Assessment Report (ACHAR) will need to be prepared where an AHIP is required to undertake the test excavations and application made to Heritage NSW. The test excavations are made a condition of development consent along with a further condition that if Aboriginal heritage is discovered during the archaeological test excavations, any Aboriginal Heritage Impact Permit that may be required must be obtained and its conditions met prior to the commencement of earthworks in the affected area.

## **6.6.2 Examples of Council works and development projects**

EXAMPLE 1: Resurfacing a section of road and repairing guttering

The area is searched on the Aboriginal Heritage Sensitivity Map and is within an Area of Potential Aboriginal Heritage Sensitivity. The works will not impact a registered Aboriginal site, because the map shows none within 200m. A check of the National Parks & Wildlife Regulation 2019 reveals that under s58(1a(i)), the 'maintenance of existing roads' is classed as a 'low impact activity' and under s58(4c) existing roads are classed as 'disturbed lands'. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.



EXAMPLE 2: Repairing a stormwater pipe

The area is searched on the Aboriginal Heritage Sensitivity Map and is within an Area of Potential Aboriginal Heritage Sensitivity. The works will not impact a registered Aboriginal site, because the map shows none within 200m. A check of the National Parks & Wildlife Regulation 2019 reveals that under s58(1a(ii)), the 'maintenance of water or sewerage pipelines' is classed as a 'low impact activity' and under s58(4f) existing services are classed as 'disturbed lands'. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.

EXAMPLE 3: Removing sediment from a creek

Council proposes to periodically remove soil sediment that has washed downslope into a creek from surrounding parklands and adjacent areas near roads. This will require removal of around the upper level of 0.5m of sediment from the base of the creek. A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map and is within an Area of Aboriginal Heritage Sensitivity, as it is relatively undisturbed land that has been reserved parkland for some time and retains natural vegetation. Following the flowchart questions indicates that while sandstone is exposed in sections of the creekbed, no registered Aboriginal sites are located nearby. The requirement for an Aboriginal Heritage Impact Assessment is therefore dependent on whether the activity is a 'low impact activity' under the National Parks & Wildlife Regulation 2019. A check of the regulation reveals that under s58(1c(v)), 'erosion control' is classed as a 'low impact activity' and can occur whether or not the land is considered 'disturbed lands'. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.

EXAMPLE 4: Redistribution of beach sands

Council proposes to redistribute beach sands which have accumulated in a reclaimed area of former mudflats and may block a nearby stormwater outlet unless removed. The sands are proposed to be removed using mechanical excavators. The area in question is not covered by the Aboriginal Heritage Sensitivity Map as it represents marine sediments which have no Aboriginal heritage sensitivity. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.

EXAMPLE 5: Replacement of an existing fence within a Council managed reserve

A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map and is within an Area of Aboriginal Heritage Sensitivity, as it is relatively undisturbed land that may represent a former bay shore. The works will not impact a





registered Aboriginal site, because the map shows none within 200m. A check of the National Parks & Wildlife Regulation 2019 reveals that under s58(1c(iv)), the 'maintenance of fences' is classed as a 'low impact activity' and existing levels of disturbance do not need to be considered. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.

EXAMPLE 6: Bush regeneration works within a Council managed reserve

A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map and is within an Area of Aboriginal Heritage Sensitivity, as it may contain outcropping sandstone. The works will not impact a registered Aboriginal site, because the map shows none within 200m. A check of the National Parks & Wildlife Regulation 2019 reveals that under s58(1j), 'bush regeneration' works are classed as a 'low impact activity' as long as they do not involve erosion control or soil conservation works (such as contour banks), and under s58(4d) areas of previously cleared vegetation are classed as 'disturbed lands'. The works do not therefore require Aboriginal Heritage Impact Assessment and can proceed. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.

EXAMPLE 7: Construction of a cycle and walking path within a Council reserve

The full area of potential impacts is defined, including works compounds and material storage areas. A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map. Part of the activity is within an Area of Aboriginal Heritage Sensitivity because of a known Aboriginal site (a rock engraving). An Aboriginal Heritage Impact Assessment is required to determine whether the path will have any potential impacts. The assessment concludes that impacts will not occur if protective measures are undertaken (e.g. temporary fencing to protect the site). This is documented in the REF and the protective measures are incorporated into the Construction Environmental Management Plan.

EXAMPLE 8: Installation of rainwater tanks in a Council reserve

The full area of potential impacts is defined, including works compounds and material storage areas. A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map. The proposal is not within an Area of Aboriginal Heritage Sensitivity or an Area of Potential Aboriginal Heritage Sensitivity and therefore does not require any further Aboriginal heritage assessment. An unexpected finds protocol should be incorporated into the Construction Environmental Management Plan or equivalent.



EXAMPLE 9: Installing a recreational facility in a Council reserve

Council proposes to install a recreational facility in a Council foreshore reserve. The facility would require either installation of concrete piles to support the structure or excavation to accommodate an in-ground structure. The full area of potential impacts is defined, including works compounds and material storage areas. A check is first undertaken and confirms that the area is a Crown land reserve, managed by Council as Crown land manager. Reference is made to the relevant plan of management which requires an Aboriginal Heritage Impact Assessment to be undertaken for any proposed activities which may impact below the ground surface. The assessment includes an examination of the land use history of the reserve and a site inspection. These identify that the area has been impacted by past levelling within the reserve, and there is a low likelihood that any Aboriginal heritage survives intact. No further investigations or protective measures are recommended. The works can proceed as planned, and the Construction Environmental Management Plan will include an unexpected finds protocol to ensure that any Aboriginal heritage that may be uncovered can be appropriately managed.

EXAMPLE 10: Installing a retaining wall in a Council reserve

Council proposes to install a retaining wall within a Council reserve. The full area of potential impacts is defined, including works compounds and material storage areas. A check is first undertaken to confirm if the area is a Crown land reserve, managed by Council as Crown land manager, in which case refer to the plan of management and Native title manager advice reports for more detail. As it is outside Crown land reserve, the area is searched on the Aboriginal Heritage Sensitivity Map. Most of the area of proposed works is within an infilled former inlet that is not an Area of Aboriginal Heritage Sensitivity or an Area of Potential Aboriginal Heritage Sensitivity, however both ends of the proposed wall alignment extend into areas of Aboriginal Heritage Sensitivity within the buffer zones around two recorded Aboriginal sites. Inspection of the Aboriginal Heritage Sensitivity Map information for these two sites (a rock engraving and a rockshelter) shows that both are associated with outcropping sandstone, whereas the proposed works will only affect areas of sand. In consultation with Council heritage staff it is determined that as long as works are fully contained to sandy portions of the reserve, no Aboriginal Heritage Impact Assessment is required. The works can proceed as planned, and the Construction Environmental Management Plan will include an unexpected finds protocol and an Aboriginal heritage induction to ensure that the documented sites are protected and that any Aboriginal heritage that may be uncovered can be appropriately managed.

EXAMPLE 11: Rebuilding a concrete pylon within a rockshelter in a Council reserve

Council proposes to rebuild a concrete pylon which is constructed within a rockshelter in a Council reserve to support a terrace on private land above the shelter. The full area of potential impacts is defined, including works compounds and material storage areas. A check is first undertaken and confirms that the area is a Crown land reserve, managed by Council as Crown land manager. Reference is made to the relevant plan of management which requires an Aboriginal Heritage Impact Assessment to be undertaken for any proposed activities within the sensitive area. The assessment includes an examination of the land use history of the reserve and a site inspection. It



confirms that the shelter in which the pylon is situated contains no Aboriginal archaeological remains and has no archaeological potential, but notes several other nearby shelters which are registered Aboriginal sites containing archaeological remains. The assessment concludes that impacts will not occur to these sites if protective measures are undertaken (e.g. temporary fencing to protect the nearest shelter). This is documented in the REF and the protective measures are incorporated into the Construction Environmental Management Plan.

## **6.7 Activities not assessed by Council**

Many activities which could harm Aboriginal heritage are not subject to assessment or approval by Council, however even in some of these cases Council can take some steps to foster greater protection for known and potential Aboriginal heritage.

### **6.7.1 Exempt and complying development**

It is unlikely to be possible to apply the Aboriginal Heritage Management Strategy to exempt and complying development proposals which fall within an Area of Potential Aboriginal Heritage Sensitivity or an Area of Aboriginal Heritage Sensitivity (except those which require an Aboriginal Heritage Impact Permit and therefore become Integrated Development under Division 4.8 of the *Environmental Planning & Assessment Act 1979*). However, Council can act to ensure that applicants and private certifiers are aware of the legal protection of Aboriginal heritage, and of the obligation to undertake some form of Due Diligence process to ensure that there is unlikely to be any harm to Aboriginal heritage as a result of their proposed activity. This could include one or more of the following actions:

- Indicate in Part 5 of s10.7 certificates that all properties may have Aboriginal heritage significance and directing them to the public Aboriginal Heritage Sensitivity Map. This is considered preferable to including this advice only for properties that are currently partly or wholly within an Area of Aboriginal Heritage Sensitivity or Area of Potential Aboriginal Heritage Sensitivity, because these designations may change over time, as the Aboriginal Heritage Sensitivity Map is updated. Adding this note will alert people purchasing properties of potential Aboriginal heritage protection or investigation requirements so that they can seek further advice from Council.
- Provide certifiers, and planning and architectural consultancies operating in Woollahra LGA with the DA Guide (and any supporting documentation) to foster awareness and encourage compliance.
- Provide certifiers operating in Woollahra LGA with the same wording for Standard Conditions of Consent as proposed for DA applicants as outlined in **Section 6.5.1**, which summarises the legal protections afforded to Aboriginal heritage, and/or provide them with a copy of the Heritage NSW guideline *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*.



### **6.7.2 Development proposals for which Council is asked to provide comment**

Council can be asked to provide comment on project proposals which are within the Woollahra LGA but for which Council is not the consent authority. These include State Significant Development proposals (under Division 4.7 of the *EP&A Act*) or proposals on lands which are managed by other authorities (e.g. Defence land, National Park). Where Council is asked to comment on these or other proposals, responses can draw on the Aboriginal Heritage Sensitivity Map and the procedures outlined in this Strategy to determine whether and why the proposal would (under the Strategy) require Aboriginal Heritage Impact Assessment. Although Council's response would not be binding, it will be drawing on more detailed information than most applicants will have and may prompt further assessment where it may otherwise not have been taken.

### **6.7.3 Other activities that do not require Council's consent**

Some activities that involve excavation do not require Council's consent e.g. those undertaken by utilities repairing or excavating services, or private residents undertaking excavations that do not require development approval. Many of these will however check the national Dial Before You Dig referral service that holds details of underground infrastructure and other features to ensure that they do not inadvertently damage these items. Council currently provides information about its assets such as stormwater pipes to the Dial Before You Dig referral service. Council could add the public version of the Aboriginal Heritage Sensitivity Map so that anyone who receives Council data in response to their search of the Dial Before You Dig service, will be informed of potential Aboriginal heritage issues.

## ***6.8 Protecting, understanding and celebrating Aboriginal heritage***

The Aboriginal heritage management strategy is designed to provide better protections for Aboriginal heritage in Woollahra through a range of measures. It has been largely concerned with Aboriginal heritage places rather than intangible heritage. In the following sections we outline how these protections can be enacted, and other important measures that Council can take to help deepen understanding and respect for Aboriginal people, their history and their heritage across Woollahra.

### **6.8.1 Enacting the Aboriginal heritage management strategy**

The following steps are recommended to successfully enact the strategy and integrate it with existing Council planning processes:

- Incorporate the Aboriginal Heritage Sensitivity Map into the Council GIS.
- Incorporate the public version of the Aboriginal Heritage Sensitivity Map into publicly accessible Council mapping.
- Update the DA Guide to include an Aboriginal heritage attachment.



- Develop a brochure and webpage for applicants, to provide further context and illustrations to the content of the DA Guide.
- Develop guidelines for Council planners and heritage staff based on the processes outlined in **Section 6.3** and possible outcomes outlined in **Section 6.5**. This should include processes for updating the Aboriginal Heritage Sensitivity Map as discussed in **Section 6.8.4**.
- Develop guidelines for Council staff involved in planning or managing Council projects, based on the processes outlined in **Section 6.4**. This could include updating the REF template to include relevant procedures.
- Develop standard DA conditions based on the suggestion in **Section 6.5**.
- Create a dedicated electronic folder for AHIMS Aboriginal site records ('site cards') and ensure that it is accessible to Council planning and heritage staff.
- Create a dedicated electronic folder for Aboriginal Heritage Impact Assessments (including those past reports provided as part of the current study) and ensure that it is accessible to Council planning and heritage staff.
- Indicate in Part 5 of s10.7 certificates that all properties may have Aboriginal heritage significance, directing property owners to the public version of the Aboriginal Heritage Sensitivity Map and accompanying brochure/webpage.
- Provide certifiers, and planning and architectural consultancies operating in Woollahra LGA with the DA Guide (and any supporting documentation) to foster awareness and encourage compliance.
- Add the public version of the Aboriginal Heritage Sensitivity Map to information provided by Council to the Dial Before You Dig referral service.

#### **6.8.2 Staffing, training and resources**

An essential part of the Aboriginal heritage management strategy is to allocate adequate resources and expertise to ensure that the Council system runs efficiently, competently and accurately, and remains up to date. To ensure this, there needs to be an appropriate commitment of staff, training and other resources. Specifically, the following are recommended:

- Responsibility for oversight of Aboriginal Heritage Management should reside with the planning section of Council to ensure that the system is applied consistently. Planning staff should also have responsibility for ensuring that updates to the Aboriginal Heritage Sensitivity Map are undertaken as discussed in **Section 6.8.4**, in consultation with Council GIS staff.
- All Council staff who may be involved in advising development applicants, assessing development applications, or planning or managing Council works and development projects (e.g. Heritage Officers, Assessment Officers, Duty Planners, Team Leaders, Technical Services Managers, Parks and Recreation Planners, Council bush regeneration supervisors) should be



provided with cyclical training to familiarise themselves with the procedures, and how to obtain further information. This training should involve the La Perouse LALC. It should also include a field component to explain with examples what Aboriginal heritage is and where it may be present.

- The guideline documents outlined in **Section 6.8.1** should be readily available to all Council staff who may need to use or refer to them.

### **6.8.3 Active Aboriginal community involvement in Aboriginal heritage management**

In recent years Council has been deepening its relationship with the local Aboriginal community, and particularly the La Perouse LALC, as expressed in the *Council Aboriginal and Torres Strait Islander Protocols* in 2020, and Action 24 of the 2020 *Woollahra Local Strategic Planning Statement (LSPS)* through which Council undertakes to work with the La Perouse LALC to support their right to self-determination.<sup>156</sup> Action 29 of the Woollahra LSPS aims for Council to 'work with the La Perouse Local Aboriginal Land Council to conserve the history and heritage of our area.' The involvement of Aboriginal people in Aboriginal heritage management in Woollahra should be seen in the context of this broader relationship, as well as the specific principle that Aboriginal people are involved in all decisions about their heritage (as discussed in **Section 6.1**)

A more formalised relationship between Council and the La Perouse LALC would be the most effective way to carry that relationship and meaningful involvement forward. This could be in the form of a memorandum of understanding covering particular issues, formal engagement of the La Perouse LALC to deliver particular services, or the engagement of an Aboriginal community member on staff to provide heritage and cultural advice, and a more formal link to the La Perouse LALC. These and other possibilities are matters for Council and the La Perouse LALC to determine, however it is true to say that the more direct and deeper the relationship, the greater the benefits to Council across many areas moving forward.

The following specific recommendations are made in relation to Aboriginal involvement in Aboriginal heritage management, and can be adapted to fit whatever mode of Aboriginal engagement is ultimately adopted by Council. The recommendations refer to involvement of the La Perouse LALC, as they have a statutory responsibility in relation to Aboriginal heritage, under the *Aboriginal Land Rights Act 1983*. In the event that Native Title claimants or Aboriginal Owners are officially registered within the LGA, they should also be involved in the management of Aboriginal heritage within the LGA.

- As outlined in the proposed DA guide text, and continuing on from current Council practice, any Aboriginal Heritage Impact Assessment must involve the La Perouse LALC.

<sup>156</sup> Woollahra Municipal Council 2020. *Council Aboriginal and Torres Strait Islander Protocols*; Woollahra Municipal Council 2020. *Woollahra Local Strategic Planning Statement*.



- The La Perouse LALC should be provided with notifications of any development applications lodged in an Area of Aboriginal Heritage Sensitivity or in an Area of Potential Aboriginal Heritage Sensitivity.
- Where a requirement for an Aboriginal heritage induction is included as part of approval conditions, the induction should be prepared and delivered by the La Perouse LALC. If the La Perouse LALC is not available, the induction may be delivered by an appropriately qualified Aboriginal heritage consultant.
- The La Perouse LALC should provide an Aboriginal heritage induction for relevant Council staff, to be renewed on a regular basis. Where possible, training of Council staff as outlined in **Section 6.8.2** should involve the La Perouse LALC.
- The La Perouse LALC should be consulted where advice or input is required on strategic planning matters relating to Aboriginal heritage management.
- The La Perouse LALC should be actively involved in Aboriginal site monitoring and conservation activities as discussed in **Section 6.8.6**.

#### **6.8.4 Updating the Aboriginal Heritage Sensitivity Map**

It is very important that the Aboriginal Heritage Sensitivity Map is regularly updated to ensure its ongoing and growing accuracy as new information comes to light. This is better for Council and applicants, as it reduces the likelihood of unnecessary assessments being requested. Updates to the Aboriginal Heritage Sensitivity Map should be the responsibility of planning staff in consultation with Council GIS staff. Recommended procedures should include that:

- The Aboriginal Heritage Sensitivity Map should be updated at intervals of no more than 12 months. To ensure that this occurs, it should be written into a dedicated program of works for Council planning staff and/or made part of the responsibilities of a particular position.
- The annual update to the Aboriginal Heritage Sensitivity Map update occur when the latest AHIMS update has been obtained under the Aboriginal Heritage Information Licence Agreement and any new or amended site records have been obtained. Each Aboriginal Heritage Sensitivity Map update should incorporate sensitivity changes based on Aboriginal Heritage Impact Assessments and new or amended Aboriginal site information using the information collated for each report and site record as outlined above.
- On completion of each annual Aboriginal Heritage Sensitivity Map update, the public version of the map should also be updated.



### 6.8.5 Aboriginal cultural mapping

This study has primarily focussed on Aboriginal heritage places that relate directly to documented Aboriginal usage in the past through historical or archaeological records. In the consultation with the Gujaga Foundation and the La Perouse LALC that was undertaken for this study, a clear desire was expressed for less tangible aspects of Woollahra's Aboriginal heritage to be considered, not just in terms of potential protections but to provide a more rounded picture of how Aboriginal people lived across Woollahra and how that remains significant today. This links into the related aim of increasing public understanding of Aboriginal culture and history as outlined in **Section 6.8.7**.

It is recommended that Council consider undertaking an Aboriginal cultural mapping project, to work with La Perouse community members to identify areas of cultural and historical significance that may not be associated with material culture (such as archaeological remains, or structures), such as traditional pathways, a consideration of waterways and local environments as indicators of likely camping locations, links of community members today to places used historically by Aboriginal ancestors and a re-evaluation of historical records of clans and place names through a cultural lens.

The cultural mapping project would be an opportunity to work with Woollahra Libraries Local History team to develop Aboriginal history resources, consistent with proposed actions in the current draft Library Strategic Plan to investigate options for reflecting the Aboriginal history of Woollahra in partnership with the La Perouse Local Aboriginal Land Council.<sup>157</sup> The study would provide a wealth of information for future interpretation and advice on existing and possible future Aboriginal place names. Some information may also feed back into updates to the Aboriginal Heritage Sensitivity Map.

### 6.8.6 Caring for Country

An important part of Aboriginal heritage protection is ensuring that natural and human threats to Aboriginal heritage places are identified so that protective measures can be implemented where appropriate. Caring for Aboriginal heritage places is also an opportunity for local Aboriginal people to actively engage with Aboriginal Country. It is recommended that Council consider the following measures and others that may in future be raised by the local Aboriginal community, as a means of fostering Aboriginal connections to Country, and bolstering Aboriginal heritage protection across Woollahra:

- Initiate an ongoing Aboriginal site monitoring program involving the La Perouse LALC. The monitoring program could be part or fully funded through existing state and federal heritage grant programs. The program would seek to ensure that all recorded Aboriginal sites within Woollahra were visited every 1-2 years to check their condition, and identify any potential threats (e.g. erosion, visitor impacts, adjacent development). The program would involve sites on public lands, and those on private land where access was provided by residents.

<sup>157</sup> Woollahra Libraries and Think Place 2021. *Draft Library Strategic Plan. Co-designing Library Strategic Plan 2021-2026*, p. 27.





- Seek funding in conjunction with the La Perouse LALC for Aboriginal site conservation where the need for mitigative measures is identified through the monitoring program or other means.
- Facilitate Aboriginal community access to Council managed lands for cultural activities, if desired by the local Aboriginal community.

#### **6.8.7 Activities to foster public understanding of Aboriginal history and heritage**

Aboriginal heritage protection is greatly strengthened when it is considered by residents to be part of their responsibility as people living in and using Woollahra. One way to work towards this is through educational activities to deepen public understandings of Aboriginal culture and history. Council already has a strong commitment to public engagements with local history through the Woollahra Libraries Local History team and Council's Community and Cultural Development team. These activities already undertaken by these teams have included Aboriginal history talks, exhibitions and tours and current library planning seeks to increase Aboriginal community involvement in these activities and explore avenues for partnering with the La Perouse Local Aboriginal Land Council to reflect local Aboriginal history.<sup>158</sup> Building on existing activities, further initiatives could include:

- Aboriginal heritage and history talks and exhibitions.
- Aboriginal guided walks on Council lands and other public lands within Woollahra.
- The development of electronic information resources through Woollahra Libraries.
- The development of interpretive materials on public lands to educate the public about specific people and histories relevant to that area, or about specific aspects of Aboriginal culture and history. Any such materials should be developed in a coordinated way across Woollahra to provide consistent and interrelated materials, and also mindful of similar initiatives that may exist or be under preparation e.g. for the Bondi to Manly Walk.

These and any other activities should be determined and guided by the local Aboriginal community through the La Perouse LALC and the Gujaga Foundation, who are keen to ensure that Woollahra's Aboriginal history and heritage is promoted in a culturally appropriate manner (see **Appendix A**). The development of these initiatives should involve the Woollahra Libraries Local History team, Council land managers and other Council staff as appropriate.

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<sup>158</sup> Woollahra Libraries and Think Place 2021. *Draft Library Strategic Plan. Co-designing Library Strategic Plan 2021-2026*, p. 27.



## 7 Study recommendations

The following recommendations provide concrete actions to enact the Aboriginal heritage management strategy and to enact other measures to ensure that Aboriginal heritage in Woollahra is protected, understood and celebrated. The recommendations are listed in order of priority from immediate and ongoing/recurring actions to those that can be undertaken in the medium to longer term. Most of these recommended actions are grounded in the measures detailed in **Section 6.8**.

### 7.1 Immediate actions (0-12 months)

1. Enact the Aboriginal heritage management strategy by adopting the measures outlined in **Section 6.8.1**, and developing the suggested information and guideline documents outlined in **Section 6.8.1**.
2. Determine the nature of the relationship between Council and the La Perouse LALC in relation to Aboriginal heritage and broader issues, as the degree to which this may be formalised will influence how some Aboriginal heritage management procedures can be delivered.
3. In conjunction with the La Perouse LALC, develop and deliver a training program about Aboriginal heritage management procedures for all Council staff who may be involved in advising development applicants, assessing development applications, or planning or managing Council works and development projects as outlined in **Section 6.8.2**.
4. Ensure that internal guideline documents are readily available to all Council staff who may be involved in advising development applicants, assessing development applications, or planning or managing Council works and development projects.
5. Develop a procedure for updating the Aboriginal Heritage Sensitivity Map at no more than 12 monthly intervals as outlined in **Section 6.8.4** and make this the responsibility of a particular position or section within Council.
6. Initiate discussions between Council and the La Perouse LALC and the Gujaga Foundation about their priorities and availability to undertake activities of the nature outlined in **Section 6.8.7**, to foster public understanding and appreciation of Aboriginal history and heritage. These discussions should involve the Woollahra Libraries Local History team, Council land managers and other Council staff as appropriate.
7. Add to Part 5 of s10.7 certificates information that all properties may have Aboriginal heritage significance and providing directions to the public version of the Aboriginal Heritage Sensitivity Map and accompanying brochure/webpage.
8. Provide certifiers, and planning and architectural consultancies operating in Woollahra LGA with the Development Application guide (and any supporting documentation) to foster awareness of and encourage compliance with the new system.



9. Add the public version of the Aboriginal Heritage Sensitivity Map to information provided by Council through the Dial Before You Dig referral service.

### **7.2 Ongoing and recurring actions**

10. Ensure that the training program about Aboriginal heritage management procedures as outlined in **Section 6.8.2** is undertaken by all new Council staff who may be involved in advising development applicants, assessing development applications, or planning or managing Council works and development projects.
11. Establish a procedure for ensuring that the La Perouse LALC is notified of any development applications lodged in an Area of Aboriginal Heritage Sensitivity or in an Area of Potential Aboriginal Heritage Sensitivity.
12. Ensure that the existing Aboriginal Heritage Information Licence Agreement between Council and Heritage NSW is renewed as required, at intervals of no more than 12 months, to ensure continuing access to up to date Aboriginal site data on the AHIMS.
13. Ensure that the Aboriginal Heritage Sensitivity Map is updated at no more than 12 monthly intervals in accordance with the procedures developed for these updates outlined in **Section 6.8.4**, and ensure that this involves a concurrent update to the public version of the Aboriginal Heritage Sensitivity Map.

### **7.3 Medium term actions (1-3 Years)**

14. Develop a project brief for the Aboriginal Cultural Mapping Project recommended in **Section 6.8.5** in consultation with the La Perouse LALC and Gujaga Foundation and seek to obtain funding for the study.
15. On confirmation of funding, undertake the Aboriginal Cultural Mapping Project with La Perouse LALC and Gujaga Foundation.
16. Develop a project brief for the Aboriginal site monitoring program recommended in **Section 6.8.6** in consultation with the La Perouse LALC and seek to obtain funding for the program.
17. On confirmation of funding, initiate the Aboriginal site monitoring program in conjunction with the La Perouse LALC and develop procedures for incorporating any findings into the Aboriginal Heritage Sensitivity Map.



#### **7.4 Long term actions (3-5 Years)**

18. In 3-5 years, commission a suitably qualified Aboriginal heritage consultant to undertake, in conjunction with the La Perouse LALC, a review of the Aboriginal Heritage Sensitivity Map and Aboriginal heritage management procedures to identify and address any issues or improvements that can be made. At this time, any relevant findings from the Aboriginal Cultural Mapping Project, or other relevant information, could be incorporated into the Aboriginal Heritage Sensitivity Map.
19. In the event that new state Aboriginal heritage legislation is passed and new Aboriginal heritage management procedures are introduced, initiate a review of the Woollahra Aboriginal heritage management strategy and procedures to ensure that they are (or can be made) compliant with the new requirements.



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# APPENDICES

**Appendix A:** Aboriginal community endorsements

**Appendix B:** Aboriginal Heritage Place list

**Appendix C:** Museum records of Aboriginal objects

**Appendix D:** Summary of previous Aboriginal heritage investigations

**Appendix E:** Current Aboriginal heritage legislation and policy

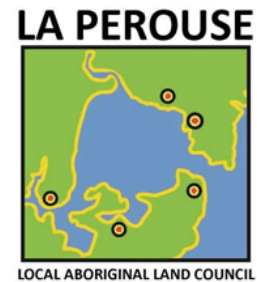


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## **Appendix A**

### **Aboriginal community endorsements**





24 June 2021

Dr Paul Irish  
Director  
Coast History and Heritage

Via email: [paul@coasthistory.com.au](mailto:paul@coasthistory.com.au)

Dear Dr Irish

**Woollahra Local Government Area – Aboriginal Heritage Study**

I write in response to the draft Aboriginal Heritage Study for the Woollahra local government area dated June 2021.

The La Perouse Local Aboriginal Land Council (**La Perouse LALC**) has reviewed the draft study and has participated in a number of consultations during the development of the study.

The La Perouse LALC supports the study and congratulates Woollahra Municipal Council for their genuine interest in the protection and appreciation of Aboriginal heritage within its area. If approved by Council, we believe there is merit on presenting this study to the Minister for Aboriginal Affairs, the Hon. Don Harwin MLC to promote best practice for Aboriginal heritage protection within NSW.

If you would like to discuss this issue further please don't hesitate to contact the La Perouse LALC office on 9311 4282 during business hours.

Yours sincerely,

Chris Ingrey  
**Chief Executive Officer**

[www.laperouse.org.au](http://www.laperouse.org.au)



28 June 2021

Dr Paul Irish  
Director  
Coast History & Heritage

Email: [paul@coasthistory.com.au](mailto:paul@coasthistory.com.au)

**Re: Woollahra Aboriginal Heritage Study Report**

Dear Dr Irish

I write regarding the *Woollahra Aboriginal Heritage Study Report* undertaken by Coast History and Heritage.

The Gujaga Foundation (**Gujaga**) have been consulted throughout all stages of the project and have reviewed and supports the final draft report.

Gujaga leads language, culture and research activities in the La Perouse Aboriginal Community whose families have ancient and unbroken links to coastal Sydney and the Illawarra.

In the 1890's Aboriginal people living at La Perouse were described as

*comprise of all that remains of the descendants of the native tribe that occupied the district at the time of the English occupation of New South Wales in 1788*

The Gujaga Foundation looks forward to future works undertaken to further protect and promote the rich local Aboriginal heritage of Woollahra in an authentic and culturally appropriate way.

Regards

A handwritten signature in black ink, appearing to be "Ray Ingrey", written over a circular stamp or seal.

Ray Ingrey  
Chairperson, Gujaga Foundation



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## **Appendix B**

### **Aboriginal Heritage Place list**



For ease of referencing, each place has been given a unique 'WAH' number for the purpose of the study, as not all places are registered on the AHIMS Register.

WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH001	AHIMS #45-6-0001	Cabarita Park 1; Vaucluse; Milk Beach	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH002	AHIMS #45-6-0029	Vaucluse Point	Art site (rockshelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH003	AHIMS #45-6-0096	Campcove shelter Watsons Bay	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH004	AHIMS #45-6-0560	Mt. Trefle Nelson Park Point 1; Mt. Trefle Midden; Mt. Trefle Cave	Art site and living place (rockshelter with midden and art)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH005	AHIMS #45-6-0688	Woollahra Point; Rose Bay	Art site and living place (rockshelter with midden and art)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH006	AHIMS #45-6-0690	Cooper Park; Bellevue Hill	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH007	AHIMS #45-6-0691	Woollahra; Bellevue Hill	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH008	AHIMS #45-6-0704	Vaucluse Bay	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH009	AHIMS #45-6-0709	Vaucluse; Parsley Bay	Art site (rockshelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH010	AHIMS #45-6-0711	Watson's Bay; Vaucluse	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH011	AHIMS #45-6-0712	Watson's Bay; Vaucluse	Art site (rockshelter - engravings)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH012	AHIMS #45-6-0713	South Head Site F ;Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH013	AHIMS #45-6-0714	South Head Site H; Sydney Harbour National Park	Art site (engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH014	AHIMS #45-6-0715	South Head Site E; Sydney Harbour National Park; Hornby Lighthouse	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH015	AHIMS #45-6-0716	South Head Site C; Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH016	AHIMS #45-6-0717	South Head; Watson's Bay	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH017	AHIMS #45-6-0723	South Head Site M; Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH018	AHIMS #45-6-0724	South Head Site L; Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH019	AHIMS #45-6-0733	South Head Site B; Sydney Harbour National Park	Art site (engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH020	AHIMS #45-6-0734	Bellevue Hill; Cooper Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH021	AHIMS #45-6-0898	#45-6-0898 IS NOT A SITE	Not a site	Yes	No further management. Not an Aboriginal site	Registered on AHIMS but found not to be site



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH022	AHIMS #45-6-0902	Vaucluse; Vaucluse Point	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH023	AHIMS #45-6-0903	Vaucliffe; Radcliffe Residence	Art site (engraving)	No (private property)	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH024	AHIMS #45-6-0918	South Head Site S	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH025	AHIMS #45-6-0919	South Head Site K; Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH026	AHIMS #45-6-0920	South Head Site G; Sydney Harbour National Park	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH027	AHIMS #45-6-0921	South Head Site A; Sydney Harbour National Park	Art site (engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH028	AHIMS #45-6-0922	South Head Site D	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH029	AHIMS #45-6-1044	Vaucluse Point 2; Bottle Glass Cave	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH030	AHIMS #45-6-1045	Hydrofoil Cave	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH031	AHIMS #45-6-1046	Vaucluse Point; Manly Ferry Cave	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH032	AHIMS #45-6-1164	Whale Cave; Vaucluse Point	Art site (rockshelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH033	AHIMS #45-6-1330	Vaucluse; Vaucluse House	Art site (engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH034	AHIMS #45-6-1405	Bellevue Hill; Cooper Park	Art site (rockshelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH035	AHIMS #45-6-1469	Vaucluse Park	Art site (rockshelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH036	AHIMS #45-6-1517	South Head; Sydney Harbour NP	Living place (open midden)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH037	AHIMS #45-6-1518	South Head; Sydney Harbour NP	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH038	AHIMS #45-6-1519	South Head; Sydney Harbour NP	Living place (open midden)	Yes	No further management. Not an Aboriginal site	Registered on AHIMS but found not to be site
WAH039	AHIMS #45-6-1521	Shark Beach; Neilsen Park	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH040	AHIMS #45-6-1522	Vaucluse Bay; 25 Coolong Road Vaucluse	Living place (shelter campsite)	No (private property)	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH041	AHIMS #45-6-1524	Vaucluse Midden; Neilson Park	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH042	AHIMS #45-6-1588	31 Olola Ave/ 4 Hopetoun Ave	Art site (rockshelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH043	AHIMS #45-6-1609	Shark Bay; Greycliffe House	Art site (rockshelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH044	AHIMS #45-6-1621	Vaucluse; Hermitage Reserve	Axe grinding grooves (and possible engravings)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH045	AHIMS #45-6-1626	Milk Beach 3	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH046	AHIMS #45-6-1627	Milk Beach 2	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH047	AHIMS #45-6-1628	Vaucluse	Living place (possible shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH048	AHIMS #45-6-1629	Milk Beach 1	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH049	AHIMS #45-6-1651	Milk Beach 5; Hermitage Reserve	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH050	AHIMS #45-6-1652	Milk Beach 4	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH051	AHIMS #45-6-1665	South Head; Sydney Harbour NP	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH052	AHIMS #45-6-1666	South Head; Sydney Harbour NP	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH053	AHIMS #45-6-1677	Vaucluse Bay; Behind 37 Coolong Road	Art site (engraving)	No (private property)	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH054	AHIMS #45-6-1681	Shark Bay Shelter; Sydney Harbour National Park	Art site and living place (rockshelter with midden and art)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH055	AHIMS #45-6-1761	Hermit Bay	Living place (open midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH056	AHIMS #45-6-2084	Gibsons Beach Cave	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site





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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH057	AHIMS #45-6-2089	Mt Treffle 2	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH058	AHIMS #45-6-2151	Point Piper	Living place (shelter midden)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH059	AHIMS #45-6-2172	Parsley Bay 5	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH060	AHIMS #45-6-2173	Parsley Bay 4	Art site (rockshelter - engravings)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH061	AHIMS #45-6-2174	Parsley Bay 3	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH062	AHIMS #45-6-2175	Parsley Bay 2	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH063	AHIMS #45-6-2176	Parsley Bay 1	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH064	Not listed	Seven Shillings Beach	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area	Documented historical Aboriginal place but precise location not known
WAH065	Not listed	Kutti Beach Shelter with PAD	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH066	AHIMS #45-6-2295	Eastside Cave; Vaucluse	Living place (shelter campsite)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH067	AHIMS #45-6-2352	Mt Treffe 3	Living place (shelter campsite)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH068	AHIMS #45-6-2353	Camp Cove 2	Burial Place	n/a	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH069	AHIMS #45-6-2650, SHI	Emma's Well	Resource place (water)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH070	AHIMS #45-6-2665	Kent Rd Burial Rose Bay	Burial Place	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH071	AHIMS #45-6-2797	28 Carrara Road Archaeological Deposit (formerly PAD)	Living place (campsite)	Site destroyed	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH072	AHIMS #45-6-3351	Camp Cove 1 (CC1)	Living place (open midden)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH073	AHIMS #45-6-3624	The Wanderers Cave	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH074	AHIMS #45-6-3745	RSGC Area of Sensitivity	Living place (campsite)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH075	AHIMS #45-6-3754	KRB Rockshelter	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH076	AHIMS #45-6-3763	Scots College PAD	Living place (possible - open campsite)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH077	Not listed	Camp Cove burial 1	Burial Place	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH078	Not listed	Camp Cove burial 2	Burial Place	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH079	Not listed	Camp Cove burial ground	Burial Place	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH080	AHIMS #45-6-3825	Cranbrook Oval	Living place (campsite)	No (private property)	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH081	Not listed	Rose Bay burial	Burial Place	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH082	Not listed	Camp Cove	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH083	Not listed	Paddington, Rushcutters Bay	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH084	Not listed	Mona Road Houses	Living place (historical camp)	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Precise location not known and surviving physical remains considered unlikely
WAH085	Not listed	Rose Bay Camp, William Warrell's Camp	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH086	Not listed	Sophia's Spring, Vacluse Heights	Resource place (water)	Yes	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
WAH087	Not listed	Double Bay Camp, Quamby	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH088	Not listed	South Head Site T	Art site (engraving)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH089	Not listed	Bungaree's Grave, Matora's Grave	Burial Place	General location only	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH090	Not listed	Rona, Double Bay	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH091	Not listed	Tamara's Camp	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH092	Not listed	Vaucluse House	Living place (historical camp)	Yes	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH093	Not listed	Gibsons Beach	Living place (historical camp)	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
WAH094	SHI 2711246	Redleaf	Living place (historical camp)	n/a	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH095	Not listed	Pannerong, Rose Bay Ceremonial Ground	Ceremonial Place	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH096	AHIMS #45-6-3816	Kutti Beach Cave	Living place (shelter midden)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH097	Not listed	Darling Point	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH098	Not listed	Nancy's Burial	Burial Place	General location only	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH099	Not listed	Parsley Bay	Living place (historical camp)	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
WAH100	Not listed	Woollahra House Stables	Living place (historical camp)	Yes	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place
WAH101	Not listed	Collins Hut	Living place (historical camp)	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
WAH102	Not listed	Greenwich Pier Hotel, Dunbar House	Visited Place (historical)	General location only	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH103	Not listed	Mr Dalley's House, Clairvaux	Visited Place (historical)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Precise location not known and surviving physical remains considered unlikely



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH104	Not listed	Rose Bay Weir	Resource place (food)	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
WAH105	Not listed	Woollahra House	Visited Place (historical)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH106	Not listed	Clovelly, Watsons Bay	Visited Place (historical)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH107	Not listed	Camp Cove shelters	Living place (shelter midden)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH108	Not listed	Leura	Living place (historical camp)	n/a	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Documented historical Aboriginal place but precise location not known
WAH109	SHR 00677	Macquarie Lighthouse Site	Collected/disturbed Aboriginal cultural material	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH110	Not listed	Cooper Park Shelter	Art site and living place (rockshelter with PAD and art)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH111	Not listed	Nielsen Park Shelter 1	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH112	Not listed	Nielsen Park Shelter 2	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH113	Not listed	Woollahra Possible Shelter WAH113	Art site (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH114	Not listed	Nielsen Park Shelter 3	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH115	Not listed	Woollahra Possible Shelter WAH115	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH116	Not listed	Woollahra Possible Engraving WAH116	Art site (possible - engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH117	Not listed	Woollahra Possible Shelter WAH117	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH118	Not listed	Woollahra Possible Shelter WAH118	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH119	Not listed	Woollahra Possible Shelter WAH119	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH120	Not listed	Woollahra Possible Shelter WAH120	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH121	Not listed	Woollahra Possible Shelter WAH121	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH122	Not listed	Woollahra Possible Shelter WAH122	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH123	Not listed	Woollahra Possible Shelter WAH123	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH124	Not listed	Woollahra Possible Shelter WAH124	Art site (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH125	Not listed	Woollahra Possible Shelter WAH125	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH126	Not listed	Woollahra Possible Shelter WAH126	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH127	Not listed	Woollahra Possible Shelter WAH127	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH128	Not listed	Woollahra Possible Shelter WAH128	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH129	Not listed	Woollahra Possible Engraving WAH129	Art site (possible - engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH130	Not listed	Woollahra Possible Engraving WAH130	Art site (possible - engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH131	Not listed	Woollahra Possible Shelter WAH131	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH132	Not listed	Woollahra Possible Shelter WAH132	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH133	Not listed	Woollahra Possible Shelter WAH133	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH134	Not listed	Woollahra Possible Shelter WAH134	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH135	Not listed	Woollahra Possible Shelter WAH135	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH136	Not listed	Woollahra Possible Shelter WAH136	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH137	Not listed	Woollahra Possible Shelter WAH137	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH138	Not listed	Watson GG1	Visited place (axe grinding grooves)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
WAH139	Not listed	The Caves	Living place (possible - shelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH140	Not listed	Vaucluse Engravings	Art site (engraving)	General location only	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Historically documented Aboriginal site but precise location not known
WAH141	Not listed	Hopetoun Ave Shelter	Art site (rockshelter - engravings)	General location only	Noted on Aboriginal Heritage Sensitivity mapping for the surrounding area.	Historically documented Aboriginal site but precise location not known
WAH142	Not listed	Cooper Park North Shelter	Art site (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Precise location not known
WAH143	Not listed	The Grotto Rockshelter	Living place (possible - shelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Historically documented Aboriginal site but precise location not known
WAH144	Not listed	Wiston Gardens shelter	Living place (possible - shelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Historically documented Aboriginal site but precise location not known
WAH145	Not listed	Kendall St Shelter	Living place (possible - shelter)	General location only	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Historically documented Aboriginal site but precise location not known
WAH146	Not listed	Drumalbyn Shelter	Living place (possible - shelter)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH147	Not listed	Woollahra Possible Engraving WAH147	Art site (possible - engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH148	Not listed	Woollahra Possible Engraving WAH148	Art site (possible - engraving)	Yes	Incorporated into Aboriginal Heritage Sensitivity mapping as a specific site	Recorded Aboriginal site/ potential site
WAH149	Not listed	Rose Bay beach burial	Burial Place	n/a	Not included on Aboriginal Heritage Sensitivity mapping	Insufficient information about place and/or location to allow mapping
Not included	SHR	Nielsen Park	Living place (historical camp)	n/a		General reference to Aboriginal occupation in existing heritage listing.





WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
Not included	SHI	Strickland House	Living place (campsite)	n/a		General reference to Aboriginal occupation in existing heritage listing.
Not included	S170 Register	Milk Beach	Living place (campsite)	n/a		General reference to Aboriginal occupation in existing heritage listing.
Not included	Australian Museum	SCG artefacts	Collected/disturbed Aboriginal cultural material	Yes (at museum)		Outside LGA
Not included	Australian Museum	Cooper Park	Collected/disturbed Aboriginal cultural material	Yes (at museum)		Collected artefact from Aboriginal site already listed
Not included	Australian Museum	Steel Point Cave	Collected/disturbed Aboriginal cultural material	Yes (at museum)		Collected artefact from Aboriginal site already listed
Not included	Australian Museum	Vaucluse, Sydney Harbour NP	Collected/disturbed Aboriginal cultural material	Yes (at museum)		Collected artefact from Aboriginal site already listed
Not included	Not listed	Centennial Park Camp, Water Reserve	Living place (historical camp)	n/a		Outside LGA
Not included	Not listed	Bondi camp	Living place (historical camp)	n/a		Outside LGA
Not included	Not listed	Clarke's Dairy	Visited Place (historical)	n/a		Outside LGA
Not included	Not listed	Elizabeth Bay, Currah Gin, Paddys Point	Living place (historical camp)	n/a		Outside LGA



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WAHS Place #	Register #	Place Name	Place Type	Site Visited for Study	Management	Reason
Not included	Not listed	Meroot's Burial; Rushcutters Bay	Burial Place	n/a		Outside LGA
Not included	AHIMS #45-6-2971	South Head (duplicate copy of 45-6-1518)	Art site (engraving)	Yes		Duplicate of AHIMS #45-6-1518 (WAH037)
Not included	AHIMS #45-6-1676	Shark Beach Bay 1; Sydney Harbour National Park;	Art site (rockshelter)	Yes		Duplicate of AHIMS #45-6-1609 (WAH043)
Not included	Not listed	Carthona	Visited Place (historical)	n/a		Research finds purported Aboriginal historical association not correct
Not included	AHIMS #45-6-2178	Shark Island 2	Living place (shelter midden)	n/a		Outside LGA
Not included	AHIMS #45-6-2179	Shark Island 1	Living place (open midden)	n/a		Outside LGA



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## **Appendix C**

### **Museum records of Aboriginal objects in Woollahra LGA**



As discussed in **Section 5.2** of the Aboriginal heritage study report, the following list contains records from the Australian Museum only.

Australian Museum Register #	WAHS Place #	Place Name	Suburb	Description
Michael Guider Collection # 945	WAH004	Mt. Trefle Nelson Park Point 1; Mt. Trefle Midden; Mt. Trefle Cave	VAUCLUSE	Fish bone and stone artefacts removed by amateur archaeologist from an Aboriginal rockshelter site (AHIMS #45-6-0560)
Michael Guider Collection # 107	WAH037	South Head; Sydney Harbour NP	WATSONS BAY	Clay pipe stem removed by amateur archaeologist from an Aboriginal rockshelter site (AHIMS #45-6-1518). Not clear if the pipe fragment relates to Aboriginal use of the shelter or not.
Michael Guider Collection # 650	WAH046	Milk Beach 2	VAUCLUSE	Five stone artefacts removed by amateur archaeologist from an open midden (AHIMS #45-6-1627).
Michael Guider Collection # 649	WAH063	Parsley Bay 1	VAUCLUSE	Piece of highly polished bone and stone flake removed by amateur archaeologist from an Aboriginal rockshelter site (AHIMS #45-6-2176).
Michael Guider Collection # 651	WAH066	Eastside Cave; Vaucluse	VAUCLUSE	Three stone artefacts (one quartz and two mudstone) removed by amateur archaeologist from an Aboriginal rockshelter site (AHIMS #45-6-2295).
Michael Guider Collection # 903 & 906	WAH067	Mt Trefle 3	VAUCLUSE	A stone artefact and domestic animal bone removed by amateur archaeologist from an Aboriginal rockshelter site (AHIMS #45-6-2352).
Michael Guider Collection # 125	WPS048	Cooper Park	BELLEVUE HILL	Water-worn pebble collected by amateur archaeologist from dredged material in Cooper Park. Examination by Coast Archaeologist Rebecca Bryant suggests could be a stone artefact with flake scars but more detailed examination would be required to confirm
Michael Guider Collection # 653	WPS049	Steel Point Cave	VAUCLUSE	Four stone artefacts collected by amateur archaeologist from rockshelter within Nielsen Park
Michael Guider Collection # 907	WPS050	Vaucluse, Sydney Harbour NP	VAUCLUSE	Stone artefacts collected by amateur archaeologist from location not detailed on museum record.



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## **Appendix D**

### **Summary of previous Aboriginal heritage investigations**



For ease and conciseness of referencing, each source examined during the study has been given a unique 'W' number (e.g. W001, W002 etc).

WAHS Reference #	Study Name	Study Area	Aim	Summary
W001	Aboriginal Cultural Heritage Assessment: Replacement of an existing ramp and pontoon, Royal Prince Edward Yacht Club, 160 Wolseley Road, Point Piper (Nigel Parsons & Associates 2019)	160 Wolseley Road, Point Piper Lot 1 DP 1102598	Assessment prior to construction	No sites were found, and it was considered that the potential for the presence of sites was low, as the proposed works were entirely below the high water mark. No Aboriginal community consultation was undertaken.
W002	Aboriginal Heritage due diligence assessment: 22 Cliff Street, Watsons Bay (EMM 2018)	22 Cliff Street, Watsons Bay	Due diligence assessment prior to additions	The report found that the property had experienced a high level of disturbance as a result of previous works, and this was confirmed by the geotechnical investigation results which showed 1m of fill on top of shallow silty clay. No further Aboriginal heritage investigation was recommended.
W003	17, 19-21 Victoria Street, Watsons Bay: Aboriginal due diligence assessment (Unearthed Archaeology and Heritage 2019)	17, 19-21 Victoria Street, Watsons Bay (Lots A/442342, 18/89866, 19/89866)	Due diligence assessment prior to redevelopment	No Aboriginal sites were found during. The AHIMS database includes a burial site at 17 Victoria Street (AHIMS #45-6-2353) however this site is shown in the report mapping as being located about 250m to the west and is listed it as a rock shelter and engraving. La Perouse LALC recommended monitoring during the proposed excavation. [Research by Coast indicates that the burial site may have been located at 23 Victoria Road].
W004	10 Parsley Road, Vaucluse Aboriginal Heritage Due Diligence assessment (Artefact 2019)	10 Parsley Road, Vaucluse (Lot 20 DP 1124592)	Due diligence assessment prior to redevelopment	The property slopes down to the Parsley Bay Reserve and sandstone outcrops were exposed under the house, and sandstone platforms on the eastern side of the study area. No grinding grooves or engravings were found. There was also evidence of former overhangs but these had fallen or been removed. No evidence of Aboriginal occupation was identified, and the study area was considered to have low Aboriginal archaeological potential.
W006	Aboriginal archaeological due diligence assessment: 590-592 New South Head Road, Point Piper (DSCA 2019)	590-592 New South Head Road, Point Piper SP10763 & SP 17501	Due diligence assessment prior to redevelopment	The property is located on a mid-slope landform. The geotechnical investigation results indicated fill overlying natural sand deposits, and it was recommended that these sand deposits be identified as a potential archaeological deposit (PAD). Archaeological test excavation was recommended.



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W008	Proposed residential flat building, 6-8 Richmond Road, Rose Bay, Woollahra Municipal Council LGA, NSW: Aboriginal Cultural Heritage Due Diligence assessment (Kayandel 2019)	6-8 Richmond Road, Rose Bay	Due diligence assessment prior to redevelopment	No Aboriginal sites were found. No further investigation was recommended. [Note: this conclusion may have been based on a misidentification of environmental and site data]
W009	4A Vaucluse Road, Vaucluse: Aboriginal Archaeological Assessment (Comber Consultants 2019)	4A Vaucluse Road, Vaucluse (Lot 1, DP 22647).	Due diligence assessment prior to redevelopment	The property is located along the side of a ridgeline and is steeply sloping. It is highly disturbed from removal of sandstone, introduction of fill and landscaping that has impacted the underlying sandstone. However there are still outcrops on western side of the property. No artefacts, engraving or rock shelters were found during the inspection. No further archaeological investigation was recommended.
W010	22 Carrara Road, Vaucluse: Aboriginal Archaeological Assessment (Comber Consultants 2019)	22 Carrara Rd, Vaucluse	Due diligence assessment prior to redevelopment	The residence covers two-thirds of the property and the remainder contains lawn, paths, step and gardens. It was concluded that disturbance caused by cut and fill of slope for construction and landscaping would have destroyed any site that may have once existed. No further archaeological investigations were recommended.
W011	Aboriginal cultural heritage Due Diligence advice for 19 Wunulla Road, Point Piper. (Austral Archaeology 2019)	19 Wunulla Road, Point Piper (Lot 2 DP 227164)	Due diligence assessment prior to redevelopment	Two separate landforms were noted on the property: 'western part consisted of sharp, almost vertical drop from high ground of Point Piper down to water, and reclaimed land along the foreshore'. A foot path had been cut into the sandstone and it was determined that this and reclamation works of the foreshore would have damaged any archaeological material. No further investigations were recommended.
W012	Due Diligence Aboriginal Archaeological Assessment: SP10308, SP62652 Lot 201 & 200 DP 1103928; 206D, 208,210, 201A Victoria Road, Bellevue Hill NSW (AMAC and Street Archaeological Services 2019)	206D, 208, 201A, 210 Victoria Road, Bellevue Hill	Due diligence assessment prior to redevelopment	The area currently has a multi-storey building on it that has significantly impacted the landscape. No areas of exposure were visible. However, it was concluded that there were no undisturbed areas and recommended that no further archaeological investigations were warranted. The La Perouse Local Aboriginal Land Council recommended inspection of the site after the demolition and prior to the removal of any footings.



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W013	84-86 Wolseley Road, Point Piper: Aboriginal Archaeological Assessment (Unearthed Archaeology & Heritage 2019)	84-86 Wolseley Road, Point Piper	Archaeological assessment prior to redevelopment	The presence of sandstone was noted under the existing dwelling and it was recommended that the demolition of the house be monitored by an archaeologist or La Perouse Local Aboriginal Land Council representative, as there may be engravings on the underlying sandstone.
W014	Nielsen Park, Sydney Harbour National Park: Conservation Management Plan (OEH 2013)	Neilsen Park	Preliminary Aboriginal heritage study to assess known sites for a CMP	<p>The heritage study was intended to identify and assess known Aboriginal sites within Nielsen Park. During the survey, six sites were found (represented by 10 AHIMS numbers), and an additional three sites could not be located. The sites were:</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-1676 (Shark Beach Bay 1)</li> <li>• AHIMS #45-6-1681 &amp; #45-6-1609 (Shark Bay Shelter)</li> <li>• AHIMS #45-6-1524, #45-6-1044 &amp; #45-6-1045 (Vaucluse Midden)</li> <li>• AHIMS #45-6-1521 (Shark Beach)</li> <li>• AHIMS #45-6-2089 (Mt Trefle 2)</li> <li>• AHIMS #45-6-0560 &amp; #45-6-1520 (Mt Trefle Cave)</li> </ul> <p>The report includes descriptions of the condition, integrity, and significance and management options for each of the sites.</p>
W016	The Scots College, Bellevue Hill, NSW: Aboriginal heritage due diligence assessment (Extent 2019)	Tennis courts, The Scots College, Bellevue Hill Lots 1/929570, 1/663629, 1/1064059	Due diligence assessment prior to redevelopment of tennis court area	The study area is located in a sand dune system (although not on a crest) and may have included (or been close to) former drainage lines. The information reviewed suggest that redevelopment of the study area has involved introduction of fill, rather than removal of soil. The assessment concluded that the study area is likely to retain archaeological potential in the form of Aboriginal objects and/or human remains, potentially in disturbed contexts.
W017	Proposed residential flat building, 21-23 Riddell Street, Bellevue Hill, Woollahra Municipal Council LGA, NSW: Aboriginal cultural heritage due diligence assessment (Kayandel 2019)	21-23 Riddell Street, Bellevue Hill	Due diligence assessment prior to redevelopment	The study area was assessed as heavily disturbed, due to the construction of two houses and associated infrastructure. No Aboriginal objects were identified. The archaeological potential was assessed as low, due to previous disturbance.





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WAHS Reference #	Study Name	Study Area	Aim	Summary
W018	Gap Bluff Centre, South Head, Sydney Harbour National Park: Aboriginal heritage due diligence assessment (GML 2015)	Three buildings at Gap Bluff, two at Camp Cove, one at Green Point	Due diligence assessment prior to redevelopment	<p>The review of previously recorded sites included the following results:</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-0723 is likely to have been destroyed (although it may remain below carpark paving)</li> <li>• AHIMS #45-6-0920 could not be found.</li> <li>• The predictive model suggested the following:</li> <li>• Landforms adjacent to the coast are likely to contain middens and engravings on suitable flat sandstone surfaces</li> <li>• Landforms on the western side of South Head are generally not steep enough to contain shelters</li> <li>• Landforms on the eastern side of South Head are too steep to contain shelters</li> <li>• The upper flats on elevated ground are suitable for engraving surfaces, especially on landforms overlooking the cliffs</li> </ul> <p>In relation to disturbance, it was suggested that construction has in general involved cutting the sandstone bedrock to create a level platform – there is low to no archaeological potential in these locations. However in some instances development has avoided impact to Aboriginal engravings. It was also noted that engravings can be difficult to see.</p> <p>It was found that the locations of the Officers’ Mess, The Armoury and Gap Bluff Cottage had little to low archaeological potential. However, in the areas of Constable’s Cottage and 33 Cliff Street, impact is localised and landforms outside the building footprints have potential for engraving sites and middens.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W032 [not mapped as whole LGA]	An assessment of prehistoric heritage of Woollahra (Haglund 1984)	Woollahra LGA	An overall assessment of the potential Aboriginal archaeological resource of the LGA for planning purposes	<p>The study comprises a brief overview of the natural environment, and its implications for resources for past Aboriginal occupation; a discussion of the possible group(s) who may have lived in the area; and an overview of the local Aboriginal economy, and other aspects of culture, from early historical sources and archaeological evidence. At the time of the study, there were 33 sites listed in the LGA on the NPWS register (now AHIMS).</p> <p>Overview of sites that may have been present:</p> <ul style="list-style-type: none"> <li>• Camp sites may have occurred on beaches and rock shelters along the harbour front, in clearings or naturally open well drained areas close to seepages or minor creeks</li> <li>• Midden sites usually on or close to a beach, sometimes inside a shelter</li> <li>• Paintings, drawings and stencils inside rock shelters</li> <li>• Engravings on level rock surfaces inside rockshelters, or on exposed rocky headlands with wide views, or close to minor creeks and seepages</li> <li>• Axe grinding grooves close to minor creeks and seepages</li> <li>• Mythological and ceremonial sites – not enough knowledge to predict location.</li> </ul> <p>Historical development will have resulted in destruction to at least some of these sites, but the extent of destruction and preservation is not currently known.</p>
W055	Aboriginal rock engravings: South Head, Sydney Harbour (Negerevich 1978)	HMAS Watson	Archaeological survey to document rock engraving sites	<p>A survey was undertaken to document the Aboriginal rock engraving sites on the military land at South Head. The investigation included documentary research into previous recordings as well as a survey. Twelve groups of engravings were identified, although several were no longer visible at the time of the survey. Mapping of these was based on the Lough recordings, with one additional site added. Of the 12 sites, three had been destroyed and one probably destroyed.</p> <p>Engravings were located and recorded at seven of the sites. The records were deposited with the NPWS. The Sites recorded were Site B (AHIMS #45-6-0733), Site C (AHIMS #45-6-0716), Site D, Site E (AHIMS #45-6-0715), Site G, Site H (AHIMS #45-6-0714), Site K, Site L (AHIMS #45-6-0724), Site M (AHIMS #45-6-0723), and Site S.</p> <p>The condition of the sites had deteriorated since the original recordings. It was noted that the sites were subject to inadvertent damage, as they were difficult to see. The level of preservation was also related to the hardness of the sandstone, and exposure of the location.</p> <p>The locations of engraving sites are characterised by sea cliffs and panoramic views, as offered by the rock surfaces on South Head. They are likely to be several hundred years old, and one as old as 1,000 years.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W058	Aboriginal archaeological cultural heritage assessment: South Head, Sydney Harbour National Park (Comber Consultants 2008)	South Head, Sydney Harbour National Park	Assessment of known sites, for a CMP	<p>The study was intended to assess the cultural significance of 19 previously recorded sites located at South Head in Sydney Harbour National Park. Of the 19 sites, it was found that;</p> <ul style="list-style-type: none"> <li>• four were within the boundaries of HMAS Watson rather than the National Park (AHIMS #45-6-0714, #45-6-0724, #45-6-0733, #45-6-0920)</li> <li>• three had been destroyed (AHIMS #45-6-0723, #45-6-0919, #45-6-2353)</li> <li>• four could not be located (AHIMS #45-6-0096, #45-6-0713, #45-6-0918 (which may not be of Aboriginal origin) and AHIMS #45-6-0922 (where the recorded location was found but no trace of the engraving was seen)</li> <li>• and eight were re-located and recorded.</li> </ul> <p>The eight sites comprised; five engraving sites, two middens, and a shelter with midden. The descriptions of the middens indicate that the two on open ground were smaller, and more subject to damage, than the midden in the rockshelter.</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-0715 engraving, partially destroyed and considerably weathered</li> <li>• AHIMS #45-6-0716 engraving, re-located but not all the elements originally recorded could be seen</li> <li>• AHIMS #45-6-0921 engraving, weathered since 1985, graffiti noted in 1996 has been removed, not all the elements originally recorded could be seen</li> <li>• AHIMS #45-6-1517 midden, confirmed that midden material was present</li> <li>• AHIMS #45-6-1518 rockshelter and midden, confirmed that midden material is present including animal bone</li> <li>• AHIMS #45-6-1519 midden, confirmed that midden material is present</li> <li>• AHIMS #45-6-1665 engraving, not all the elements originally recorded could be seen</li> <li>• AHIMS #45-6-1666 engraving, all the previously recorded elements were found</li> </ul>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W059	Gap Bluff Centre, Watsons Bay: Aboriginal archaeological assessment (Comber 2017)	Six buildings within the National Park	Archaeological assessment prior to upgrades	<p>This report assessed proposed works to six existing buildings (see W018). At three of these (Officers Mess, Gap Bluff Cottage, The Armoury), it was found that there was no potential for impact to Aboriginal objects. At two (33 Cliff St, Constable Cottage (Camp Cove)), it was found that there was a known rockshelter and midden (AHIMS #45-6-0096) and the potential for the presence of other Aboriginal objects. At the sixth location (Green Point Cottage), it was found that there was an Aboriginal midden (previously unrecorded), and the potential for the presence of additional Aboriginal objects or engravings.</p> <p>The predictive model indicated that the site types that may be present were – rockshelters (in sandstone outcrops on western side of headland), engravings (on flat sandstone surfaces either above 20m, or close to western side of peninsula below 10m), middens (close to the coastline below 20m AHD), and burials (in sand deposits).</p> <p>The sites recorded were:</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-0096. Midden within rockshelter located on a steep slope at the rear of a private property (33 Cliff St).</li> <li>• Midden. In the backyard of a private property. Midden material was evident on a rock outcrop, and was eroding from around the outcrop</li> </ul>
W60	Survey for Aboriginal archaeological sites at Strickland House, Vaucluse, NSW (Corkill 1990)	Strickland House	Survey after decommissioning of the property	<p>The report notes that development of a predictive models is not possible in the Hawkesbury Sandstone area of the greater Sydney region, because of the unevenness of records, and the lack of systematic testing. However, expected site types for the district are – shell middens (open or in rock shelters), shelters with art and/or archaeological deposit, rock engravings, grinding grooves, burials, stone artefact scatters, scarred trees, stone arrangements, and quarries.</p> <p>One previously recorded midden was found (Midden IV). No previously unrecorded sites were found, and it was not thought likely that any significant archaeological material remained to be found. It is possible that historical modifications to the property may have resulted in the destruction of archaeological sites, but it was not possible to confirm or refute this.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W061	Assessment of Aboriginal sites in the area of HMAS Watson, South Head, Sydney, New South Wales (Koettig 1986)	HMAS Watson	To assess earlier reports, in relation to sites within the Navy land only, as a supplement to W055	The survey included night inspection of all sandstone exposures in order to look for engravings which may otherwise be overlooked. This allowed the discovery of one new site (T), and identification of the missing figure from Site B. These figures were photographed and traced on polythene sheets, to complement Negerevich's previous recordings. The sites within the study area were: B, G, H, L, T. Engravings were found in two locations; one new site (T) and the missing figure at site B. The report includes an analysis of the sites in relation to the known archaeology of the Port Jackson region. The landscape has been heavily modified, with the result that few areas remain where archaeological sites could be expected to occur. Also, the sandstone was observed to be actively weathering.
W062	Survey for Aboriginal sites along the route of the coastal cliff walk, Vaucluse (Koettig 1988)	Along the cliffline between Belah Ave and Clarke Reserve at Watsons Bay	Archaeological survey prior to construction of a walking track	In general, considerable modification of the landscape was observed along the route. In summary: <ul style="list-style-type: none"> <li>• Christison Park. Built up by fill to 1-3m above natural ground surface.</li> <li>• Macquarie Lighthouse. Recently weathered small sandstone outcrops.</li> <li>• Lighthouse Reserve. Partly landscape, and partly extensive recently weathered sandstone exposure.</li> <li>• Commonwealth Defence Reserve. Sandstone exposure.</li> <li>• Signal Station Park. Modified by landscaping and construction of gun emplacements.</li> </ul> No sites were found. Past development and fill has disturbed or covered the original ground surface. In addition, natural erosion was observed to be very active. No sites were likely to be found during construction – in some sections because the route was covered with fill, in others because no Aboriginal sites appeared to be present on the natural ground surface.



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W063 [not mapped – desktop study]	Assessment of the impacts of overflow points in the Vaucluse Sewer System on heritage items adjacent to selected overflow points (Mills 1986)		Desktop assessment to assess the effects of overflow points on heritage items	<p>This was a desktop study, based on site records in AHIMS and mapping of the overflow points. In the Vaucluse area, known sites were located in areas which have been protected from development, including Sydney Harbour National Park, Lady Bay, Camp Cove, Parsley Bay and Nielsen Park. However, all areas were considered to be of potential archaeological significance, as it was possible that there were unrecorded sites present.</p> <p>Five Aboriginal heritage sites were identified in the Parsley Bay area;</p> <ul style="list-style-type: none"> <li>• #45-6-3205 (rockshelter with art)</li> <li>• #45-6-3206 (open camp site)</li> <li>• #45-6-3212 (shelter with midden)</li> <li>• #45-6-3214 (midden)</li> <li>• #45-6-3221 (rockshelter with art)</li> </ul> <p>Areas of potential archaeological and heritage sensitivity were identified as:</p> <ul style="list-style-type: none"> <li>• All undisturbed harbour foreshore and parkland areas</li> <li>• All National Parks, including the Military and Naval Reserve areas</li> <li>• All undisturbed sandstone overhang areas</li> <li>• All undisturbed creekline areas</li> </ul>



WAHS Reference #	Study Name	Study Area	Aim	Summary
W064	Hermitage Foreshore Reserve, Vaucluse: Archaeological survey for Aboriginal sites along proposed walkway (Rich 1984)	Hermitage Foreshore Reserve	Archaeological survey prior to construction of a walkway	<p>The survey covered the route of a proposed walkway and adjacent areas. There was one previously recorded site in the study area: 45-6-0001, engravings which were covered by sand at the time of the study. The site was between two middens, but these had not been recorded.</p> <p>The survey resulted in the identification of five sites: three open middens, grinding grooves, and a sheltered potential archaeological deposit. The report includes descriptions of these sites:</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-1629 rockshelter with PAD</li> <li>• AHIMS #45-6-1628 Milk Beach Midden I</li> <li>• AHIMS #45-6-1627 Milk Beach Midden II</li> <li>• AHIMS #45-6-1626 Milk Beach Midden III</li> <li>• AHIMS #45-6-1621 Vaucluse/Hermitage Reserve – the only known grinding groove site in Vaucluse</li> </ul> <p>The three middens have different characteristics – the topographic location, and the content of each is different.</p>
W065	Cranbrook School, Bellevue Hill: Aboriginal cultural heritage assessment report (Unearthed Archaeology and Heritage 2019)	Part of Cranbrook School grounds - the existing oval and an adjacent area.	Assessment prior to redevelopment of part of the school grounds	<p>The study area is located on a former sand dune, which sloped down to the foreshore of Blackburn Cove and Rose Bay. Documentary records of the construction of the oval in c.1919 indicate that sand was excavated from the higher part (to the south) and used to raise the lower part (to the north), raising this area by up to 6m.</p> <p>There were no previously recorded sites within the study area. The background research indicated that the presence of Aboriginal archaeological evidence was likely across the study area; within the redeposited sand from the bank, and within the natural sand of the lower slope. There was some potential for the presence of skeletal remains, however it was thought that these would more likely be present on the dune crest to the south of the study area. A program of test and salvage excavation was recommended.</p>
W066	Aboriginal cultural heritage assessment report: Detailed and concept development, Kincoppal-Rose Bay School, 1A and 2 Vaucluse Road, Vaucluse, Woollahra LGA (Coast 2020)	Kincoppal Rose Bay School campus	Assessment prior to redevelopment in areas within the western campus	<p>One possible Aboriginal archaeological site was recorded: AHIMS #45-6-3754 (KRB Rockshelter). It was suggested that past Aboriginal occupation of the study area was more extensive than this site, and was likely to have been focussed on sandstone outcrops – in particular where rockshelters suitable for occupation and flat platforms suitable for engravings were present. But the study area was otherwise steeply sloping and considered unsuited to occupation sites.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W067	4 Loch Maree Place, Vaucluse: Due diligence Aboriginal heritage assessment (Coast 2019)	4 Loch Maree Place, Vaucluse (Lot 7A DP 393749)	Due diligence assessment prior to redevelopment	There was one site recorded within the study area, AHIMS #45-6-0704 (Vaucluse Bay; Vaucluse), however the research showed that this site was not within or adjacent to the study area. The site is thought likely to be within 40, 42 or 44 Coolong Road, or 10 or 11 Greycliffe Avenue. Although the study area may have been a suitable location for past Aboriginal use, the results of historical disturbance mean that traces of that use were unlikely to survive in the upper soil profile.
W068	Aboriginal cultural heritage assessment report: The Royal Sydney Golf Club, Back of House Project, Rose Bay NSW, Woollahra LGA (Coast 2019)	Small area of the RSGC property, within and adjacent to the clubhouse	Assessment prior to extension of the club house	The study area is on the northern end of a dune which contains Aboriginal human remains. At least five burials have been documented, including a woman from the early colonial period. During archaeological excavation undertaken in 2009 adjacent to the study area, an assemblage of about 5,700 artefacts was recovered, largely from a disturbed context. Early historical records note that the place was used as a location for ritual combat as punishment. It was considered that most archaeological remains within the study area would be located within the top 0.5-1m below the turf to the north of the clubhouse. Within the clubhouse footprint, the upper part of the soil profile had already been removed, and Aboriginal objects were less likely to be present in the lower profile.
W069	Lot 70 in DP 9328, 24 Olola Avenue, Vaucluse: Due diligence Aboriginal heritage assessment (Coast 2018)	24 Olola Avenue, Vaucluse (Lot 70 DP 9328)	Due diligence assessment prior to redevelopment	It was noted that the ground surface within the study area had a steep slope from the south down to the north, and was suggested that it would therefore have been unsuited to past Aboriginal occupation, unless rockshelters were present. A low sandstone escarpment is present on the southern boundary, and contains a rockshelter that extends to the west across the neighbouring properties 22 and 23 Olola Avenue. The shelter was registered as: <ul style="list-style-type: none"> <li>AHIMS #45-6-3624 (The Wanderers Cave)</li> </ul> It was also suggested that the current house may conceal a sandstone outcrop, which may support rock engravings. Apart from these two locations, the study area was not considered to have Aboriginal archaeological potential.
W070	Due diligence Aboriginal heritage assessment: 8-10 Norwich Road, Rose Bay (Coast 2019)	8-10 Norwich Road, Rose Bay (Lots 8 & 9 DP 854728)	Due diligence assessment prior to redevelopment	The study area is located within an area of sand dunes and swamps. The local landscape has been modified, but the study area is likely to have been located between elevated dunes to the south and west, and swampy areas to the north and east. The Aboriginal archaeological evidence that is most likely to be present comprises human burials and the remains of campsites. However, these are more likely on elevated dune areas. In addition, the upper 0.5-1.5m of the present soil profile is likely to have been impacted from construction and redeposition of dune sands in the historical period.





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WAHS Reference #	Study Name	Study Area	Aim	Summary
W071	Aboriginal cultural heritage assessment report: Championship golf course project, the Royal Sydney Golf Club, Rose Bay NSW, Woollahra LGA (Coast 2019)	Part of 701-703 New South Head Road, Rose Bay (Lot 1 DP 630927)	Assessment prior to redevelopment of the golf course	<p>The study area is within a landscape of sand dunes and swamps. This landscape has been modified, but remnants of former dune ridges appear to survive to some degree, and the study area also contains former swamp areas.</p> <p>No Aboriginal objects were identified within the study area. However, at one other location within the same landscape, in the location of the golf club house, Aboriginal archaeological remains comprising burials and stone artefacts have been found. Similar remains may also be present within the study area, and the whole of the study area was therefore registered as an area of archaeological sensitivity:</p> <ul style="list-style-type: none"> <li>• AHIMS #45-6-3745 (RSGC Area of Sensitivity).</li> </ul>
W072	32a Vaucluse Road, Vaucluse: Due diligence Aboriginal heritage assessment (Coast 2019)	32a Vaucluse Road, Vaucluse (Lot 1 DP 553668)	Due diligence assessment prior to redevelopment	<p>The study area is located on a steep slope, with the western (rear) boundary located on the line of a low sandstone escarpment. The face of this outcrop was cut to allow the construction of Carrara Road, to the rear of the study area. The western part of the study area has been raised by the introduction of fill, to create a more level site.</p>
W073	Archaeological subsurface investigations at the Royal Sydney Golf Club, Rose Bay (JMCHM 2010)	Area to the north of the clubhouse, part of 701-703 New South Head Road, Rose Bay (Lot 1 DP 630927)	Archaeological test and salvage excavation prior to redevelopment of the club house	<p>The landform including the study area was described as a modified sand dune formation. A substantial archaeological deposit was recovered from the site, however the bulk of the material was within sediment that was redeposited on the site, probably removed from dune immediately to the south during construction of the clubhouse. Works included mechanical and manual archaeological excavation, sieving excavated deposit, and a GPR survey.</p> <p>The initial stage of the project included testing and the recovery of archaeological deposits (excluding human remains).</p> <p>The archaeological remains included the skeletal remains of at least three Aboriginal individuals; a probable adult woman, a probable young male, and a possible middle-aged man. These remains were disturbed and highly fragmentary. All three were thought to have lived before or in the early days of colonisation. A charcoal sample from below one of the skeletons was dated to 1,265±30BP ('before present'). An assemblage of 5,734 stone artefacts was recovered, mostly from disturbed fill that had been deposited during the construction of the original clubhouse in 1904-5. The raw material was predominantly quartz, which suggested that the site was occupied largely within the past 1,000 years. The presence of backed artefacts suggests that the site was occupied during both the Middle and Late Bondaian phases, from 2,400 years ago. Five pieces of possible pigment were also recovered.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W094	Refresh Vaucluse Diamond Bay Project, Vaucluse, Rose Bay and Dover Heights: Aboriginal heritage due diligence assessment (KNC 2020)	Parsley Bay and sections of Dover Rd and Carlisle Street	Due diligence assessment prior to redevelopment	No Aboriginal archaeological sites were identified in the study area. The study area is a highly modified environment, and was considered to have minimal archaeological potential. Two previously recorded sites were located close to the Parsley Bay component of the study area: AHIMS #45-6-2176 (Parsley Bay 1) and AHIMS #45-6-2172 (Parsley Bay 5). During the survey, midden shell and an artefact were found at AHIMS #45-6-2172 (Parsley Bay 5). It was concluded that there would be no impact to these sites.
W149	S5465 Indigenous Regional Heritage Study HMAS Watson: Indigenous Heritage Assessment (ERM 2010)	HMAS Watson	Assessment to define the Indigenous heritage values of the facility	<p>The background research indicated that there were three previously recorded sites within the study area, all of which were rock engravings: AHIMS #45-6-0733 (Site B), AHIMS #45-6-0724 (Site L) and AHIMS #? (Site G). One had not been re-located since it was originally recorded in the late 1800s.</p> <p>General patterns in site locations in the locality indicated an association of midden sites with food procurement areas, engraved art with sandstone platforms, and rockshelters with sandstone overhangs. Most sites were close to the waters' edge.</p> <p>During the survey, two of the previously recorded sites were found (Site B and Site G), and it was noted that they had been affected by erosion. At Site G, the engraving could not be discerned. The third site was not found. All three sites were considered to have been destroyed.</p> <p>The survey resulted in the identification of one previously unrecorded site: Watson GG1, a grinding groove site. Three areas of archaeological potential were also identified: these were sandstone overhangs with deposit within them. No Aboriginal objects were found within these overhangs, but there was low potential that artefacts may be present within the subsurface deposits. An engraving was identified within Overhang 3: this was thought to have been done to direct water away from the shelter, and it was not possible to determine whether it was of Indigenous or European origin.</p> <p>An archaeological zoning plan was prepared, dividing the study area into two zones: low and none. Two areas of low potential were mapped: one covering the outcrop that includes Overhang 3, the second covering the outcrop that included Overhangs 1 and 2 and Site G (this zone mapped outside the study area). The remainder of the site was mapped as a zone of no potential (with the exception of the site Watson GG1).</p>
W150	26A The Crescent, Vaucluse: Aboriginal archaeological due diligence assessment (Comber Consultants 2020)	26A The Crescent, Vaucluse (Lot 1 DP 580511)	Due diligence assessment prior to redevelopment	The report found that there were no registered Aboriginal sites on the property, and that the potential for the presence of Aboriginal sites was highly unlikely. The study area had been extensively disturbed by cut and fill for construction of the existing house and pool. The sandstone outcrop under the rear deck did not contain evidence of engravings or grinding grooves



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W151	Aboriginal heritage due diligence report: 30-32B Pacific Street, Watsons Bay (Cracknell Loneragan 2020)	30-32B Pacific Street, Watsons Bay	Due diligence assessment prior to redevelopment	There were no recorded Aboriginal archaeological sites or objects within the property. Evidence of moderate to high disturbance was noted, including basement areas. This was considered likely to have substantially diminished the archaeological potential of the property. However, there were two recorded sites within 200m of the property. This indicated that it was not possible to entirely rule out the potential for the presence of sites within the property. It was recommended that a site induction and stop-work procedure be implemented to manage the potential for unexpected finds.
W152	27 Vaucluse Road, Vaucluse: Due diligence Aboriginal heritage assessment (Coast 2020)	27 Vaucluse Road, Vaucluse (1/303165, 1/952122, 1/956445)	Due diligence assessment prior to redevelopment	There were no previously recorded sites within the study area, and no Aboriginal objects were identified during the site inspection. Two areas of outcropping sandstone were evident within the study area, but there was no potential for rockshelter sites, and no engravings were found. It was concluded that the proposed development was unlikely to result in harm to Aboriginal objects.
W154	Stage 1 Conservation management plan: South Head Sydney Harbour National Park; Vol. 1 – Assessment of significance (GAO 2008)	South Head, Sydney Harbour National Park	Assessment for a CMP	<p>The report was prepared to provide guidelines for the management of the heritage values of the Sydney Harbour National Park at South Head. Volume 3 comprises a stand-alone Aboriginal heritage assessment, completed by Comber. The study area was divided into five precincts. Overall it contains at least 11 Aboriginal sites, including middens and rock shelters.</p> <ul style="list-style-type: none"> <li>• Inner South Head Precinct has six sites including rock engravings rock shelters, middens – some of the engravings were partially destroyed by WWII construction, and most are heavily eroded.</li> <li>• Lady Bay Precinct has at least five sites, including rock engravings and middens. Many of the rock engravings are heavily eroded.</li> <li>• Camp Cove Precinct has one recorded Aboriginal site, but it could not be found.</li> <li>• Gap Bluff Precinct has no recorded Aboriginal sites.</li> <li>• Green Point Precinct has no recorded Aboriginal sites.</li> </ul> <p>The identified Aboriginal heritage values were associated with the site as the first landfall of Governor Arthur Phillip in 1788; and with the Aboriginal archaeological sites (State significance). In summarising the significance assessment, it was stated that the midden and rockshelter sites were not rare site types; the engraving sites were becoming rarer (due to weathering) but that there were many other examples in the Sydney Basin region and in a better state of preservation. It was noted that further research, consultation and assessment was required to investigate the Aboriginal heritage values and the Aboriginal contact and post-contact history of the study area.</p>



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W198	Aboriginal archaeological and historical assessment: Macquarie Lightstation, Old South Head Road, Vaucluse, NSW (DSCA 2018)	Macquarie Lightstation, Old South Head Road, Vaucluse; Lots 1, 4-6 DP 802140 & Lots 1 & 2 DP 811578	Assessment for a CMP	The report includes a summary of the results of a previous Aboriginal heritage assessment of the study area, by AMBS in 2006. The 2006 study indicated that midden shell and a possible stone artefact were present in the mortar of the sandstone retaining wall in the study area. No evidence was found that could be used to support or refute the suggestion that the shell in the mortar was midden material. The study found that buried topsoil deposits were present, and had potential to contain Aboriginal objects, and that buried sandstone surfaces were present, and had potential to contain rock engravings
W231	Cranbrook School, 5 Victoria Street, Bellevue Hill. Archaeological Excavation Report (Unearthed Archaeology and Heritage 2020)	Cranbrook School, Rose Bay	Archaeological test excavation prior to redevelopment of part of school campus	Aboriginal archaeological test excavations were undertaken in 2019 and 2020 during construction of a new Aquatic and Fitness Centre within Cranbrook School (see W065). The area was an existing oval constructed on sloping ground by cutting the landward side and filling the bayside to create level ground. The excavations sampled both natural and redeposited sands with 67 test trenches, resulted in the recovery of stone artefacts from 13 trenches, including 11 artefacts from redeposited sands and 28 artefacts from natural sand horizons. The excavations indicated that the area was previously swampy with a creek running west to east into Double Bay through the middle of the oval. No further archaeological works were recommended.
W347	RE: Due Diligence Aboriginal Heritage Assessment, Royal Sydney Golf Club Turfcare Project (Coast History & Heritage 2019)	Part of Royal Sydney Golf Club, Rose Bay	Due diligence assessment prior to redevelopment of part of the grounds	An assessment was undertaken to inform the construction of a new turf care facility. The site inspection and background research suggested that some of the proposed works could impact natural sand dune horizons with the potential to contain Aboriginal archaeological remains. As a result, archaeological monitoring of the earthworks was recommended.
W348	Aboriginal Archaeological Site Monitoring: Royal Sydney Golf Club Turf Car Maintenance Facility Project (Coast 2020)	Part of Royal Sydney Golf Club, Rose Bay	Archaeological monitoring of excavation for redevelopment of part of the grounds	Archaeological monitoring was undertaken in relation to the construction of a new turf care facility (see W347). The monitored earthworks exposed largely fill deposits though natural sand dune profiles were encountered in some areas. No Aboriginal archaeological remains were seen.
W349	30-32 Newcastle Street, Rose Bay: Due Diligence Aboriginal Heritage Assessment (Coast 2020)	30-32 Newcastle Street, Rose Bay	Due diligence assessment prior to redevelopment impacts	The study area contained residential dwellings and was underlain by sand dune deposits. No Aboriginal archaeological remains were seen and records suggested that the whole property was disturbed to some depth. However geotechnical records suggested survival of an original dune profile below this. Monitoring of initial earthworks was recommended to assess the likelihood that Aboriginal archaeological remains may be present within the dune deposits.



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W350	Due Diligence Aboriginal Heritage Assessment: Gap Park Tramway Path, Watsons Bay (Coast 2020)	Gap Park, Watsons Bay	Due diligence assessment prior to construction of track	Much of the area of the park had been inspected previously in 2007 (W351). The study examined only the proposed path route. The field survey identified a low rockshelter that may have been used by Aboriginal people in the past and one area of sandstone outcrop with potential for rock engravings. The study recommended measures to avoid the shelter and minimise subsurface impacts to minimise the possibility of Aboriginal heritage being disturbed.
W351	The Gap, Watsons Bay, NSW: Preliminary Aboriginal Archaeological Investigation (AHMS 2007)	Gap Park, Watsons Bay	Preliminary assessment for future planning	Two zones were identified which warrant further inspection in relation to any future development proposals. One was an area of exposed rock along the sea cliff which has the potential to contain rock engravings. The other was an area west of this around a small gully in the park which has the potential to contain rockshelter sites and open areas with the potential to contain buried archaeological remains.
W352	48 The Crescent, Vaucluse: Due Diligence Aboriginal Heritage Assessment (Coast 2020)	48 The Crescent, Vaucluse	Assessment of possible development impacts	A rockshelter was found across the middle of the property, and is an extension of a previously recorded shelter containing the art in adjacent properties. The area above the shelter was found to be historically impacted and did not retain archaeological potential, while areas between the shelter and the beach were found to have some potential for buried archaeological remains such as shell middens. The report recommended modification of design to avoid any impacts to the area of the shelter, and monitoring of footings in the area seaward of the shelter to determine if any Aboriginal archaeological remains were present [this monitoring work was subsequently undertaken in 2021 by the La Perouse LALC and did not result in the identification of any Aboriginal archaeological remains].
W353	Aboriginal cultural heritage assessment report: Nielsen Park Seawall Project, Vaucluse (Coast 2020)	Shark Beach, Nielsen Park	Assessment of possible development impacts	It was found that the area in which the works were proposed was likely originally located seaward of the original beach foredune, and has since been covered with fill. It was considered possible that Aboriginal archaeological remains were present within the fill sand, so a program of archaeological test/salvage was recommended. In addition, auger testing was proposed in the dune deposits landward of the new seawall to determine if they represent the original beach foredune and whether they contain Aboriginal archaeological remains.
W354	22a Carrara Road, Vaucluse: Due Diligence Aboriginal Heritage Assessment (Coast 2021)	22a Carrara Road, Vaucluse	Assessment of possible development impacts	The area of the house was found to be highly impacted by the construction of the existing house and pool and associated landscaping. A small rockshelter with midden was registered in close proximity to the property within the adjacent National Park. This was inspected to confirm its location and was found to be sufficiently removed from the property so as not to be directly or indirectly affected by any future development.



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WAHS Reference #	Study Name	Study Area	Aim	Summary
W355	31 Vaucluse Road, Vaucluse, Due Diligence Aboriginal Heritage Assessment (Coast 2020)	31 Vaucluse Road, Vaucluse	Assessment prior to redevelopment	The property was highly impacted by past landuse and no Aboriginal sites were registered within the property. Some areas at the rear of the property could contain rock engravings or rockshelters under existing terraced gardens. For this reason an Aboriginal heritage induction was recommended for the construction team.
W361	Aboriginal heritage monitoring report for 24 Olola Avenue, Vaucluse (Coast 2021)	24 Olola Avenue Vaucluse	Assessment of possible development impacts	Archaeological works were undertaken at the commencement of construction. These works had been recommended in a previous assessment (W067) and included delivery of an Aboriginal heritage induction, inspection of protective measures to protect a rockshelter site at the rear of the property, and inspection of sandstone outcropping under the floor of the existing house to check for rock engravings. No engravings were seen and no further archaeological works were required.
W362	Aboriginal Cultural Heritage Assessment Report: Championship Golf Course, Royal Sydney Golf Club, Rose Bay NSW (Coast 2020)	Royal Sydney Golf Club, Rose Bay	Assessment including archaeological test excavation prior to redevelopment	Archaeological test excavations comprised a total of 25 mechanical test pits. In addition a geomorphological assessment of the dune deposits was undertaken and samples taken for dating which showed that the dunes were formed over the period from around 40,000 years ago until about 14,000 years ago. The excavations located only five Aboriginal artefacts across all areas sampled, but these included a piece of worked glass confirming historical records of Aboriginal people continuing to live in the area in the nineteenth century. Although it appeared unlikely that extensive Aboriginal archaeological remains were present in the area, archaeological monitoring was recommended under an Aboriginal Heritage Impact Permit, with the option to salvage or collect artefacts if they could not be protected during construction.



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## **Appendix E**

### **Overview of Aboriginal heritage legislation and policy**



The following is an overview of the applicable laws and policies in place in New South Wales to protect and manage Aboriginal heritage, the role of local government, and the existing policies and procedures of Council.

### **1.1 State legislation and policies**

Aboriginal heritage is most often managed in a reactive way in response to proposed activities which have the potential to harm it. This type of management is undertaken within the context of the NSW planning system and is guided by government legislation and policy. Most Aboriginal heritage management procedures that occur in this context are guided by heritage management principles established and explained in the Burra Charter.<sup>1</sup> Aboriginal heritage also has a broader context outside the planning system, as an expression of the culture and history of contemporary Aboriginal communities; a culture that should be recognised, valued and celebrated.

In this overview we consider relevant state legislation and policy only. While some federal legislation deals with Aboriginal heritage, it is rarely used in planning and assessment in NSW, and is not considered further here.<sup>2</sup> The following policy documents provide further detail on the legislation and regulations reviewed here:

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* published by the Department of Environment, Climate Change and Water, dated 13 September 2010;
- *Code of Practice of Archaeological Investigation of Aboriginal Objects in NSW* published by the Department of Environment, Climate Change and Water, dated 24 September 2010;
- *Guide to investigating and reporting on Aboriginal cultural heritage in NSW* published by the Office of Environment & Heritage, dated April 2011; and
- *Aboriginal cultural heritage consultation requirements for proponents 2010* published by the Department of Environment, Climate Change and Water, dated April 2010.

#### **National Parks & Wildlife Act 1974**

Legal protections are provided to Aboriginal heritage under the *National Parks & Wildlife Act 1974* (the 'NPW Act'), which is supported by the National Parks and Wildlife Regulation 2019. The Aboriginal heritage provisions of the NPW Act are currently administered by Heritage NSW, Department of Premier & Cabinet (DPC). The NPW Act gives statutory protection to Aboriginal 'objects' under Section 90, and to 'Aboriginal Places' under Section 84.

<sup>1</sup> Australia ICOMOS 2013.

<sup>2</sup> The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* both contain provisions relating to the protection of Indigenous heritage. They are administered by the Department of Agriculture, Water and the Environment, and details can be found on their website: <https://www.environment.gov.au/heritage/laws/indigenous>





An Aboriginal 'object' is defined as

*'any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains'*<sup>3</sup>

Aboriginal objects are commonly referred to as Aboriginal sites (e.g. campsites, scarred trees, rock engravings), while Aboriginal remains refers to human remains such as burials or any skeletal remains of Aboriginal people.

An 'Aboriginal places' is defined as 'any place declared to be an Aboriginal place under section 84' of the NPW Act. It is a place which *'in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture.'*<sup>4</sup>

There are no Aboriginal places currently registered within Woollahra Local Government Area.

Under the NPW Act it is an offence to 'harm' Aboriginal objects either knowingly (s86(1)) or unknowingly (s86(2)). *Harm* is defined in s5(1) of the NPW Act to mean any act or omission that:

- (a) destroys, defaces or damages the object or place, or*
  - (b) in relation to an object—moves the object from the land on which it had been situated, or*
  - (c) is specified by the regulations, or*
  - (d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c);*
- but does not include any act or omission that:*
- (e) desecrates the object or place, or*
  - (f) is trivial or negligible, or*
  - (g) is excluded from this definition by the regulations.*

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object (s87(2)). Due Diligence assessment can take a number of forms, including a generic process developed by the regulator,<sup>5</sup> or one of an equivalent standard.

A defence is also provided for a 'low impact act' which results in unknowing damage to an Aboriginal object (s87(4)). Low impact acts are listed in the NPW Regulation, and include a range of common land maintenance activities (clause 58(1)). These are of particular relevance to Council, as they include some open space works that would routinely be undertaken by Council, such as maintenance of tracks and infrastructure, and environmental rehabilitation. Clause 58 of the regulation is provided here in full for reference (current as of 11/6/2021):

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<sup>3</sup> NPW Act Section 5(1).

<sup>4</sup> NPW Act Section 84.

<sup>5</sup> DECCW 2010a; see [www.environment.nsw.gov.au/licences/archinvestigations.htm](http://www.environment.nsw.gov.au/licences/archinvestigations.htm)



## NSW legislation

### National Parks and Wildlife Regulation 2019

Current version for 5 February 2021 to date (accessed 11 June 2021 at 3:28)

[Part 5](#) > [Division 2](#) > Section 58

#### 58 Defence of low impact acts or omissions to the offence of harming Aboriginal objects

- (1) It is a defence to a prosecution for an offence under section 86(2) of the Act, if the defendant establishes that the act or omission concerned—
- (a) was maintenance work of the following kind on land that has been disturbed—
    - (i) maintenance of existing roads, fire and other trails and tracks,
    - (ii) maintenance of existing utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines), or
  - (b) was farming and land management work of the following kind on land that has been disturbed—
    - (i) cropping and leaving paddocks fallow,
    - (ii) the construction of water storage works (such as farm dams or water tanks),
    - (iii) the construction of fences,
    - (iv) the construction of irrigation infrastructure, ground water bores or flood mitigation works,
    - (v) the construction of erosion control or soil conservation works (such as contour banks), or
  - (c) was farming and land management work that involved the maintenance of the following existing infrastructure—
    - (i) grain, fibre or fertiliser storage areas,
    - (ii) water storage works (such as farm dams or water tanks),
    - (iii) irrigation infrastructure, ground water bores or flood mitigation works,
    - (iv) fences,
    - (v) erosion control or soil conservation works (such as contour banks), or
  - (d) was the grazing of animals, or
  - (e) was an activity on land that has been disturbed that comprises exempt development or was the subject of a complying development certificate issued under the *Environmental Planning and Assessment Act 1979*, or
  - (f) was mining exploration work of the following kind on land that has been disturbed—
    - (i) costeaning,
    - (ii) bulk sampling,
    - (iii) drilling, or



(g) was work of the following kind—

- (i) geological mapping,
- (ii) surface geophysical surveys (including gravity surveys, radiometric surveys, magnetic surveys and electrical surveys), but not including seismic surveys,
- (iii) sub-surface geophysical surveys that involve downhole logging,
- (iv) sampling and coring using hand-held equipment, except where carried out as part of an archaeological investigation, or

**Note—**

Clause 5 of this Regulation provides that an act carried out in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* is excluded from the meaning of **harm** an object or place in the Act.

(h) was the removal of isolated, dead or dying vegetation, but only if there is minimal disturbance to the surrounding ground surface, or

(i) was work of the following kind on land that has been disturbed—

- (i) seismic surveying,
- (ii) the construction and maintenance of groundwater monitoring bores, or

(j) was environmental rehabilitation work, including temporary silt fencing, tree planting, bush regeneration and weed removal, but not including erosion control or soil conservation works (such as contour banks).

(2) Subclause (1) does not apply in relation to harm to an Aboriginal culturally modified tree.

(3) In this clause, **Aboriginal culturally modified tree** means a tree that, before or concurrent with (or both) the occupation of the area in which the tree is located by a person who is not an Aboriginal person, has been scarred, carved or modified by an Aboriginal person by—

- (a) the deliberate removal, by traditional methods, of bark or wood from the tree, or
- (b) the deliberate modification, by traditional methods, of the wood of the tree.

(4) For the purposes of this clause, land is **disturbed** if it has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable.

**Note—**

Examples of activities that may have disturbed land include the following—

- (a) soil ploughing,
- (b) construction of rural infrastructure (such as dams and fences),
- (c) construction of roads, trails and tracks (including fire trails and tracks and walking tracks),
- (d) clearing of vegetation,
- (e) construction of buildings and the erection of other structures,
- (f) construction or installation of utilities and other similar services (such as above or below ground electrical infrastructure, water or sewerage pipelines, stormwater drainage and other similar infrastructure),
- (g) substantial grazing involving the construction of rural infrastructure,
- (h) construction of earthworks associated with any thing referred to in paragraphs (a)–(g).



An important qualification is that the 'low impact act' must be undertaken on 'disturbed land', which is defined in the NPW Regulation as land that 'has been the subject of a human activity that has changed the land's surface, being changes that remain clear and observable' (clause 58(4)). The assumption is that this disturbance will have resulted in the removal of any Aboriginal objects. On this basis, it may appear that few activities undertaken by Council or external applicants would be subject to either Due Diligence Aboriginal Heritage Assessment or the closely aligned procedures of the Aboriginal Heritage Management Strategy.

However the information available for Woollahra LGA demonstrates that Aboriginal objects and substantial intact Aboriginal archaeological deposits can, and are known to, survive below and between areas that would be defined as 'disturbed land'. This is particularly true of the extensive sand bodies which underly much of the Woollahra area. A cautious approach should therefore be taken as recommended below.

- The NPW Regulation exemption for 'low impact acts' in 'disturbed land' does not mean that there is no requirement for consideration of the potential Aboriginal heritage impacts of a proposed activity. The exemption applies only to the strict liability offence for harm to Aboriginal objects under s86(2) of the NPW Act 1974. It **does not apply** to the offence for knowingly harming Aboriginal objects under s86(1) of the NPW Act. The implications of this are as follows:
  - For **all proposed activities**, the proponent needs to first establish whether a known Aboriginal object may be harmed by the activity by searching the AHIMS Register (this is incorporated into the Aboriginal Heritage Sensitivity map on the Council GIS). If the activity is close to a known site and may potentially impact that site, then Due Diligence Aboriginal Heritage Assessment is required to determine whether harm may occur, or could be avoided.
  - Even if the activity does not appear to have potential to harm a known Aboriginal object, the proponent could still be guilty of an offence under s86(1) if an Aboriginal object is exposed and subject to harm during construction. If Aboriginal objects are uncovered during development activities, they remain protected under s86(1) and works would need to cease until appropriate management procedures (such as seeking an Aboriginal Heritage Impact Permit) can be determined. This can create lengthy delays. The strong preference for both heritage protection and project efficiency is to identify and manage potential impacts as much as possible prior to construction.
- The exemption for 'low impact acts' in 'disturbed land' does not apply to Aboriginal scarred trees whether or not they are 'known' through recording on the AHIMS Register (there are currently no scarred trees registered within Woollahra LGA).
- The exemption only applies to 'low impact acts' **on** 'disturbed land'. It does not apply to other activities on 'disturbed land'. For example, constructing a house on land defined under the Regulation as 'disturbed' is not an exempt activity because it is not a low impact activity.

Archaeological test excavation is excluded from the definition of harm if undertaken in compliance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* and the



Regulation (clause 5).<sup>6</sup> There are a number of restrictions on where and how such excavations can take place. Most notably they cannot be used for the investigation of places of suspected historical (i.e. post-contact) Aboriginal heritage, or areas such as deep sand bodies where mechanical excavation techniques may be required. In these cases, an Aboriginal Heritage Impact Permit (AHIP, see below) is required for archaeological test excavation. Archaeological test excavations (whether under an AHIP or the Code of Practice) can occur prior to the submission or determination of a development application, and therefore their results can be considered as part of the development application assessment. Any further impacts including archaeological salvage excavation, or the collection or impact of Aboriginal objects, requires a separate AHIP which can only be applied for once development approval is provided, and would take place as a condition of development consent.

If harm to Aboriginal objects cannot be avoided, an AHIP is required, which can be issued under s90 of the NPW Act by the Chief Executive of Heritage NSW. AHIPs can be issued for specific Aboriginal objects or for areas of land. All AHIP applications must be accompanied by an Aboriginal Cultural Heritage Assessment Report (ACHAR) and, with the exception of applications for archaeological test excavation, can only be submitted in conjunction with evidence of development approval. The ACHAR documents the archaeological assessment of the study area and proposed impacts, in accordance with current guidelines.<sup>7</sup> The assessment must include full documentation of a prescribed process of Aboriginal community consultation in accordance with the National Parks and Wildlife Regulation 2019 (clause 60).<sup>8</sup> As part of this process, Aboriginal people and organisations can register as 'Registered Aboriginal Parties' which provides them with a right to review and comment on aspects of ACHARs and AHIP applications, and to provide advice on Aboriginal cultural and historical significance.

In many cases Council will be dealing with the process outlined above but there are some exceptions. These include projects deemed to be of State Significance under Part 4 Division 4.7 of the *Environmental Planning & Assessment Act*, as well as some activities which are assessed 'in-house' by state government authorities on land which they own. In addition to the fact that Councils are not the determining authority in these cases, State Significant Developments in particular do not require AHIPs under the NPW Act, but do require a process of investigation broadly parallel to that under the Act, as outlined above.

#### **NSW Heritage Act 1977**

The NSW *Heritage Act 1977* is the principal document governing the management of heritage items in NSW. The Heritage Act is administered by Heritage NSW within the Department of Premier and Cabinet, and gives statutory protection to items listed on the State Heritage Register and to 'relics'. The Heritage Act also allows the Minister, or councils under delegated authority, to make interim heritage orders for items of local heritage significance (s25). It is an offence to harm an item that is

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<sup>6</sup> See DECCW 2010b.

<sup>7</sup> See [www.environment.nsw.gov.au/licences/archinvestigations.htm](http://www.environment.nsw.gov.au/licences/archinvestigations.htm)

<sup>8</sup> As detailed in DECCW 2010c; see [www.environment.nsw.gov.au/licences/consultation.htm](http://www.environment.nsw.gov.au/licences/consultation.htm)



on the State Heritage Register or subject to an interim heritage order except in accordance with an approval granted under s60 of the Act.

The Act protects all historical archaeological 'relics' in New South Wales. A 'relic' is defined as:

*any deposit, artefact, object or material evidence that:*

*a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and*

*b) is of State or local heritage significance.*

Under the Heritage Act it is an offence to harm a relic. If a proposed activity will result in harm to a relic, it is necessary to apply for an Excavation Permit under s140 of the Act, or s60 if the relevant land is also listed on the State Heritage Register. An Excavation Permit is issued by the Heritage Council of New South Wales, based on the assessment of a valid application and an accompanying historical archaeological assessment.

The Heritage Act also regulates the establishment of heritage registers, under which places of Aboriginal heritage significance (both pre- and post-European contact) can be listed. Heritage NSW maintains the State Heritage Register (SHR) which lists items which are deemed to be of State significance. In addition the State Heritage Inventory (SHI) which includes items of local and State significance listed by local Councils and other state government agencies. Items are generally listed on the SHI after investigation in a local government heritage study. These are then listed on an Environmental Heritage Schedule attached to Local Environmental Plans which requires the potential heritage impact of proposed developments to be assessed. It should be noted however that local government heritage studies have, until recently, rarely considered Aboriginal heritage and particularly not post-contact Aboriginal heritage places, and consequently few have been listed by any Councils in NSW.

#### **Environmental Planning & Assessment Act 1979**

The way in which Aboriginal heritage is managed with respect to proposed development impacts is set out in the provisions of the *Environmental Planning & Assessment Act 1979* (the 'EP&A Act'). The EP&A Act has three main parts of direct relevance to Aboriginal cultural heritage. Namely, Part 3 which governs the preparation of planning instruments, Part 4 which relates to development assessment and consent processes and Part 5 which relates to environmental impact assessment and State Significant Infrastructure. Councils can be determining authorities in relation to their own works and often do not require the same assessment rigour as other proponents (although under the NPW Act with its strict liability provisions, Councils are still required to exercise Due Diligence and require AHIP approvals for impacts to Aboriginal objects and/or Aboriginal Places).

Part 3 deals primarily with the production of state and local environmental planning instruments which can and do involve provisions for Aboriginal heritage. For example Environmental Planning Instruments such as Local Environmental Plans (Division 3.4) and Development Control Plans (Division 3.6). Local Environmental Plans (LEPs) are now produced in accordance with a common



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template (the 'Standard Instrument'). Ministerial directions made in 2009 under Part 9 Section 9.1 of the EP&A Act requires LEPs and other planning proposals to

*'contain provisions that facilitate the conservation of...Aboriginal objects or Aboriginal places...and Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area.'*<sup>9</sup>

Recent (2018) amendments to Part 3 (Division 3.1) have created a new strategic planning system that involves tiers of planning from Regional (Sydney) and District (Eastern City) plans to Local Strategic Planning Statements (LSPS) by local councils. The LSPS sets out, through community consultation and guided by the overarching Regional and District plans, a 20 year vision for land use within each local government area. All levels of planning address key planning priorities, among which is to 'value, protect and conserve Aboriginal heritage' (Planning Priority B10).

Part 4 deals with the process of obtaining development consent from local government authorities, including the requirement for documentation of an assessment of potential development impacts in certain cases. It also describes the process for *integrated development* (Division 5) which covers those development proposals requiring a permit or consent from a state government authority (for example from Heritage NSW in relation to Aboriginal heritage).

#### **Future changes**

Since 2013, there has been a proposal to take the Aboriginal heritage provisions out of the NPW Act and create a new, standalone Aboriginal heritage act.<sup>10</sup> The new act would make some significant changes to the way in which Aboriginal heritage is managed under state law. However, as yet there is little detail about how the system will work in practice, nor when it will come into effect. Legislation enabling the establishment of an Aboriginal Cultural Heritage Authority, which will establish the parameters of a new system, is yet to pass the NSW Parliament. Once passed, it is still expected to be at least several years before the new system is ready to operate.

At this stage then, there is little that can be done with respect to preparing Woollahra for any possible future changes to state Aboriginal heritage legislation, and it is not considered further in this study. However while the detail of the possible new system is still largely unknown, it is clear from public discussions to date that any new system will be based on a more detailed understanding of the known and potential Aboriginal heritage of different areas than is provided by the AHIMS Register. In particular, the new system is likely to draw on the results of projects like the current study.

<sup>9</sup> See [www.planning.nsw.gov.au/-/media/Files/DPE/Directions/ministerial-direction-s9-1-consolidated-list-environment-planning-and-assessment-2019-06-21.pdf?la=en](http://www.planning.nsw.gov.au/-/media/Files/DPE/Directions/ministerial-direction-s9-1-consolidated-list-environment-planning-and-assessment-2019-06-21.pdf?la=en)

<sup>10</sup> See [www.environment.nsw.gov.au/topics/aboriginal-cultural-heritage/legislation](http://www.environment.nsw.gov.au/topics/aboriginal-cultural-heritage/legislation)



## 1.2 The role of Local Government

Local Government plays a key role in the protection and management of Aboriginal heritage, as a planning and consent authority, as a land manager, and as part of its overall role to serve the needs of local residents, which includes Aboriginal people and non-Indigenous residents for whom Aboriginal heritage is also important. Some key legal and policy imperatives for the active involvement of Council which underpin the current study are:

- Council as a land manager is subject to the legal requirements of the *National Parks and Wildlife Act 1974*, the *National Parks and Wildlife Regulation 2019* and the *Environmental Planning and Assessment Act 1979*.
- Council as a consent authority is required by Section 5.10(8) of the Woollahra LEP 2014 to consider the effects of a proposed development on Aboriginal heritage, before granting development consent.
- Council as a planning authority has a stated aim to conserve Aboriginal heritage under Planning Priority 5 of the 2020 Woollahra Local Strategic Planning Statement,<sup>11</sup> which aligns with similar aims in the Regional plan (Objective 13) and District plan (Priority E16) under which it sits.<sup>12</sup>

### Local Environmental Plans

Since 2006 all Local Environmental Plans (LEPs) have conformed to a single template (the 'standard instrument'). As such, the LEP heritage provisions are standardised and are not able to react to specific local conditions. Under standard Dictionary definitions two types of Aboriginal heritage are defined and recognised in the LEP:

**Aboriginal object:** has the same definition as the *National Parks & Wildlife Act*.

**Aboriginal place of heritage significance:** is an area of land identified through an Aboriginal heritage study (such as the current study), which includes pre-contact physical evidence and natural or built places of long-standing cultural significance or contemporary cultural significance. Essentially this is a very broad definition, and may include **Aboriginal Places** as defined by the *National Parks & Wildlife Act*.

There is also a provision to define 'Environmentally Sensitive Areas' (Part 3.3, Clause 2(g)) on the basis that they are of 'high Aboriginal cultural significance' though no definition is provided and there is no detail about how this significance might be established.

It should be noted that the LEP heritage provisions were ultimately written with non-Aboriginal heritage in mind. That is, for the most part, heritage that can be defined and accurately pinpointed whether as existing buildings and structures or as areas of archaeological potential based on documented historical events. The provisions which deal with this kind of 'knowable' heritage are

<sup>11</sup> Woollahra Municipal Council 2020. *Woollahra Local Strategic Planning Statement*.

<sup>12</sup> Greater Sydney Commission 2018. *Our Greater Sydney 2056. Eastern City District Plan – connecting communities*; Greater Sydney Commission 2018. *Greater Sydney Region Plan. A Metropolis of Three Cities – connecting people*.





not always applicable to Aboriginal heritage, which often involves lower levels of documentation, and greater levels of uncertainty about what may exist beneath the ground and where.

Aboriginal places of heritage significance can be listed and mapped on Schedule 5 (Environmental Heritage) of the Local Environmental Plan if 'agreement is reached with the Aboriginal community'. It is noted that neither the 'Aboriginal community' or the process for reaching or defining 'agreement' is outlined within the 2011 revisions or attendant practice notes. Importantly, these items need not be listed (publicly available) and this does not affect their protection. Furthermore, Aboriginal places of heritage significance can be listed on Schedule 5 but need not be mapped on the accompanying Heritage Map (unlike items of non-Aboriginal heritage significance where this is required).

Under Clause 5.10 of the LEP development consent is required from Council in the case of proposed impacts to Aboriginal objects, Aboriginal places of heritage significance, or areas containing these objects or places (Section 2), unless the applicant advises that the proposed works will not adversely affect the heritage significance of the object or place, or the works are proposed in order to conserve the object or place. This, however, does not preclude requirements to obtain Aboriginal Heritage Impact Permits under the NPW Act.

#### **Development Control Plans**

Development Control Plans (DCPs) provide another means of ensuring adequate assessment of potential impacts to Aboriginal heritage, and local enforcement of heritage protection legislation. DCPs provide more specific guidance on how development can occur within a specific part of the LGA or across the whole LGA by specifying General Controls in relation to a specific issue such as Aboriginal heritage protection. For example a DCP can spell out when an Aboriginal heritage assessment is required (e.g. in what areas/circumstances) and what such assessments must include for development applications to be assessed.

#### **Review of Environmental Factors**

Council development activities are guided by a process of environmental assessment known as a Review of Environmental Factors (REF). The amount of detail required in an REF is related to the nature and location of the proposed activity. REF provisions can be devised and revised as needed by Council to specify Aboriginal heritage provisions. However, implementation often suffers from a lack of staff training and awareness and is only effective when supplemented by a clear process.

### ***1.3 Existing Aboriginal heritage management in the Woollahra LGA***

In formulating the proposed Woollahra Aboriginal Heritage Management Strategy, we have reviewed past and current policies and practices relating to Aboriginal heritage. These are summarised below.



### **An assessment of prehistoric heritage of Woollahra**

An assessment of prehistoric heritage was undertaken in the early 1980s, as part of an overall heritage study of the LGA.<sup>13</sup> This assessment addressed archaeological remains of pre-Contact occupation of the area. The report referred to the statutory protection of such remains by the *National Parks and Wildlife Act 1974*, and the advice from NPWS (now Heritage NSW) that the locations of archaeological sites should generally not be public knowledge.

It was noted that historical development would have involved removal of much of the archaeological evidence that was once present. However, at the time of the study, there were 33 sites listed on the NPWS register (now AHIMS), and it was considered likely that further sites were present. It was recommended that positive and informed management measures were required to ensure conservation of these sites. In particular, these required Council planning staff to be aware of the nature and location (or probable location) of the sites, and the types of activities that may result in direct or indirect damage to the sites.

Recommendations for Aboriginal heritage management were incorporated into the overall heritage study.<sup>14</sup> These were:

- Parkland, reserves, major gardens, and pockets of natural scrub should be considered to have Aboriginal archaeological potential, and this should be considered when planning or assessing works that involve modification to the vegetation or ground surface. Archaeological survey should be undertaken prior to any such works.
- An archaeologist should be engaged to relocate and assess the known sites within the LGA, and develop recommendations for their management.
- Council staff involved with the management of parks and gardens should liaise with NPWS staff to develop processes to avoid accidental damage to Aboriginal sites.

### **Environmental Planning Instruments**

Along with the legislation detailed above, Aboriginal heritage management within the LGA is currently subject to two Environmental Planning Instruments, and the Development Control Plan that has been developed to support the Woollahra LEP.

#### Sydney REP (Sydney Harbour Catchment) 2005

The Aboriginal heritage management provisions of Sydney REP (Sydney Harbour Catchment) 2005 apply to

- Aboriginal objects. These are any material evidence that relates to the Aboriginal habitation of NSW.
- Places of Aboriginal heritage significance. These are places with tangible remains of pre-European occupation and/or of contemporary significance to Aboriginal people, and places with intangible significance.

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<sup>13</sup> Haglund 1984

<sup>14</sup> Hughes Trueman Ludlow 1984: 120



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- Potential places of Aboriginal heritage significance. These are places that are included in an inventory of heritage items that is maintained by the relevant Council, or places that the consent authority considers to have the potential to have Aboriginal heritage significance.

In general, development consent is required for any work that may affect an Aboriginal object, or a place or potential place of Aboriginal heritage significance. Consent is not required if the proponent is able to demonstrate that the proposed development would not adversely affect the significance of the object or place. In assessing the application, the consent authority must assess the potential impact on heritage significance. They should consider an Aboriginal heritage impact assessment that has been prepared in accordance with the relevant guidelines issued by Department of Environment and Conservation (now Heritage NSW) and that documents the views of local Aboriginal communities. The consent authority must confirm that any necessary consent or permit under the NPW Act has been granted, and that the local Aboriginal communities have had the opportunity to comment either as part of this process or separately.

Woollahra LEP 2014

The Aboriginal heritage management provisions of Woollahra LEP 2014 apply to:

- Aboriginal objects. These are any material evidence that relates to the Aboriginal habitation of NSW.
- Aboriginal places of heritage significance. These are places that have been identified in an Aboriginal heritage study that has been adopted by Council, and may or may not be shown on the heritage map.

In general, development consent is required for any work involving land on which an Aboriginal object is located or that is within an Aboriginal place. Consent is not required if the proponent is able to demonstrate that the proposed development would not adversely affect the significance of the object or place. If development is proposed for an Aboriginal place, the consent authority must consider the potential effect on the significance of the place, and must provide the local Aboriginal communities with an opportunity to comment on the proposal.

Woollahra DCP 2015

Further guidance on heritage impact assessment requirements is provided in Attachment 2 (Heritage Impact Statement) of Woollahra DCP 2015. This guide applies to development that may affect heritage items, heritage conservation areas, archaeological sites, and potential archaeological sites, and therefore applied largely to non-Aboriginal heritage. However, it is suggested that archaeological sites and potential archaeological sites may have Aboriginal heritage significance. This is not consistent with the LEP, where an archaeological site is defined as a place that contains one or more relics, with a relic being material evidence that relates to the non-Aboriginal settlement of NSW. The DCP guide specifies that a heritage impact statement is required for works affecting a known or potential archaeological site. In these cases, an archaeological assessment report is required.



### **Council guidelines**

Council currently provides some additional guidance for Aboriginal heritage management through the website, summarised below.

#### Undertaking heritage works without consent

Council also provides clarification and guidance through the development pages of Council website. In relation to cases where development consent is not required, applicants must provide Council with their permit under the *National Parks and Wildlife Act 1974*, if this is required for the development.<sup>15</sup>

#### Aboriginal and Torres Strait Islander Protocols and Guidelines

Section 10.6 of Council's ATSI Protocols and Guidelines provides advice on Aboriginal community consultation.<sup>16</sup> It is recommended that consultation regarding Aboriginal land and heritage be undertaken with the La Perouse LALC.

#### Aboriginal heritage

The Council website includes a page providing an indication of some of the Aboriginal heritage values of the LGA.<sup>17</sup> The page includes brief insights into a number of aspects of Aboriginal heritage. In relation to archaeological sites, some guidance is provided for avoiding harm to these sites when visiting.

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<sup>15</sup> 'Undertaking heritage works without consent,'  
[https://www.woollahra.nsw.gov.au/building\\_and\\_development/development\\_rules/undertaking\\_heritage\\_works\\_without\\_consent](https://www.woollahra.nsw.gov.au/building_and_development/development_rules/undertaking_heritage_works_without_consent)

<sup>16</sup> Woollahra Municipal Council 2019.

<sup>17</sup> Woollahra Municipal Council n.d., 'Aboriginal heritage,'  
[https://www.woollahra.nsw.gov.au/community/about\\_our\\_community/history\\_and\\_heritage/aboriginal\\_heritage](https://www.woollahra.nsw.gov.au/community/about_our_community/history_and_heritage/aboriginal_heritage)

**From:** [richard barz](#)  
**To:** [Records](#)  
**Subject:** Aboriginal Rock Art near Watsons Bay  
**Date:** Sunday, 23 August 2020 12:07:56 PM

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For the attention of Heritage Officer Ms. Flavia Scardamaglia,

Dear Ms. Scardamaglia,

I refer to the Woollahra News article of 9 July (on line) on the Woollahra Council's Aboriginal Heritage Study.

Recently, together with a friend who lives in Waverley, I unsuccessfully attempted to locate two important Aboriginal rock art sites, one on the grounds of HMAS Watson and the other near HMAS Watson in Sydney Harbour National Park.

In the case of the first art site we were not allowed to enter HMAS Watson and in the case of the other we simply could not find the site.

There is a photograph of the first site on page 180 of *Cage of Ghosts* by Jon Rhodes (Darkwood:2018) and of the second on page 183 of the same book. Both photographs were taken c. 1962.

The photographs show that both sites have been damaged- by a fence post at the first site and a searchlight housing at the second.

On the 28th of July of this year I wrote a letter to Captain Heath Robertson, commanding officer of HMAS Watson, and another to the Manager of Sydney Harbour National Park on the subject of these two rock art sites.

Since I have not received a reply to either of these letters, it is my hope that as Heritage Officer of Woollahra Council you might be able to inspect these sites and register them as a part of the Heritage Study.

As the sites are clearly of great importance for the Aboriginal heritage of Woollahra, I look forward to learning from you what steps might be taken to ensure their repair and preservation.

With Best Wishes,  
Dr. Richard Barz



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**From:** [Patricia Armati](#)  
**To:** [Records](#)  
**Subject:** Woollahra's Aboriginal history and heritage  
**Date:** Wednesday, 2 September 2020 10:01:38 AM

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I am most interested in this study as I am assembling information about Aboriginal history and heritage in the area of Woollahra with a view to making it the primary focus of a bid to UNESCO to have this peninsula - South Head to Rose Bay at least - World Heritage Listed.

This area has a number of wonderful interesting rock carvings - such as those at Bondi and South Head. There are middens throughout other areas such as Lyne Park (totally ignored). Camp Cove was the area where the 1st Fleet found fresh water, there are the light houses, the milestone outside Dunbar House at Watsons Bay, the whaling history of Watsons Bay, Historic houses and their associated parklands and many more areas of international and national importance and history.

The Aboriginal component of such a UNESCO WHL application would be its cornerstone. I would therefore be very interested in being involved.

Kind regards

Patricia Armati

  
<https://www.sydney.edu.au/medicine-health/about/our-people/academic-staff/patricia-armati.html>

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**From:** [Andrew Woodhouse](#)  
**To:** [Records](#)  
**Subject:** SC4668 SUBMISSION: A hidden history Aboriginals in Rushcutters Bay Park by Dr Jack Irish  
**Date:** Wednesday, 14 October 2020 1:05:17 PM  
**Attachments:** [31102019102514.pdf](#)

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We attach an important history for council's project and request interpretive features be included in council's plans

Our Hidden History

By Andrew Woodhouse

Rushcutters Bay Park has a hidden history. It is the former site of the world's oldest living, continuous civilisation; a civilisation so old they had no reading, writing or arithmetic.

They had very little clothing and no guns. They had spears for fishing and boomerangs for hunting and lived off the land the harbour which embraced them, from where they caught fish and oysters.

Their remainder oyster shells accumulated as mounds or middens and remain protected on the Elizabeth Bay harbour foreshore. They were not "farmers" of arable land as we know the term today.

But they were survivors. And they had a rich mythology and art and music.

They lived and around Rushcutters Bay where today's park is. Their life was severely disrupted by the arrival of the English convict camp..

Read more here: <https://www.sydneybarani.com.au/sites/first-contact/>

Captain Cook noted in the Journal of HMS Endeavour of *23<sup>rd</sup> August 1770*:

*"From what I have said of the Natives of New Holland [Australia] they may appear to some to be the most wretched people upon earth, but in reality they are far more happier than we Europeans; being wholly [sic] unacquainted not only with the superfluous but the necessary conveniencies [sic] so much sought after in Europe, they are happy in not knowing the use of them. They live in a Tranquillity which is not disturb'd by the Inequality of the Condition ..."*

Source <https://www.nla.gov.au/digital-classroom/senior/Cook/Indigenous-Response/Endeavour-Journal>

Read the original journal <http://nla.gov.au/nla.obj-228958465/view>

Now a new book, *Paddington: a history* has been published by The Paddington Society, edited by Greg Young, published by NEWSOUTH Books, February 2019, and available at Macleay Book Shop, 14 Macleay Street, Potts Point NSW 2011 phone 9331 6642 email [shop@pottspointbookshop.com.au](mailto:shop@pottspointbookshop.com.au).

Chapter one is written by Dr Jack Irish, a distinguished archaeologist and historian. **He notes the possibility of locating indigenous archaeological remains in and around the park and the park's heritage significance.**

I quote some extracts and attach the first chapter of the book by Dr Irish for your edification.

“Aboriginal people had known the Paddington area for much longer [than the Europeans]”

We do not know how Aboriginal people lived in this landscape but we know they were there”

“A harbour [which] teemed with fish that Aboriginal people expertly exploited ... aboriginal people honed their toolkit to exploit the harbour’s resources”

“We do not have any archaeological evidence from Paddington ... because much was destroyed by urban development long before thought to look”

“Some **things may yet be discovered in parks or backyards**”

“They also used ... Rushcutters Creek”

“[They used] foot tracks ... to Rushcutters Bay”

“They lived in a number of autonomous camps across the eastern suburbs”

“An aboriginal settlement existed ... at Rushcutters Bay ... in several shelters they constructed”

“The Rushcutters Bay settlement was not a randomly selected place but one which continued to have meaning to Aboriginal people ... Ceremonies continued to take place there”

“The first recorded complaint ... was made in 1895. Police came ...”

“Aboriginal people retained knowledge of former settlements like [the] Rushcutters Bay camp”

“The abandonment of the Rushcutters settlement by 1900 appears to have ended the era of locally connected people”

Thank you

**Andrew Woodhouse**

President, Potts Point & Kings Cross Heritage & Residents' Society

*Saving our Past for our Future*

Phone [REDACTED]

**SAVE OPEN SPACES (SOS): RUSHCUTTERS BAY PARK**

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**From:** [Robert & Vicki](#)  
**To:** [Records](#)  
**Subject:** Woollahra Aboriginal History / Ref SC 4668  
**Date:** Thursday, 15 October 2020 12:47:20 PM

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Hi

Below is an extract from my family archives which may be of interest.

“Recollections” 1919 Robert Walter Joyner (b. 1858)

About 45 years ago the land lying (between) La Crozia valley and Darlinghurst Heights was owned by Obed West and was covered by a dense forest of big trees and at Xmas time it was used as a camping ground by Aborigines when they made their annual visit to Sydney for the blankets which were given to them by the Government. I remember seeing their campfires and hearing their cries when doing their corroborees as there was often a lot of quarrelling amount them. Old Obed West was partial to the Blacks and liked to encourage them about the place.

Kind regards,  
Rob Joyner

  
Paddington

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**From:** [REDACTED]  
**To:** [Records](#); [REDACTED]  
**Subject:** Aboriginal Heritage Study for the Woollahra Municipality - SC5932 Submission  
**Date:** Friday, 5 March 2021 10:31:19 AM

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To whom it may concern,

I refer to the Aboriginal Heritage Study for the Woollahra Municipality  
- SC5932 Submission.

[https://www.woollahra.nsw.gov.au/news/articles/aboriginal\\_heritage\\_study\\_for\\_the\\_woollahra\\_municipality](https://www.woollahra.nsw.gov.au/news/articles/aboriginal_heritage_study_for_the_woollahra_municipality)

I attended the library zoom presentation about the heritage study in  
2020.

Although we are past the submission due date, I would like to request  
that the study include the part of Rushcutters Bay Park and Yarranabbe  
Park that is in the Woollahra municipality. We have reason to think  
there is substantial heritage there.

Could you please confirm the inclusion?

Yours faithfully,

Jillian Blackall  
Historical Officer  
Darling Point Society

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**Item No:** R2 Recommendation to Council  
**Subject:** **REPLACEMENT TREE AT 23 HAMPDEN STREET, PADDINGTON**  
**Author:** Paul Fraser, Manager - Open Space & Trees  
**Approver:** Tom O'Hanlon, Director - Infrastructure & Sustainability  
**File No:** 21/122505  
**Reason for Report:** To respond to a Notice of Motion – Hill's Fig Trees lining Hampden Street, Paddington dated 24 May 2021.

**Recommendation:**

- A. THAT the replacement tree for the removed Hill's Fig at 23 Hampden Street, Paddington be in line with the adopted Street Tree Masterplan (STMP) and planted as follows;
- i. In the vicinity of the removed Hill's Fig
  - ii. Planted in a 'blister' island with appropriate landscaping
  - iii. Installation of an appropriate barrier system to assist to control root growth
  - iv. The new street tree be added to Council's tree register database for on-going inspection and maintenance.
- B. THAT the STMP remains unchanged for Hampden Street, Paddington.
- C. THAT Council continue to progress an Urban Forest Strategy setting out its long term vision and tree canopy targets for land owned or administered by Council.

---

**Background:**

A Notice of Motion dated 24 May 2021 was resolved as follows:

*THAT Council:*

- A. *Notes that residents in the local precinct place a high value on the avenue of Hills Fig trees lining Hampden Street, Paddington in addition to their intrinsic botanical value and magnificence, their provision of leafy-green character and urban greening.*
- B. *Expresses regret at the imminent removal of the Hills Fig at 23 Hampden Street, a magnificent specimen and opening canopy tree of the Hampden Street Avenue planting, noting all options to retain this tree have been exhausted.*
- C. *Requests that the Director Infrastructure & Sustainability investigate and report back to Council as soon as practicable on the possibility of replacing the Hills Fig tree at 23 Hampden Street, Paddington, with another Hills Fig tree that is sited in the vicinity of the existing specimen, in such a manner (including if necessary the installation of barriers to direct root growth) and maintained on a regular basis, to ensure it does not ultimately grow and encroach upon and put at risk public or private infrastructure.*
- D. *Requests that the siting of the replacement tree include provision of a new curb blister and landscaping.*
- E. *Requests staff to give consideration to amending the Street Tree Masterplan to reflect Hills Figs as the preferred species for Hampden Street, Paddington.*

- F. Notes Council's resolution to develop an Urban Forest Strategy and affirms Council's commitment to the ongoing care and maintenance of its street tree canopy.

This report responds to part C, D, and E of the resolution.

### Proposal:

#### Replacement planting at 23 Hampden Street

The Woollahra Street Tree Masterplan 2014 (STMP) guides the future of all street tree planting throughout Woollahra by outlining where trees are to be planted and what species are to be used to replace trees. The replacement species are outlined for all streets in the municipality and take into consideration the localised environmental, functional and aesthetic aims.

The Hill's Fig tree which will be removed caused extensive damage to the adjacent building. There was no alternative method of retaining the tree and repairing the damage without removing the structural roots of the tree rendering it unstable, likely leading to the collapse of the tree. At the public street meeting on 31 March 2021, staff stated that the replacement tree would be *Waterhousia floribunda* 'Green Avenue' – Weeping Lilly Pilly planted in a 'blister' island in the roadway. The STMP lists the characteristics of the *Waterhousia floribunda* 'Green Avenue' as;

- 18-20m height and 10-12m width
- Fast growing
- Hardy medium sized native evergreen tree

In addition, the root system of this species is far less problematic than that of the Hill's Fig, deeming it a suitable choice for Hampden Street.



The proposed species of *Waterhousia floribunda* 'Green Avenue' has been used extensively as a replacement species for the Hill's Fig as it has a similar form and leaf size and will achieve a similar landscape aesthetic as it matures. It is a native rainforest tree with a dense rounded canopy. *Waterhousia floribunda* 'Green Avenue' is more formal in shape with larger leaves than *Waterhousia floribunda*. It bears large clusters of white flowers in summer followed by green berries with a pinkish tinge.

In time it will develop into a medium to large sized tree with minimal future impact to private and public infrastructure.

The new position of the tree would be in a newly constructed 'blister' island in the roadway (approximately 3-3.5m from the adjacent building) thereby increasing the distance between the tree and the building and lessening the probability of any future building or public infrastructure damage. The 'blister' will require the movement of a shared car parking space and the reduction of another unrestricted parking space. It will also allow the footpath to be more pedestrian friendly which is a current issue with the Hill's Fig trees in Hampden Street.

As part of the design of the 'blister' island for the tree, staff will investigate the installation of a barrier to assist with the control of root growth. These types of barriers may include a concrete or steel barrier beneath the road, a root cell/vault, or other lining to encourage roots away from private and public infrastructure. Although successful with some species of trees, a Hill's Fig has a very intrusive root system and a tendency to establish large diameter surface roots. The sandy profile of this area means that any barrier will need to be to a considerable depth to deflect root growth. The use of any root barrier system with this species of tree will be an expensive engineered design and cannot be guaranteed effective when planting in streets such as Hampden Street.

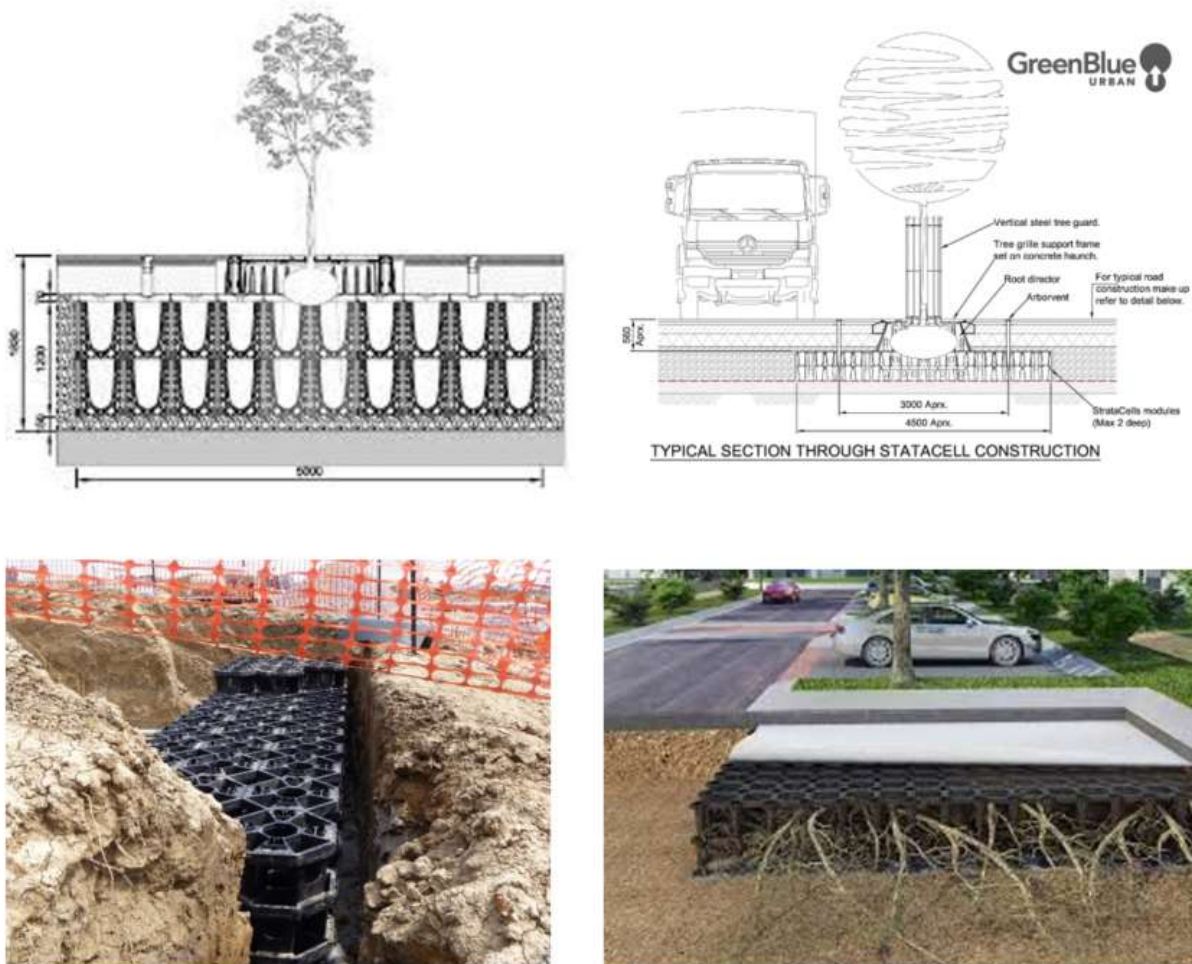
The late correspondence provided at the Council meeting dated 24 May 2021 provided a case study authored by John Aitkins of Treeology (*ROOTS IN STRATACELL - An Evaluation of Root Growth Patterns*). The trial included two Hill's Weeping Figs being planted in engineered tree vaults for 4 years. The trees and vaults were then excavated to examine the extent of root growth within the Stratacell system and determined how roots interact within the cells.

The main findings included that the engineered root barrier established a zone almost completely free of surface roots and that the system provided adequate space and environment for root development and growth. It should be noted that this trial was only for a 4 year period and it is not clear what happens when the trees root system matures into a 40+ year old tree.

These type of engineered designs are widely used in large whole street renewals whereby they are commencing with new trees. They are designed to be a load bearing solution for trees, roads and pavements to co-exist. From our research they are successful in these scenarios and provide new trees a less compacted soil structure to thrive.

As illustrated in the images following, the typical Stratacell construction would require a width of approximately 5m and a depth of 1.5m. In Hampden Street this would equate to over half of the roadway. The proposed 'blister' island for the new tree will be approximately 3m from the adjacent building. The cost of this is unknown due to many factors including the possible relocation of underground services.

Given the major engineering and construction involved in undertaking the StrataCell design, the planting of a Hill's Fig with this system cannot be supported. Due to their vigorous root system it cannot be guaranteed that even with regular maintenance and the use of a root barrier that the tree will not grow and encroach upon and put at risk public or private infrastructure.



### Amending Street Tree Masterplan

The STMP identifies one of the key tree selection objectives is to ensure the selection of the 'right tree for the right location'. It states that the selection of the species should be appropriate to the local environmental conditions and the constraints of the planting location. The selection of species aims to ensure that the tree makes a long term and positive contribution to environmental, amenity, aesthetic and heritage values of the area and any negative aspects and future hazards are minimized.

The STMP identifies the following species of trees for Hampden Street, Paddington;

- Backhousia citriodora (under wires)
- Waterhousea floribunda 'Green Avenue'

Two of the streets within the municipality where Hill's Figs will be continued are;

- New South Head Road, Rose Bay due to their defining character and civic scale.
- O'Sullivan Road, eastern side adjacent golf courses.

This species is a large growing species that was once used extensively as a street tree throughout urban areas. As the trees have matured and aged they have been identified as having characteristic traits that are unsuitable in an urban environment and their use now requires much forethought and consideration when choosing suitable planting locations. Extensive and vigorous root systems, branch inclusions and bat habitat are some of the more problematic issues associated with this species. The most sustainable, cost effective location for planting these species is in broad grass verges or parkland settings. Ideally we would look for areas where the structural root zone of a mature tree would be located outside of property boundaries. This allows for future root pruning and management to be undertaken in most instances without destabilising the tree. It allows for the root system to develop with the least restrictions and allows for appropriate root management as the tree ages.

To reduce future impact to public and private infrastructure, the planting of Hill's Figs in streets should be limited to the recommended streets in the STMP and the appropriate park settings.

It is recommended that the STMP remains unchanged.

If the Council resolved to amend the Street Tree Masterplan it is recommended that the neighbouring residents be consulted, as the replanting of this species would require further 'blister' islands, the reduction of car spaces, and the likely damage to private and public infrastructure when the tree matures.

**Conclusion:**

It is recommended that due to the known issues of the Hill's Fig species discussed in the body of the report that the replacement planting in Hampden Street be as per the STMP - *Waterhousia floribunda* 'Green Avenue' and the STMP remains unchanged as it relates to planting in Hampden Street.

**Annexures**

Nil





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<b>Item No:</b>	R3 Recommendation to Council
<b>Subject:</b>	<b>MATTERS DEFERRED PRIOR TO THE ADOPTION OF WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014</b>
<b>Authors:</b>	Kelly McKellar, Team Leader Strategic Planning Emma Williamson, Strategic Planner
<b>Approvers:</b>	Anne White, Manager - Strategic Planning Nick Economou, Acting Director Planning & Place
<b>File No:</b>	21/105166
<b>Reason for Report:</b>	To present the outcome of staff's assessment and recommendations for matters deferred prior to the adoption of the <i>Woollahra Local Environmental Plan 2014</i> , including the Opportunity Sites.

**Recommendation:**

THAT no further action is taken on the matters deferred for consideration prior to the adoption of the *Woollahra Local Environmental Plan 2014*, including the Opportunity Sites.

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**1. Summary**

At the time the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) was being prepared, a number of matters were deferred for further consideration. These deferred matters related to potential development uplift on sites that were identified:

- in submissions made during the public exhibition of the Woollahra LEP 2014; or
- by Council in an earlier study of Opportunity Sites.

Since the deferral of these matters, significant changes have been made to the NSW strategic planning framework (see section 3 of this report). Council's Strategic Planning team have directed resources to implementing the new requirements which were introduced via a suite of changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979). Council staff are now in a position to address the deferred matters in line with the new strategic planning framework.

This report seeks a resolution of Council to formally discontinue consideration of the deferred matters, including the Opportunity Sites.

**2. Background**

On 31 March 2006, the NSW Government made the *Standard Instrument (Local Environmental Plans) Order 2006*. Under section 3.20 (previously s33A) of the EP&A Act 1979, a Council's local environmental plan (LEP) must be made in the form prescribed by the standard instrument local environmental plan (SILEP).

Accordingly, on 26 November 2007, Council resolved to prepare a draft LEP to replace the *Woollahra Local Environmental Plan 1995* (Woollahra LEP 1995). To translate the policy intent and provisions of the Woollahra LEP 1995 into the new SILEP template, Council staff undertook an extensive program of consultation. Consultation included meetings with the then Department of Planning (DoP) and of Council's Strategic Planning Working Party (SPWP), consultation with the community, a public exhibition and reviewing the legal drafting with NSW Parliamentary Counsel.

This lengthy process resulted in the Woollahra LEP 2014 which commenced on 23 May 2015.

## 2.1 Opportunity sites and the NSW Government housing requirements

When Council staff were preparing the Woollahra LEP 2014, the DoP instructed all councils to meet housing targets-set by the *Draft East Subregional Strategy 2007*.

In response, Council's SPWP developed a methodology to identify residential capacity to meet the DoP's housing requirements. One project resulting from this was the Opportunity Sites.

The Opportunity Sites project involved identifying sites with the potential for increased development density. Greater development potential would be facilitated by increasing the development standards for maximum building height, floor space ratio (FSR) and/or changing the land use zone. The Opportunity Sites project identified 24 sites with an estimated net yield of 1,000 new dwellings which could contribute to the DoP housing targets. It was anticipated that the proposed controls would be incorporated into the Woollahra LEP 2014 with a view to seeking community feedback during the public exhibition of the new LEP.

On 14 December 2009, a report on the 24 Opportunity Sites (listed in **Table 1** below) was considered by Council's Urban Planning Committee (UPC). Subsequently, on 14 December 2009, Council resolved, in part:

- A. *That the list of Opportunity Sites, as set out in Table 1 of the report to the Urban Planning Committee on 14 December 2009, be made available for public comment as part of the section 62 consultation for the preparation of the Woollahra Principal Local Environmental Plan.*

Council's resolution had the effect of requiring community and stakeholder consultation on the Opportunity Sites prior to the preparation and exhibition of the Woollahra LEP 2014.

**Table 1 – Opportunity sites identified in 2010**

<b>Bellevue Hill</b>	<b>Rose Bay</b>
<ul style="list-style-type: none"> <li>• 9A Cooper Park Rd</li> </ul>	<ul style="list-style-type: none"> <li>• 646–692 Old South Head Rd (between Dudley Rd and Fernleigh Rd)</li> <li>• 740–760 New South Head Rd and 1–9 Caledonian Rd</li> <li>• Ian Street car park: 16–18 Dover Rd</li> <li>• 12–30 Albemarle Ave</li> <li>• 1A, 1–19 Beresford Rd and 609–613 New South Head Rd</li> </ul>
<b>Double Bay</b>	
<ul style="list-style-type: none"> <li>• Sydney Grammar School tennis courts: 33 Neild Ave</li> <li>• 27–31 Neild Ave (Department of Housing)</li> <li>• Scottish Hospital: 74 Brown St</li> <li>• Hampden Precinct: 15–21 Hampden St, 10A, 10 and 23 Royston St, 10 Cecil St and 8 Soudan Ln</li> <li>• 52 Hopewell St</li> <li>• 12–14 Wentworth St and 36 Jersey Rd</li> <li>• 444 Oxford St and 22 George St</li> </ul>	
<b>Edgecliff</b>	<b>Vaucluse</b>
<ul style="list-style-type: none"> <li>• Edgecliff Centre: 203–233 and 235–285 New South Head Rd</li> <li>• Eastern Gateway: 240–246 New South Head Rd (Thane Building)</li> <li>• Western Gateway: 2–14 New Beach Rd and 73 – 79 New South Head Rd (service station site)</li> </ul>	<ul style="list-style-type: none"> <li>• Vaucluse Village: 1–7 Hopetoun Ave, 22A–24 New South Head Rd, 1 Petrarch Ave (land at edge of Vaucluse Village) and 77 New South Head Rd (car wash site)</li> <li>• 30–58 Old South Head Rd (between Clarendon St and Captain Pipers Ln)</li> </ul>
<b>Paddington</b>	<b>Woollahra</b>
<ul style="list-style-type: none"> <li>• 6–12 Leura Rd</li> <li>• 315-333 and 349-359 New South Head Rd and 5-7 Manning Rd</li> </ul>	<ul style="list-style-type: none"> <li>• 1–11 Edgecliff Road and 118 Old South Head Rd</li> <li>• Woollahra Station: Edgecliff and Wallaroy Rd</li> <li>• 30–36 Moncur St (Department of Housing)</li> <li>• 38–178 Oxford St (between Queen St &amp; Ocean St)</li> </ul>

In response to Council's resolution, in 2010 an extensive community and stakeholder consultation process on the Opportunity Sites was undertaken. We received over 500 submissions.

As a consequence of the issues raised by the community, on 25 July 2011, Council resolved to defer any further consideration of the Opportunity Sites until after the finalisation of the Woollahra LEP 2014. This effectively put the Opportunity Sites project "on hold".

Since that time, some of the Opportunity Sites have been considered separately via site specific planning proposals and some sites have been developed without any amendments to the Woollahra LEP 2014. A brief update on the current status of all the Opportunity Sites (at the time of preparing this report) is provided at **Annexure 1**. In summary:

- four sites have been formally removed from the Opportunity Sites project by a Mayoral Minute or Council resolution
- three sites have been the subject of site specific planning proposals
- seven sites have been substantially redeveloped
- twelve sites substantially remain as they were in 2010.

## 2.2 Preparation of the Woollahra LEP 2014 and deferred matters

On 13 May 2013, Council resolved to refer a draft of the Woollahra LEP 2014 to the then NSW Department of Planning and Infrastructure (DoPI) requesting a certificate to allow public exhibition. Subsequently, the draft LEP was publicly exhibited for 12 weeks in 2013. We received 292 submissions.

Our review of submissions identified a number of matters which required further investigation as they were recommending amendments beyond the scope of translating the Woollahra LEP 1995 into the new SILEP template. In summary, the submissions related to 18 individual sites seeking a spot-rezoning or site specific increase to one or more development standards (maximum building height or FSR) to be incorporated into the new LEP. One submission related to another planning matter. The summary of these submissions and Council staff's response reported to Council in 2014 is at **Annexure 3**.

**Table 2** below identifies each of these individual sites (and the one other planning matter), and summarises the requested amendment to the Woollahra LEP 2014. The table also identifies whether the site was one of the Opportunity Sites (see also **Annexure 2**).

The usual process for amendments to an LEP would be for Council to undertake a strategic study or for an Applicant to submit a site specific planning proposal. The planning proposal process ensures that a full assessment of the proposed amendments to the Woollahra LEP 2014 is undertaken and that it is subject to community consultation.

In 2014, Council staff recommended that further investigation of these matters should be undertaken after the finalisation of the Woollahra LEP 2014. This approach was endorsed by Council, and consequently the current *Woollahra Delivery Program 2018-2022 and Operational Plan 2020-2021* (DPOP) includes the following action:

### *Goal 4: Well planned neighbourhoods*

- *Review all matters which were deferred from inclusion in Woollahra LEP 2014.*

**Table 2 – Additional matters identified in submissions**

No	Issue address (if relevant)	Summary of submission	Was the site an Opportunity Site?
A	5-7 Mansion Rd, Bellevue Hill	Amend zone to reflect existing use.	✘
B	71-83 New South Head Rd, Edgecliff	Amend zone to reflect existing use and apply a Floor Space Ratio control.	✓
C	3 South Ave, 28, 30-36 Bay St, 2 Guilfoyle Ave & Lot 1 DP 570584, Double Bay	Amend zone and increase Maximum Building Height and Floor Space Ratio controls to facilitate mixed use development.	✘
D	605 New South Head Rd, Rose Bay	Amend zone to facilitate medium density residential development.	✘
E1 & 2	Laguna St / Old South Head Rd / Billong Ave, Vaucluse	Amend zone and increase Maximum Building Height and Floor Space Ratio controls to facilitate medium density residential and mixed use development.	✘
F	438 Edgecliff Rd, Edgecliff	Increase Maximum Building Height and Floor Space Ratio controls to facilitate greater medium density residential development potential.	✘
G	83-103 New South Head Rd, Vaucluse	Increase Maximum Building Height and Floor Space Ratio controls to facilitate greater mixed use development potential.	✘
H	100 Queen St, Woollahra	Increase Floor Space Ratio control to reflect the existing built form.	✘
I	80-112 Queen St, Woollahra	Increase Floor Space Ratio control to reflect the existing built form.	✘
J	LGA-wide	Review permissibility of Home Occupation (Sex Services) with a view to making the use permissible without consent.	✘
K	2 New South Head Rd, Edgecliff	Increase Maximum Building Height and Floor Space Ratio controls to facilitate mixed use development.	✓
L	2-14 and 20 New South Head Rd, Edgecliff	Increase Maximum Building Height and Floor Space Ratio controls to facilitate mixed use development.	✓
M	23-25 Lawson St, Paddington	Amend zone and increase Maximum Building Height and Floor Space Ratio controls to facilitate high density residential development.	✓
N	30-36 Moncur St, Woollahra	Amend zone and increase Maximum Building Height and Floor Space Ratio controls to facilitate high density residential development.	✓
O1, 2, 3 & 4	Caledonian Rd / New South Head Rd, Rose Bay	Amend zone to facilitate medium density residential development.	✓
P	52 Old South Head Rd, Vaucluse	Amend zone, increase Maximum Building Height and apply a Floor Space Ratio control to facilitate medium density residential development.	✓
Q	38-178 Oxford St, Woollahra	Amend zone and increase Maximum Building Height to facilitate medium density residential development.	✓
R	70, 74, 76, 78 & 80 Oxford St, Woollahra	Amend zone and increase Maximum Building Height to facilitate mixed use development.	✓
S	54-56 / 98-106 Oxford St, Woollahra	Amend zone, increase Maximum Building Height and apply a Floor Space Ratio control to facilitate medium density residential development.	✓

### 3. Changes to the NSW strategic planning framework

Since the preparation and commencement of the Woollahra LEP 2014, the NSW strategic planning framework has undergone significant change. There are new strategic and statutory plans that shape how strategic land-use planning operates at state and local levels. Council's Strategic Planning team have directed resources to implementing the new requirements introduced as part of the suite of changes. The two key elements of these changes are outlined in **Table 3** below.

**Table 3 – Changes to the NSW strategic planning framework**

1.	<p><b>Establishment of the Greater Sydney Commission</b></p> <p>The Greater Sydney Commission (GSC) was established under the <i>Greater Sydney Commission Act 2015</i>. The GSC is responsible for leading strategic planning for the Greater Sydney region.</p> <p>In March 2018, the GSC released regional and district plans to establish a vision to manage growth and change for Greater Sydney in the context of social, economic and environmental matters. The plans that apply to the Woollahra LGA are:</p> <ol style="list-style-type: none"> <li>1. <i>Greater Sydney Region Plan: A Metropolis of Three Cities</i> (Region Plan)</li> <li>2. <i>Our Greater Sydney 2056: Eastern City District Plan</i> (Eastern City District Plan)</li> </ol> <p>Council is required to implement these plans in their local area under section 3.8 of the EP&amp;A Act 1979.</p>
2.	<p><b>Legislative amendments to the EP&amp;A Act 1979</b></p> <p>In March 2018, amendments to the EP&amp;A Act 1979 introduced a requirement for all councils to prepare a local strategic planning statement (LSPS). The LSPS must be consistent with the Eastern City District Plan and Council's Community Strategic Plan.</p> <p>The LSPS sets out the 20-year vision for land-use in the local area, the special characteristics and values that are to be preserved, and how future change will be managed. In preparing the LSPS, Council staff undertook community consultation early to help ensure the LSPS reflected the aspirations and values of our community.</p> <p>Feedback from our community was incorporated into the draft Woollahra LSPS 2020 which was publicly exhibited for six weeks from 25 September to 8 November 2019.</p> <p>On 24 February 2020, Council resolved to adopt the draft Woollahra LSPS 2020 and submit it to the GSC for consideration and assurance. Subsequently, the Woollahra LSPS 2020 came into effect in March 2020.</p> <p>Under section 3.33 of the EP&amp;A Act 1979, any proposal seeking to amend the Woollahra LEP 2014 must demonstrate consistency with the relevant strategic plans, including those discussed above.</p>

Consistent with the requirements under Division 3.1 of the EP&A Act 1979, Council's Strategic Planning team dedicated resources to implementing the relevant strategic plans. Council staff are now in a position to consider the deferred matters under the current strategic planning framework.

### **3.1. Draft Woollahra Local Housing Strategy 2021**

Under the Eastern City District Plan, Council is required to prepare a local housing strategy to establish our vision for providing housing in our LGA and demonstrate how we will contribute to the district housing supply. Accordingly, Action 25 of the Woollahra LSPS 2020 identifies that Council will prepare a local housing strategy.

On 5 July 2021, Council resolved to place the *Draft Woollahra Local Housing Strategy 2021* on public exhibition. It is noted that all local housing strategies must be endorsed by the Department of Planning, Industry and Environment (DPIE).

In summary, the *Draft Woollahra Local Housing Strategy 2021* identifies that new housing will be located in well-planned locations that are close to villages, services and public transport hubs, for example Edgecliff. It does not recommend site-specific rezonings or increases to planning controls to meet housing targets.

### **3.2. Draft Edgecliff Commercial Centre Planning and Urban Design Strategy**

The Edgecliff Commercial Centre (ECC) is a key local hub for our community. Council staff have undertaken a strategic review of the planning controls for the ECC and developed the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy* (Draft Edgecliff Strategy) to provide a clear and coordinated approach to planning.

On 26 April 2021, Council resolved to publicly exhibit the Draft Edgecliff Strategy. This is on public exhibition from 31 May to 30 July 2021. The Draft Edgecliff Strategy is a key element in delivering the housing growth identified in the draft local housing strategy.

It is noted that three of the outstanding Opportunity Sites (which are also identified in the deferred matters) are within the ECC. These are:

- 2 New South Head Road, Edgecliff
- 2-14 & 20 New South Head Road, Edgecliff
- 81-83 New South Head Road, Edgecliff

Consideration of these three Opportunity Sites has been superseded by the recommendations of the Draft Edgecliff Strategy. Any changes to planning controls for these sites will be progressed during the implementation of the Draft Edgecliff Strategy, if adopted by Council.

## **4. Response to the Opportunity Sites and the Deferred Matters**

Staff are now in a position to consider the Opportunity Sites and the deferred matters in the context of our new strategic planning framework. In summary, we do not support site-specific rezonings or increases to planning controls to meet housing targets. A response to each of the deferred matters is provided at **Annexure 4**.

The existing provisions in the Woollahra LEP 2014, the recommendations of the draft local housing strategy and the Draft Edgecliff Strategy already address Council's land use vision and planning priorities by:

- facilitating appropriate density and uses in line with the strategic vision identified in the Region Plan, Eastern City District Plan and Woollahra LSPS 2020

- aligning with Council’s vision for the desired future character of our residential and employment zones
- demonstrating consistency with the centre hierarchy and role of centres established in the Woollahra LSPS 2020
- facilitating neighbourhood centres of appropriate scale and diversity that meet the needs of the community while suitably transitioning to surrounding residential areas
- conserving the heritage and scenic landscapes of the LGA.

Council staff recommend that no further action is taken on the matters deferred for consideration prior to the adoption of the Woollahra LEP 2014, including the Opportunity Sites.

Notwithstanding our recommendation, applicants may submit requests for site-specific planning proposals under the EP&A Act 1979 and the *Environmental Planning and Assessment Regulation 2000*. Any request would be assessed on its strategic and site-specific merit and reported to the relevant Committee meeting of Council.

## 5. Conclusion

On 26 November 2007, Council resolved to prepare a draft LEP to replace the Woollahra LEP 1995 in response to the introduction of the mandatory SILEP template. Subsequently, the Woollahra LEP 2014 was prepared and came into effect on 23 May 2015.





A number of matters raised in submissions were deferred from inclusion in the Woollahra LEP 2014. Additionally, the Opportunity Sites project was deferred until after gazettal of the new LEP.

Since this time, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy. All these matters must be considered in the assessment of any proposal to amend the Woollahra LEP 2014.

Council staff have undertaken an assessment of the relevant merits of the Opportunity Site project and the matters deferred from inclusion in Woollahra LEP 2014 with regard to the current strategic planning framework.

We recommend that Council resolves to formally discontinue the consideration of matters deferred prior to the adoption of the *Woollahra Local Environmental Plan 2014*, including the Opportunity Sites.

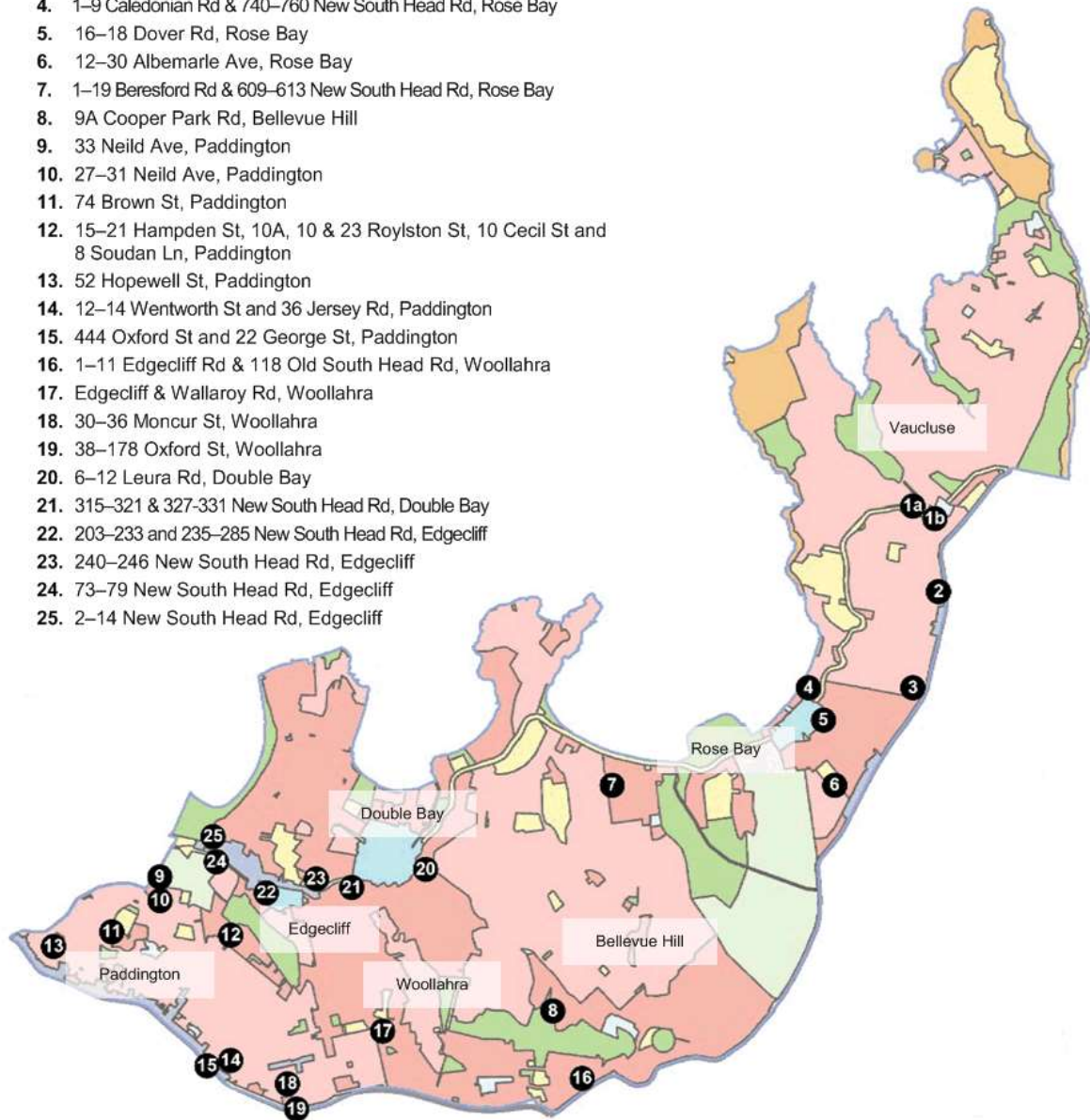
## Annexures

1. Summary of Opportunity Sites Current Status (June 2021) [↓](#) 
2. Map of Deferred Matters (2014) [↓](#) 
3. Summary of submissions received on Deferred Matters (2014) [↓](#) 
4. Analysis of Deferred Matters (June 2021) [↓](#) 

# Opportunity Sites 2010

Map of Opportunity Sites

- 1a. 1–7 Hopetoun Ave, 22A–24 New South Head Rd,  
1 Petrarch Ave, Vaucluse
- 1b. 77 New South Head Rd, Vaucluse
- 2. 30–58 Old South Head Rd, Vaucluse
- 3. 646–692 Old South Head Rd, Rose Bay
- 4. 1–9 Caledonian Rd & 740–760 New South Head Rd, Rose Bay
- 5. 16–18 Dover Rd, Rose Bay
- 6. 12–30 Albemarle Ave, Rose Bay
- 7. 1–19 Beresford Rd & 609–613 New South Head Rd, Rose Bay
- 8. 9A Cooper Park Rd, Bellevue Hill
- 9. 33 Neild Ave, Paddington
- 10. 27–31 Neild Ave, Paddington
- 11. 74 Brown St, Paddington
- 12. 15–21 Hampden St, 10A, 10 & 23 Royston St, 10 Cecil St and  
8 Soudan Ln, Paddington
- 13. 52 Hopewell St, Paddington
- 14. 12–14 Wentworth St and 36 Jersey Rd, Paddington
- 15. 444 Oxford St and 22 George St, Paddington
- 16. 1–11 Edgecliff Rd & 118 Old South Head Rd, Woollahra
- 17. Edgecliff & Wallaroy Rd, Woollahra
- 18. 30–36 Moncur St, Woollahra
- 19. 38–178 Oxford St, Woollahra
- 20. 6–12 Leura Rd, Double Bay
- 21. 315–321 & 327–331 New South Head Rd, Double Bay
- 22. 203–233 and 235–285 New South Head Rd, Edgecliff
- 23. 240–246 New South Head Rd, Edgecliff
- 24. 73–79 New South Head Rd, Edgecliff
- 25. 2–14 New South Head Rd, Edgecliff



21 June 2021  
HPE: 21/108533



**Summary Table of Opportunity Sites**  
(status update as at June 2021)

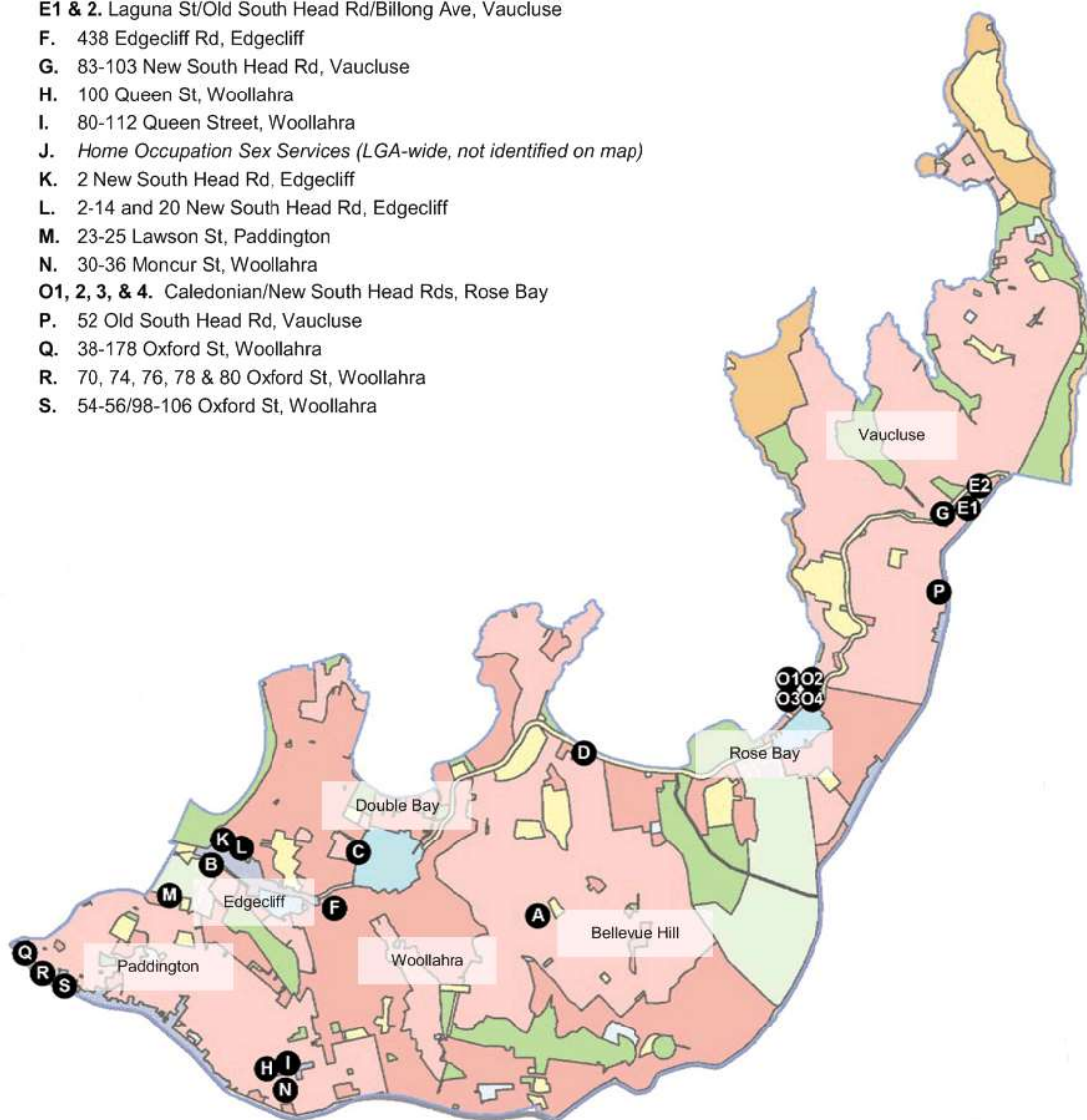
No.	Address	Status
1a.	Vaucluse Village: 1–7 Hopetoun Avenue, 22A–24 New South Head Road, 1 Petrarch Avenue, Vaucluse	Decision not to proceed with proposed planning control changes
1b.	Vaucluse Village: 77 New South Head Road, Vaucluse (car wash site)	Decision not to proceed with proposed planning control changes
2.	30–58 Old South Head Road, Vaucluse (between Clarendon Street and Captain Pipers Lane)	Decision not to proceed with proposed planning control changes. Substantial development on some sites. See also deferred matters in Annexure 4.
3.	646–692 Old South Head Road, Rose Bay (between Dudley Road and Fernleigh Road)	No substantial redevelopment
4.	1–9 Caledonian Road and 740–760 New South Head Road, Rose Bay	No substantial redevelopment See also deferred matters in Annexure 4.
5.	Ian Street car park: 16–18 Dover Road, Rose Bay	Site specific planning proposal & subject to a separate Council process.
6.	12–30 Albemarle Avenue, Rose Bay	No substantial redevelopment
7.	1–19 Beresford Road and 609–613 New South Head Road, Rose Bay	No substantial redevelopment
8.	Cooper Park bowling green: 9A Cooper Park Road, Bellevue Hill	Site specific planning proposal & substantial redevelopment of the site.
9.	Sydney Grammar School tennis courts: 33 Neild Avenue, Paddington	No substantial redevelopment on site. See also deferred matters in Annexure 4.
10.	27–31 Neild Avenue, Paddington (Department of Housing accommodation)	No substantial redevelopment
11.	Scottish Hospital: 74 Brown Street, Paddington	Substantial redevelopment of the site
12.	Hampden Street precinct: 15–21 Hampden Street, 10A, 10 and 23 Royston Street, 10 Cecil Street and 8 Soudan Lane, Paddington	No substantial redevelopment
13.	52 Hopewell Street, Paddington	Substantial redevelopment of the site
14.	12–14 Wentworth Street and 36 Jersey Road, Paddington	No substantial redevelopment
15.	444 Oxford Street and 22 George Street, Paddington	No substantial redevelopment
16.	1–11 Edgecliff Road and 118 Old South Head Road, Woollahra	No substantial redevelopment
17.	Edgecliff and Wallaroy Road, Woollahra (land associated with the Woollahra Station)	Withdrawn following Mayoral Minute
18.	30–36 Moncur Street, Woollahra	No substantial redevelopment on site See also deferred matters in Annexure 4.
19.	38–178 Oxford Street, Woollahra	No substantial redevelopment on site See also deferred matters in Annexure 4.
20.	6–12 Leura Road, Double Bay	New dwellings constructed on the site.
21.	315–321 and 327-331 New South Head Road, Double Bay	Substantial redevelopment of the site

No.	Address	Status
22.	Edgecliff Centre: 203–233 and 235–285 New South Head Road, Edgecliff	Withdrawn following Mayoral Minute Since, included in <i>Draft Edgecliff Commercial Centre Planning and Urban Design Strategy</i>
23.	Eastern Gateway: 240–246 New South Head Road, Edgecliff (Thane Building)	Site specific planning proposal & substantial redevelopment of the site.
24.	Western Gateway: 73–79 New South Head Road, Edgecliff (service station site)	Included in <i>Draft Edgecliff Commercial Centre Planning and Urban Design Strategy</i>
25.	Western Gateway: 2–14 New South Head Road, Edgecliff	Included in <i>Draft Edgecliff Commercial Centre Planning and Urban Design Strategy</i> See also deferred matters in Annexure 4.

## Deferred Matters 2014

### Map of Deferred Matters

- A. 5-7 Mansion Rd, Bellevue Hill
- B. 71-83 New South Head Rd, Edgecliff
- C. 3 South Ave, 28, 30-36 Bay St, 2 Guilfoyle Ave and Lot 1 DP 570584, Double Bay
- D. 605 New South Head Rd, Rose Bay
- E1 & 2. Laguna St/Old South Head Rd/Billong Ave, Vaucluse
- F. 438 Edgecliff Rd, Edgecliff
- G. 83-103 New South Head Rd, Vaucluse
- H. 100 Queen St, Woollahra
- I. 80-112 Queen Street, Woollahra
- J. *Home Occupation Sex Services (LGA-wide, not identified on map)*
- K. 2 New South Head Rd, Edgecliff
- L. 2-14 and 20 New South Head Rd, Edgecliff
- M. 23-25 Lawson St, Paddington
- N. 30-36 Moncur St, Woollahra
- O1, 2, 3, & 4. Caledonian/New South Head Rds, Rose Bay
- P. 52 Old South Head Rd, Vaucluse
- Q. 38-178 Oxford St, Woollahra
- R. 70, 74, 76, 78 & 80 Oxford St, Woollahra
- S. 54-56/98-106 Oxford St, Woollahra



21 June 2021  
HPE: 21/108533

## Draft Woollahra LEP Submission Response

CID **76** SNO **119** Customer Name **The Scots College** Company **The Scots College**

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Inappropriate Zone</b>
Issue ID <b>199</b> Issue Description <b>Rezone part of the school to SP2 Infrastructure (Educational Establishment): 5-7 Mansion Rd, Bellevue Hill</b>		
<p><b>Summary</b></p> <p>The Early Education Centre/Kindergarten at 5-7 Mansion Rd is proposed to be zoned R2 Low Density Residential, in which EE are prohibited. Whilst the child care element is permissible in the zone, the EE element is not. It is inappropriate to zone a site on which an EE is being operated so as to prohibit that use. It also inhibits Scots College's ability to accommodate flexible arrangements to accommodate the changing requirements of its school campus.</p> <p>Recommended that a consistent zoning SP2 - Infrastructure (Educational Establishment) is applied across the site.</p>	<p><b>Response</b>      <b>Recommendation</b>      No Change</p> <p>An educational establishment is not shown in the Land Use Table for zone R2 Low Density Residential as a use permitted without consent. However, SEPP (Infrastructure) 2007 allows an educational establishment to be carried out by any person with consent on land in the R2 zone. The Scots College is invited to submit further information and justification for a change in zone to SP2 Infrastructure (Educational Establishment).</p>	

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.3 Zone Objectives and Land Use Table</b>	<b>Use should be included</b>
Issue ID <b>200</b> Issue Description <b>Include Educational Establishments as permissible in the R2 zone</b>		
<p><b>Summary</b></p> <p>A number of local councils have chosen to permit Educational Establishments in their residential zones in accordance with the Standard Instrument. Allowing flexibility for schools to deliver appropriate educational resources within the community, and acknowledging their appropriateness within residential areas. Development for educational purposes should be permitted around the curtilage of schools.</p> <p>Recommend Council permit Educational Establishments in residential areas.</p>	<p><b>Response</b>      <b>Recommendation</b>      No Change</p> <p>Under SEPP (Infrastructure) 2007 Educational Establishments are permissible in both the R2 Low Density Residential Zone and the R3 Medium Density Residential Zone. Under the SEPP, the expansion of existing educational establishments may be carried out on land adjacent to the existing educational establishment.</p> <p>There is no requirement to replicate this information, and include Educational Establishment in the Land Use Table for either the R2 or R3 residential zone.</p>	

## Draft Woollahra LEP Submission Response

<b>CID</b> 33	<b>SNO</b> 34	<b>Customer Name</b> Mr Anthony Sahade	<b>Company</b> Crystal Carwash Café Pty Ltd
<b>Part</b> Part 2 - Permitted or Prohibited	<b>Category</b> CI 2.2 Zoning of Land	<b>Sub Category</b> Upzoning	
<b>Issue ID</b> 76	<b>Issue Description</b> Objection to RE2 zoning and suggests B4 zone: 71-83 New South Head Rd, Edgecliff		
<b>Summary</b>	<b>Response</b>	<b>Recommendation</b>	No Change
Requested that the land is incorporated in the B4 zone that applies to the surrounding area. In support of this request: - Draft LEP perpetuates a zoning anomaly. - Land has no attributes that warrant RE2 zone nor any real capacity to sustain any of the permitted uses. - Normal planning practice is to incorporate isolated pockets of land in the surrounding predominant zoning. - Existing use is appropriate in the B4 zone. - Unreasonable to sterilise the land in an anomalous RE2 zone pending its possible future rezoning as an opportunity site. A B4 zone allows the land to be reasonably dealt with, or apply as a reasonable base zoning in the event that suggested future change does not occur.	A review of the zoning of this site to reflect its use and its integration with the B4 Mixed Use zone is supported. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.  We recommend the review be undertaken after the new LEP commences. Any change which might arise from the review will require public consultation.		
<b>Part</b> Part 4 - PDS	<b>Category</b> CI 4.4 Floor Space Ratio	<b>Sub Category</b> CI 4.4 Floor space ratio	
<b>Issue ID</b> 77	<b>Issue Description</b> FSR of 1.5:1 should be extended to the site: 71-83 New South Head Road, Edgecliff		
<b>Summary</b>	<b>Response</b>	<b>Recommendation</b>	No Change
The prevalent floor space ratio of 1.5:1 should be extended to the proposed rezoned site.	The owner of the site has requested a rezoning to B4 Mixed Use. A review of the zoning of this site to reflect its use and its integration with the B4 Mixed Use zone is supported. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.  When the review of the zone is conducted the request to apply a floor space ratio of 1.5:1 will also be considered.		

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.3 Zone Objectives and Land Use Table</b>	<b>Use should be included</b>
<b>Issue ID</b> 78	<b>Issue Description</b> Car Wash Café should be added to LEP as a conforming use	
<b>Summary</b>		<b>Response</b> <b>Recommendation</b> No Change
<p>It is requested that an additional use provision be added to the LEP that permits the existing car wash café development as a conforming use. This is because the template LEP is not clear about which definition the use falls under.</p>		<p>The owner of the site has requested a rezoning to B4 Mixed Use. A review of the zoning of this site to reflect its use and its integration with the B4 Mixed Use zone is supported. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>When the review of the zone is conducted the need for an additional permitted use will be considered.</p>

## Draft Woollahra LEP Submission Response

<b>CID</b> 99	<b>SNO</b> 106	<b>Customer Name</b> Enfield Securities Pty Ltd	<b>Company</b> Enfield Securities Pty Ltd
<b>Part</b> Part 4 - PDS	<b>Category</b> CI 4.3 Height of Building	<b>Sub Category</b> Increase height control	
<b>Issue ID</b> 313	<b>Issue Description</b> Plans submitted identifying an increased built form of 6 storeys (21.8m): 2 New South Head Rd, Edgecliff		
<b>Summary</b>	<b>Response</b>	<b>Recommendation</b>	No Change
Plans submitted identifying what could be built under a height of 21.8m (6 storeys). This was the height control identified as part of the opportunity site consultation exercise. The current height control is 14.5m.	In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.		
<b>Part</b> Part 4 - PDS	<b>Category</b> CI 4.4 Floor Space Ratio	<b>Sub Category</b> Increase FSR control	
<b>Issue ID</b> 314	<b>Issue Description</b> Plans submitted identifying the built form with an FSR of 3.65:1: 2 New South Head Rd, Edgecliff		
<b>Summary</b>	<b>Response</b>	<b>Recommendation</b>	No Change
Plans submitted identifying what could be built under an FSR of 3.65:1. This was the FSR control identified as part of the opportunity site consultation exercise.	In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.		

## Draft Woollahra LEP Submission Response

CID **140** SNO **148** Customer Name **Property Development Workshops Pty Ltd** Company **Property Development Workshops Pty Ltd**

**Part** **Part 2 - Permitted or Prohibited** **Category** **CI 2.2 Zoning of Land** **Sub Category** **Support proposed Zone**

Issue ID **369** Issue Description **Support the B4 zone: 2-14 and 20 New South Head Rd, Edgecliff**

### Summary

Support Council's initiative to rezone Nos 2-14 and 20 New South Head Rd from 3(c) Business Neighbourhood to B4 Mixed Use.

Response Recommendation No Change

Support for the zoning of this land is noted.

**Part** **Part 4 - PDS** **Category** **CI 4.3 Height of Building** **Sub Category** **Increase height control**

Issue ID **370** Issue Description **Increase height from 14.5m to 34m (10-11 storeys): 2-14 and 20 New South Head Rd, Edgecliff**

### Summary

Site was previously considered as an opportunity site, which proposed a height of 21.8m (6 storeys). Site is located in a key western gateway position of the Edgecliff Commercial Centre and is highly accessible. Proposed height and FSR would enable future development to appropriately mark the gateway site.

The height and scale of this building appropriately addresses the street and its prominent location. The proposed height and FSR would be compatible with the 'Bayside' building and would provide opportunities to better address New South Head Rd and mark the western approach to Woollahra.

Site is separated from the building to the south by the New South Head road carriageway which is approx. 30m. So it is unlikely to have privacy impacts, and shadow impacts will be focused on the road, rather than the building.

Development to the south may have views over to the subject site to the north Mosman and north-west to the CBD, Bridge and Opera House. In our opinion the iconic views to the north-west will not be impacted on by the proposed controls. Any form of future development would be designed and sited having regards to the views.

Response Recommendation No Change

In 2010 during the 'opportunity site process', 2-14 New South Head Road was identified as having the potential for increased residential development and was being investigated.

Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.

In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.



## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.4 Floor Space Ratio</b>	<b>Increase FSR control</b>
<b>Issue ID</b> 371	<b>Issue Description</b> <b>Increase FSR from 1.25:1 to 3.65:1: 2-14 and 20 New South Head Rd, Edgecliff</b>	
<b>Summary</b>		<b>Response Recommendation</b> No Change
<p>Site was previously considered as an opportunity site, which proposed an FSR of 3.65:1.</p> <p>The proposed FSR provides a built form and scale that is suitable within the context of the surrounding development and appropriately marks the gateway location. The proposed density is also consistent with the 'Bayside' building at 85-97 New South Head Road, a contemporary 11 storey mixed use development.</p> <p>The subject site has sufficient separation distance between surrounding properties and will maintain privacy when redevelopment. The majority of overshadowing is likely to occur over New South Head Road and is not likely to impact on surrounding properties. Furthermore, the subject site will retain the primary iconic views from the Bayview Building.</p>	<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for additional residential development and was being investigated.</p> <p>Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>	

## Draft Woollahra LEP Submission Response

CID **125** SNO **134** Customer Name **Kathy Roil** Company **Land & Housing Corporation in Family & Community Services**

**Part** **Category** **Sub Category**  
**Part 4 - PDS** **General Development Standards** **Development Standards**

Issue ID **430** Issue Description **Reconsider previously identified opportunity site: 30-36 Moncur St, Woollahra**

### Summary

Under Section 62 Consultation, Council consented to increase the maximum height to 11m and apply an FSR of 1.7:1 (retaining the low density zone of R2). LAHC was supportive of the increased density controls, though it was requested that the zoning of the site be increased (R3) to reflect that which exists and in order to take advantage of the enhanced FSR and height controls.

Due to the deferral of the 'opportunity sites', the proposed controls in WLEP 2013 are a height of 9.5m, no FSR and the R2 Low Density zone. These controls fail to reflect the built form on the site and will sterilise any potential redevelopment opportunities.

Requested that Council reconsider the deferral to up-zoning these 'opportunity sites'. Not amending the proposed controls will impact on LAHCs ability to cost effectively renew assets within its portfolio.

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.

In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.

**Part** **Category** **Sub Category**  
**Part 4 - PDS** **General Development Standards** **Development Standards**

Issue ID **431** Issue Description **Reconsider previously identified opportunity site: 23-25 Lawson St and 2 Vialoux Ave, Paddington**

### Summary

Site was proposed for an FSR of 1.5:1 and a max height of 14.4m during the S62 consultation phase. This is less than the FSR of 2:1 and a minimum height of 18m proposed in the GSA Planning report.

Through the deferral of 'opportunity sites', Council has proposed an FSR of 0.65:1 and a max height of 10.5m. These controls fail to reflect the current built form on the site and will continue to limit any opportunity to redevelop the site.

Requested that Council reconsider the deferral to up-zoning these 'opportunity sites'. Not amending the proposed controls will impact on LAHCs ability to cost effectively renew assets within its portfolio.

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.

In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.

## Draft Woollahra LEP Submission Response

CID 27 SNO 28 Customer Name Professor Noel G. Dan Company

### Part

Part 2 - Permitted or Prohibited

### Category

CI 2.2 Zoning of Land

### Sub Category

Upzoning

Issue ID 57

Issue Description Increase zone to R3 zone: Area enclosed by Caledonian Rd, New South Head Rd and Fernleigh Ave, Rose Bay

### Summary

Zoning should be changed to R3 as existing use is consistent with R3. The northern side is bounded by a 7 storey building and the subject block includes two 3 storey blocks of flats, one 4 storey, one 2.5 storey and one 5 storey flat building.

Zone R3 would confirm with existing usage and would have the benefit of being an opportunity site for the increased residential capacity which was proposed by the State Government.

### Response

### Recommendation

No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated.

Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.

In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.

## Draft Woollahra LEP Submission Response

CID 49 SNO 52 Customer Name Mrs Adrienne Dan Company

### Part

Part 2 - Permitted or Prohibited

### Category

Cl 2.2 Zoning of Land

### Sub Category

Upzoning

Issue ID 127 Issue Description Review zone adjacent to Fernleigh Lane, Rose Bay

### Summary

Review the area adjacent to Fernleigh Lane (and extending south). There are only 3 houses, and to the north and south are unit blocks, including White Ripples (7 storeys). Site is on a main road with bus routes, and very close to the shops.

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.

## Draft Woollahra LEP Submission Response

CID **51** SNO **54** Customer Name **Mr & Mrs Chris and Sally Cuthbert** Company

Part **Part 2 - Permitted or Prohibited** Category **Cl 2.2 Zoning of Land** Sub Category **Upzoning**

Issue ID **129** Issue Description **Review zoning at Caledonia Rd and New South Head Rd, Rose Bay**

### Summary

Opportunity site at 1-9 Caledonia Rd and 740-770 New South Head Rd, zoning should be R3 (and not R2 as currently proposed).

- Site consists of 3 houses, and 11 unit blocks (7 and 5 storeys), and consists of mostly R3 zoned buildings
- Site is on a main road
- Public laneway providing access to the beach
- Gradient provides all buildings with access to harbour views
- Block runs West to East allowing natural light and views
- Plenty of off and on street parking
- Bus and ferry routes available
- Adjacent to Rose Bay shopping centre
- Close to recreational facilities
- Close to public and private schools

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential to for medium density residential zoning and was being investigated.

Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.

In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.

## Draft Woollahra LEP Submission Response

CID **94** SNO **101** Customer Name **Mr & Mrs Robert & Wendy Willcocks** Company

Part **Part 2 - Permitted or Prohibited** Category **Cl 2.2 Zoning of Land** Sub Category **Upzoning**

Issue ID **259** Issue Description **Rezone to R3 Medium Density Residential: 750 New South Head Rd, Rose Bay**

### Summary

Support the change in zoning to R3 Medium Density Residential. Owners of the properties to the east (754/756) are also in favour. Medium Density housing on these sites is appropriate because:

- It will have minimal impact on views and solar access to adjoining properties
- It will be in context with the current character of the location along the New South Head Road frontage
- All surrounding/adjoining properties comprise RFBs (to the south, west and in front).
- RFBs in the area are non-conforming uses in the R2 zone, and it is therefore consistent that the zone is changed.
- The change in zoning will permit development which will greatly enhance and contribute to the amenity and character of the area and the development of the rose bay town centre.

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.

## Draft Woollahra LEP Submission Response

CID **143** SNO **152** Customer Name **Owners of Tri-Anta Pty Ltd** Company

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
Issue ID <b>363</b> Issue Description <b>Rezone from R2 to R3 Medium Density: 52 Old South Head Rd, Vaucluse</b>		
<p><b>Summary</b></p> <p>Council identified this stretch of land as an opportunity site in terms of zoning and additional housing capacity, however this initiative was not included. Tri-Anta Pty Ltd supports the identification of the subject site as an opportunity site, however seeks the changes be bought forward in line with the gazettal of the Draft WLEP 2013. Support the R3 zone as it reflects the character of buildings along Old South Head Rd and responds to existing zoning on the eastern side of Old South Head Rd within the Waverley LGA.</p> <p>This stretch could accommodate additional housing to support the renewal of the corridor, without significant adverse impacts on the character and amenity of the local area.</p>	<p><b>Response</b> <b>Recommendation</b> <b>No Change</b></p> <p>In 2010 during the 'opportunity site process', this site was identified as having the potential for additional residential development and was being investigated.</p> <p>Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>	

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.3 Height of Building</b>	<b>Increase height control</b>
Issue ID <b>364</b> Issue Description <b>Increase height control: 52 Old South Head Rd, Vaucluse</b>		
<p><b>Summary</b></p> <p>The current height control is 9.5m.</p> <p>Increase the height control to facilitate additional housing to support the renewal of the corridor. The height of 11m included within the opportunity site project does not provide adequate incentive to encourage redevelopment and renewal of the site and the wider precinct.</p>	<p><b>Response</b> <b>Recommendation</b> <b>No Change</b></p> <p>In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated.</p> <p>Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>	

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.4 Floor Space Ratio</b>	<b>Increase FSR control</b>
<a href="#">Issue ID</a> 365	<a href="#">Issue Description</a> <b>Increase FSR to 1:1: 52 Old South Head Rd, Vaucluse</b>	
<a href="#">Summary</a>		<a href="#">Response</a> <a href="#">Recommendation</a> <a href="#">No Change</a>
Increase the FSR standard to allow buildings of a 4 storey scale.		In 2010 during the 'opportunity site process', this site was identified as having the potential for additional residential development and was being investigated.
The FSR of 1:1 included within the opportunity site project does not provide adequate incentive to encourage redevelopment and renewal of the site and the wider precinct.		Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.
		In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.



## Draft Woollahra LEP Submission Response

CID 44 SNO 45 Customer Name Mr Mark Duff Company

Part Category Sub Category  
Part 2 - Permitted or Prohibited CI 2.2 Zoning of Land Upzoning  
Issue ID 110 Issue Description Opportunity Site 19 should be reconsidered for R3 Medium Residential Zone: 38-178 Oxford St, Woollahra

### Summary

Site should be reconsidered for rezoning to medium density residential use for the following reasons.

- Site contains a number of derelict terraces of no architectural merit needing extensive renovations or possible demolition. Likely the derelict terraces would be developed if the site was rezoned.
- Op Site proposed buildings up to 4 storeys or 14.7 metres as there was no threat of overshadowing adjoining properties due to the orientation of the buildings. New development could provide appealing edifice to the area and needed medium density residential dwellings.
- Site is opposite Centennial Park so new development could make better use of under-utilised green space i.e. backyards.
- Development could use better building technologies to alleviate noise and pollution problems.
- Oxford Street is a major public transport route and development could promote higher density no-car housing for the municipality.

Response Recommendation No Change

In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.

## Draft Woollahra LEP Submission Response

CID **67** SNO **71** Customer Name **Mrs Irene Notaras** Company

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
Issue ID <b>145</b>	Issue Description <b>Rezone from R3 Zone to B4 Mixed Use Zone: 70, 74, 76, 78 &amp; 80 Oxford St, Woollahra</b>	
Summary	Response	Recommendation No Change
<p>Zone R3 Medium Density Residential is inappropriate for the site. The existing land uses comprise a mixture of commercial activities and residential accommodation. Site is in one ownership and can be redeveloped comprising ground floor retail/commercial and shop top housing above. B4 mixed use has merit from a planning and streetscape perspective. Site has strategically located due to: location to public transport, open space, major sporting grounds and close proximity to the CBD and Bondi.</p> <p>B4 mixed use zone would permit a range of retail, residential, business and entertainment and community uses. Zoning would achieve employment</p>	<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated.</p> <p>Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.</p>	

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.3 Height of Building</b>	<b>Increase height control</b>
Issue ID <b>184</b>	Issue Description <b>Increase height from 10.5m to 12m: 70, 74, 76, 78 &amp; 80 Oxford St, Woollahra</b>	
Summary	Response	Recommendation No Change
<p>It is submitted that a more appropriate height limit for this location is 12m to permit a four storey development. The height limit would allow a development:</p> <ul style="list-style-type: none"> <li>- without impacting on residential amenity,</li> <li>- that would create minimal shadow impact</li> <li>- that would permit a density in keeping with the NSW Government's theory of maximising development opportunities along major thoroughfares. The site is opposite Centennial Park, and fronts Oxford St, which is well served by public transport.</li> </ul>	<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated.</p> <p>Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>	

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
Part 4 - PDS	CI 4.3 Height of Building	Increase height control
Issue ID 161	Issue Description	
Increase height from 10.5m to 12m: 70, 74, 76 & 80 Oxford St & Lots B&C James St, Woollahra		
Summary		Response Recommendation No Change
Increased height in this area from 10.5m to 12m to accommodate 4 storeys of development. This would:		
<ul style="list-style-type: none"><li>- block out noise and pollution from Oxford St.</li><li>- create more accommodation</li><li>- have no effect on overshadowing</li></ul>		
It would also locate development along a major thorough fare, strategically located for transport, major sporting, recreation and entertainment facilities.		
It supports what the State Government wanted.		
In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.		
In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.		

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
<b>Issue ID</b> 210	<b>Issue Description</b> <b>Rezone from R2 to R3 Medium Density: 54/56 and 98-106 Oxford St, Woollahra</b>	
<b>Summary</b>		<b>Response Recommendation</b> No Change
<p>The site forms part of the opportunity site that was identified at 38-178 Oxford St, Woollahra.</p> <p>The draft R2 zone underutilizes the potential of the site, when considering the excellent accessibility to public transport, employment sources, support services, public space and entertainment facilities. The submission supports the opportunity site recommendation of applying a R3 Medium Density Residential Zone to this area.</p> <ul style="list-style-type: none"> <li>-Redevelopment of buildings in poorer condition will improve the character and amenity of the area</li> <li>-Opportunity to implement no car/limited car housing</li> <li>-Redevelopment will promote safety and security by removing derelict buildings and facilitating new dwellings</li> <li>-Proposed amendments further the public interest by facilitating the orderly and economic development of land.</li> </ul> <p>This section of Oxford St, contains older terrace housing that is generally in poor or modest condition, interspersed with non-residential uses. The area has an 'ad hoc' character. The proposed mix of medium density and low density zones in Draft WLEP 2013 will have the effect of further compromising the character of the locality by further confusing the nature, form and appearance of future development.</p> <p>The opportunity site planning controls promote greater uniformity in the streetscape character through the introduction of a consistent medium density zone and a consistent maximum height control.</p>	<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for medium density residential zoning and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced. The submission will be taken into consideration at that time.</p>	

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.3 Height of Building</b>	<b>Increase height control</b>
<b>Issue ID</b> 211	<b>Issue Description</b> Having rezoned to R3 Medium Density, apply a height of 14.7m (4 storeys): 54/56 and 98-106 Oxford St, Woollahra	
<b>Summary</b>		<b>Response Recommendation</b> No Change
<p>The proposed R3 Medium Density Zone along this stretch of Oxford St should be supported by a consistent maximum height control of 14.7m. These amended controls should be implemented now, rather than waiting for a separate planning proposal.</p> <p>It would not be expected that the future redevelopment of the locality in a uniform manner with a height of 14.7m, and an FSR of 3:1 would have any tangible or significant adverse impacts on the significance of the broader HCA.</p> <p>Due to the orientation of the lots, 4 storeys would not have any overshadowing impacts on adjoining residential areas</p>		<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for increased residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.4 Floor Space Ratio</b>	<b>CI 4.4 Floor space ratio</b>
<b>Issue ID</b> 212	<b>Issue Description</b> Rezone site to R3 Medium Density, apply an FSR of 3:1: 54/56 and 98-106 Oxford St, Woollahra	
<b>Summary</b>		<b>Response Recommendation</b> No Change
<p>The opportunity site at 38-178 Oxford St, Woollahra, proposed a mix of FSRs at 2:1 and 3:1.</p> <p>This submission requests that a 3:1 FSR should be consistently applied for the whole of the opportunity site.</p> <p>The proposed R3 Medium Density Zone that was proposed as part of the 'opportunity site' process should be supported by a consistent FSR control. This will promote the economically viable rejuvenation of the locality with associated positive urban design and neighbourhood character benefits. The recommended controls will encourage consistent/compatible redevelopment and will enhance the image of Oxford Street.</p> <p>Given the benefits of the proposal, there seems to be no reason to delay the implementation of the changes.</p>		<p>In 2010 during the 'opportunity site process', this site was identified as having the potential for additional residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra.</p> <p>In July 2011 Council resolved to defer consideration of this, and other, opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>

## Draft Woollahra LEP Submission Response

CID **7** SNO **7** Customer Name **AMB Capital Partners Royal Hotels Group & Tarrega Pty Ltd** Company

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
Issue ID <b>46</b>	Issue Description <b>Rezone residential part of the site to B2 zone: 28, 30 &amp; 38 Bay St, 2 Guilfoyle Ave, 3 South Ave, Double Bay</b>	
Summary	Response	Recommendation No Change
<p>Rezone the part of the site zoned R2 Low Density Residential, so that the whole site is zoned B2 Local Centre.</p> <p>For a mixed retail/residential development.</p> <p>This would result in a more suitable redevelopment site, and an opportunity to provide appropriate interface to the adjoining residential development.</p> <p>Site provides a unique opportunity to address its corner location and compliment the scale of the Cosmopolitan.</p> <p>Provide a focal point on Bay St, and mark the arrival at the Double Bay Town Centre.</p> <p>Consider the entire site as an opportunity site.</p>	<p>Applying the B2 zone to 3 South Avenue Double Bay is not supported, as the proposed zone does not reflect the residential character of South Avenue.</p> <p>The site could form part of a broader review of options for the Centre. Should this occur, further information should be provided including justification for the expansion of the B2 zone.</p>	

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.3 Height of Building</b>	<b>Increase height control</b>
Issue ID <b>47</b>	Issue Description <b>Increase height to 20m: 28, 30 &amp; 38 Bay St, 2 Guilfoyle Ave, 3 South Ave, Double Bay</b>	
Summary	Response	Recommendation No Change
<p>Increase the height to 20m to provide for a 6 storey mixed use building with retail/commercial on the ground floor and residential above.</p> <p>The proposed height is lower than the maximum height of the buildings on the opposite side of Bay Street (Cosmopolitan Centre) which is 21.85m (6 storeys).</p> <p>A 6 storey building would reinforce and enhance the built edge urban quality of the Town Centre.</p> <p>The upper most level would have a setback of 4.25m from the street frontage to reduce the apparent bulk and scale of development.</p> <p>A height limit of 17m would apply to development along South Avenue, with a setback for the upper level of 5.2m to maintain an appropriate transition.</p>	<p>The increases in maximum building height, storeys and proposed floor to ceiling heights requested in the submission are inconsistent with the desired future character of Double Bay. The suggested maximum building height of 20m is out of context with the adjoining R2 Low Density Residential Zone which has a 9.5m height limit.</p> <p>The Double Bay Centre DCP and Draft WLEP 2013 create a transition to the adjoining residential area to the west by stepping heights down. Draft WLEP 2013 applies a 18.5m (5 storey) maximum building height to Nos. 30-36 and part of No. 28 Bay Street before stepping down to 15m on No.2 Guilfoyle Avenue and at the rear of No.28 Bay Street.</p> <p>This increase to height for a single site in Double Bay is not supported. The site could form part of a broader review of options for the Centre and should be referred to the Double Bay Working Party for consideration. However, 20m and six storeys is not appropriate for land adjoining a 9.5m height limit.</p>	

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
Part 4 - PDS	CI 4.4 Floor Space Ratio	Increase FSR control
Issue ID 48	Issue Description	
	Increase FSR from 2.5:1 (Area 1) to 3.5:1: 28, 30 & 38 Bay St, 2 Guilfoyle Ave, 3 South Ave, Double Bay	
Summary		Response Recommendation No Change
<p>This submission contains requests to rezone the site to B4 Mixed Use and have the maximum building height increased to 20m. If those changes were supported by Council a maximum FSR of 3.5:1 is suggested.</p> <p>The submission justifies the increased FSR on the basis that:</p> <ul style="list-style-type: none"><li>- Redevelopment to a higher density would be context with the adjoining and surrounding multi-level buildings.</li><li>- The proposed FSR of 3.5:1 and an articulation zone of balconies to address the street and provide visual interest.</li><li>- The diagram submitted with the submission demonstrates that the main bulk of development is consistent with the scale of No 8 Guilfoyle Ave to the west and the Cosmopolitan Centre.</li></ul>		<p>The increase in maximum building height, storeys and proposed floor to ceiling heights requested in the submission are inconsistent with the desired future character of Double Bay. The suggested maximum building height of 20m is out of context with the adjoining R2 Low Density Residential Zone which has a 9.5m height limit.</p> <p>The Double Bay Centre DCP and Draft WLEP 2013 create a transition to the adjoining residential area to the west. The request to increase height for a single site in Double Bay is not supported.</p> <p>When Council addresses the housing targets set by the State Government this site may be considered as well as any other sites identified as having capacity to increase development potential.</p> <p>Planning for this site and other parts of the Double Bay Commercial Centre can occur through the Revitalise Double Bay - Strategic Action Plan project that has been recently commenced by Council. The site will be referred to the project team for consideration.</p>

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
Issue ID 100	Issue Description <b>Rezone to R3: 605 New South Head Rd (and adjoining properties), Rose Bay</b>	
<b>Summary</b>		<b>Response Recommendation No Change</b>
<p>Request rezone the property to R3 zone to achieve housing targets as set out by the NSW Government. There is a single dwelling on the site, but properties around vary from large-scale two storey dwellings and RFBs. The R3 zone is proposed to the east and west of the site.</p> <p>Whole block (605 New South Head Road and adjoining properties) addressing New South Head Road between Cranbrook Rd &amp; Beresford Rd should be rezoned. As:</p> <ul style="list-style-type: none"> <li>-The development of these sites for multi dwelling housing would add to the emerging character.</li> <li>-New South Head Rd is suitable to accommodate additional traffic volumes.</li> <li>-Site is well serviced by public transport, and a full range of local services are within walking distance.</li> <li>-Due to the topography new multi dwelling housing would protect the view of adjoining properties to the rear.</li> <li>-Rezoning would not affect the amenity of the adjoining low density area.</li> </ul> <p>Request reconsideration of the zoning of the property to allow for a R3 zone, as opposed to the proposed R2 zoning. As spot rezoning is not considered good planning practice, this proposal suggests the rezoning of the several properties located between Cranbrook Road and Beresford Road. The southern side of New South Head Road consists of dwellings and multi dwelling housing with multi dwelling housing being the predominant form of development.</p>	<p>It is not appropriate to rezone this one site.</p> <p>In 2010 during the 'opportunity site process', an area immediately adjoining this site was identified as having the potential for medium density residential zoning and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government's housing target for Woollahra. In July 2011 Council resolved to defer consideration of the opportunity sites.</p> <p>These sites will be further investigated once the new LEP has commenced. This investigation may include expanding the boundary of the opportunity site to incorporate this property.</p>	



Annexure 3: Summary table of submissions and responses (excluding Vaucluse sites)

Part	Category	Sub Category
Part 2 - Permitted or Prohibited	CI 2.2 Zoning of Land	Upzoning
CID: 180 SNO 264 INO: 591 <b>Mr Bill Franks</b>	<p><b>Summary</b></p> <p>Site bound by New South Head Rd, Laguna Av, Old South Head Rd &amp; Billong St is a more beneficial site because:</p> <ul style="list-style-type: none"> <li>- No views will be blocked &amp; new views will be created to the east</li> <li>- Proposal will not contravene Council's Plan of Management for Johnston's lookout</li> </ul> <p><b>Recommendation</b> No Change</p> <p><b>Issue</b></p> <p>Support rezoning elsewhere: NSH Rd, Laguna Street, OSH Road and Billong Avenue</p>	<p><b>Response</b></p> <p>A review of the zoning of this area is supported. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>We recommend the review be undertaken after the new LEP commences. Any change which might arise from the review will require public consultation.</p>
	<ul style="list-style-type: none"> <li>- Little detrimental impact on Vaucluse Village</li> <li>- Safety of pedestrians and traffic issues can be managed</li> <li>- Will boost property values</li> <li>- Good public transport accessible and sits between 2 main arterial roads</li> <li>- Surrounding development is similar in character, including in Waverley (4 storeys high)</li> <li>- No overshadowing and quality solar access</li> <li>- Opportunity for retirement housing on a flat site with neighbourhood business facilities and perhaps lower vehicular ownership</li> <li>- Greater chance to provide many more dwellings with less traffic</li> <li>- No heritage issues and will maintain views from Johnston's Lookout</li> <li>- Objectives of the Harbour Foreshore Scenic Protection policy are achieved. Views from the harbour to the ridgelines will be maintained</li> <li>- Location gives more meaning to Neighbourhood Business Centre</li> <li>- Public views will be maintained.</li> <li>- Site can boast 50 smaller dwellings</li> <li>- Potential is significant without the problems with an FSR around 1.3:1-1.5:1.</li> </ul>	

Annexure 3: Summary table of submissions and responses (excluding Vacluse sites)

Part	Category	Sub Category
<b>Part 2 - Permitted or Prohibited</b>	<b>CI 2.2 Zoning of Land</b>	<b>Upzoning</b>
<p>CID: 180 SNO 189 INO: 505</p> <p><b>Mr Bill Franks</b></p> <p><b>Recommendation</b> No Change <b>Issue</b> Propose alternative site to Hopetoun Opportunity site</p>	<p><b>Summary</b></p> <p>There is a site close at hand that will not present the same contentious issues of blocked harbour views, overshadowing and hotch potch development. The site will have tremendous community benefits and can produce a net yield of approximately 80 dwellings in Vacluse, a shopping and residential precinct that can have great benefits for residents as well as retirees. The suggested site is the block bounded by New South Head Road, Laguna Street, Old South Head Road and Billong Street. Suggest FSR of between 1.75:1 and 2:1 average.</p>	<p><b>Response</b></p> <p>A review of the zoning of this area is supported. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>We recommend the review be undertaken after the new LEP commences. Any change which might arise from the review will require public consultation.</p>
<p>CID: 143 SNO 152 INO: 363</p> <p><b>Owners of Tri-Anta Pty Ltd</b></p> <p><b>Recommendation</b> No Change <b>Issue</b> Rezone from R2 to R3 Medium Density: 52 Old South Head Rd, Vacluse</p>	<p><b>Summary</b></p> <p>Council identified this stretch of land as an opportunity site in terms of zoning and additional housing capacity, however this initiative was not included. Tri-Anta Pty Ltd supports the identification of the subject site as an opportunity site, however seeks the changes be brought forward in line with the gazettal of the Draft WLEP 2013. Support the R3 zone as it reflects the character of buildings along Old South Head Rd and responds to existing zoning on the eastern side of Old South Head Rd within the Waverley LGA. This stretch could accommodate additional housing to support the renewal of the corridor, without significant adverse impacts on the character and amenity of the local area.</p>	<p><b>Response</b></p> <p>In 2010 during the ‘opportunity site process’, this site was identified as having the potential for additional residential development and was being investigated. Opportunity sites were locations with potential to intensify residential development by increasing the maximum building height and floorspace ratio, and at some locations, by rezoning to allow residential flat buildings or mixed use developments to meet the State Government’s housing target for Woollahra. In July 2011 Council resolved to defer consideration of this and other opportunity sites. These sites will be further investigated once the new LEP has commenced.</p>

## Draft Woollahra LEP Submission Response

CID **69** SNO **73** Customer Name **Mr N Stavrou** Company **Mediterranean Pty Ltd**

Part **Part 4 - PDS** Category **Cl 4.3 Height of Building** Sub Category **Increase height control**

Issue ID **185** Issue Description **Increase height to facilitate a 5 storey mixed use building: 83-103 New South Head Rd, Vaucluse**

### Summary

Site comprises one third of the Vaucluse Shopping village (7 separate allotments under 1 ownership).

Site is on a prominent corner.

Site is in a commercial area and in proximity to local services and transport.

Site currently consists of 1-2 storey commercial buildings, used for retail and office purposes, and a height limit of 11m applies in Draft WLEP 2013. Site is surrounded by 2-3 storey buildings and buildings up to 5 storeys on Petrarch and Hopetoun Avenue.

A 16.5m (5 storey) control should be applied as:

- it is compatible with future development of the area
- it will facilitate a development that will create visual separation between the residential areas and commercial properties
- it is consistent with the desired future character of the locality
- it will encourage transport oriented development and greater sustainability.
- the site is a corner location
- increased height will provide greater definition for the shopping village

Increased height would allow more economic use of the land and provide additional residential accommodation, employment and business opportunities in the Vaucluse Village. Five storeys would allow a view above the buildings to the north and promote the principles for view sharing.

Should incorporate additional controls that requires the fifth storey to be set back (similar to the building to the north). Ensuring that there is no overshadowing of adjoining properties, and building does not dominate the streetscape.

Amending the LEP now would be more economical and efficient for Council, rather than relying on the fragmented process of planning proposals.

Response **No Change**

Recommendation **No Change**  
Draft WLEP 2013 sets a maximum height of 11m and an FSR of 1.5:1. There may be merit in further considering these controls, with a view to increasing them. Reasons these sites have merit include:

- they are located in a centre - providing walking access to shops and services and reducing the demand for vehicle trips,
- they are on two bus routes with a further two in walking distance allowing connectivity to the wider area
- they are under single ownership

Any potential height increase on these sites would require more detailed analysis having particular regard to matters such as view impacts and solar access. Such analysis is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.

These sites will be given further consideration once Draft WLEP 2013 has been finalised.

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
Part 4 - PDS	CI 4.4 Floor Space Ratio	Increase FSR control
Issue ID 186	Issue Description	Increase FSR to facilitate a 5 storey mixed use building 83-103 New South Head Rd, Vacluse
Summary		Response Recommendation No Change
<p>This submission included a request to increased the maximum building height for these properties from 11m under Draft WLEP 2013 to 16.5m to facilitate a 5 storey mixed use building.</p> <p>To accompany the request for increased height, the proponent suggests that the FSR should be increased from 1.5:1 to 2.5:1 across the whole site.</p> <p>FSR is currently 1.5:1 for 83-99 New South Head Road, and 2:1 for 101-103 New South Head Road.</p>	<p>The Draft LEP sets a maximum height of 11m and an FSR of 1.5:1. There may be merit in further considering these controls, with a view to increasing them. The reasons these sites have merit include that they are:</p> <ul style="list-style-type: none"><li>-located in a centre - providing walking access to shops and services and reducing the demand for vehicle trips,</li><li>-on two bus routes with a further two in walking distance allowing connectivity to the wider area</li><li>-under single ownership</li></ul> <p>Any potential FSR increase on these sites would require more detailed analysis having particular regard to matters such as view impacts and solar access. Such analysis is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>These sites will be given further consideration once Draft WLEP 2013 has been finalised.</p>	

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
<b>Part 4 - PDS</b>	<b>CI 4.3 Height of Building</b>	<b>Increase height control</b>
<b>Issue ID</b> 189	<b>Issue Description</b> Increase height to facilitate a 5 storey mixed use building: 83-103 New South Head Rd, Vaucluse	
<b>Summary</b>		<b>Response</b> <b>Recommendation</b> No Change
<p>Agent has prepared concept drawings to indicate the likely envelope of a 5 storey mixed use building anticipated on the site.</p> <p>With ground floor retail/commercial and residential above.</p> <p>The main entrance will be on New South Head Rd, and the upper levels have been set back from the main façade. Reducing the visual impact of the development on New South Head Rd and Laguna St.</p> <p>Concept also includes 2 levels of basement parking, and a loading dock.</p> <p>Stepping of the upper levels will ensure that there is no overshadowing of adjoining properties and that the development does not dominate the streetscape.</p>		<p>The Draft LEP sets a maximum height of 11m and an FSR of 1.5:1. There may be merit in further considering these controls, with a view to increasing them. Reasons these sites have merit include:</p> <ul style="list-style-type: none"> <li>- they are located in a centre - providing walking access to shops and services and reducing the demand for vehicle trips,</li> <li>- they are on two bus routes with a further two in walking distance allowing connectivity to the wider area</li> <li>- they are under single ownership</li> </ul> <p>Any potential height increase on these sites would require more detailed analysis having particular regard to matters such as view impacts and solar access. Such analysis is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>These sites will be given further consideration once Draft WLEP 2013 has been finalised.</p>
<b>Part</b>	<b>Category</b>	<b>Sub Category</b>
<b>Part 4 - PDS</b>	<b>General Development Standards</b>	<b>Development Standards</b>
<b>Issue ID</b> 633	<b>Issue Description</b> More appropriate redevelopment location in Vaucluse	
<b>Summary</b>		<b>Response</b> <b>Recommendation</b> No Change
<p>Have been trying to redevelop properties in the village by building medium residential apartments above the Vaucluse village shops on the eastern side of New South Head Road. Such a proposal, if approved would:</p> <ol style="list-style-type: none"> <li>1) Satisfy the State Governments objectives;</li> <li>2) Provide additional dwellings close to two transport hubs;</li> <li>3) Preserve the views and outlooks currently enjoyed from existing dwellings;</li> <li>4) Not impact upon public outlooks such as the ones enjoyed by pedestrians from Johnston's lookout along New South Head Rd.</li> <li>5) Preserve the community and residential amenity</li> <li>6) Accord with community expectations in relation to development generally.</li> </ol>		<p>There may be merit in further considering the controls that apply to the eastern side of New South Head Road, Vaucluse with a view to increasing them. However, such a review is outside the scope of this Draft LEP which is based on a broad translation of the existing controls.</p> <p>We recommend the review be undertaken after the new LEP commences. Any change which might arise from the review will require public consultation.</p>

## Draft Woollahra LEP Submission Response

CID **105** SNO **112** Customer Name **Mr MJ Kenderes** Company

Part **Part 4 - PDS** Category **CI 4.3 Height of Building** Sub Category **Increase height control**

Issue ID **321** Issue Description **Increase height from 19.5m to 20.5m: 438 Edgecliff Rd, Edgecliff**

### Summary

A height of 20.5m is requested. The intent of the proposed building height is to provide a transition between the 26m height limit proposed for sites to the west, and the 19.5m proposed on land to the east of the subject site.

The Draft LEP proposes a sharp change from 26m to 19.5m. The proposed 20.5m will create a more gradual change and provide a better visual transition in the streetscape.

The site is very well located due to its proximity to the Edgecliff Railway Station.

Response Recommendation No Change

The maximum building height of 438 Edgecliff Road in WLEP 1995 is 18m (6 storeys). In Draft WLEP 2013 a 19.5m (6 storey) control is proposed. Draft WLEP 2013 marginally increases the maximum building height to account for current building practices regarding floor to ceiling heights as set out in State Environmental Planning Policy 65 - Design quality of residential development.

Applying a maximum building height of 20.5m would be inconsistent with our approach of updating heights to reflect current building practice. The next nearest maximum building height for R3 zoned land that would fit this approach is 22.5m (7 storeys). However, applying a 22.5m height limit would not be a translation of the current control as it would permit an additional storey of development.

The transition from 26m (8 storeys) to the west of the site to 19.5m (6 storeys) is acceptable and introducing a 20.5m height control on 438 Edgecliff Road would be not have a discernable effect on the transition in the streetscape.

Further, the height controls in Draft WLEP 2013 generally do not seek to apply height limits to individual sites within the R3 zone.

## Draft Woollahra LEP Submission Response

Part	Category	Sub Category
Part 4 - PDS	CI 4.4 Floor Space Ratio	Increase FSR control
Issue ID 322	Issue Description	
Increase FSR from 0.75:1 to 1.3:1: 438 Edgecliff Rd, Edgecliff		
Summary		Response Recommendation No Change
<p>Significant disparity between the FSR of the subject site, and that of the nearby sites to the west.</p> <p>Council recently approved an RFB on land to the south with an FSR of approx. 0.93:1 and height of 4 storeys.</p> <p>This exceeds the FSR of 0.75:1 that is to be applied to the sites to the south and east.</p> <p>Increasing the FSR would provide opportunities for an increase in residential accommodation, and a built form that is in context with surrounding development.</p> <p>Council has not identified the site for increased FSR (most likely because of the current use for a single dwelling house). However, it shares similar future character with the adjoining sites, and should have an increase in FSR to match these sites.</p> <p>Site is an ideal opportunity to create a transition between the higher density developments to the west, and lower density to the east.</p>		

## Draft Woollahra LEP Submission Response

CID **109** SNO **116** Customer Name **I & P Perryman** Company

Part **Part 4 - PDS** Category **CI 4.4 Floor Space Ratio** Sub Category **Increase FSR control**

Issue ID **330** Issue Description **Increase FSR from 1:1 to 1.25:1: 100 Queen St, Woollahra**

### Summary

Request an increase in FSR from 1:1 to 1.25:1  
The requested increase accurately reflects the predominant built form that exists across the majority of the sites along this section of Queen St. The FSR should be increased along this whole side of Queen St, between Moncur St to the east and Hall St to the west. Numerous buildings breach the FSR control. Recommended FSR allows for reasonable development forms, yet would still be smaller than the majority of developments along this section, e.g. Woollahra Hotel and adjacent buildings. Increase FSR would not compromise the character of the locality, now adverse environmental impact in regard to overshadowing, privacy and view loss.

### Response

The Draft LEP sets a maximum height of 9.5 and an FSR of 1:1. There may be merit in increasing the FSR. However, the submission does not provide satisfactory evidence to justify the requested FSR increase to 1.25:1. Any potential FSR increase on this site would require more detailed analysis having particular regard to matters such as the impact on heritage items and the heritage conservation area, the FSR of existing built form and FSR of recent development approvals.

### Recommendation

### No Change

Such analysis is outside the scope of Draft WLEP 2013 which is based on a broad translation of the existing controls.



## Draft Woollahra LEP Submission Response

CID **115** SNO **123** Customer Name **J&A Knott, M&V Greene, A McLeod (Wyelba)** Company

### Part

**Part 4 - PDS**

### Category

**CI 4.4 Floor Space Ratio**

### Sub Category

**Increase FSR control**

Issue ID **341** Issue Description **Increase FSR from 1:1 to 2:1: Queen St, Woollahra**

### Summary

This submission supplements the submission made by Mr and Mrs Perryman (Issue number 330)  
While supporting heritage factors, it is untenable to severely restrict redevelopment of the Queen Street block.  
Commercial premises are given more lenient planning controls across Sydney.  
The current restrictions are an unfair burden.  
A more realistic FSR compatible with other municipalities is 2:1. This should also be designed to allow maximum on-site parking provision.

Response Recommendation No Change

The Draft LEP sets a maximum height of 9.5 and an FSR of 1:1. There may be merit in increasing the FSR. However, the submission does not provide satisfactory evidence to justify the requested FSR increase to 2:1. Any potential FSR increase on this site would require more detailed analysis having particular regard to matters such as the impact on heritage items and the heritage conservation area, the FSR of existing built form and FSR of recent development approvals.

Such analysis is outside the scope of Draft WLEP 2013 which is based on a broad translation of the existing controls.

## Draft Woollahra LEP Submission Response

CID 103 SNO 110 Customer Name Ms Kylie Tattersall Company SWOP

## Draft Woollahra LEP Submission Response

### Part

Part 2 - Permitted or Prohibited

Issue ID 445

Issue Description

Permit HO(SS) without consent in Zone R2, R3, B1 and B4

### Category

CI 2.3 Zone Objectives and Land Use Table

### Sub Category

Other

### Summary

In Woollahra LGA Home Occupation (Sex Services) are allowed to operate without the need for consent. This is the ideal situation and should be the way that Woollahra Municipal Council operates into the future. While understanding that the Standard Instrument introduces the category of Home Occupation (Sex Services) there is no requirement to treat them differently to other Home Occupations. We welcome the differentiation that Woollahra Municipal Council has made between Home Occupation (Sex Services) and other Sex Services Premises such as brothels.

Recent media has quoted a resident complaining about the new proposal for the regulation of Home Occupation (Sex Services) on the grounds of increased vehicular traffic. As Council would be aware Home Occupation (Sex Services) already operate in the Woollahra LGA and naming a type of Home Occupation does not lead to any increase or decrease in the operation of such an occupation.

Should be noted the definition of Home Occupation (Sex Services) in Draft WLEP 2013 states that it does not involve "interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise". The concerns raised are unfounded.

Recent research shows that most people who live near Home Occupation (Sex Services) do not know of their existence. Research also indicated that operators prefer to see clients during off peak times and their preferred location is near public transport. These factors limit the amenity impact on the local area.

Multitude of business imperatives for operators to maintain a low profile:

- Best interest of the operator not to draw attention to their occupation
- Clients require discretion and chose Home Occupation (Sex Services) for the privacy of the service
- Reasons of privacy & safety operators will deny service to clients who are drunk and disorderly and would refuse to see that client again if the privacy of the resident is threatened.

Research in the City of Sydney LGA concluded that "treating Home Occupation (Sex

### Response

Home Occupations (Sex Services) are currently permissible in the Municipality's residential zones under WLEP 1995. A home occupation is defined as: "an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve:

- (a) the registration of the building under the Factories, Shops and Industries Act 1962,
- (b) the employment of persons other than those residents,
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise,
- (d) the display of goods, whether in a window or otherwise,
- (e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (f) the sale of items (whether goods or material) or the exposure or offer for sale of items, by retail."

Draft WLEP 2013 converts the general intent of the current controls.

Under WLEP 1995 a home occupation is permissible without development consent in a dwelling house and with development consent in a residential flat building. Under WLEP 1995 sex services provided by an individual at their home could be carried out as a home occupation provided the use meets the conditions for a home occupation.

Under the Draft WLEP 2013 it is proposed to allow home occupation (sex services) within the two residential zones, but only with development consent.

To more closely translate the general intent of the current controls, we support a review of the permissibility of home occupations in the R2 Low Density residential zone. However, such a review is outside the scope of this Draft LEP. We recommend the review be undertaken after the new LEP commences. Any change

## Draft Woollahra LEP Submission Response

Services) like other home occupations is justified in planning terms due to their low amenity impacts".

which might arise from the review will require public consultation.

For these reasons Home Occupation (Sex Services) should be treated the same as other Home Occupations in Draft WLEP 2013, including being permitted without consent in Zone R2, R3, B1, B2 and B4.



Analysis of matters deferred  
from inclusion in *Woollahra  
Local Environmental Plan 2014*

June 2021

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## Acronyms used

Acronym	Explanation
DA	Development application
Eastern City District Plan	Our Greater Sydney 2056: Eastern City District Plan (Greater Sydney Commission, 2018)
Education SEPP	<i>State Environmental Planning Policy (Educational Establishments &amp; Child Care Facilities) 2017</i>
EP&A Act 1979	<i>Environmental Planning and Assessment Act 1979</i>
FSR	Floor space ratio
Infrastructure SEPP	<i>State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)</i>
Region Plan	Greater Sydney Region Plan: A Metropolis of Three Cities (Greater Sydney Commission, 2018)
Woollahra DCP 2015	<i>Woollahra Development Control Plan 2015</i>
WLEP 2014	<i>Woollahra Local Environmental Plan 2014</i>
Woollahra LEP 2014	<i>Woollahra Local Environmental Plan 2014</i>
Woollahra LSPP 2020	<i>Woollahra Local Strategic Planning Statement 2020</i>

## Summary of deferred matters

No	Address	Submitter/s
<b>Individual matters raised in 2014</b>		
A.	5-7 Mansion Rd, Bellevue Hill	The Scots College
B.	71-83 New South Head Rd, Edgecliff	Mike George Planning, on behalf of the property owner
C.	3 South Avenue, 28, 30-36 Bay Street, & 2 Guilfoyle Avenue & Lot 1 DP 570584, Double Bay	GSA Planning, on behalf of AMB Capital Partners, Royal Hotel Group, Tarrega Pty Ltd
D.	605 New South Head Rd, Rose Bay	aSquare planning
E1. E2.	Old South Head Rd, Laguna St and New South Head Rd, Vaucluse	<ul style="list-style-type: none"> <li>• B Franks</li> <li>• N &amp; J Stavrou Pty Ltd</li> </ul>
F.	438 Edgecliff Rd, Edgecliff	GSA Planning on behalf of the property owner
G.	83-103 New South Head Rd, Vaucluse	GSA Planning and Winten Property Group on behalf of N Stavrou
H.	100 Queen St, Woollahra	ABC Planning on behalf of the property owner
I.	80-112 Queen Street, Woollahra	J & A Knott, M & V Greene, and A McLeod (Wyelba)
J.	LGA-wide	K Tattersall on behalf of Sex Workers Outreach Project
<b>Matters relating to opportunity sites identified in 2010</b>		
K.	2 New South Head Rd, Edgecliff	Enfield Securities
L.	2-14 and 20 New South Head Rd, Edgecliff	GSA Planning on behalf of Property Development Workshops Pty Ltd
M.	23-25 Lawson St, Paddington	GSA Planning on behalf of the NSW Land & Housing Corporation
N.	30-36 Moncur St, Woollahra	GSA Planning on behalf of the NSW Land & Housing Corporation
O1. O2. O3. O4.	Caledonian Road and Fernleigh Avenue, Rose Bay	<ul style="list-style-type: none"> <li>• N Dan</li> <li>• A Dan</li> <li>• C &amp; S Cuthbert</li> <li>• R &amp; W Willcocks</li> </ul>
P.	52 Old South Head Rd, Vaucluse	Urbis on behalf of Tri-Anta Pty Ltd
Q.	38-178 Oxford St, Woollahra	M Duff
R.	70, 74, 76, 78 & 80 Oxford St, Woollahra	Tomsay Pty Ltd on behalf of I Notaras
S.	54-56 and 98-106 Oxford St, Woollahra	Planning Direction on behalf of Rebecca L Cooper Medical Research Foundation

**A. 5-7 Mansion Road, Bellevue Hill**

**Recommendation**  
No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	R2 Low Density Residential	SP2 Educational Establishment
<b>Height of buildings</b>	9.5m	No change requested
<b>FSR</b>	N/A	No change requested



**Site description**  
The subject site is a battle-axe lot containing The Scots College Early Learning Centre [Lot: 4 Part DP: 1030875].

**Submitter:** The Scots College  
**Submission summary (2014)**  
Under the R2 Low Density Residential zoning of the site, the child care element is permissible in the zone. However, the educational establishment component is not. The submission requested the site be rezoned to *SP2 Infrastructure – Educational Establishment* to accommodate the existing use and changing requirements of The Scots College campus.

**Response (2021)**  
The site's existing use is permissible under the current zone being R2 Low Density Residential Zone and the provisions of Education SEPP:

- 'Centre-based child care facilities' are permitted with consent in the R2 zone under the Woollahra LEP 2014.
- Cl.35(1) of the Education SEPP allows development for the purpose of a school to be carried out with development consent in the R2 zone. It is noted that most of the provisions relating to educational establishments in the Education SEPP were translated across from the Infrastructure SEPP.

Staff note that at the time, the Infrastructure SEPP allowed an educational establishment with consent on land in the R2 zone.  
No change to the existing Woollahra LEP 2014 controls is recommended.



East elevation of The Scots College Early Learning Centre, 5-7 Mansion Road, Bellevue Hill (Source: Google Maps 2021).



**B. 71-83 New South Head Rd, Edgecliff**

**Recommendation**

No change to the Woollahra LEP 2014. This site will be addressed by the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.

**Principal development standards**

	WLEP 2014	Submission
<b>Land use zone</b>	RE2 Private Recreation	B4 Mixed Use
<b>Height of buildings</b>	10.5m	No change requested
<b>FSR</b>	N/A	1.5:1



**Site description**

The site is located at the western gateway of the Edgecliff corridor and is currently occupied by the Crystal Car Wash facility [Lot: 22 DP: 609145].

**Submitter:** Mike George Planning, on behalf of the property owners

**Submission summary (2014)**

Request that the land use zone is changed to apply the B4 Mixed Use zone which currently applies to the surrounding sites and that an FSR of 1.5:1 is applied.

The submission included the following justification for the proposed standards:

- Retaining the RE2 zoning perpetuates a zoning anomaly
- The Land has no attributes that warrant RE2 zone nor capacity to sustain any of the permitted uses
- Normal planning practice is to adopt the predominant surrounding zone for isolated pockets of land.
- The existing use of the land is appropriate in the B4 zone.

**Response (2021)**

The rezoning of this site from RE2 Private Recreation to B4 Mixed Use is identified in the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy* (Draft Edgecliff Strategy).

The site is zoned RE2, however it is currently occupied by a car wash facility which is not permissible in the RE2 zone. The Draft Edgecliff Strategy recommends that this anomaly is rectified by amending the zoning of the land to reflect the use of the land. The change in zone would make the car wash facility permissible, and the site will no longer be subject to the existing use rights provisions under the EP&A Act 1979. The existing use of the site may be classified as a 'Commercial premise' or 'Light industry', both of which are permitted with consent in the B4 zone

Accordingly, staff recommend that any changes to the development standards that apply to this site are addressed in the implementation of the Draft Edgecliff Strategy, if adopted by Council.



South elevation of Crystal Car Wash, 81-83 New South Head Rd, Edgecliff (Source: Google Maps 2020).

**C. 3 South Avenue, 28, 30-36 Bay Street, and 2 Guilfoyle Avenue & Lot 1 DP 570584, Double Bay**

<b>Recommendation</b>			
No change to the Woollahra LEP 2014.			
<b>Principal development standards</b>			
	<b>WLEP 2014</b>	<b>Submission</b>	
<b>Land use zone</b>	R2 Low Density Residential / B2 Local Centre	B2 Local Centre	
<b>Height of buildings</b>	9.5m / 18.1m / 14.7m	10.5m / 20m / 16.5m	
<b>FSR</b>	Nil. / 2.5:1 / 2.5:1	1.5:1 / 4:1 / 3:1	

**Site description**  
The subject site is located on the western boundary of the Double Bay Centre and comprises the group of sites highlighted on the above map. The site zoned R2 Low Density Residential at 3 South Avenue [Lot: 1 DP: 533101] is currently occupied by a dwelling house.

**Submitter:** GSA Planning, on behalf of AMB Capital Partners, Royal Hotel Group, Tarrega P/L

**Submission summary (2014)**  
The primary request was for the rezoning of 3 South Ave from R2 Low Density Residential to B2 Local Centre.

The submission noted that rezoning of 3 South Avenue, Double Bay would enable the entire group of sites to be considered as a single site with consistent B2 zoning.

In addition to rezoning 3 South Avenue height and FSR increases were requested as follows:

- 3 South Avenue: Height of 10.5m and an FSR of 1.5:1
- 28, 30-36 Bay Street: Height of 20m and FSR of 4:1
- 2 Guilfoyle Ave & Lot 1 DP 570584: Height of 16.5m and FSR of 3:1.

The submission included the following justification for the proposed controls:

- It would facilitate a mixed retail/residential development
- Provide a stepped transition away from Bay Street.
- It would result in a more suitable redevelopment site and an opportunity to provide an appropriate interface to the adjoining residential area
- The site provides a unique opportunity to address its corner location and complement the scale of the Cosmopolitan building opposite.
- It would provide a focal point on Bay St, and mark the arrival at the Double Bay Centre.

**Response (2021)**

Applying the B2 zone to 3 South Avenue and increasing the height and FSRs for all the subject sites, is not supported by staff for the following reasons:

- The proposed zone does not reflect the low density residential character along South Avenue
- The current controls provide an appropriate scale transition by stepping heights down from the B2 zone to the adjoining R2 zone
- The proposal is inconsistent with the desired future character of the Double Bay residential precinct set out in Chapter B1, section B1.3.2 of the Woollahra DCP 2015, particularly the following objectives:
  - O2 To reinforce a consistent building scale within streets.
  - O8 To provide a transition between the higher density buildings of the Double Bay centre and the lower density buildings of the residential area.
- In its resolution of 19 April 2021, Council recently reaffirmed its commitment to the existing planning controls for the Double Bay local centre.

No changes to the Woollahra LEP 2014 are recommended.

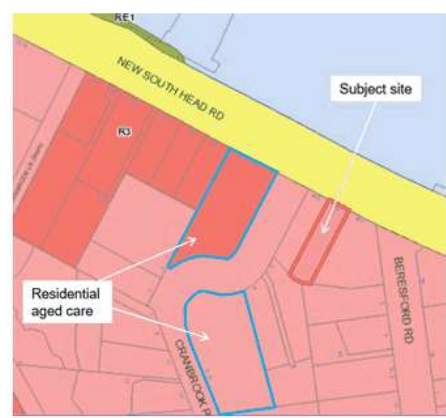


North elevation of 3 South Avenue & 28 Bay Street, Double Bay (Source: Google Maps 2021).

**D. 605 New South Head Road, Rose Bay**

**Recommendation**  
No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	R2 Low Density Residential	R3 Medium Density Residential
<b>Height of buildings</b>	9.5m	No change requested
<b>FSR</b>	N/A	No change requested



**Site description**  
The subject site is the middle lot in a block of three lots addressing New South Head Road with Cranbrook Road to the west and Beresford Road to the east. It contains a two storey dwelling [Lots: 1 & 2, SP: 84120].

**Submitter:** aSquare Planning  
**Submission summary (2014)**  
The submission requested rezoning 605 New South Head Rd, Rose Bay from R2 to R3 zone. It also suggested that the two adjoining properties, being 603 and 607 New South Rd, are included in this rezoning.  
The submission included the following justification for the proposed rezoning:

- The development of these sites for multi dwelling housing would add to the emerging character along this section of New South Head Road
- The two trafficable lanes in each direction of New South Head Rd makes it suitable to accommodate additional traffic volumes
- The site is well serviced by public transport, and a full range of local services are within walking distance at Rose Bay
- The zoning would permit new multi dwelling housing which due to the topography would protect the views of adjoining properties to the rear
- Rezoning would not affect the amenity of the adjoining low density area
- Rezoning the property to R3 zone would help to achieve housing targets as set out by the NSW Government.

**Response (2021)**  
Rezoning 605 New South Head Road from an R2 Low Density Residential to R3 Medium Density Residential zone is not supported by staff for the following reasons:

- The current R2 zone and development standards facilitate development of a height and scale that achieves the desired low density residential character for the area and protects the unique scenic landscape
- Maintaining the current R2 zone provides an appropriate scale transition to the dwelling houses to the south of the subject site
- Council is currently preparing an LGA-wide housing strategy in accordance with the current NSW strategic planning framework. The draft housing strategy does not recommend any site specific rezonings in this area.

No changes to the Woollahra LEP 2014 are recommended.



South elevation of 603 – 607 New South Head Rd, Rose Bay (Source: Google Maps 2021).

21 June 2021  
HPE: 21/97183

**E. Old South Head Rd, Laguna St & New South Head Rd, Vaucluse**

**Recommendation**

No change to the Woollahra LEP 2014.

Principal development standards				
	WLEP 2014	Submission	WLEP 2014	Submission
<b>Land use zone</b>	R2 Low Density Residential	R3 Medium Density Residential	B1 Neighbourhood Centre	B1 Neighbourhood Centre
<b>Height of buildings</b>	9.5m	13m	11m	13m
<b>FSR</b>	N/A	Range from 1.3:1 to 2.0:1	Range from 0.9:1 to 1.5:1	Range from 1.75:1 to 2.0:1



(Waverley Council)

**Site description**

The subject site consists of 8 lots zoned B1 Neighbourhood Centre and 19 lots zoned R2 Low Density Residential (as identified on the map above). It is bound by Old South Head Rd, Laguna St, New South Head Rd and part of Billong Ave, Vaucluse.

**Submitters:** (1) Mr B Franks and (2) N & J Stavrou Pty Ltd

**Submission summary (2014)**

The submissions requested that :

- the R2 lots are rezoned to R3
- the R3 zoned lots have a maximum building height of 13m and an FSR range between 1.3 to 1.5:1
- the B1 zoned lots have a maximum building height of 13m and an FSR range between 1.74 to 2.0:1.

The submissions included the following justification for the proposed controls:

- The site will have community benefits for residents and retirees and can produce a net yield of approximately 50 - 80 dwellings
- No views will be blocked and new views will be created to the east. Objectives of the Harbour Foreshore Scenic Protection policy are achieved as views from the harbour to the ridgelines will be maintained
- Pedestrian safety and traffic can be managed
- It will boost property values
- Sites have good access to public transport accessible and sits between two arterial roads
- Surrounding development is similar in character, including in Waverley (4 storeys)
- Will not result in overshadowing and or reduced solar access
- Rezoning would provide an opportunity for retirement housing in close proximity to neighbourhood business facilities
- Accessible via public buses on Old and New South Head Rds
- There would be no heritage issues with rezoning the site
- The location gives more meaning to Neighbourhood Business Centre.

**Response (2021)**

Staff do not support the requested change for the following reasons:

- Increasing the maximum building height to enable a 4-5 storey development in the B1 zone is inconsistent with the centre hierarchy set out in the Woollahra LSPS 2020. The LSPS identifies Vaucluse Shopping Village as a neighbourhood scale centre that provides small-scale retail, business and community uses to serve the needs of people who live or work in the surrounding neighbourhood. Desired uses such as retail, restaurants, commercial spaces, community facilities and shop top housing can be adequately delivered through the current controls for the B1 zone.
- The objectives of the R2 zone are consistent with the desired future character of the Vaucluse east precinct which seeks to maintain low rise residential building styles and existing streetscape character. This area is not identified as a location for additional housing uplift in any Council strategy.
- Increased residential density is most appropriately introduced in areas close to key local centres where there is high frequency public transport such as a train station and suitable employment opportunities, community facilities and services to support any increased population.

No changes to the Woollahra LEP 2014 are recommended.



East elevation, R2 Low Density Residential on Old South Head Rd (Source: Google Maps 2021).



South-west elevation, B1 Neighbourhood Centre on New South Head Rd (Source: Google Maps 2021).

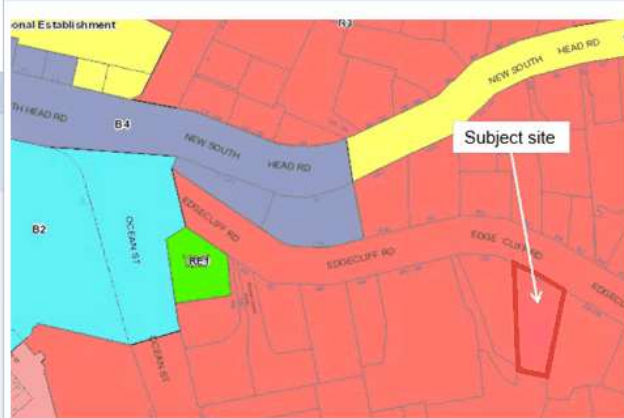
**F. 438 Edgecliff Road, Edgecliff**

**Recommendation**

No change to the Woollahra LEP 2014.

**Principal development standards**

	WLEP 2014	Submission
<b>Land use zone</b>	R3 Medium Density Residential	No change requested
<b>Height of buildings</b>	19.5m	20.5m
<b>FSR</b>	0.75:1	1.3:1



**Site description**

The site is located on Edgecliff Road to the east of the Edgecliff Commercial Centre, between Ocean Street and Albert Street. It contains a detached dwelling house [Lot: 1 DP: 75056].

**Submitter:** GSA Planning on behalf of the property owner

**Submission summary (2014)**

The submissions requested a 20.5m height standard is applied to the site.

The submission included the following justification:

- The intent of the proposed building height is to provide a transition between the 26m height applied to land to the west and the 19.5m height land to the east of the subject site
- The proposed 20.5m will create a more gradual change and provide a better visual transition in the streetscape
- The site is very well located due to its proximity to the Edgecliff Train Station.

**Response (2021)**

Staff do not support increasing the maximum building height and FSR of this site for the following reasons:

- The existing controls are orderly with regard to the existing pattern of subdivision and are appropriate to achieve the desired future character of the R3 Medium Density Residential zone.
- It is not considered good planning practice to apply unique controls to an individual site. Doing so would result in disjointed height and FSR controls and potential streetscape impacts for both 438 and 440 Edgecliff Rd.
- The site is not identified in a Council strategy for increased residential density. It is noted that the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy* sets out a vision for uplift along the nearby Edgecliff Corridor and it currently on exhibition. However, the Draft Edgecliff Strategy does not apply to this site.
- The existing controls of Woollahra LEP 2014 appropriately step down building heights and FSRs to transition from Ocean Avenue to the residential area.
- Increasing the FSR from 0.75:1 to 1.3:1 would enable a development of excessive bulk and scale that may disrupt the streetscape. A building envelope facilitated by an increased FSR would also potentially impact on the adjoining heritage item at 434 Edgecliff Rd.


No changes to the Woollahra LEP 2014 are recommended.



South elevation, 438 Edgecliff Rd, Edgecliff (Source: Google Maps 2021).

**G. 83-103 New South Head Road, Vaucluse**

<b>Recommendation</b>		
No change to the Woollahra LEP 2014.		
<b>Principal development standards</b>		
	<b>WLEP 2014</b>	<b>Submission</b>
<b>Land use zone</b>	B1 Neighbourhood Centre	No change requested
<b>Height of buildings</b>	11m	16.5m
<b>FSR</b>	1.5:1	2.5:1



**Site description**  
The site contains seven B1 lots on the eastern side of New South Head Road in the Vaucluse Shopping Village. The site is characterised by built form of one to two storeys containing retail and commercial uses [Lot: 1 DP: 1202674, Lot: 2 DP: 209069, Lot: 2 DP: 509074, Lot: 1 DP: 509074, Lot: 2 DP: 567221, Lot: 4 DP: 567220, Lot: 3 DP: 567220].

**Submitter:** GSA Planning & Winten Property Group on behalf of N Stavrou

**Submission summary (2014)**  
The site comprises one third of the Vaucluse Shopping village (7 separate allotments under single ownership). The submission requests increasing the applicable height standard from 11m to 16.5m to facilitate a 5 storey mixed use building. It also requests increasing the FSR from 1.5:1 to 2.5:1 across the site.

- The submission included the following justification:
- The site is on a prominent corner in a commercial area and in proximity to local services and transport
  - The requested height and FSR are compatible with the desired future character
  - It will facilitate development that will create visual separation between the residential area and commercial properties
  - It will encourage transport oriented development and greater sustainability
  - Increased height will provide greater definition for the shopping village.

It is noted that at the time of the submission, concept drawings were prepared to indicate the likely envelope of a 5 storey mixed use building with ground floor retail / commercial and shop top housing.

**Response (2021)**  
Staff do not support increasing the height of buildings or FSR standards for the sites for the following reasons:

- Increasing the development potential of these sites is inconsistent with Woollahra’s centre hierarchy and the intended role of the B1 Neighbourhood Centre zone established by Woollahra LEP 2014 and the Woollahra LSPS 2020.
- There is potential under the existing controls to redevelop the site in a manner that responds to the surrounding context and desired future character
- Council’s strategies do not identify the Vaucluse Shopping Village as a key location for delivering economic growth or increased housing supply. Council is currently preparing a housing strategy to establish how we will facilitate housing that contributes to the relevant District housing targets.

No changes to the Woollahra LEP 2014 are recommended.



South-west elevation, B1 Neighbourhood Centre on New South Head Rd (Source: Google Maps 2021).

**H. 100 Queen Street, Woollahra**

**Recommendation**

No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	B4 Mixed Use	No change requested
<b>Height of buildings</b>	9.5m	No change requested
<b>FSR</b>	1:1	1.25:1



**Site description**

The site is located on the northern side of Queen Street with rear access to Smith Street [Lot: 2 DP: 109319]. It is currently occupied by the Perryman Carpets retail store.

**Submitter:** ABC Planning, on behalf of the property owner

**Submission summary (2014)**

Request an increase in FSR from 1:1 to 1.25:1 for 100 Queen Street. It also suggested that the FSR is increased for the northern side of Queen St between Moncur St to the east and Hall St to the west.

The submission included the following justification:

- The requested FSR reflects the predominant built form that of this section of Queen St
- The requested FSR allows for reasonable development forms, yet would still be smaller than existing development such as the Woollahra Hotel and adjacent buildings.
- Increasing the FSR would not compromise the character of the locality nor result in adverse environmental impacts with regard to overshadowing, privacy and view loss.

**Response (2021)**

Increasing the FSR of the subject site or along this section of Queen Street is not supported by staff for the following reasons:

- The current FSR standards in the Woollahra LEP 2014 are broadly consistent with the identity, desired future character and heritage values of the Queen Street precinct and the Woollahra Heritage Conservation Area
- The Queen Street precinct is not identified in any Council strategy for increases housing or employment and is not identified in the as a key local centre in the Woollahra LSPS 2020.
- An increased FSR may potentially reduce the opportunities for deep soil landscaping and tree canopy.

No changes to the Woollahra LEP 2014 are recommended.

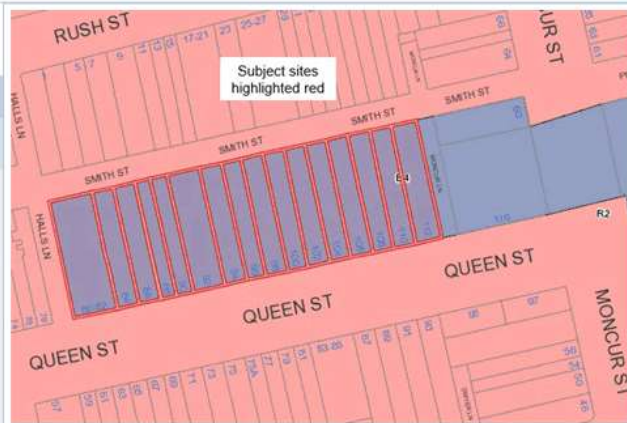


North elevation of 96 – 108 Queen St, Woollahra (Source: Google Maps 2021).

**I. 80-112 Queen Street, Woollahra**

**Recommendation**  
No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	B4 Mixed Use	No change requested
<b>Height of building</b>	9.5m	No change requested
<b>FSR</b>	1:1	2:1



**Site description**

The area identified in the submission contains a row of 16 terraces along the northern side of Queen Street with rear access to Smith Street (see map above). The terraces predominantly present a two-storey streetwall and contain a mix of retail and commercial uses.

**Submitters:** J & A Knott, M & V Green and A McLeod (Wyelba)

**Submission summary (2014)**

The submission included the following justification for increasing the FSR standard:

- While supporting heritage factors, it is untenable to restrict redevelopment of the Queen Street block
- Commercial premises are given more lenient planning controls across Sydney
- The current restrictions are an unfair burden. A more realistic FSR compatible with other municipalities is 2:1. This should also be designed to allow maximum on-site parking provision.

**Response (2021)**

Increasing the FSR of this section of Queen Street is not supported by staff for the following reasons:

- The current FSR standards in the Woollahra LEP 2014 are broadly consistent with the identity, desired future character and heritage values of the Queen Street precinct and the Woollahra Heritage Conservation Area
- The Queen Street precinct is not identified in any Council strategy for increases housing or employment and is not identified in the as a key local centre in the Woollahra LSPS 2020. Applying an FSR standard to Queen Street that is greater than that of Oxford Street's B4 zone (1:1) and closer to that of Edgecliff's B4 zone (2.5:1) is inconsistent with Woollahra's established hierarchy of centres.
- Staff are concerned that increasing the FSR along this row of terraces may potentially result in development with additional bulk that is visible from the public domain on both Queen and Smith Street. This may alter the established streetscape character and does not support the desired future character for the precinct.
- An increased FSR may potentially reduce the opportunities for deep soil landscaping and tree canopy.

No changes to the Woollahra LEP 2014 are recommended.



North elevation of 88 – 108 Queen St, Woollahra (Source: Google Maps 2020).



## J. Home Occupation (Sex Services)

### Recommendation

No change to the Woollahra LEP 2014.

<b>WLEP 2014</b>	Home Occupation (Sex Services) are permitted <b>with consent</b> in residential and employment zones <sup>1</sup> .
<b>Submission</b>	Request that Home Occupation (Sex Services) are permitted <b>without consent</b> in residential and employment zones.

**Submitter:** K Tattersall on behalf of Sex Workers Outreach Project

### Submission summary (2014)

Request that Home Occupation (Sex Services) are allowed to operate in the Woollahra LGA without the need for consent.

The submission included the following justification:

- There is no requirement to treat 'Home Occupations (Sex Services)' differently to other Home Occupations
- Residents have complained about 'Home Occupation (Sex Services)' on the grounds of increased vehicular traffic. Naming a type of Home Occupation does not lead to any increase or decrease in the operation of such an occupation.
- Recent research shows that most people who live near 'Home Occupation (Sex Services)' do not know of their existence. Research also indicated that operators prefer to see clients during off peak times and their preferred location is near public transport. These factors limit the impacts on local amenity.
- Research in the City of Sydney LGA concluded that "treating 'Home Occupation (Sex Services)' like other home occupations is justified in planning terms due to their low amenity impacts".

### Response (2021)

'Home Occupations (Sex Services)' are currently permitted with consent in all of Woollahra's residential and employment zones under Woollahra LEP 2014.

It is noted that the definition in the *Standard Instrument Local Environmental Plan* (Standard Instrument) contains limitations and restrictions relating to the following:

- It must only employ persons who are residents
- Must not interfere with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- Must not have any signage or involve the sale of any items
- Does not include a home business or sex services premises<sup>2</sup>.

Notwithstanding the limitations imposed by the standard definition, amending the Woollahra LEP 2014 to permit 'Home Occupation (Sex Services)' without consent is not supported by staff for the following reasons:

- Under the existing provisions, 'Home Occupation (Sex Services)' operators are required to submit a development application to register their business use. This process enables Council to undertake a site-specific assessment of any potential amenity impacts resulting from this use. It also provides Council with the necessary information to maintain the safety of operators through Council's regulatory and compliance framework.
- Maintaining 'Home Occupation (Sex Services)' as a use permitted with consent will help to protect the safety of neighbouring residents, particularly in and around residential flat buildings. Having current information about the operation and location of these services will assist Council in managing reports regarding safety issues such as loitering in common areas and customers ringing the wrong doorbell.

No changes to the Woollahra LEP 2014 are recommended.

<sup>1</sup> Woollahra LEP 2014 residential zones: R2 Low Density Residential and R3 Medium Density Residential  
Woollahra LEP 2014 employment zones: B1 Neighbourhood Centre, B2 Local Centre and B4 Mixed Use.

<sup>2</sup> Sex services premises are defined in the Standard Instrument as – a brothel, but does not include home occupation (sex services).

**Matters relating to opportunity sites identified in 2010**

**K. 2 New South Head Road, Edgecliff**

**Recommendation**

No change to the Woollahra LEP 2014. This site will be addressed by the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.



**Principal development standards**

	WLEP 2014	Submission
<b>Land use zone</b>	B4 Mixed Use	No change
<b>Height of buildings</b>	14.5m	21.8m
<b>FSR</b>	1.25:1	3.65:1

**Site description**

The site is located on the northern site of New South Head Road at the western gateway to the Edgecliff Corridor (as identified on the map to the right).

**Submitter:** Enfield Securities

**Submission summary (2014)**

The submission requested:

- Increasing FSR from 1.25:1 to 3.65:1
- Increasing the height to 21.8m to accommodate a 6 storey development.

It is noted that the site and FSR were identified as part of the opportunity site consultation process.

**Staff comment (2021)**

This site is identified in the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*. Accordingly, staff recommend that the strategy is the appropriate mechanism to identify any future potential changes to the development standards that apply to this site.

Changes to planning controls have been considered as part of the strategic review of the whole Edgecliff Commercial Centre. Any changes for this site will be progressed as part of the Draft Edgecliff Strategy, if adopted by Council.



North elevation of 2-14 New South Head Rd (Source: Google Maps 2021).

**L. 2-14 and 20 New South Head Road, Edgecliff**

**Recommendation**  
No change to the Woollahra LEP 2014. This site will be addressed by the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*.

Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	B4 Mixed Use	No change
<b>Height of buildings</b>	14.5m	34m
<b>FSR</b>	1.25:1	3.65:1

**Site description**

The site is located on the northern site of New South Head Road at the western gateway to the Edgecliff Corridor (see map to the right).

**Submitter:** GSA Planning on behalf of Property Development Workshops Pty Ltd

**Submission summary (2014)**

The submission requested an increased FSR from 1.25:1 to 3.65:1 and an increased building height from 14.5m to 34m. It is noted that the site and FSR were identified as part of the opportunity site consultation process.

The submission provided justification for the increased FSR:

- Requested FSR is of a compatible scale to surrounding context
- There would be minimal overshadowing or view impacts
- The density is appropriate for the gateway location.

**Staff comment (2021)**


This site is identified in the *Draft Edgecliff Commercial Centre Planning and Urban Design Strategy*. Accordingly, staff recommend that the strategy is the appropriate mechanism to identify any future potential changes to the development standards that apply to this site.

Changes to planning controls have been considered as part of the strategic review of the whole Edgecliff Commercial Centre. Any changes for this site will be progressed as part of the Draft Edgecliff Strategy, if adopted by Council.



North elevation of 2-14 & 20 NSH Rd (Source: Google Maps 2021).

M. 23-25 Lawson Street, Paddington		
<b>Recommendation</b> No change to the Woollahra LEP 2014.		
<b>Principal development standards</b>		
	<b>WLEP 2014</b>	<b>Submission</b>
<b>Land use zone</b>	R3 Medium Density Residential	R4 High Density Residential
<b>Height of buildings</b>	10.5m	18m
<b>FSR</b>	0.65:1	2:1



**Site description**

The site is located in Paddington on the western boundary of the Woollahra LGA [Lot: 2 DP: 633259]. It adjoins the Sydney Grammar School tennis courts and Weigall Sportsground.

**Submitter:** GSA Planning on behalf of the NSW Land & Housing Corporation

**Submission summary (2014)**

Request for increased height, FSR controls and upzoning to R4 High Density Residential.

The submission stated that the existing controls fail to reflect the current built form and will limit redevelopment opportunities. It also stated that the existing controls impact the Land & Housing Corporation's ability to cost effectively renew assets.

**Staff comment (2021)**

Since the time of the opportunity sites project, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy.

The local housing strategy, currently being prepared by Council, relies on a strong evidence base to help ensure that capacity for housing will be created in the right locations. The current draft does not recommend any amendments the Woollahra LEP 2014 which would rezone or increase development standards for specific sites.

No further action is recommended.

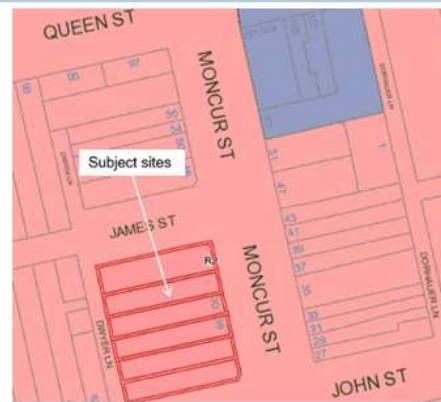


North elevation of 25 Lawson St (Source: Google Maps 2021)

**N. 30-36 Moncur Street, Woollahra**

**Recommendation**  
No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
Land use zone	R2 Low Density Residential	R4 High Density Residential
Height of buildings	9.5m	11m
FSR	N/A	1.7:1



**Site description**

The site contains six lots on Moncur St, between Queen St and Oxford St (as identified on the map to the right). All lots are under single ownership by the NSW Land & Housing Corporation.

**Submitter:** GSA Planning on behalf of the NSW Land & Housing Corporation

**Submission summary (2014)**

Request for increased height, FSR controls and upzoning to R4 High Density Residential. The submission stated that the existing controls fail to reflect the current built form and will limit redevelopment opportunities. It also stated that the existing controls impact the Land & Housing Corporation's ability to cost effectively renew assets.

**Staff comment (2021)**

Since the time of the opportunity sites project, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy.

The local housing strategy, currently being prepared by Council, relies on a strong evidence base to help ensure that capacity for housing will be created in the right locations. The current draft does not recommend any amendments the Woollahra LEP 2014 which would rezone or increase development standards for specific sites.

No further action is recommended.



West elevation of 30 – 36 Moncur St (Source: Google Maps 2021).

**O. Caledonian Road, Fernleigh Avenue and New South Head Road, Rose Bay**

**Recommendation**

No change to the Woollahra LEP 2014.

**Principal development standards**

	WLEP 2014	Submission
<b>Land use zone</b>	R2 Low Density Residential	R3 Medium Density Residential
<b>Height of buildings</b>	9.5m	No change
<b>FSR</b>	N/A	No change



**Site description**

The site contains 14 lots bound by Caledonian Rd, Fernleigh Ave and New South Head Rd (see map to the right).

**Submitters:** (1) N Dan, (2) A Dan, (3) C & S Cuthbert, and (4) R & W Willcocks

**Submission summary (2014)**

Request to upzone from R2 to R3.

The submissions stated that the R3 zone would better reflect the existing built form and enable increased residential capacity as proposed by the State Government. It was noted that transport and parking access, minimal impacts to views and solar access, and proximity to Rose Bay centre, recreational facilities and schools justified the proposal to upzone the site.

**Staff comment (2021)**

Since the time of the opportunity sites project, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy.

The local housing strategy, currently being prepared by Council, relies on a strong evidence base to help ensure that capacity for housing will be created in the right locations. The current draft does not recommend any amendments the Woollahra LEP 2014 which would rezone or increase development standards for specific sites.

No further action is recommended.



East elevation on Caledonian Rd (top) and North elevation on New South Head Rd (lower) (Source: Google Maps 2021).

**P. 52 Old South Head Road, Vaucluse** (related to opportunity site 30-58 Old South Head Road, Vaucluse)

**Recommendation**

No change to the Woollahra LEP 2014.

Principal development standards		
	WLEP 2014	Submission
Land use zone	R2 Low Density Residential	R3 Medium Density Residential
Height of buildings	9.5m	11m
FSR	N/A	1:1



**Site description**

The site is located on Old South Head Rd, between Clarendon St and Captain Pipers Rd [Lot: 4 DP: 109409].

**Submitter:** Urbis on behalf of Tri-Anta Pty Ltd

**Submission summary (2014)**

Request for rezoning and increased FSR and height to facilitate a 4 storey building. The submission noted that:

- this reflects the character of buildings along both sides of Old South Head Rd,
- supports the objectives for providing increased housing choice close to local shops and services,
- would not result in significant adverse amenity impacts on the local area.

**Staff comment (2021)**

This site was considered as part of a request for a planning proposal in 2017. The planning proposal sought to allow redevelopment of the sites at 42-58 Old South Head Road, Vaucluse for medium density residential development, including residential flat buildings.

The planning proposal was placed on public exhibition from 18 October to 17 November 2017.

On 16 July 2018, Council resolved to take no further action in relation to the planning proposal for 42-58 Old South Head Road, Vaucluse.

Accordingly, and consistent with Council's previous resolution, no further site action is recommended.



East elevation of 50-58 Old South Head Rd (Source: Google Maps 2021)

Q. 38 – 178 Oxford Street, Woollahra		
Recommendation	Principal development standards	
	WLEP 2014	Submission
No change to the Woollahra LEP 2014.		
Land use zone	R2 Low Density Residential	R3 Medium Density Residential
Height of buildings	9.5m	14.7m
FSR	N/A	No change

**Site description**

This section of Oxford Street is located between Queen St and Nelson St, within the Woollahra HCA. It contains 41 lots zoned R2 and 16 lots zoned R3 (see map below).

**Submitter:** M Duff

**Submission summary (2014)**

Request to upzone from R2 to R3, and increase the height of buildings standard.

The submission noted that the dilapidated state of the existing terraces, minimal threat of overshadowing, proximity to Centennial Park and Oxford Street transport route justified the proposal to upzone the site area to R3. The submission also noted that new residential development could incorporate better building technologies to mitigate noise and pollution issues.

**Staff comment (2021)**

Since the time of the opportunity sites project, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy.

The local housing strategy, currently being prepared by Council, relies on a strong evidence base to help ensure that capacity for housing will be created in the right locations. The current draft does not recommend any amendments the Woollahra LEP 2014 which would rezone or increase development standards for specific sites.

No further action is recommended.



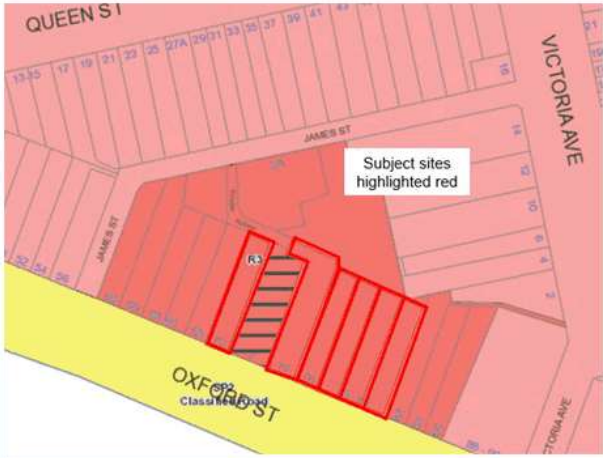
Map of subject sites



North elevation of 38-48 Oxford St (Source: Google Maps 2020).



R. 70, 74, 76, 78 & 80 Oxford Street, Woollahra		
<b>Recommendation</b> No change to the Woollahra LEP 2014.		
Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	R3 Medium Density Residential	B4 Mixed Use
<b>Height of buildings</b>	10.5m	12m
<b>FSR</b>	0.9:1	No change



**Site description**

This section of Oxford St contains six R3 lots between James St and Victoria Ave, within the Woollahra Heritage Conservation Area. All six lots are under single ownership.

**Submitter:** Tomsay Pty Ltd on behalf of I Notaras

**Submission summary (2014)**

Request to change zone to B4 with a 12m height standard to better reflect the existing land use. The proposed four storey built form would accommodate ground floor retail / commercial and shop top housing.

The submission identified the site's proximity to public transport, open space, major sporting grounds, CBD and Bondi in its justification. It also stated that the increased height limit:

- Would not impact residential amenity
- Would create minimal overshadowing
- Is consistent with the State's vision to maximise development opportunities along major thoroughfares.

**Staff comment (2021)**

The strategic planning framework under which the opportunity sites were identified in 2010 has changed significantly. Rezoning this site from R3 to B4 is inconsistent with the centre hierarchy set out in Woollahra's LSPS 2020. The site is located in close proximity to the Queen St and Oxford St B4 zones. Rezoning this section of Oxford St would reduce the delineation between each zone and their different purposes, resulting in a disorderly centre hierarchy.

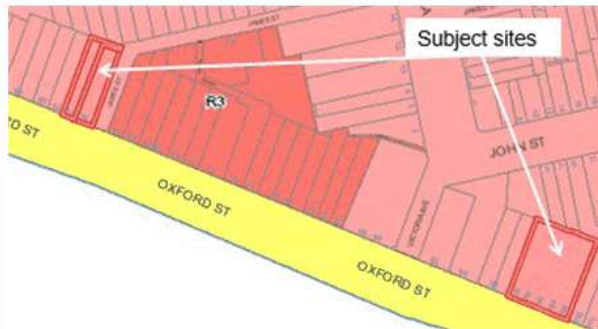
A contextually appropriate range of commercial uses are permitted with consent under the R3 zone of Woollahra LEP 2014, such as Business premises and Neighbourhood shops.

No further action is recommended.



North elevation of 70 - 80 Oxford St (Source: Google Maps 2020).

S. 54-56 and 98-106 Oxford Street, Woollahra		
<b>Recommendation</b> No change to the Woollahra LEP 2014.		
Principal development standards		
	WLEP 2014	Submission
<b>Land use zone</b>	R2 Low Density Residential	R3 Medium Density Residential
<b>Height of buildings</b>	9.5m	14.7m
<b>FSR</b>	N/A	3:1



**Site description**

This section of Oxford St contains three R2 lots between Queen St and Moncur St, within the Woollahra HCA (see map to the right).

**Submitter:** Planning Direction on behalf of Rebecca L Cooper Medical Research Foundation

**Submission summary (2014)**

Request to change the zone to R3 with a 14.7m height control and FSR of 3:1.

The submission noted the existing R2 zone underutilises the potential of the site given its accessibility to transport, employment sources, support services, public space and entertainment facilities.

It stated that rezoning the site would facilitate the redevelopment of buildings in poor condition, improve the character and amenity of the area, create a more uniform streetscape, promote safety, and facilitate orderly and economic development of land.

**Staff comment (2021)**

Since the time of the opportunity sites project, significant changes have occurred to the NSW strategic planning framework. This includes the introduction of the Region Plan, Eastern City District Plan, Woollahra LSPS 2020 and the requirement for Council to prepare a local housing strategy.

The local housing strategy, currently being prepared by Council, relies on a strong evidence base to help ensure that capacity for housing will be created in the right locations. The current draft does not recommend any amendments the Woollahra LEP 2014 which would rezone or increase development standards for specific sites.

No further action is recommended.



54-56 Oxford St & 98-106 Oxford St (Source: Google Maps 2020).

**Item No:** R4 Recommendation to Council  
**Subject:** **POST EXHIBITION REPORT FOR DRAFT WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 (AMENDMENT NO.14) AND DRAFT WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 (AMENDMENT NO.16)**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/96336  
**Reason for Report:** To report on the public exhibition of the Draft Woollahra Development Control Plan 2015 (Amendment No.14) – Inter-War flat buildings in the Woollahra LGA and timber buildings in Paddington and Watsons Bay Heritage Conservation Areas.  
To report on the public exhibition of the Draft Woollahra Development Control Plan 2015 (Amendment No.16) – Numerical controls for multi-storey development in the Paddington Heritage Conservation Area.  
To obtain Council’s approval of the Draft DCPs.

**Recommendation:**

- A. THAT Council approve the *Draft Woollahra Development Control Plan 2015 (Amendment No.14)* as attached at **Annexure 4** of the report to the Environmental Planning Committee meeting of 12 July 2021.
- B. THAT Council approve the *Draft Woollahra Development Control Plan 2015 (Amendment No.16)* as attached at **Annexure 5** of the report to the Environmental Planning Committee meeting of 12 July 2021.

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**1. Background**

**1.1. Inter-War flat buildings and timber buildings**

On 8 March 2021, the Environmental Planning Committee (EPC) considered a report (see **Annexure 1**) recommending a draft development control plan (DCP) be prepared to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to enhance the provisions relating to Inter-War flat buildings in the Woollahra LGA and timber buildings in Paddington and Watsons Bay. Subsequent to the EPC on 22 March 2021 Council resolved:

- A. *THAT the report on the review of the controls for Inter-War flat buildings in the Woollahra Local Government area and timber buildings in Paddington and Watsons Bay in the Woollahra Development Control Plan 2015 be received and noted.*
- B. *THAT Council resolves to exhibit the Draft Woollahra Development Control Plan 2015 (Amendment No.14) as contained in Annexure 1 of the report to the Environmental Planning Committee on 8 March 2021, subject to the changes identified in the late correspondence from the Paddington Society dated 8 March 2021.*

Consistent with the Council resolution from 22 March 2021, staff prepared *Woollahra Development Control Plan 2015 (Amendment 14)* (Draft DCP No.14)<sup>7</sup>. Draft DCP No.14 seeks to make a number of amendments to the following chapters of Woollahra DCP 2015:

- Chapter B3 General Development Controls
- Chapter C1 Paddington Heritage Conservation Area
- Chapter C2 Woollahra Heritage Conservation Area and
- Chapter C3 Watsons Bay Heritage Conservation.

The proposed amendments aim to protect Inter-War flat buildings in the Woollahra LGA and timber buildings in Paddington and Watsons Bay by:

- Strengthening the existing objectives and controls for Inter-War flat buildings to help protect those buildings that form part of the character of the area.
- Amending and adding to the existing provisions in the Paddington Heritage Conservation Area (HCA) and Woollahra HCA to ensure Inter-War flat buildings are identified as significant and consequently protected.
- Inserting new provisions in the Watsons Bay HCA to ensure Inter-War flat buildings are identified as significant and are protected.
- Strengthening the existing provisions for timber buildings in the Paddington HCA.
- Inserting new provisions in the Watsons Bay HCA to ensure timber buildings are protected.

## 1.2. Multi-storey development in Paddington

On 12 April 2021 the EPC considered a report (see **Annexure 2**) recommending a draft DCP be prepared to amend the Woollahra DCP 2015 to enhance the provisions relating to multi-storey development in the Paddington HCA. Subsequent to the EPC, on 26 April 2021 Council resolved:

- THAT the report on the review of the controls for Chapter C1 Paddington Heritage Conservation Area in the Woollahra Development Control Plan 2015 be received and noted.*
- THAT Council resolves to exhibit the Draft Woollahra Development Control Plan 2015 (Amendment No.16) as contained in Annexure 1 of the report to the Environmental Planning Committee on 12 April 2021, subject to the amendments proposed by the Paddington Society in correspondence dated 26 April 2021*

Consistent with the Council resolution of 26 April 2021, staff prepared *Woollahra Development Control Plan 2015 (Amendment 16)* (Draft DCP No.16). Draft DCP No.16 seeks to make a number of amendments to Chapter C1 Paddington HCA of Woollahra DCP 2015. The proposed amendments aim to enhance the provisions for multi-storey development in the Paddington HCA by:

- Restricting the height of rear additions to multi-storey terraces.
- Restrict the bulk, height and scale of lofts built above studios, where the site has no rear laneway access.
- Ensure the form and pitch of rear skillion roofs is consistent within the same group or pair
- Enhancing and strengthening various provisions for single storey buildings, side additions and contributory buildings.

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<sup>7</sup> At the conclusion of the EPC meeting of 8 March 2021, staff received correspondence from a Councillor recommending minor amendments to the contents of Draft DCP No. 14. The issues raised in this correspondence have been summarised and addressed in Table 1 below.

### 3. Public exhibition

Draft DCP No.14 and Draft DCP No.16 were publicly exhibited concurrently for 31 days, from Wednesday 12 May 2021 –Friday 11 June 2021 (inclusive), consistent with the requirements of the *Environmental Planning & Assessment Act 1979* (EP&A Act) and the Environmental Planning and Assessment Regulation 2000 (Regulation).

The Draft DCPs were exhibited concurrently due to the nature of the amendments which both sought to enhance provisions relating to heritage conservation, and both were seeking amendments to Chapter C1 Paddington HCA.

Public exhibition involved the following:

1. Five weekly notices in the Wentworth Courier providing details of the exhibition, on 12 May, 19 May, 26 May, 2 June and 9 June 2021.
2. A single public exhibition webpage for both Draft DCPS on Your Say Woollahra. This page included all the relevant supporting material and was visited by 123 people during the exhibition period.  
For members of our community who were interested in both Draft DCPs, the creation of a single Your Say page made the exhibition material easier to interpret.
3. Display of the exhibition materials at the Customer Service counter at the Woollahra Council Chambers at Double Bay, available during normal business hours.
4. Notification letter or email to key stakeholders including the Double Bay Residents Association, Rose Bay Residents Association and the Paddington Society.

### 4. Submissions

We received three submissions during the public exhibition period from the following:

*Organisation:*

- The Paddington Society

*Residents:*

- Sam Taylor
- Andrew Conway

One was an objection and two were submissions of general support. A redacted copy of these submissions is attached at **Annexure 3** and a summary of issues raised and a response from staff is provided in **Table 1** below.

*Table 1: Summary of issues raised and response from staff*

Issues raised	Staff response
1. <i>Minor administrative changes</i> The Paddington Society recommended a number of administrative changes to both Draft DCP 14 and Draft DCP 16.	Administrative changes are supported.

**Table 1: Summary of issues raised and response from staff**

Issues raised	Staff response
<p>2. <i>Enhance provisions relating to side additions in Paddington</i></p> <p>Further enhance the provisions to prevent the enclosure of breezeways in pairs or groups and prevent the removal of chimneys and parapet walls.</p>	<p>There are multiple existing provisions in Chapter C1 Paddington HCA which prevent side additions enclosing or impacting on breezeways at the first floor level (which prevents rear additions), whilst providing more flexibility for the built form at the ground floor level. These controls have been closely scrutinised and informed by the <i>Paddington Heritage Conservation Area Working Party</i> which includes representatives from the National Trust and the Paddington Society.</p> <p>There are also multiple existing provisions which facilitate the protection of chimneys and parapet walls of principal building forms.</p> <p>In light of the existing provisions, staff do not support further amendments.</p>
<p>3. <i>Don't support any further heritage protection</i></p> <p>Increasing heritage protection increases housing unaffordability. These sites are where new housing should go to meet the targets from the GSC.</p> <p>Most of these buildings have structural issues, which are expensive to maintain. Council should encourage adaptive reuse.</p>	<p>Housing affordability is not a matter that should influence the enhancement of provisions relating to heritage conservation. Furthermore, the provisions in the DCP do not prevent change (or maintenance) nor do they prevent the adaptive reuse of a building (providing that the proposed use is permissible in the land use table).</p> <p>Notwithstanding, the <i>Draft Local Housing Strategy</i> and <i>Draft Woollahra Affordable Housing Policy 2021</i> were considered by Council on 5 July 2021 where Council resolved to publicly exhibit these policies. Following reporting to Council of the submissions received during public exhibition, both the <i>Draft Local Housing Strategy</i> and <i>Draft Woollahra Affordable Housing Policy 2021</i> will be formally endorsed by the <i>Department of Planning, Industry and Environment</i>.</p> <p>The <i>Draft Woollahra Local Housing Strategy</i> identifies that conserving heritage and protecting local character is a priority for Woollahra Council. It also identifies that new housing is best located in areas close to a key local centre and high frequency public transport. Based on the current development application pipeline and other strategic Council projects (such as the <i>Draft Edgecliff Strategy</i>), Woollahra Council is on track to meet the housing targets set by the Greater Sydney Commission.</p> <p>No changes are proposed in response to this submission.</p>
<p>4. <i>Inter-War flat buildings</i></p> <p>Strengthen the statement of significance at C1.2.1 and the introduction to section C1.3.6 relating to residential flat buildings and other medium density residential land uses.</p>	<p>Staff support strengthening and amending the statement of significance at C1.2.1 and the introduction at C1.3.6.</p>

**Table 1: Summary of issues raised and response from staff**

<b>Issues raised</b>	<b>Staff response</b>
Identify what options there are to strengthen the provisions in Woollahra LEP 2014 to further protect Inter-War flat buildings	There are no provisions under the <i>Environmental Planning and Assessment Act 1979</i> to identify particular typologies of buildings in an Environmental Planning Instrument other than listing properties (or an HCA) in Schedule 5 of the Woollahra LEP 2014.  As part of the heritage program, a heritage study on Inter-War flat buildings is proposed, subject to resources and Council priorities. This may inform future amendments to the Woollahra LEP 2014.  No changes are proposed.
5. <i>Timber buildings in Paddington</i> Amend objective 6 of C1.3.2 and C3.6.3 to make reference to the “building footprint”.	Staff have amended O6 in response to the issues raised.

## 5. Proposed changes

In response to the issues raised, staff are recommending minor amendments to both Draft DCP No. 14 and Draft DCP No. 16. These two documents are attached at **Annexure 4** and **5** respectively. All post exhibition changes (other than administrative changes) have been highlighted in **yellow** and summarised in Table 2 below. As the proposed amendments are minor and administrative in nature, re-exhibition of the documents is not required.

**Table 2: Summary of changes in response to submissions**

<b>Relevant section of Draft DCP No. 14</b>	<b>Aim of the change</b>
Chapter C1, amendments to C1.2.1 The significance of the Paddington Heritage Conservation Area (p.7 of Annexure 4)	Amend and strengthen the statement of significance.
Chapter C1, amendments to C1.3.2 Timber buildings (p.9 of Annexure 4)	Amend objective in response to issues raised.
Chapter C1, amendments to C1.3.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces) (p.10 of Annexure 4)	Amend and strengthen the introductory text to C1.3.6.
<b>Relevant section of Draft DCP No. 16</b>	<b>Aim of the change</b>
Administrative changes including numbering and formatting.	Minor administrative changes.

## 6. Finalisation

The process for amending a DCP is set out in the EP&A Act and the Regulation. Both Draft DCP No. 14 and Draft DCP No. 16 were prepared and publicly exhibited in accordance with these requirements.

If Council resolves to proceed with these amendments and approves the Draft DCPs, these will come into effect on the date that a notice of Council’s decision is published on Council’s website and in the Wentworth Courier (or on a later date specified in the notice).

## 7. Conclusion

Draft DCP No. 14 and Draft DCP No.16 contain a number of amendments to enhance our existing provisions relating to Inter-War flat buildings, timber buildings and multi-storey development (in Paddington).

Draft DCP No. 14 and Draft DCP No.16 were exhibited concurrently for 31 days, consistent with the EP&A Act and the Regulation. We received three submissions of general support and one objection. The correspondence received recommended a number of minor amendments, which are mostly supported by staff.

Having considered the matters raised in the submissions, staff recommend minor amendments to both Draft DCP No.14 and Draft DCP No.16. It is recommended that Council resolves to adopt the Draft DCPs as contained at **Annexure 4** and **5**.

### Annexures

1. Environmental Planning Committee Agenda - 8 March 2021 (R2) (Annexures removed) [↓](#) 
2. Environmental Planning Committee Agenda - 12 April 2021 - (R3) (Annexures removed) [↓](#) 
3. Redacted copy of submissions [↓](#) 
4. Draft DCP Amendment No. 14 (Amended post-exhibition) [↓](#) 
5. Draft DCP Amendment No. 16 (Amended post-exhibition) [↓](#) 



Woollahra Municipal Council  
Environmental Planning Committee Agenda

8 March 2021

**Item No:** R2 Recommendation to Council  
**Subject:** **DRAFT DCP CONTROLS FOR INTER-WAR FLAT BUILDINGS IN THE WOOLLAHRA LOCAL GOVERNMENT AREA AND TIMBER BUILDINGS IN PADDINGTON AND WATSONS BAY**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Development  
**File No:** 21/25385  
**Reason for Report:** To respond to a Notice of Motion adopted by Council on 11 November 2019 requesting a review of the planning controls for Inter-War Flat Buildings in the Woollahra Development Control Plan 2015.  
To obtain Council's approval to exhibit a draft development control plan to amend the Woollahra Development Control Plan 2015.

**Recommendation:**

- A. THAT the report on the review of the controls for Inter-War flat buildings in the Woollahra Local Government area and timber buildings in Paddington and Watsons Bay in the Woollahra Development Control Plan 2015 be received and noted.
- B. THAT Council resolves to exhibit the *Draft Woollahra Development Control Plan 2015 (Amendment No.14)* as contained in **Annexure 1** of the report to the Environmental Planning Committee on 1 March 2021.

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**1. Background**

This report responds to the following Notice of Motion adopted by Council on 11 November 2019, where Council resolved:

THAT Council:

- A. *Request staff to report to the Environmental Planning Committee on how the detailed controls for Inter-War flat buildings found in B3.8.7 of the Woollahra DCP 2015 can be applied to the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas.*
- B. *Notes community concern about the recent demolition of interwar residential flat buildings at 12 and 16 William Street, Double Bay, and 75 and 77 O'Sullivan Road, Bellevue Hill, and requests staff to provide commentary on the most effective means of protecting from demolition interwar buildings located in all zones across the municipality, including if appropriate the invocation of LEP provisions.*

The following background information accompanied the Notice of Motion on the meeting agenda:

*Part B3.8.7 of the Woollahra DCP 2015 contains detailed objectives and controls to ensure, among other things, that the significant characteristics of Inter-War flat buildings, in regard to their presentation to the street, are retained and conserved. These are the most detailed and comprehensive controls in the DCP for Inter-War flat buildings. However, being part of Chapter B3, General Development Controls these controls apply only to our ten (10) residential precincts and our eleven (11) neighbourhood Heritage Conservation Areas. They do not apply to the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas.*

*Chapter C1 of the Woollahra DCP 2015 contains detailed objectives and controls for the Paddington Heritage Conservation Area. Part C1.3.6 contains specific objectives and controls for residential flat buildings. However, this part does not contain specific objectives and controls for Inter-War flat buildings.*

*Chapter C2 of the Woollahra DCP 2015 contains detailed objectives and controls for the Woollahra Heritage Conservation Area. Part C2.4.5 contains specific objectives and controls for Inter-War flat buildings. However, these controls are not as detailed and comprehensive as the controls contained in Part B3.8.7 of the DCP.*

*Chapter C3 of the Woollahra DCP 2015 contains detailed objectives and controls for the Watsons Bay Heritage Conservation Area. Part C3.4.4 contains specific objectives and controls for commercial and residential flat buildings. However, these controls are not specifically crafted for Inter-War flat buildings.*

*There are no detailed objectives and controls for Inter-War flat buildings for the Paddington and Watsons Bay Heritage Conservation Areas and the controls which apply in the Woollahra Heritage Conservation Area are not as detailed and rigorous as those found in Part B3.8.7 of the DCP. There is therefore a need to review the way our controls for Inter-War flat buildings are applied across the Municipality. In particular, there is a need to apply our most detailed objectives and controls for Inter-War flat buildings to the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas."*

Staff have reviewed the existing planning provisions in the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) and identified opportunities to strengthen provisions to help ensure Inter-War flat buildings are protected and retained where they contribute to the character of the area.

## **2. Current planning controls**

The main planning provisions that apply to Inter-War flat buildings are located in the following chapters of the Woollahra DCP 2015:

- Chapter A3: Definitions
- Chapter B1: Residential precincts
- Chapter B2: Neighbourhood Heritage Conservation Areas
- Chapter B3: General Development Controls
- Chapter C1: Paddington Heritage Conservation Area
- Chapter C2: Woollahra Heritage Conservation Area
- Chapter C3: Watsons Bay Heritage Conservation Area.

Each of these chapters are discussed separately below.

### **2.1 Chapter A3 Definitions**

Inter-War flat buildings are defined in Chapter A3: Definitions of the Woollahra DCP 2015 as

*a building of two or more storeys and containing two or more dwellings, constructed in the period from c.1918 to c.1950.*

This definition includes years outside the recognised 'Inter-War period' of 1918 to 1939. This is to recognise that a building type may not have been finalised between certain years.

Inter-War flat buildings have been constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of an area and to the historical development of the LGA.

As identified in the Woollahra DCP 2015, there are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period, including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flats were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson among others.



*Figure 1: Extract from Chapter C2 Pg 47: of the Woollahra DCP 2015 illustrating a "Typical Inter-War Flat building"*

## 2.2 Chapter B1 Residential Precincts

This chapter applies to ten residential precincts in Woollahra, outside of the heritage conservation areas (HCAs). References to Inter-War flat buildings are included in the character statements and desired future character of eight of the precincts being the Double Bay Precinct, Wallaroy Precinct, Point Piper Precinct, Bellevue Hill South Precinct, Bellevue Hill North Precinct, Rose Bay Precinct, Vaucluse West Precinct and Vaucluse East Precinct.

The protection of Inter-war flat buildings is also noted in the objectives of each precinct. However, some precincts do not contain objectives relating to the retention of Inter-War flat buildings. Minor amendments to address this omission are recommended.

### 2.3 Chapter B2 Neighbourhood Heritage Conservation Areas

Neighbourhood HCAs are separately identified to differentiate them from the larger HCAs of Paddington, Woollahra and Watsons Bay. The controls in this Chapter apply to the following neighbourhood HCAs:

- Etham Avenue, Darling Point
- Darling Point Road, Darling Point
- Mona Road, Darling Point
- Loftus Road and Mona Road, Darling Point
- Aston Gardens, Bellevue Hill
- Victoria Road, Bellevue Hill
- Balfour Road, Rose Bay
- Beresford Estate, Rose Bay
- Rose Bay Gardens Estate, Rose Bay
- Kent Road, Rose Bay
- Bell Street, Vaucluse.

Each neighbourhood HCA has its own section and set of planning provisions which include appropriate provisions for Inter-War flat buildings.

### 2.4 Chapter B3 General Development Controls

The controls for residential development in Chapter B3 apply to the residentially zoned land in the municipality, with the exception of the Paddington, Woollahra and Watsons Bay HCAs. The provisions in this chapter should be read in conjunction with the provisions in Chapter B1 Residential Precincts and Chapter B2 Neighbourhood HCAs.

*B3.8.7 Inter-War flat buildings* contains a comprehensive set of provisions to ensure that alterations and additions to this building type retains its typical Inter-War character. These provisions are generally appropriate, however, some minor amendments are recommended to enhance this set of controls.

### 2.5 Chapter C1 Paddington Heritage Conservation Area

Whilst the emphasis on the significance of the Paddington HCA is Victorian Development, *C1.2.2 Building types in Paddington* recognises that later development in the HCA has included Inter-War apartment buildings.

Inter-War flat buildings do not have a specific set of provisions in this Chapter. However, *Clause 1.3.6: Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)* contains provisions applicable to residential flat buildings, including Inter-War flat buildings but also Post-War social housing, 1960s-1970s towers and 1990s residential infill.

*C1.2.1 The significance of the Paddington HCA, C 1.2.3 Character elements, and C 1.2.4 Desired Future Character* do not currently include Inter-War flat buildings as a building type.

Changes to clauses in this chapter are required to strengthen the protection of Inter-War flat buildings in the Paddington HCA.

## **2.6 Chapter C2 Woollahra Heritage Conservation Area**

The Woollahra HCA is organised into seven precincts. Each precinct has its own set of provisions and a list of significant characteristics, including (where relevant) significant Inter-War flat buildings.

*Clause 2.4.5 Inter-War flat buildings* contains a detailed set of provisions aimed at protecting Inter-War flat buildings.

*Clause 2.7 Schedule of contributory items* identifies the contributory items in the Woollahra HCA and this list includes a number of Inter-War flat buildings.

Changes to Clause 2.4.5 are required to strengthen the protection of Inter-War flat buildings in the Woollahra HCA.

## **2.7 Chapter C3 Watsons Bay Heritage Conservation Area**

The Watsons Bay HCA is organised into 19 precincts. Only four precincts contain Inter-War flat buildings, being:

- Clause 3.4.1 Precinct A: Entrance
- Clause 3.4.4 Precinct D: Commercial and residential flat buildings;
- Clause 3.4.10 Precinct K: Camp Cove Village; and
- Clause 3.4.11 Precinct L: Salisbury Street / Hopetoun Avenue

Precinct D is currently the only area which contains generic controls for residential flat buildings. However, these are not specifically tailored to Inter-War flat buildings. Minor amendments are required to this chapter to recognise and protect Inter-War flat buildings.

## **3. Timber buildings in Watsons Bay and Paddington**

Watsons Bay retains the largest concentration of timber buildings in the Woollahra LGA. Timber buildings provide evidence of the early village of Camp Cove and contribute to the area's heritage values and character.

Timber buildings are also present in Paddington, the majority of which are single storey workers' cottages dating from the 1840s to 1870s. They play an important role in the development of the Paddington village and contribute to the character and significance of the HCA.

In preparing this report, staff have identified that the existing controls relating to timber buildings in both Paddington and Watsons Bay could be enhanced.

## **4. Proposed amendments to the Woollahra DCP 2015**

Based on our review, staff recommend that the Woollahra DCP 2015 is amended to:

- Insert specific provisions for Inter-War flat buildings in Paddington, Woollahra and Watsons Bay;
- Insert provisions for timber buildings in Paddington & Watsons; and
- Undertake minor wording changes to Clause B3.8.7 to strengthen existing provisions.

This approach will provide additional protection to Inter-War flat buildings and timber buildings. The table below summarises the proposed amendments. The draft DCP Amendment with the changes included is attached at **Annexure 1**. **Annexure 2** contains the relevant extracts from each of the chapters, and illustrates how the changes identified can be read in context with the other provisions.

<b>Chapter and clause</b>	<b>Summary of proposed amendments</b>
<b>Chapter B1 – Residential Precincts</b>	
<i>Clause B1.3 Double Bay Precinct</i>	Enhance existing objective O7 to address the protection of Inter-War flat buildings.
<i>Clause B1.4 Wallaroy Precinct</i>	Enhance the precinct character statement to identify Inter-War flat buildings as key elements of the precinct. Add a new objective O9 to address the retention of Inter-War flat buildings.
<i>Clause B1.6 Point Piper Precinct</i>	Define Inter-War apartment buildings Inter-War flat buildings for consistency with other sections of the DCP. Enhance existing objective O8 to address the retention of Inter-War flat buildings.
<i>Clause B1.7 Bellevue Hill South Precinct</i>	Define Inter-War apartment buildings Inter-War flat buildings for consistency with other sections of the DCP. Enhance the precinct character statement to identify Inter-War flat buildings as key elements of the precinct. Enhance existing objective O4 to address the retention of Inter-War flat buildings.
<i>Clause B1.8 Bellevue Hill North Precinct</i>	Enhance the precinct character statement to identify Inter-War flat buildings as key elements of the precinct and add a new objective O12 to address the protection of Inter-War flat buildings.
<i>Clause B1.9 Rose Bay Precinct</i>	Define Inter-War apartment buildings Inter-War flat buildings for consistency with other sections of the DCP.  Enhance the streetscape character provisions and add new objective to address the protection of Inter-War flat buildings.
<i>Clause 1.11 Vauchuse East Precinct</i>	Enhance the precinct character statement to identify Inter-War flat buildings as key elements of the precinct and add a new objective O9 to address the protection of Inter-War flat buildings.
<b>Chapter B3 – General Residential Controls</b>	
<i>Clause B3.8.7 Inter-War flat buildings</i>	Amend objective O1 to make reference to the character of the area and the need to retain and protect this building type consistent with O2.  Minor enhancement of various objectives and controls, including replacing the word “discrete” with “discreet at O1, O5, O14, C41 and enhancing C16, C20, C24, C40, C48 and C49.”

<b>Chapter and clause</b>	<b>Summary of proposed amendments</b>
<b>Chapter C1 – Paddington Heritage Conservation Area</b>	
<i>Clause 1.2.1 The significance of the Paddington HCA</i>	Insert new paragraph to specifically identify Inter-War flat buildings as significant to the HCA.
<i>Clause 1.2.2 Building types in Paddington</i>	Amend terminology from Inter-War apartment buildings to Inter-War flat buildings.
<i>Clause 1.2.3 Character elements</i>	Identify Inter-War flat building as a character element that is to be retained.
<i>Clause 1.2.4 Desired future character</i>	Identify Inter-War flat buildings as a building type that needs to be retained.
<i>Clause 1.3.2 Timber buildings.</i>	Amend existing objectives and controls for timber buildings.
<i>Clause 1.3.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)</i>	Amend existing objectives and controls for residential flat buildings. Insert new objectives and controls for Inter-War flat buildings.
<b>Chapter C2 – Woollahra Heritage Conservation Area</b>	
<i>Clause 2.4.5 Inter-War flat buildings</i>	Enhance existing provisions by adding new objectives and controls for Inter-War flat buildings, consistent with B3.8.7.
<b>Chapter C3 – Watsons Bay Heritage Conservation Area</b>	
<i>Clause 3.4.1 Precinct A: Entrance</i>	Define Inter-War apartment buildings as Inter-War flat buildings for consistency with other sections of the DCP.  Insert a new reference to Inter-War flat buildings provisions in Clause 3.6.
<i>Clause 3.4.4 Precinct D: Commercial and residential flat buildings</i>	Define Inter-War apartment buildings as Inter-War flat buildings for consistency with other sections of the DCP.  Insert a new reference to Inter-War flat buildings provisions in Clause 3.6.
<i>Clause 3.4.10 Precinct K: Camp Cove Village</i>	Define Inter-War apartment buildings as Inter-War flat buildings for consistency with other sections of the DCP.  Insert a new reference to Inter-War flat buildings provisions in Clause 3.6.
<i>Clause 3.4.11 Precinct L: Salisbury Street / Hopetoun Avenue</i>	Define Inter-War apartment buildings as Inter-War flat buildings for consistency with other sections of the DCP.  Insert a new reference to Inter-War flat buildings provisions in Clause 3.6.
<i>Clause 3.6 Contributory items: additional built form controls</i>	Define Inter-War apartment buildings as Inter-War flat buildings for consistency with other sections of the DCP. Insert a new set of objectives and controls to protect Inter-War flat buildings.  Insert objectives and controls to protect timber buildings. These new controls have been based on the amended controls in Chapter C1 Paddington HCA.

## 5. Mechanisms to protect Inter-War flat buildings

In response to Part B of the resolution from 11 November 2019, staff can advise the following.

The most effective mechanism to protect significant Inter-War flat buildings is to identify them (when they meet the criteria) as either a heritage item or part of an HCA. Once listed, these buildings are afforded protection by virtue of *Cl 5.10 Heritage Conservation* of the Woollahra LEP 2014.

Notwithstanding the fact that an amendment to the Woollahra LEP 2014 would be the most effective mechanism, the recommended changes to the DCP identified in this report, will strengthen the existing provisions in the Woollahra DCP 2015 with regards to the protection of Inter-War flat buildings across the local government area.

The purpose and status of a development control plan is identified in *3.43 Purpose and status of development controls plans* under the *Environmental Planning and Assessment Act 1979*. This identifies that a development control plan is to provide guidance and to give effect to the aims of an environmental planning instrument. Accordingly, whilst the provisions in the Woollahra DCP 2015 encourage the protection and retention of Inter-War flat buildings, these are not a prohibition and can only be considered as a guide.

We note that in all cases where a development application has been lodged and Cl 5.10 does not apply, Council's heritage officer will undertake a preliminary heritage assessment under Cl 1.2 (f) *Aims of Plan* of the Woollahra LEP 2015 to establish if the building has the potential to meet the NSW heritage criteria. If the building meets any one of the criteria, is considered under threat and it fits the requirements of the Ministerial Order, a heritage officer will advise on the issue of an Interim Heritage Order (IHO) under the *NSW Heritage Act, 1977*. As a consequence, demolition or intrusive alterations and additions will not be supported. However, this is not a preferred approach to heritage conservation as it is a reactive rather than proactive approach.

There are 53 Inter-War flat buildings listed in *Schedule 5: Environmental Heritage* of the Woollahra LEP 2014. There are also Inter-War flat buildings identified as contributory items within HCAs, scattered across different suburbs of the Municipality. Groups of Inter-War flat buildings recognised as individual HCAs include Aston Gardens, Victoria Road, Balfour Road, Loftus Road and Mona Road and Rose Bay Gardens Estate. These HCAs derived from the 1984 Woollahra Heritage Study, the 1997-98 Tanner Study or later heritage studies.

On 28 March 2011, Council resolved to undertake a heritage study initially called "The Woollahra Inter-War Residential Flat Buildings, Bungalows and Arts and Crafts heritage study," which began with a resolution from Council on 28 March 2011. In August 2014, the project was divided into three different studies which identified different fields of research being the:

- Bungalows (comprising but not limited to Californian Bungalows);
- Arts and Crafts Buildings (comprising both Inter-War and Federation buildings)
- Inter-War Residential Flat Buildings.

The initial research and fieldwork on this project identified buildings employing different styles designed by prominent architects including, among others, Eric Pitt, Samuel Lipson, Joseland and Gilling, John Brogan and E.L. Sodersten. The majority of these buildings date from the Inter-War flat period, but there are also examples of Modernist buildings in the study.



Due to a lack of resources and change in priorities, this project stalled in 2015 and has not restarted. The project will restart when resources become available in order to identify whether any of these buildings should be listed as either individual heritage items, or form part of a HCA. An updated heritage program and clearly identified priorities will be presented to the Environmental Planning Committee as part of the Heritage Gap Analysis.

## 6. Next steps

If Council decides to support amending the Woollahra DCP 2015, the next step is exhibit the draft development control plan. The process for amending a DCP is set out in the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, and the *Woollahra Community Participation Plan 2019*.

The draft DCP must be publicly exhibited for a minimum of 28 days. Public notice will be given in the *Wentworth Courier* and on Council's website each week of the exhibition. The outcome of public exhibition will be reported to a future meeting of the Environmental Planning Committee.



## 7. Conclusion

In response to a Notice of Motion adopted on 11 November 2019, staff have reviewed the planning controls for Inter-War flat buildings in the Woollahra DCP 2015. In addition, staff have reviewed the controls for timber buildings in the Paddington and Watsons Bay HCA.

Based on this review, staff have identified opportunities to strengthen the existing objectives and controls in the Woollahra DCP 2015 and introduce new ones. The proposed amendments seek to protect and retain existing Inter-War flat buildings in the Paddington, Woollahra and Watsons Bay HCAs and strengthen the general provisions in Chapter B3. These changes also seek to enhance the controls for timber buildings in Watsons Bay and Paddington.

Staff recommend that Council resolve to exhibit the *Draft Woollahra Development Control Plan 2015* (Amendment No 14) as contained in **Annexure 1**.

### Annexures

1. Woollahra Draft DCP Amendment No.14 (Inter-War flat buildings and timber buildings) [↓](#) 
2. Proposed changes to the Woollahra Development Control Plan 2014 [↓](#) 

Woollahra Municipal Council  
Environmental Planning Committee Agenda

12 April 2021

**Item No:** R3 Recommendation to Council  
**Subject:** **DRAFT DCP CONTROLS FOR MULTI-STOREY DEVELOPMENT IN THE PADDINGTON HERITAGE CONSERVATION AREA**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Development  
**File No:** 21/50900  
**Reason for Report:** To respond to two Council resolutions requesting a review of Chapter C1 with a view to providing numerical controls for multi-storey development. To obtain Council's approval to exhibit a draft development control plan to amend the Woollahra Development Control Plan 2015.

**Recommendation:**

- A. THAT the report on the review of the controls for Chapter C1 Paddington Heritage Conservation Area in the Woollahra Development Control Plan 2015 be received and noted.
- B. THAT Council resolves to exhibit the *Draft Woollahra Development Control Plan 2015 (Amendment No.16)* as contained in **Annexure 1** of the report to the Environmental Planning Committee on 12 April 2021.

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**1. Background**

This project progresses and complements two previous amendments to *Chapter C1 Paddington Heritage Conservation Area* (Paddington HCA) of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) that commenced respectively on 2 January 2020 and 12 October 2020.

The first amendment (No.7) was a major review of controls related to single storey buildings, infill development and side additions to multi-storey terrace style housing in the Paddington HCA.

The second amendment (No.13) amended the terminology for additions to the rear of single storey buildings by introducing the term courtyard housing additions. This amendment also supplemented the numerical controls for additions to the rear of single storey buildings.

The aim of this further amendment is to respond to the request for numerical controls for rear additions to multi-storey buildings. Pertinent to this work are the following Council resolutions.

On 9 December 2019 Council resolved (in part)

- B. *THAT a meeting of the Paddington Heritage Conservation Area Working Party is convened by mid-February 2020 to discuss potential amendments to the numerical controls for pavilions and linking structures and to give consideration to how the controls should apply to one and two storey terraces.*

On 9 March 2020 Council resolved (in part)

- B. *THAT staff convene a Paddington & Oxford Street Working Party meeting to make recommendations to Council regarding controls for courtyard housing and equivalent development relating to multi-storey development.*

## **2. Engagement with the Paddington HCA Working Party**

The Paddington HCA Working Party (the Working Party), includes Paddington Ward Councillors and representatives from The Paddington Society, the National Trust of Australia NSW and the Woollahra History and Heritage Society. A meeting with the Working Party was held at Council Chambers on Thursday 11 February 2020 to discuss numerical controls for single storey buildings rear additions (courtyard housing additions) and potential amendments for multi-storey terrace houses. Minutes from this meeting are attached at **Annexure 3**.

On 28 February 2020, Council staff circulated an email to the members of the Working Party seeking clarification on the proposed changes. In response, members of the Working Party provided a number of comments and examples of recently approved development applications that would help inform the review.

On 11 March 2021, Council staff circulated an email to the members of the Working Party with proposed amendments to Chapter C1 Paddington HCA of the Woollahra DCP 2015. The Paddington Society provided a detailed submission in response, which included a number of recommended changes.

On 23 March 2021, Council staff circulated a second draft with proposed amendments to Chapter C1 Paddington HCA of the Woollahra DCP 2015. The Paddington Society provided a further detailed submission in response, which included a number of recommended changes. Other members of the working party also provided feedback on the second draft.

In both of these submissions the Paddington Society requested an extension of time. However, it was considered by staff that in this instance, an extension of time is not necessary for the following reasons

- Since February 2020, the members of the Working Party have sent emails to staff with recommendations and case studies
- The Paddington Society have provided two detailed submissions on the proposed amendments
- The members of the Working Party will be notified of the meeting of the Environmental Planning Committee (EPC) of 12 April 2021
- The members of the Working Party will be notified at the commencement of the public exhibition period, should the proposed controls be placed on public exhibition. All submissions will be reported to a future meeting of the EPC.

## **3. Amendments to Chapter C1 Paddington HCA of the Woollahra DCP 2015**

### **3.1. Numerical controls**

It is noted that the resolution from 9 December 2019 requires the consideration of numerical controls for pavilions and linking structures and to give consideration to how the controls should apply to single and multi-storey terraces. The previous amendments (identified above) addressed amended controls for single storey terraces/buildings.

As part of this review, staff have considered how numerical controls could be applied to multi-storey terrace style housing. Chapter C1 Paddington HCA already contains a number of provisions that inform the design, scale and bulk of multi-storey terrace style housing. A full analysis of numerical controls applying to multi-storey terrace style housing in Chapter C1 Paddington HCA is attached at **Annexure 4**, including recommended amendments. A summary of these is included in

the following table. Overall, these amendments seek to supplement existing provisions for multi-storey terrace style housing, including the height, form and presentation of rear elevations.

**Table 1: Opportunities for improvements based on the analysis of the numerical controls**

	<b>Aim of the amendment</b>	<b>DCP Sections affected by changes</b>
1	Restrict the height of rear additions to multi-storey terraces.	Amend C1 of <i>C1.4.3 Rear elevations, rear additions, significant outbuildings and yards</i> and include new graphics
2	Restrict the bulk, height and scale of lofts built above studios, where the site has no rear laneway access.	Amend <i>C1.5.7 Lofts over garages or studios</i> so that these provisions also apply to lots with no rear laneway access.  Amendments include enhancing the introductory text, adding a new objective O7 and amend C1 (h)
3	Ensure the form and pitch of rear skillion roofs is consistent within the same group or pair.	Add new objective O4 and control C11 to <i>C1.4.4 Roofs and roof forms</i> .

### 3.2. Additional proposed amendments to the Woollahra DCP 2015

In addition to the changes identified in Table 1 above, and as a consequence of discussions with the members of the Working Party, staff have identified further changes that can be made to enhance the provisions in Chapter C1 Paddington HCA. In summary, these controls will strengthen a number of provisions across the chapter including provisions for pairs or groups of buildings, side additions for multi-storey terrace housing and the maintenance of elements that contribute to the significance of the HCA. These are summarised in the following table.

**Table 2: Additional amendments based on engagement with the Working Party**

	<b>Aim of the amendment</b>	<b>DCP Sections affected by changes</b>
1	Strengthen provisions to retain coherent forms and character of rear elevations of pairs or groups of single storey buildings.	Add a new objective O4 and control C12 (a) to <i>C1.3.1 Single storey buildings</i> .
2	Ensure side additions provisions currently in <i>C1.3.4 Multi-storey terrace style</i> apply to all building types.	Move provisions from <i>C1.3.4 Multi-storey terrace style housing</i> to <i>Part C1.4. General Controls for all development</i> .
3	Strengthen controls for elements that contribute to the HCA.	Add new control C1 (m) in <i>C1.5.7 Lofts above garage and studios</i> . Also add new objective O5 and amend control C3 (b) in <i>C1.3.13 Infill development (new development)</i> .
4	Ensure the character of side elevations of principal building forms are retained.	Amend C2 of <i>C1.4.2 Side elevations to streets and lanes</i> .
5	Ensure a second dormer is allowed only on the rear roof plane of a courtyard housing addition.	Amending existing C18 (c) of <i>C1.3.1 Single storey buildings</i> .

### 3.3. Draft Woollahra DCP Amendment No. 16.

As a consequence of the issues discussed at the meeting of the Working Party, the detailed feedback from the Paddington Society and other working party members, and having consulted with Council's Development Control Staff, *Draft Woollahra Development Control Plan 2015 (Amendment No.16)* seeks to strengthen the provisions for multi-storey development in Paddington.

The draft DCP Amendment with the changes included is attached at **Annexure 1**. **Annexure 2** contains the relevant extracts from each of the chapters, and illustrates how the changes identified can be read in context with the other provisions. Notes in the right hand margin provide the justification for the proposed changes.

#### 4. Next steps

If Council supports amending the Woollahra DCP 2015, the next step is exhibit the draft development control plan. The process for amending a DCP is set out in the *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, and the *Woollahra Community Participation Plan 2019*.





The draft DCP must be publicly exhibited for a minimum of 28 days. Public notice will be given in the *Wentworth Courier* and on Council's website each week of the exhibition. Key community groups, including the Paddington HCA Working party will be notified. The outcome of public exhibition will be reported to a future meeting of the EPC.

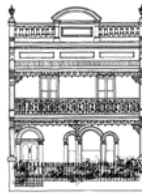
#### 5. Conclusion

In response to two Council resolutions dated 9 December 2019 and 9 March 2020, Council staff have consulted with the Paddington HCA Working Party on a number of occasions, reviewed existing provisions and identified opportunities for improvement to Chapter C1 Paddington HCA in the Woollahra DCP 2015.

The proposed amendments seek to address a number of issues, including the height, form and presentation of rear elevations to multi-storey buildings in Paddington. Staff recommend that Council resolve to exhibit the *Draft Woollahra Development Control Plan 2015 (Amendment No 16)* as contained in **Annexure 1**.

#### Annexures

1. Woollahra Development Control Plan 201 (Amendment No.16) [↓](#) 
2. Proposed changes to Chapter C1 of the Woollahra DCP 2015 [↓](#) 
3. Minutes of the meeting of the Paddington HCA Working Party 11 February 2020 [↓](#) 
4. Analysis of existing numerical controls applicable to multi-storey terrace housing [↓](#) 



THE PADDINGTON SOCIETY Inc.  
For Community and Heritage  
Est 1964

The General Manager  
Woollahra Municipal Council  
PO Box 61, Double Bay NSW 1360

4 June 2021

**For the attention of Flavia Scardamaglia & Anne White**

Dear Flavia and Anne

**Draft WDCP 2015 – (Amendment 14) and (Amendment 16): both dated May 2021**

On behalf of the Paddington Society I note the following re the above Amendment documents.

**Our comments relate to only very minor administrative changes, since almost all of the suggested amendments have previously been commented and acted upon.**

We note that clauses and sub-clauses will be checked as an administrative change post-exhibition, but since we have noticed discrepancies here, it seems useful to point them out.

**AMENDMENT 14:**

Out comments relate only to pages 1 to 14 inclusive of the 27 numbered pages, since the remaining pages relate to the Woollahra and Watsons Bay Heritage Conservation Areas and those draft amendments appear to repeat and reflect the majority of those set out on the preceding 14 pages.

Page numbers refer to those of the advertised 27 numbered pages of the pdf.  
Suggested changes are underlined.

**Contents page:**

- the Woollahra Heritage Conservation Area should be titled Chapter C2

**p5: 2.7.1** “... adding h) to B1.8.2.”

- correct the numbering of the proposed new sub-clause from i) to h)

[we note that it is correctly numbered h) in the consolidated accompanying document]

**p6: 2.10.2**

- add key-spaces after the numeral 05)

**p8: above 2.11.2**

- reinstate the missing heading C1.2.2 Building types in Paddington

**p9: 2.13.1**

- delete the 2<sup>nd</sup> stray bracket after (objective g)) in the first line

**p9: 2.14.2**

- since sub-clause a) is to be deleted, re-number sub-clauses b) to f) inclusive

**p10: 2.1.4.3**

- after the newly inserted C8, C9 [formerly C7] will need to be re-numbered

Juniper Hall • [REDACTED] • ABN 99 885 076 141

**p10: 2.15.2.3**

- C2 - correct the tense: change "is encouraged" to "are encouraged"

**p14:** - the Woollahra Heritage Conservation Area should be titled Chapter C2

**AMENDMENT 16:**

Page numbers refer to those of the advertised 13 numbered pages of the pdf.  
Suggested changes are underlined.

**p 10 and p11:**

- The numbering of C15 to C26 appears to be wrong when related to the accompanying document which sets these clauses into the context of the whole. Since they are to be located after C11, we believe that they should be re-numbered as C12 to C23 inclusive.

Again, we realise that clause numbering will be checked as an administrative change post-exhibition, but again, since we have noticed the discrepancies here, it seems useful to point them out.

**p11: - the points in the box**

- These should be bulleted

[we note that they are bulleted in the consolidated accompanying document]

- The first point has some stray blank keystrokes before the last word

[we note that it appears to be correct in the consolidated accompanying document]

Most of the above minor administrative changes were noted in previous correspondence but were omitted in the advertised draft Amendments, which is the reason for repeating them here.

Thank you for the opportunity to provide our comments. It's pleasing that Council has worked to strengthen the existing objectives and controls of the WDCP, and that so many of our previously suggested comments on the earlier drafts have been incorporated, with a few minor amendments.

Yours sincerely



**Will Mrongovius,**

**President, The Paddington Society**

per Working Party Members: Robyn Attuell, Bill Morrison, John Richardson, Esther Hayter

**From:** [Your Say Woollahra](#)  
**To:** [Emma Williamson](#)  
**Subject:** Sam Taylor completed Make an online submission  
**Date:** Saturday, 15 May 2021 10:22:56 AM

---

Sam Taylor just submitted the survey Make an online submission with the responses below.

**Would you like to make a submission on the Draft Woollahra DCP 2015 changes to Inter-War flat buildings, timber buildings and multi-storey development provisions in the Woollahra LGA (Amendment 14 and 16)?**

Yes

---

**Your email**

[REDACTED]

---

**Your name**

Sam

---

**How would you like to make your submission?**

Type your submission here

---

**Please type your submission here.**

I understand the heritage value of these buildings but further protecting them will without a doubt increase the unaffordability of units in the area. Where will the provision of new housing required under the GSC targets be able to reasonably constructed? These sites are from a redevelopment perspective, the best sites to accommodate the increase in local population and dwelling supply. All of these styles of building also have accessibility issues which won't assist catering for the local aging population who wish to remain the LGA. Downsides in the area need generous sized units, that are accessible (lift, parking, current BCA standards etc) as their support needs increase. I know most of these buildings have significant structural issues, particularly with plumbing. The strata cost and special levies required to maintain these buildings undermines both the cost to acquire a unit or investment return placing further added pressure for owners. There should be adaptive reuse provisions on these sites. This would allow a highest and best use assessment, and not be hampered by additional heritage provisions. I hope these issues are seriously considered before adding in additional planning constraints on the existing constrained planning and development controls.

---

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**From:** [Your Say Woollahra](#)  
**To:** [Emma Williamson](#)  
**Subject:** ac581866 completed Make an online submission  
**Date:** Saturday, 15 May 2021 12:41:31 PM

---

ac581866 just submitted the survey Make an online submission with the responses below.

**Would you like to make a submission on the Draft Woollahra DCP 2015 changes to Inter-War flat buildings, timber buildings and multi-storey development provisions in the Woollahra LGA (Amendment 14 and 16)?**

Yes

---

**Your email**

[REDACTED]

---

**Your name**

Andrew Conway

---

**How would you like to make your submission?**

Type your submission here

---

**Please type your submission here.**

I endorse the majority of the Objectives and Controls proposed in the amendments. However, I believe section C1.4.2 regarding side additions development, should be strengthened more to prevent development which covers or blocks in existing breezeway in groups or pairs of identical terrace houses where a breezeway is common for the group or pairs of terrace houses. This proposal maintains and conserves the form and heritage of existing terrace houses when viewed from the rear. In addition, I believe that an original existing rear parapet wall and chimney, should NOT be allowed to be demolished. This will conserve the heritage value in Paddington. Too many chimneys and parapet walls have been demolished in recent years and replaced with ugly miscellaneous building materials, diminishing the heritage value at the side and rear of terrace houses.  
Kind Regards Andrew Conway

---

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## Draft Woollahra Development Control Plan 2015 (Amendment 14)

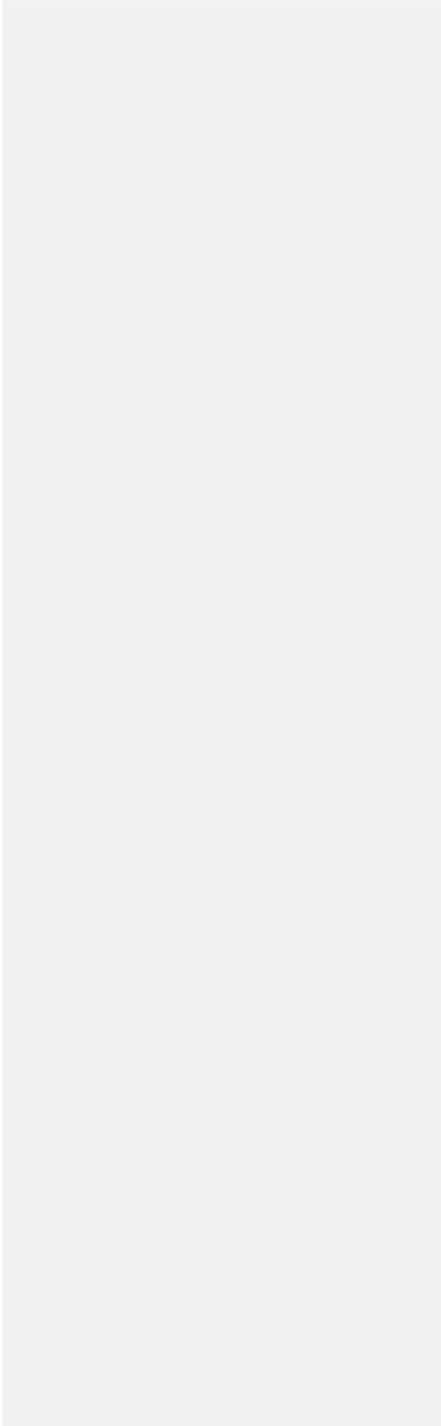
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Prepared Date:	July 2021
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning
HPE CM Record Number:	21/111498

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## Draft Woollahra Development Control Plan 2015 (Amendment No 14)

### Part 1 Preliminary

#### 1.1 Background

Inter-War flat buildings are defined in Chapter A3 of the Woollahra DCP 2015 as "a building of two or more storeys and containing two or more dwellings, constructed in the period from c.1918 to c.1950."

Inter-War flat buildings were constructed in many parts of the Woollahra LGA. Many of these buildings make an important historic, aesthetic, social and technical contribution to the character of areas and to the historical development of the area.

According to the Woollahra DCP 2015, there are numerous cohesive groups and one-off examples that demonstrate the key characteristics of architectural styles of the Inter-War period including Art Deco, Mediterranean, Georgian Revival, Spanish Mission, Skyscraper Gothic and Functionalist. Many of the Inter-War flat buildings across the LGA were designed by prominent architects such as Leslie Wilkinson, Emil Sodersten, Aaron Bolot, Eric Clarke Pitt, John R. Brogan and Samuel Lipson among others.

On 11 November 2019, Council adopted the following notice of motion (NOM), in part:

- A. Request staff to report to the Environmental Planning Committee on how the detailed controls for Inter-War residential flat buildings found in B3.8.7 of the Woollahra DCP 2015 can be applied to the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas.

The following background information accompanied the NOM on the meeting agenda, in part:

*There are no detailed objectives and controls for Inter-War residential flat buildings for the Paddington and Watsons Bay Heritage Conservation Areas and the controls which apply in the Woollahra Heritage Conservation Area are not as detailed and rigorous as those found in Part B3.8.7 of the DCP. There is therefore a need to review the way our controls for Inter-War residential flat buildings are applied across the Municipality. In particular, there is a need to apply our most detailed objectives and controls for Inter-War residential flat buildings to the Paddington, Woollahra and Watsons Bay Heritage Conservation Areas.*

This draft DCP seeks to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to update and strengthen existing provisions for Inter-War flat buildings and to ensure they apply also to Paddington, Woollahra and Watsons Bay Heritage Conservation Areas (HCAs). Existing provisions aiming to protect timber buildings will also be provided for Paddington and Watsons Bay heritage conservation areas.

### 1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 14)*.

### 1.3 Objectives of the plan

The objectives of the plan are to:

- a) Strengthen the existing objectives and controls for Inter-War flat buildings to help protect those buildings that form part of the character of the area.
- b) Amend and add existing provisions in the Paddington HCA to ensure Inter-War flat buildings are identified as significant and are protected.
- c) Amend and add existing provisions in the Woollahra HCA to ensure Inter-War flat buildings are protected.
- d) Add new provisions in the Watsons Bay HCA to ensure Inter-War flat buildings are protected.
- e) Strengthen existing provisions for timber buildings in Paddington HCA.
- f) Add new provisions in the Watsons Bay HCA to ensure timber buildings are protected.

### 1.4 Land to which this plan applies

This plan applies to land within the Woollahra local government area and identified on the map in **Figure 1** where the following chapters of the Woollahra DCP 2015 apply:

- Chapter B1 – Residential Precincts
- Chapter B3 - General Development Controls
- Chapter C1 - Paddington Heritage Conservation Area
- Chapter C2 - Woollahra Heritage Conservation Area
- Chapter C3 - Watsons Bay Heritage Conservation Area

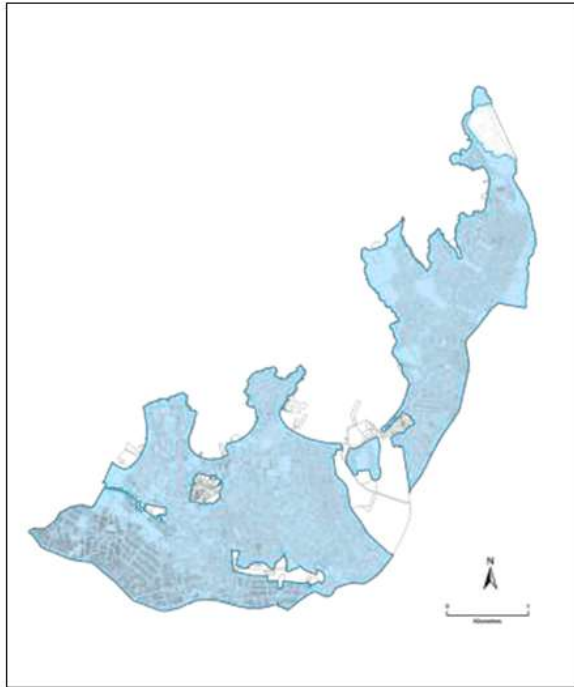


Figure 1: Land to which this draft plan applies

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

This plan has been prepared under Division 3.6 of the *Environmental Planning and Assessment Act 1979* and Part 3 of the *Environmental Planning and Assessment Regulation 2000*.

*Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) applies to the land to which this plan applies. In the event of an inconsistency between this plan and the Woollahra LEP 2014, the Woollahra LEP 2014 prevails.

#### 1.6 Approval and commencement of this plan

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

#### 1.7 How this plan amends Woollahra DCP 2015

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

## Part 2 Amendments to Woollahra Development Control Plan 2015

This plan amends Woollahra DCP 2015 in the following manner:

Insertions – identified in blue and underlined

Deletions – identified in red and strikethrough

Notes in the right hand margin of each section identify the source of the proposed amendments.

### 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 TBC) 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 14 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
<u>No 14</u>	<u>Date approved – TBC</u> <u>Date commenced - TBC</u>	<u>Amend Part B Chapter B1 and B3; Part C Chapters C1, C2 and C3 by modifying and amending various sections, controls and objectives to strengthen provisions for Inter-War flat buildings and timber buildings in Paddington and Watsons Bay.</u>

### Chapter B1 Residential Precincts

#### 2.3 Amendments to section B1.3 Double Bay Precinct

2.3.1 Amend Objective O7 to strengthen the protection of Inter-War flat buildings in B1.3.2.

~~O7~~ To ~~retain encourage the retention of~~ Inter-War flat buildings, particularly significant and traditional building elements visible from the street.

**Commented [DCP1]:** Enhance O7 to address the retention of Inter-War flat buildings

#### 2.4 Amendments to section B1.4 Wallaroy Precinct

2.4.1 Include Inter-War flat buildings as key elements of the precinct by adding i) to B1.4.2.



- i) ~~Inter-War flat buildings.~~

**Commented [DCP2]:** Include Inter-War flat buildings as key elements of the precinct.

2.4.2 Add a new objective O9 aiming to retain Inter-War flat buildings at B1.4.2.

- ~~O9 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.~~

**Commented [DCP3]:** Add a new objective to address the retention of Inter-War flat buildings.

### 2.5 Amendments to section B1.6 Point Piper Precinct

2.5.1 Identify Inter-War apartment buildings as Inter-War flat buildings in B.1.6.1 for consistency with other sections of the DCP.

The precinct contains a range of housing types and styles including an excellent group of Inter-War flat buildings at Longworth Avenue (substantially retained in their garden settings), large post World War II ~~apartment flat~~ buildings at Wolseley Road, and more recent substantial harbourside houses on large lots (including battle-axe lots).

**Commented [DCP4]:** Amend terminology for consistency with other sections of the DCP.

2.5.2 Enhance Objective O8 of B1.6.2.

- ~~O8 To retain encourage the retention of the~~ Inter-War flat buildings, particularly significant and traditional building elements visible from the street.

**Commented [DCP5]:** Enhance objective O4 to address the retention of Inter-War flat buildings.

### 2.6 Amendments to section B1.7 Bellevue Hill South Precinct

2.6.1 Identify Inter-War apartment buildings as Inter-War flat buildings in B.1.7.1 for consistency with other sections of the DCP.

Land within this precinct is zoned R3 Medium Density Residential, but the form and scale of buildings vary from the Inter-War flat buildings and more recent ~~apartment flat~~ buildings to low density dwelling houses and semi-detached dwellings.

**Commented [DCP6]:** Amend terminology for consistency with other sections of the DCP.

2.6.2 Include Inter-War flat buildings as key elements of the precinct by adding h) to B1.7.2.

- ~~h) Inter-War flat buildings.~~

**Commented [DCP7]:** Insert Inter-War flat buildings as key elements of the precinct.

2.6.3 Enhance Objective O4 of B1.7.2.

- ~~O4 To retain ensure that alterations and additions to the~~ Inter-War flat buildings and ensure that alterations and additions do not detract from the character of these buildings and their presentation to the street.

**Commented [DCP8]:** Enhance objective O4 to address the retention of Inter-War flat buildings.

### 2.7 Amendments to section B1.8 Bellevue Hill North Precinct

2.7.1 Include Inter-War flat buildings as key elements of the precinct by adding h) to B1.8.2.

- ~~h) Inter-War flat buildings.~~

**Commented [DCP9]:** Insert Inter-War flat buildings as key elements of the precinct.

2.7.2 Add a new objective O9 aiming to retain Inter-War flat buildings at B1.8.2.

- ~~O12 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.~~

**Commented [DCP10]:** New objective to address the retention of Inter-War flat buildings.

### 2.8 Amendments to section B1.9 Rose Bay Precinct

2.8.1 Identify Inter-War apartment buildings as Inter-War flat buildings in B.1.9.1 for consistency with other sections of the DCP.

Prominent building types within the precinct include Inter-War detached housing and

Art Deco ~~apartment flat~~ buildings. More recent development, particularly in Spencer and Carlisle Streets, has seen the subdivision pattern altered to create larger lots for residential flat buildings.

**Commented [DCP11]:** Amend terminology for consistency with other sections of the DCP

2.8.2 Include Inter-War flat buildings as key elements of the precinct by adding i) to B1.9.2.

i) ~~Inter-War flat buildings.~~

**Commented [DCP12]:** Insert Inter-War flat buildings as key elements of the precinct.

2.8.3 Add a new objective O9 aiming to retain Inter-War flat buildings at B1.9.2.

~~O9 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.~~

**Commented [DCP13]:** New objective to address the retention of Inter-War flat buildings.

#### 2.9 Amendments to section B1.11 Vaucluse East Precinct

2.9.1 Include Inter-War flat buildings as key elements of the precinct by adding f) to B1.11.2.

f) ~~Inter-War flat buildings.~~

**Commented [DCP14]:** Insert Inter-War flat buildings as key elements of the precinct.

2.9.2 Add a new objective O9 aiming to retain Inter-War flat buildings at B1.11.2.

~~O9 To retain Inter-War flat buildings, particularly significant and traditional building elements visible from the street.~~

**Commented [DCP15]:** New objective to address the retention of Inter-War flat buildings.

### Chapter B3 General Development Controls

#### 2.10 Amendments to section B3.8.7 Inter-War flat buildings

2.10.1 Amend Objective O1 to ensure consistency with O2 and O3.

O1 To ensure that the significant characteristics of Inter-War flat buildings ~~that contribute to the character of the area, in regard to their presentation to the street,~~ are retained and protected.

**Commented [DCP16]:** Amend terminology consistent with Control C2.

2.10.2 Amend Objective O5 to replace the word "discrete" with "discreet".

O5 To ensure that alterations and additions to the roofs are ~~discreet discrete~~ and do not detract from the original character, proportions or key elements.

**Commented [DCP17]:** Administrative change: replace "discrete" with "discreet".

2.10.3 Amend Control C16 to allow non-protruding shade structures on the main elevations.

C16 ~~Protruding~~ shade structures, including awnings and canopies, are not located on the principal building elevations.

**Commented [DCP18]:** Amend to allow non-protruding shade structures on the main elevations.

2.10.4 Amend Control C20 to identify other materials not to be painted, rendered or coated, consistently with Chapter C2.16 to allow non-protruding shade structures on the main elevations.

C20 Original face brickwork, ~~terracotta or decorative concrete panels is must not be~~ painted, rendered or coated.

**Commented [DCP19]:** Enhance control C20 to identify other materials not to be painted, rendered or coated, consistent with Chapter C2.

2.10.5 Amend Control C24 to allow new verandahs and balconies to the rear and side elevations only.

C24 New verandahs and balconies ~~are allowed to the rear or side elevations only if they:~~  
a) respect the character of the existing building; and  
b) are sympathetically integrated with the character and form of the building.

**Commented [DCP20]:** Enhance control C24 to allow new verandahs and balconies to the rear and side elevations only.

2.10.6 Amend Objective O14 to replace "discrete" with "discreet".

O14 To ensure that additions and alterations for fire upgrading and safety are ~~discrete~~ **discreet**, and retain and respect the original and significant building fabric.

**Commented [DCP21]:** Administrative change: replace "discrete" with "discreet".

2.10.7 Amend Control C40 to modify the height of balustrades under the National Construction Code.

C40 Where the height of the original stair balustrades is ~~to be modified for fire safety~~, the modification is discreet and sympathetically integrated with the existing stair balustrade.

**Commented [DCP22]:** Enhance control C40 to include any height modification enforced by codes (i.e. National Construction Code).

2.10.8 Amend Control C41 to replaced "discrete" with "discreet".

C41 Stair treads applied to existing stairs are ~~discrete~~ **discreet**.

**Commented [DCP23]:** Administrative change: replace "discrete" with "discreet".

2.10.9 Amend Control C48 c) to ensure new work complement the principal building but not necessarily match it.

C48 New ancillary development:

- a) is smaller in scale than the principal building;
- b) is not located between the principal building and the street front, and generally located at the rear behind the principal building;
- c) is constructed in a style, form, materials and finishes that ~~match~~ **complement** the principal building;
- d) is single storey with a maximum clear internal height of 2.4m; and
- e) is sympathetic in scale and style to traditional forms of ancillary structures.

**Commented [DCP24]:** Enhance Control C48 to ensure new work complements but not necessarily matches the principal building.

2.10.10 Amend Control C49 to give more emphasis to the removal of unsympathetic additions rather than new works.

~~C49 Previous unsympathetic additions and modifications to the building, and its grounds, are to be removed and replaced by reinstating original forms and matching fabric or with new works sympathetic to the age and style of the building. Unsympathetic additions and modifications to the building, and its grounds, are removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.~~

**Commented [DCP25]:** Enhance control C49 to encourage the removal of unsympathetic additions.

## Chapter C1 Paddington Heritage Conservation Area

### 2.11 Amendments to section C1.2.1 The significance of the Paddington Heritage Conservation Area

2.11.1 Amend the statement of significance to include a reference to the heritage significance of Inter-War flat buildings.

Paddington is a unique urban area which possesses historical, aesthetic, technical and social significance at a National and State level. An important factor in the significance of Paddington is its exceptional unity, encompassing scale, character, history, architecture and urban form.

The built environment of Paddington is an excellent example of the process of 19th century inner city urbanisation of Sydney which was largely completed by 1890. The predominant Victorian built form is an excellent representative example of the

phenomena of land speculation and a 'boom' building period between 1870 and 1895.

The terraces of Paddington clearly trace the evolution of the imported English Georgian and Regency terrace models into the distinct Australian style evident in the Victorian era terraces.

Paddington retains many significant types of buildings that represent all phases of the suburb's historical development. These building types range from modest, small-scale, single storey timber and masonry cottages, to remnant examples of former gentry mansions, boom style middle-class terrace houses, apartment blocks and contemporary infill development, all of which are set in a varied network of streets, lanes and pedestrian accessways which reflect the phases of subdivision and development.

Paddington has a multitude of important historical and social associations. It is linked with the early transport routes along South Head Road (Oxford Street) and Point Piper Road (Jersey Road), the construction of Victoria Barracks in the 1840s, the gentry estates, prominent figures of the early colony, the speculative building boom between 1870 and 1890, and the development of Australian tennis at the White City site. Its historical and social associations extend to the periods of occupancy by immigrant groups and minority groups including the Chinese market gardeners, the Jewish community around the turn of the century, the European immigrants in the 1950s and an alternative artistic and intellectual population in the 1960s and 1970s. Today Paddington has a high level of social esteem and is regarded as one of Sydney's most desirable inner-city urban areas. The changing sociology of Paddington demonstrates phenomenal variations in status and changes in community attitudes to the 19th century suburb.

Paddington has important associations with the evolution of the conservation movement in Australia, in particular with the actions by the National Trust and the Paddington Society, which ensured its conservation at a time of redevelopment threat in the 1960s. It is significant as the first suburb classified by the National Trust, a community based, non-government organisation committed to promoting and conserving Australia's heritage.

Paddington has a unique aesthetic significance due to the superimposition of the built form on a sloping topography which overlooks Sydney Harbour and its foreshores. The coherent and extensive Victorian built form comprising groups of terrace buildings on narrow allotments which step down hills, turn corners or sit in ranks along tree lined streets produces a singularly recognisable image.

Inter-War flat buildings are also present in Paddington, ranging from around 1918 to circa 1950. Many of these buildings make an important historic, aesthetic, social and representative contribution to the character and illustrate the historical evolution of development of the area. They demonstrate the key characteristics of architectural styles of the Inter-War period.

Paddington provides vast opportunity for research, education and interpretation through the physical layout of its road network, its subdivision pattern and the varied form of buildings.

These buildings provide an excellent record of past technologies and domestic lifestyles through features such as original external and internal building fabric, detailing and room layouts. Terrace houses, semi-detached dwellings, flat buildings and freestanding houses all show the evolving attitudes towards families and the home from the early 19th to the late 20th century.

**Commented [DCP26]:** Enhance the Statement of Significance to identify that Inter-War flat buildings form part of the evolution of the historical development of Paddington.

2.11.2 Remove inconsistencies with other sections of the DCP in relation to Inter-War flat buildings in C1.2.2 Building types in Paddington:

Later development which occurred on further subdivisions, vacant blocks, or on redeveloped sites includes Federation era terraces, Inter-War apartment flat buildings, 1960s and 1970s high rise style units, and more recently some excellent examples of contemporary infill.

**Commented [DCP27]:** Administrative change: amend terminology for consistency with other sections of the DCP.

## 2.12 Amendments to section C1.2.3 Character elements

2.12.1 Amend the character elements to include Inter-War flat buildings in Paddington as distinctive features of the area and administrative change to syntax.

Paddington has a valuable historic and predominantly 19th century residential character, which is represented by late-Victorian terrace houses, modest workers' cottages, including single-storey timber and masonry houses, and former mansions. It also contains a mix of shops and pubs, residential flat buildings, commercial buildings and a few surviving light industrial and warehouse buildings, with many being adapted to residential uses.

**Commented [DCP28]:** Administrative grammatical change.

**Commented [DCP29]:** Amend character elements to reflect the importance of Inter-War flat buildings in Paddington that are distinctive features of the area to be retained.

## 2.13 Amendments to section C1.2.4 Desired future character

2.13.1 Amend the desired future character (objective g)) to include Inter-War flat buildings in Paddington among the diversity of building types to be retained.

g) retains the diversity of building types including multi-storey and single storey terrace house rows, modest scale timber and masonry cottages, semi-detached dwellings, dwelling houses, commercial buildings, pubs, former industrial buildings, places of public worship, Inter-War flat buildings and public buildings;

**Commented [DCP30]:** Amend to reflect the importance of Inter-War flat buildings in Paddington.

## 2.14 Amendments to section C1.3.2 Timber buildings

2.14.1 Introduce a new objective to protect timber buildings from fire and access upgrading.

~~O6~~ To ensure that additions and alterations for fire and access upgrading are discreet, and retain and respect the significant building and its fabric.

**Commented [DCP31]:** Add a new objective to address the protection of timber buildings from fire upgrading and access.

2.14.2 Enhance C2 by removing the need to reinstate render onto timber buildings.

C2 When works are proposed to the principal building form or original significant elevations visible from the street or lane, Council strongly encourages, and may require, restoration or reconstruction of missing elements appropriate to the architectural style of the building or reversal of uncharacteristic elements where:

- a) ~~original render has been stripped from an external wall surface;~~
- b) a) balconies or verandahs have been enclosed and details such as balustrade panels, rails, columns, friezes and fringes have been removed;
- c) b) original door or window types and patterns have been removed;
- d) c) roof cladding is in a unsympathetic material;
- e) d) details are missing from chimneys; and
- f) e) inappropriate reconstruction of period detail and elements has occurred.

**Commented [DCP32]:** Delete this control as rendered surfaces can not be found on timber buildings.

Note: Reconstruction and restoration may be guided by traditional models and physical or documentary evidence of an earlier state of the building or architectural style.

- 2.14.3 Add new controls to protect fabric of the principal building form from proposed parking areas and fire upgrade and access works and re-number existing C7 as C9.

~~C7~~ No parking is permitted under or within the principal building form of a dwelling.

**Commented [DCP33]:** Insert a new control to protect timber buildings from demolition in order to facilitate onsite parking.

~~C8~~ Fire upgrade and access works must be done sympathetically and avoid removal of significant fabric.

**Commented [DCP34]:** Insert a new control to address the protection of fabric from fire upgrade and access works.

~~C79~~ Refer to relevant objectives and controls in section 1.3 - Building types, section 1.4 - General policy for existing building and infill development and section 1.5 Specific policy for building and site elements

### 2.15 Amendments to section C1.3.6 Residential flat buildings, manor houses, multi dwelling housing and multi dwelling housing (terraces)

- 2.15.1 Amend the introductory text to include a paragraph on the significance of Inter-War flat buildings in Paddington.

Inter-War flat buildings illustrate the Inter-War development of Paddington. They make an important historic, aesthetic, social and representative contribution to the character of Paddington, demonstrating the key characteristics of architectural styles of the Inter-War period.

**Commented [DCP35]:** Insert new paragraph to reflect the importance of Inter-War flat buildings in Paddington.

- 2.15.2 Amend and add new objectives and controls for Inter-War flat buildings in Paddington.

#### General

**Commented [DCP36]:** Amend Clause 1.3.6 so that there are general controls for all flat buildings and more detailed controls for Inter-War flat buildings consistent with B3.8.7.

#### Objectives

~~O1 To retain contributory examples of residential flat buildings and multi dwelling housing.~~

**Commented [DCP37]:** Delete objective O1 as this is replaced by proposed O1 of Inter-War flat buildings objectives.

~~O2~~ To mitigate the effects of intrusive residential flat building, manor house, multi dwelling housing (terraces) and multi dwelling housing development.

~~O3~~ To encourage redevelopment or modification of intrusive development.

~~O3~~ To ensure that parking does not detract from the character of the streetscape.

**Commented [DCP38]:** Insert new objective (consistent with B3.8.7) to ensure that parking does not detract from the streetscape.

#### Controls

C1 Redevelopment or modification of intrusive development must be to a design that is appropriate to the relevant aspects of the historic context.

~~C2~~ Alterations and additions that reverse unsympathetic works are encouraged.

**Commented [DCP39]:** Insert new control C2 to encourage the reversal of unsympathetic works.

~~C3~~ Alterations and additions to intrusive development must be an appropriate response to the historic streetscape and mitigate intrusiveness.

**Commented [DCP40]:** Insert new control C3 to encourage an appropriate response of intrusive development to the HCA.

#### Inter-War flat buildings

**Commented [DCP41]:** Insert new set of objectives and controls for Inter-War flat buildings consistent with B3.8.7.

**Objectives**

- O1 To conserve and maintain Inter-War flat buildings and multi dwelling housing in Paddington by ensuring these buildings and their significant characteristics are retained and protected.
- O2 To conserve the principal street elevations and the character of Inter-War flat buildings.
- O3 To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.
- O4 To ensure that alterations and additions to the roofs are discreet and do not detract from the original character, proportions or key elements.
- O5 To conserve the established garden settings, including significant elements and features.
- O6 To ensure that external materials, details and finishes respect and complement the original building.
- O7 To ensure that works to balconies and verandahs do not detract from the character and form of Inter-War flat buildings.
- O8 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.
- O9 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.
- O10 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.
- O11 To ensure that additions and alterations for fire upgrading and safety are discreet, and retain and respect the original and significant building fabric.
- O12 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.
- O13 To promote restoration and reconstruction works to restore significance.

**Controls**

- C1 Significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations are to be retained, except for restoration or reconstruction.
- C2 Changes to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building.
- C3 Alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.
- C4 Additions are limited to undercroft areas, roof spaces and the provision of balconies.

- C5 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
- C6 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.
- C7 Existing original fanlights and other openings are retained and sealed from behind, if necessary.
- C8 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.
- C9 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.
- C10 New additional security elements are in character with the building. Security bars are:
- a) fitted internally;
  - b) respect the existing glazing patterns; and
  - c) painted in a dark recessive colour.
- C11 Original verandas and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.
- C12 New verandahs and balconies are allowed to the rear or side elevations only if they:
- a) respect the character of the existing building; and
  - b) are sympathetically integrated with the character and form of the building.
- C13 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and landscape areas.
- C14 Materials are similar in type and finish to those on the original building or sympathetically integrate with the fabric of the building.
- C15 Original face brickwork, terracotta or decorative concrete panels must not be painted, rendered or coated.
- C16 Dormer windows or skylights are not visually prominent from the public domain or the principal elevations of the building. Skylights are flush with the roof surface.
- C17 Original chimneys and their details are retained.
- C18 Privacy screens are discreet and do not impact on the overall character of the building.
- C19 Protruding shade structures, including awnings and canopies, are not located on the principal building elevations.



- C20 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
- C21 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, wall details, light fittings, internal doors and the like.
- C22 New lifts are designed and located so that the addition:
- a) is located outside the principal building form, if practical; and
  - b) does not require significant alterations to existing common areas.
- C23 Unsympathetic additions and modifications to the building, and its grounds, are to be removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.
- ~~C1724~~ Services upgrading and fire safety works must minimise adverse visual impact and damage to original building fabric.
- C25 Alarm bell boxes and the like, are not attached to the principal building elevations.
- C26 New or upgraded services are discreetly and sensitively located to minimise visual impact. They are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent. Wiring or other services are housed in concealed conduits.
- C27 Original timber staircases are retained and smoke isolated, if necessary.
- C28 Where the height of the original stair balustrades is to be modified –the modification is discreet and sympathetically integrated with the existing stair balustrade.
- C29 Stair treads applied to existing stairs are discreet.
- C30 Emergency and exit lighting is incorporated into existing original light fittings, where practical.
- C31 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.
- C32 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
- C33 Original fencing, gates and mailboxes are retained and conserved.
- C34 New ancillary development:
- a) is smaller in scale than the principal building;
  - b) is not located between the principal building and the street front, and generally located at the rear behind the principal building;

**Commented [DCP42]:** Existing control C17 integrated into the new set of controls as C24.

c) is constructed in a style, form, materials and finishes that complement the principal building;

d) is single storey with a maximum clear internal height of 2.4m; and

e) is sympathetic in scale and style to traditional forms of ancillary structures.

C35 Characteristic front gardens, and their elements, are retained with minimal alteration.

C36 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.

C37 New fences and gates to the front building alignment must complement the streetscape and the existing building.

C38 Mailboxes are discreetly located and do not impact on the character of the building.

Note: Refer also to Section 1.2.5 Contemporary design in Paddington and Section 1.3.14 Intrusive buildings.

~~C2 Alterations may be made to the external finishes of residential flat buildings and manor houses, if appropriate to the building type.~~

**Commented [DCP43]:** Control deleted as it is replaced by proposed C2 of Inter-War flat buildings controls.

~~C3 Alterations are permitted that reverse any unsympathetic works to residential flat buildings, manor houses, multi dwelling housing (terraces) and multi dwelling housing.~~

**Commented [DCP44]:** Control deleted as it is replaced by proposed C1 of the General controls.

~~C4 Alterations and additions must not adversely affect the form or character of contributory buildings.~~

**Commented [DCP45]:** Control deleted as it is replaced by proposed C3 and C5 of the Inter-War flat building controls.

~~C6 Alterations or additions to the original forms, details or materials of the principal elevations of contributory buildings are not permitted.~~

**Commented [DCP46]:** Control deleted as it is replaced by proposed C5 and C6 of the Inter-War flat buildings controls.

~~C7 Alterations and additions to an individual unit must not adversely affect the cohesiveness of the principal building form of the building.~~

**Commented [DCP47]:** Control deleted as it is replaced by proposed C3 and C4.

~~C8 Alterations to windows and external doors of contributory buildings are not permitted except where they would not be visually prominent, such as to rear ground floor flats or below street level.~~

**Commented [DCP48]:** Control deleted as it is replaced by proposed C6 and C9.

~~C9 Enclosure of balconies and verandahs of contributory buildings is not permitted.~~

**Commented [DCP49]:** Control deleted as it is replaced by proposed C11.

~~C10 Alterations to improve accessibility (including lifts, ramps and stairs) must retain the original character and design of the building and setting.~~

**Commented [DCP50]:** Control deleted as it is replaced by proposed C13.

~~C11 Skylights are not permitted where visible from the public domain.~~

**Commented [DCP51]:** Control deleted as it is replaced by proposed C16.

~~C12 Dormer windows are not permitted.~~

**Commented [DCP52]:** Control deleted as it is replaced by proposed C16.

~~C13 Ancillary development must be no higher than one storey and should be constructed of materials in the style and character of the principal building.~~

**Commented [DCP53]:** Control deleted as it is replaced by proposed C34.

~~C14 Ancillary development should be located behind the principal building form.~~

**Commented [DCP54]:** Renumber existing control C14 as proposed C34.

~~C15 Shade structures including awnings and canopies are not permitted to the street front elevation of the building.~~

**Commented [DCP55]:** This control is deleted as it is replaced by proposed C19.

~~C16 Privacy screens must be discreet, must not be visible from the street and must not adversely affect the overall character of the building.~~

**Commented [DCP56]:** This control is deleted as it is replaced by proposed C18.

~~C18 Existing ground level landscaped spaces must not be reduced in area, or screen the principal elevation of the building.~~

**Commented [DCP57]:** This control is deleted as it is replaced by proposed C36.

## Chapter C2 Woollahra Heritage Conservation Area

### 2.16 Amendments to section C2.4.5 Inter-War flat buildings

2.16.1 Amend the introductory text to include a paragraph on the significance of Inter-War flat buildings in Woollahra.

Inter-War flat buildings make a contribution to the conservation area as they illustrate the evolution of Sydney's living accommodation from the single house to the acceptance of multi-unit living during the Inter-War period.

**Commented [DCP58]:** Insert new paragraph to reflect the importance of Inter-War flat buildings in Woollahra.

2.16.2 Amend and add new objectives and controls for flat buildings and new objectives and controls for Inter-War flat buildings.

#### Objectives

O1 To conserve and maintain Inter-War flat buildings in Woollahra.

**Commented [DCP59]:** Amend objectives so that there are controls for Inter-War flat buildings consistent with B3.8.7.

~~O12~~ To ensure that the original significant characteristics of Inter-War flat buildings contributing to the character of the area are retained and protected.

**Commented [DCP60]:** Renumber existing objective O1 with proposed O2.

O3 To conserve the principal street elevations and the character of the Inter-War flat buildings.

O4 To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.

O5 To ensure that alterations and additions to the roofs are discreet and do not detract from the original character, proportions or key elements.

O6 To conserve the established garden settings, including significant elements and features.

O7 To ensure that parking does not detract from the character of the streetscape.

O8 To ensure that external materials, details and finishes respect and complement the original building.

O9 To ensure that works to balconies and verandahs to rear or side elevations do not detract from the character and form of Inter-War flat buildings.

O10 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.

O11 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.

O12 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.

~~O213 To ensure that fire safety and access upgrading works are discreet and retain and respect the original and significant building fabric. To ensure those services upgrading and fire safety works are carried out in a way that retains and conserves the distinctive characteristics of the building.~~

**Commented [DCP61]:** Renumber existing objective O2 with proposed O13.

~~O3 To allow sympathetic additions to the external façade of Inter-War flat buildings that conserve the distinctive or original characteristics of the building.~~

**Commented [DCP62]:** Control deleted as it is replaced by proposed O3, O4 and O5.

~~O4 To encourage redevelopment or modification of intrusive development.~~

**Commented [DCP63]:** Control deleted as it is replaced by proposed O15.

O14 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.

O15 To promote restoration and reconstruction works to restore significance.

#### **Controls**

**Commented [DCP64]:** Enhance controls for Inter-War flat buildings consistent with B3.8.7.

#### *Streetscape*

C1 Significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations are to be restored or reconstructed.

C2 Changes to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building.

C3 Alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.

C4 Additions are limited to undercroft areas, roof spaces and the provision of balconies.

C5 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.

C6 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.

C7 Existing original fanlights and other openings are retained and sealed from behind, if necessary.

C8 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.

C9 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.

C10 New additional security elements are in character with the building. Security bars are:

- a) fitted internally;
  - b) respect the existing glazing patterns; and
  - c) painted in a dark recessive colour.
- C11 Original verandahs and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.
- C12 New verandahs and balconies are allowed to the rear or side elevations only if they:
- a) respect the character of the existing building; and
  - b) are sympathetically integrated with the character and form of the building.
- C13 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and landscape areas.
- C14 Materials are similar in type and finish to those on the original building or sympathetically integrate with the fabric of the building.
- C15 Original face brickwork, terracotta or decorative concrete panels must not be painted, rendered or coated.
- C16 Dormer windows or skylights are not visually prominent from the public domain or the principal elevations of the building. Skylights are flush with the roof surface.
- C17 Original chimneys and their details are retained.
- C18 Privacy screens are discreet and do not impact on the overall character of the building.
- C19 Protruding shade structures, including awnings and canopies, are not located on the principal building elevations.
- C20 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
- C21 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, wall details, light fittings, internal doors and the like.
- C22 New lifts are designed and located so that the addition:
- a) is located outside the principal building form, if practical; and
  - b) does not require significant alterations to existing common areas.
- C23 Unsympathetic additions and modifications to the building, and its grounds, are to be removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.

- C24 Services upgrading and fire safety works must minimise adverse visual impact and damage to original building fabric.
- C25 Alarm bell boxes and the like, are not attached to the principal building elevations.
- C26 New or upgraded services are discreetly and sensitively located to minimise visual impact. They are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent. Wiring or other services are housed in concealed conduits.
- C27 Original timber staircases are retained and smoke isolated, if necessary.
- C28 Where the height of the original stair balustrades is to be modified – the modification is discreet and sympathetically integrated with the existing stair balustrade.
- C29 Stair treads applied to existing stairs are discreet.
- C30 Emergency and exit lighting is incorporated into existing original light fittings, where practical.
- C31 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.
- C32 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
- C33 Original fencing, gates and mailboxes are retained and conserved.
- C34 New ancillary development:
- a) is smaller in scale than the principal building;
  - b) is not located between the principal building and the street front, and generally located at the rear behind the principal building;
  - c) is constructed in a style, form, materials and finishes that complement the principal building;
  - d) is single storey with a maximum clear internal height of 2.4m; and
  - e) is sympathetic in scale and style to traditional forms of ancillary structures.
- C35 Characteristic front gardens, and their elements, are retained with minimal alteration.
- C36 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.
- C37 New fences and gates to the front building alignment must complement the streetscape and the existing building.
- C38 Mailboxes are discreetly located and do not impact on the character of the building.

~~C1 Contributory and/or characteristic street front gardens are to be maintained.~~

**Commented [DCP65]:** Control deleted as it is replaced by proposed C35.

~~C2 There shall be no structures, including secondary fencing, erected in the front gardens which detract from the feeling of openness or impact upon the principal elevations of the buildings.~~

**Commented [DCP66]:** Control deleted as it is replaced by proposed C35 and C36.

~~C3 There shall be no alterations or additions to the original forms, details or materials of the principal elevations of the buildings.~~

**Commented [DCP67]:** Control deleted as it is replaced by proposed C2 and C3.

~~C4 All car parking and garage structures are to be located at the rear with access from the rear lane or side driveway.~~

**Commented [DCP68]:** Control deleted as it is replaced by proposed C32.

*Landscaped area*

~~C5 The landscaped areas shall not be reduced in area or screen the principal elevation of the building.~~

**Commented [DCP69]:** Control deleted as it is replaced by proposed C35 and C36.

*Alterations and additions*

~~C6 Alterations and additions to an individual flat must not adversely affect the cohesiveness of the principal building form of the building.~~

**Commented [DCP70]:** Control deleted as it is replaced by proposed C3 and C4.

~~C7 Additions should not significantly change the overall form of the building. Additions should not be visually disruptive to the form or character of the building.~~

**Commented [DCP71]:** Control deleted as it is replaced by proposed C3.

~~C8 Alterations to windows and external doors are not permitted except where they are not visually prominent, such as to rear ground floor flats or below street level. C9 Enclosure of balconies and verandahs is not permitted.~~

**Commented [DCP72]:** Control deleted as it is replaced by proposed C6 and C7.

~~C10 Proposed alterations to improve accessibility, including lifts, ramps and stairs, must retain the original character and design of the building and setting.~~

**Commented [DCP73]:** Control deleted as it is replaced by proposed C11.

~~C11 Original timber staircases must be retained and smoke isolated if necessary.~~

**Commented [DCP74]:** Control deleted as it is replaced by proposed C13.

*Roofs*

~~C12 The original roof form of the building is not to be altered.~~

**Commented [DCP75]:** Control deleted as it is replaced by proposed C27.

~~C13 Roofs must not be re-pitched to allow for the introduction of an attic storey.~~

**Commented [DCP76]:** Control deleted as it contradicts proposed C16.

~~C14 Skylights are not permitted where visible from the public domain.~~

**Commented [DCP77]:** Control deleted as it is replaced by proposed C13.

~~C15 Dormers are not permitted.~~

**Commented [DCP78]:** Control deleted as it is replaced by proposed C16.

*Fences and gates*

~~C16 Fences and gates at the street frontage must be between 400mm and 900mm in height and consistent in design with the style, form, materials, finishes and character of the building. Appropriate materials are generally masonry for fences and wrought iron for gates.~~

**Commented [DCP79]:** Control deleted as it contradicts proposed C16.

~~C17 Fencing behind the front outer wall of the building must be timber paling.~~

**Commented [DCP80]:** Control deleted as it is replaced by proposed C37.

**Commented [DCP81]:** Control deleted as it is replaced by proposed C14 and C37.

*Ancillary development*

~~C18 Ancillary development must be no higher than one storey and located between the principal building and the rear boundary. They should be constructed of material in the style and character of the principal building and with traditional forms of ancillary development.~~

**Commented [DCP82]:** Control deleted as it is replaced by proposed C34.

~~C19 Shade structures, including awnings and canopies, are not permitted to the principal elevation of the building.~~

**Commented [DCP83]:** Control deleted as it is replaced by proposed C19.

~~C20 Privacy screens must be discreet, must not be visible from the street and must not adversely affect the overall character of the building.~~

**Commented [DCP84]:** Control deleted as it is replaced by proposed C18.

*Extended materials*

~~C21 Materials for repair or replacement must match the original material in type, profile and colour.~~

**Commented [DCP85]:** Control deleted as it is replaced by proposed C1, C2 and C14.

~~C22 Original face brick, terracotta or decorative concrete panels on external elevations are not to be rendered, painted or coated.~~

**Commented [DCP86]:** Control deleted as it is replaced by proposed C15.

~~C23 Services upgrading and fire safety works must minimise adverse visual impact and damage to original building fabric.~~

**Commented [DCP87]:** Control deleted as it is replaced by proposed C13, C24 and C26.

~~C24 Concrete tiles and metal roofing are not permitted.~~

**Commented [DCP88]:** Control deleted as it is replaced by proposed C14 and C20.

~~C25 Aluminium windows are not permitted as replacements for timber windows, but may replace steel windows if they match the original windows in all other respects.~~

**Commented [DCP89]:** Control deleted as it is replaced by proposed C6 and C14.

**Chapter C3 Watsons Bay Heritage Conservation Area**

**2.17 Amendments to section C3.4.1 Precinct A: Entrance**

2.17.1 Amend terminology to define 'Keronga' as an Inter-War flat building in the list of contributory items to Precinct A.

Contributory items	
1 Robertson Place	2 storey <del>interwar duplex</del> 'Keronga'

**Commented [DCP90]:** Administrative change: amend terminology consistent with other chapters of the DCP.

2.17.2 Add a reference to Clause 3.6 for Inter-War flat buildings at the end of the clause.

[Inter-War flat buildings or multi dwelling housing](#)

**Commented [DCP91]:** Insert a reference to the new Inter-War flat buildings controls.

[For Inter-War flat buildings, refer to Clause 3.6 Contributory items: additional built form controls.](#)

**2.18 Amendments to section C3.4.4 Precinct D: Commercial and residential flat buildings**

2.18.1 Amend terminology to define 3 Military Road as an Inter-War flat building in the list of contributory items to Precinct D.



Contributory items	
3 Military Road	2 storey 1920s <del>Inter-War flat building flats</del> over retail

2.18.2 Add a reference to Clause 3.6 for Inter-War flat buildings at the end of the clause.

[Inter-War flat buildings or multi dwelling housing](#)

[For Inter-War flat buildings, refer to Clause 3.6 Contributory items: additional built form controls.](#)

**Commented [DCP92]:** Administrative change: amend terminology consistent with other chapters of the DCP.

**Commented [DCP93]:** Insert a reference to the new Inter-War flat buildings controls.

### 2.19 Amendments to section C3.4.10 Precinct K: Camp Cove Village

2.19.1 Amend the character statement terminology in Victoria Street to define duplex building as an Inter-War flat building, consistently with other chapters of the DCP.

#### Victoria Street

- Surviving single storey weatherboard and masonry cottages, and a two storey c1930s house on a larger allotment, with ~~duplex (flat)~~ [Inter-War flat building](#) at corner of Pacific Street.

2.19.2 Amend terminology to define 22-24 Victoria Street as an Inter-War flat building in the list of contributory items to Precinct K.

Contributory items	
22-24 Victoria Street	2 storey Inter-War <del>flat building duplex</del>

2.19.3 Add a reference to Clause 3.6 for Inter-War flat buildings at the end of the clause.

[Inter-War flat buildings or multi dwelling housing](#)

[For Inter-War flat buildings, refer to Clause 3.6 Contributory items: additional built form controls.](#)

**Commented [DCP94]:** Administrative change: amend terminology consistent with other chapters of the DCP.

**Commented [DCP95]:** Administrative change: amend terminology consistent with other chapters of the DCP.

**Commented [DCP96]:** Insert a reference to the new Inter-War flat buildings controls.

### 2.20 Amendments to section C3.4.11 Precinct L: Salisbury Street / Hopetoun Avenue

2.20.1 Amend terminology to define 7 and 11 Salisbury Street as Inter-War flat buildings.

Contributory items	
7 Salisbury Street	2 storey Inter-War <del>flat building duplex</del>
11 Salisbury Street	2 storey Inter-War <del>flat building duplex</del>

2.20.2 Add a reference to Clause 3.6 for Inter-War flat buildings at the end of the clause.

[Inter-War flat buildings or multi dwelling housing](#)

[For Inter-War flat buildings, refer to Clause 3.6 Contributory items: additional built form controls.](#)

**Commented [DCP97]:** Administrative change: amend terminology consistent with other chapters of the DCP.

**Commented [DCP98]:** Administrative change: amend terminology consistent with other chapters of the DCP.

**Commented [DCP99]:** Insert a reference to the new Inter-War flat buildings controls.

### 2.21 Amendments to section C3.4.14 Precinct O: Gibsons Beach Waterfront and Marine Parade South

2.21.1 Enhance the character statement to remove any reference to Inter-War flat buildings,

given that 4 Marine Parade has been demolished.

Housing includes single storey detached and semi-detached dwellings (c1920s–1930s) and larger two to three storey duplexes of the same period, with pitched roofs, many of which have been altered (Figure 112). Front gardens are generally set behind low walls and are open in character, elevated above the promenade toward the south end. The two to three storey dwellings above in the southern section (some with remnant cultural plantings) are barely visible from the beach.

**Commented [DCP100]:** Remove due to the fact that the Inter-War flat building at 4 Marine Parade (the only Inter-War flat building) has been demolished.

2.21.2 Remove reference to 4 Marine Parade being a contributory item since it has been demolished.

Contributory items	
<del>4 Marine Parade</del>	<del>2 storey 1920s flats over garage 'Belvedere'</del>

**Commented [DCP101]:** Delete as 4 Marine Parade has been demolished and it is no longer a contributory item.

## 2.22 Amendments to section C3.6 Contributory items: additional built form controls

2.22.1 Administrative changes to the font and size of all headings of C3.6.1 Contributory items to make them consistent with the other chapters of the Woollahra DCP 2015.

2.22.2 Add new objectives and controls for Inter-War flat buildings at 3.6.2, including a small introduction.

### 3.6.2 Inter-War residential flat buildings

Residential flat buildings and multi dwelling housing in Watsons Bay generally consist of small two, three and four storey buildings dating from the 1930s to 1950s, taller buildings dating from the 1960s to 1970s, and the infill buildings of the 1990s.

**Commented [DCP102]:** Insert new provisions to address the protection of Inter-War flat buildings and mitigate the adverse impact of intrusive flat buildings to the historic streetscape.

Contributory buildings identified in Clause 3.4 Precincts include some Inter-War flat buildings.

#### General

#### Objectives

O1 To mitigate the effects of intrusive residential flat building and multi dwelling housing development.

O2 To encourage redevelopment or modification of intrusive development.

O3 To ensure that parking does not detract from the character of the streetscape.

#### Controls

C1 Redevelopment or modification of intrusive development must be to a design that is appropriate to the historic context.

C2 Alterations and additions that reverse any unsympathetic works is encouraged.

C3 Alterations and additions to intrusive development must be an appropriate response to the historic streetscape and mitigates intrusiveness.

#### Inter-War Residential Flat Buildings

Objectives

- O1 To conserve and maintain Inter-War flat buildings in Watsons Bay.
- O2 To ensure that the significant characteristics of Inter-War residential flat buildings contributing to the character of the area are retained and protected.
- O3 To conserve the principal street elevations and the character of the Inter-War flat buildings.
- O4 To ensure that the character of original roofscapes, including key elements such as chimneys, is maintained.
- O5 To ensure that alterations and additions to the roofs are discreet and do not detract from the original character, proportions or key elements.
- O6 To conserve the established garden settings, including significant elements and features.
- O7 To ensure that parking does not detract from the character of the streetscape.
- O8 To ensure that external materials, details and finishes respect and complement the original building.
- O9 To ensure that works to balconies and verandahs to rear or side elevations do not detract from the character and form of Inter-War flat buildings.
- O10 To ensure that fences, gates and mailboxes are consistent with the character of Inter-War flat buildings.
- O11 To ensure that internal additions, alterations and repairs retain and respect internal common areas and significant internal character elements.
- O12 To ensure that the installation and maintenance of security devices does not detract from the character and form of Inter-War flat buildings.
- O13 To ensure that additions and alterations for fire upgrading and safety are discreet, and retain and respect the original and significant building fabric.
- O14 To ensure that ancillary development does not detract from the style and character of Inter-War flat buildings and their settings.
- O15 To promote restoration and reconstruction works to restore significance.

Controls

- C1 Significant and/or original forms, details, fabrics, materials or finishes of the principal building elevations are to be restored or reconstructed.
- C2 Changes to the significant forms, details, materials or finishes of the principal building elevations are sympathetic to the style and period of the building.
- C3 Alterations and additions do not impact on the overall form and character of the building, and are not visually prominent from the public domain.

- C4 Additions are limited to undercroft areas, roof spaces and the provision of balconies.
- C5 Alterations and additions are no higher than the existing roof level, and generally retain the original roof form of the building.
- C6 External windows and doors are repaired or replaced to match the style, materials and finishes of the original building.
- C7 Existing original fanlights and other openings are retained and sealed from behind, if necessary.
- C8 Original leadlight, glass blocks, etched and patterned glazing are retained and conserved.
- C9 Existing original external and internal doors and door hardware are retained and upgraded rather than replaced.
- C10 New additional security elements are in character with the building. Security bars are:
- a) fitted internally;
  - b) respect the existing glazing patterns; and
  - c) painted in a dark recessive colour.
- C11 Original verandahs and balconies to the principal elevation of the building are not enclosed, glazed, or otherwise altered, except to reinstate original detailing.
- C12 New verandahs and balconies are allowed to the rear or side elevations only if they:
- a) respect the character of the existing building; and
  - b) are sympathetically integrated with the character and form of the building.
- C13 Alterations to improve accessibility (including lifts, ramps and stairs) are sympathetically integrated with the original building and retain the original character and design of the building and landscape areas.
- C14 Materials are similar in type and finish to those on the original building or sympathetically integrate with the fabric of the building.
- C15 Original face brickwork, terracotta or decorative concrete panels must not be painted, rendered or coated.
- C16 Dormer windows or skylights are not visually prominent from the public domain or the principal elevations of the building. Skylights are flush with the roof surface.
- C17 Original chimneys and their details are retained.
- C18 Privacy screens are discreet and do not impact on the overall character of the building.

- C19 Protruding shade structures, including awnings and canopies, are not located on the principal building elevations.
- C20 The roof maintains traditional roofing materials of the area, such as glazed terracotta tiles. Any replacement or repair matches the original roofing in type, profile, colour and materials. Concrete roofing tiles and corrugated metal roofing are not appropriate.
- C21 Internal common areas and significant character elements are retained. This includes: entry doors, foyer areas and fittings, mailboxes, noticeboards, staircases, balustrades, wall details, light fittings, internal doors and the like.
- C22 New lifts are designed and located so that the addition:
- a) is located outside the principal building form, if practical; and
  - b) does not require significant alterations to existing common areas.
- C23 Unsympathetic additions and modifications to the building, and its grounds, are to be removed and replaced with sympathetic works, or reinstatement of original forms and matching fabric.
- C24 Services upgrading and fire safety works must minimise adverse visual impact and damage to original building fabric.
- C25 Alarm bell boxes and the like, are not attached to the principal building elevations.
- C26 New or upgraded services are discreetly and sensitively located to minimise visual impact. They are located within existing ducts, behind cornices or bulkheads or within external lightwells that are not visually prominent. Wiring or other services are housed in concealed conduits.
- C27 Original timber staircases are retained and smoke isolated, if necessary.
- C28 Where the height of the original stair balustrades is to be modified –the modification is discreet and sympathetically integrated with the existing stair balustrade.
- C29 Stair treads applied to existing stairs are discreet.
- C30 Emergency and exit lighting is incorporated into existing original light fittings, where practical.
- C31 Smoke and/or thermal detectors are discreetly located and do not impact on decorative plaster cornices and ceilings.
- C32 Car parking and garage structures are located at the rear, with access from the rear lane or side driveway.
- C33 Original fencing, gates and mailboxes are retained and conserved.
- C34 New ancillary development:
- a) is smaller in scale than the principal building;

- b) is not located between the principal building and the street front, and generally located at the rear behind the principal building;
- c) is constructed in a style, form, materials and finishes that complement the principal building;
- d) is single storey with a maximum clear internal height of 2.4m; and
- e) is sympathetic in scale and style to traditional forms of ancillary structures.

- C35 Characteristic front gardens, and their elements, are retained with minimal alteration.
- C36 Structures erected in the front garden do not significantly reduce or compromise the landscaped area or key elements and features.
- C37 New fences and gates to the front building alignment must complement the streetscape and the existing building.
- C38 Mailboxes are discreetly located and do not impact on the character of the building.

2.22.3 Add a new set of objectives and controls for timber buildings at 3.6.3.

3.6.3 Timber buildings

Watsons Bay retains the largest concentration of timber weatherboard buildings within the Woollahra local government area. Weatherboard buildings provide evidence of the early village of Camp Cove and contribute to the area's heritage values.

All forms of weatherboard buildings contribute to the diverse character of Watsons Bay streetscapes and the aesthetic value of the conservation area. Timber buildings are also significant because of their increasing rarity and historical association with the early fishing village of Camp Cove that is protected through the listing of the Watsons Bay Heritage Conservation Area.

Weatherboard buildings are vulnerable to change and many have been modified over time, are in a deteriorated condition or suffer from structural instability. Despite these changes, weatherboard buildings in Watsons Bay continue to make an important contribution to the character of the conservation area and are to be conserved.

Objectives

- O1 To retain and conserve timber buildings and their setting.
- O2 To retain, restore and conserve the special characteristics and details of timber buildings.
- O3 To restore and reconstruct missing elements of the principal building form within the street front zone.
- O4 To retain and conserve significant side and rear forms of timber buildings.
- O5 To retain, restore and promote the significance, contribution and relationship of a timber weatherboard building within the context of the conservation area.

**Commented [DCP103]:** Insert new provisions to address the protection of timber buildings in Watsons Bay.

O6 To ensure that additions and alterations for fire upgrading and safety are discreet, and retain and respect significant building and its fabric.

Controls

C1 Additional storeys are not permitted to the principal building form of timber buildings.

C2 When works are proposed to the principal building form or original significant elevations visible from the street or lane, Council strongly encourages, and may require, restoration or reconstruction of missing elements appropriate to the architectural style of the building or reversal of uncharacteristic elements where:

a) balconies or verandahs have been enclosed and details such as balustrade panels, rails, columns, friezes and fringes have been removed;

b) original door or window types and patterns have been removed;

c) roof cladding is in a unsympathetic material;

d) details are missing from chimneys; and

e) inappropriate reconstruction of period detail and elements has occurred.

Note: Reconstruction and restoration may be guided by traditional models and physical or documentary evidence of an earlier state of the building or architectural style.

C3 Existing setbacks from the front and side boundaries of the principal building form are to be retained.

C4 Alterations and additions to the rear of buildings must not dominate or compete with the form, height, proportions or scale of the timber building.

C5 Where structural stabilisation of a timber building is necessary, a sympathetic structural solution that ensures the conservation of as much original external and internal fabric as possible is required.

C6 Where alterations to timber buildings are required to meet the provisions of the Building Code of Australia, materials must be consistent with traditional materials and finishes.

C7 No parking is permitted under or within the principal building form of a dwelling.

C8 Fire upgrade and access works must be done sympathetically and avoid removal of significant fabric.



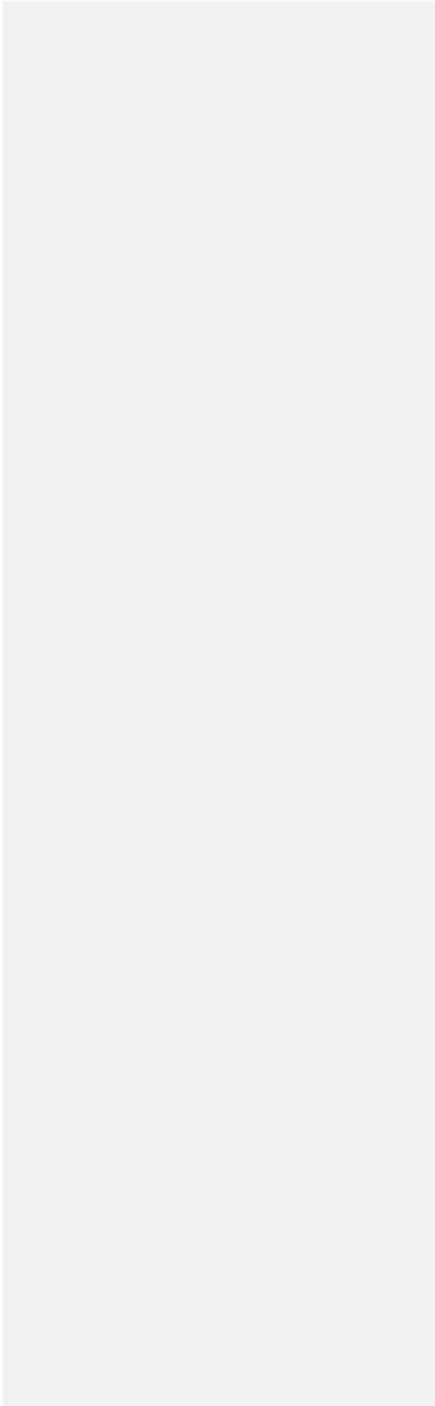
## Draft Woollahra Development Control Plan 2015 (Amendment 16)

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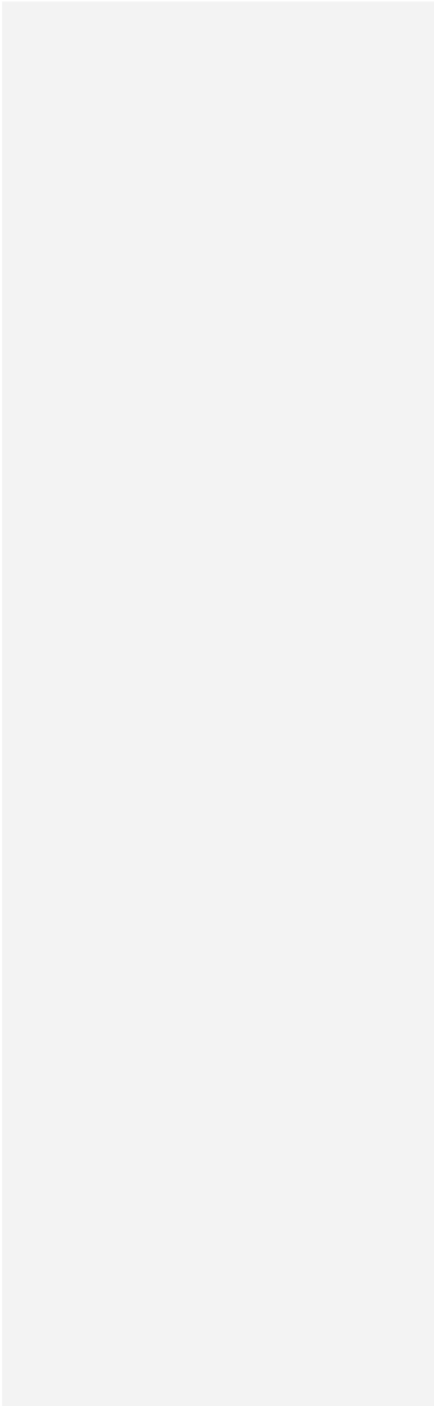
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## Draft Woollahra Development Control Plan 2015 (Amendment No 16)

### Part 1 Preliminary

#### 1.1 Background

This project progresses and complements two previous amendments to *Chapter C1 Paddington Heritage Conservation Area* (Paddington HCA) of the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) that commenced respectively on 2 January 2020 and 12 October 2020.

The first amendment (No.7) was a major review of controls related to single storey buildings, infill development and side additions to multi-storey terrace style housing in the Paddington HCA.

The second amendment (No.13) amended the terminology for additions to the rear of single storey buildings by introducing the term courtyard housing additions. This amendment also supplemented the numerical controls for additions to the rear of single storey buildings.

The aim of this further amendment is to respond to the request for numerical controls for rear additions to multi-storey buildings. Pertinent to this work are the following Council resolution.

On 9 December 2019 Council resolved (in part)

- B. THAT a meeting of the Paddington Heritage Conservation Area Working Party is convened by mid-February 2020 to discuss potential amendments to the numerical controls for pavilions and linking structures and to give consideration to how the controls should apply to one and two storey terraces.*

On 9 March 2020 Council resolved (in part)

- B. THAT staff convene a Paddington & Oxford Street Working Party meeting to make recommendations to Council regarding controls for courtyard housing and equivalent development relating to multi-storey development.*

The reviews have involved input from the Paddington Heritage Conservation Area Working Party, which includes Paddington Ward Councillors and representatives from the Paddington Society, the National Trust of Australia NSW and the Woollahra History and Heritage Society.

Draft Woollahra DCP 2015 (Amendment No 16) contains amendments to Chapter C1 Paddington Heritage Conservation Area related to sections C1.3.1 *Single storey buildings*, C1.3.4 *Multi-storey terrace style housing*, C1.3.13 *Infill development (new development)*, C1.4.2 *Side elevations to streets and lanes*, C1.4.3 *Rear elevations, rear additions, significant outbuildings and yards*, C1.4.4 *Roofs and roof forms* and C1.5.7 *Lofts over garages and studios*.

**1.2 Name of plan**

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 16)*.

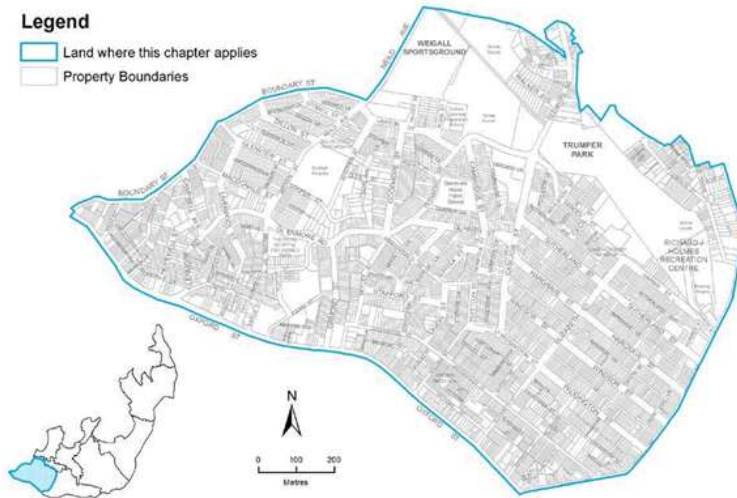
**1.3 Objectives of the plan**

The objectives of the plan are to:

- a) Strengthen the existing objectives and controls to retain coherent forms and character of rear elevations of pairs of groups.
- b) Constraint and limit the height, bulk and scale of rear additions to multi-storey terrace style housing.
- c) Ensure side additions provisions can be applied to any building type, not only multi-storey terrace housing.
- d) Ensure rear additions and infill development do not prevent the maintenance and conservation of elements that contribute to the significance of the heritage conservation area, for example sandstone walls.
- e) Ensure the character of side elevations of principal building forms are retained.

**1.4 Land to which this plan applies**

This plan applies to land within the Woollahra local government area and identified on the map in **Figure 1** where Chapter C1 of the Woollahra DCP 2015 apply:



**Figure 1: Land to which this draft plan applies**

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

This plan has been prepared under Division 3.6 of the *Environmental Planning and Assessment Act 1979* and Part 3 of the *Environmental Planning and Assessment Regulation 2000*.

*Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) applies to the land to which this plan applies. In the event of an inconsistency between this plan and the Woollahra LEP 2014, the Woollahra LEP 2014 prevails.

#### **1.6 Approval and commencement of this plan**

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

#### **1.7 How this plan amends Woollahra DCP 2015**

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

## Part 2 Amendments to Woollahra Development Control Plan 2015

This plan amends Woollahra DCP 2015 in the following manner:

Insertions – identified in blue and underlined

Deletions – ~~identified in red and strikethrough~~

Notes in the right hand margin of each section identify the source of the proposed amendments.

### 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 TBC) 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 14 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
<u>No 16</u>	<u>Date approved – TBC</u> <u>Date commenced - TBC</u>	<u>Amend Part B Chapter C1 by modifying and amending various sections, controls and objectives affecting single storey buildings, multi-storey terrace style housing, infill development, side elevations and additions, rear elevations, roof forms and lofts over garages and studios.</u>

## Chapter C1 Paddington Heritage Conservation Area

### 2.3 Amendments to section C1.3.1 Single storey buildings

2.3.1 Add an additional Objective O4 to ensure the relationship between coherent pairs or groups is retained.

~~O4~~ To retain and enhance the distinctive shared characteristics of the rear elevations of pairs or groups.

**Commented [DCP1]:** Insert an additional objective O4 to ensure the relationship between coherent pairs or groups is retained.

2.3.2 Amend C12 by adding two sub-clauses to ensure the relationship between coherent pairs or groups is retained and renumber following sub-clauses.

C12 A courtyard housing addition may be permitted if:

a) it would not have an adverse impact on the heritage significance of the existing building, adjoining properties, or the group of buildings, where the building forms part of a group;

~~b)~~ It does not disrupt a coherent pattern of pairs or groups;

**Commented [DCP2]:** Insert additional sub-clause b) to ensure the relationship between coherent pairs or groups is retained. Renumber the following provisions.

~~c) b)~~ it is not visible, directly or obliquely, from any part of the street to which the property's street front zone abuts and from the front yard within the street front zone;

~~d) c)~~ it will have a negligible impact on the amenity of neighbouring properties in terms of loss of sunlight, ventilation and privacy;

~~e) d)~~ it will not adversely affect the setting of the existing building; and

~~f) e)~~ it is subsidiary to the existing building and will not dominate the existing building in terms of bulk and scale.

2.3.3 Amend the wording of C15 (g) to identify courtyard housing as additions:

C15 Where a courtyard housing addition is appropriate:

- a) a narrow, non-habitable linking structure may be provided between the principal building form and the courtyard housing addition;
- b) the linking structure must be single storey, with a maximum height of 2.4m or below the eaves of the principal building form, whichever is the lower;
- c) the width of the linking structure must be a maximum of 1.5m internally;
- d) the linking structure must be a narrow, non-habitable lightweight construction to differentiate the new work from the original. Lightweight construction should comprise appropriate materials, roof form and overall design. Appropriate materials include glass, steel and timber. Very minor masonry material may be included;
- e) it must include a usable courtyard, provided that a compliant rear building alignment can be achieved and the bulk and scale of the addition does not result in adverse privacy and overshadowing impacts on adjoining properties;
- f) the inclusion of a courtyard must comply with the controls and minimum requirements in Section C1.4.9 Private open space, swimming pools, courtyards and landscaping; and
- g) the height of the courtyard housing addition must not exceed the ridge height of the principal building form (chimneys not included).

**Commented [DCP3]:** Enhance wording of existing control to make it consistent with other provisions by including the word 'addition'.

Note: see Figure 3B for reference.



2.3.4 Amend the wording of C18 (c) so that two dormers can only be accommodated in the same roof plane.

- C18 An attic is permitted within the roof space of the courtyard housing addition, provided that:
- satisfactory floor to ceiling height standards are achieved;
  - the form and pitch of the courtyard housing addition roof matches the form and pitch of the roof of the principal building;
  - only one dormer is permitted (in either the front or rear roof plane). Where the width of the addition is greater than 6m, a second dormer may be permitted in the same roof plane, provided that each dormer is identical in type, size and no greater than 1.2m maximum width overall. The top of the dormer must be set below the main ridge by at least 300mm. The inclusion of a dormer must comply with the controls in Section C1.4.11 Acoustic and visual privacy; and
  - no more than 2 skylights (compliant with the controls for Skylights in C1.5.1 Dormers and Skylights) are located within the entire roof plane.

**Commented [DCP4]:** Clarify wording of this control to ensure a second dormer is permitted only in the same roof plane.

2.3.5 Add a new note after C19, consistently with other sections of Chapter C1:

C19 Roofing materials must comply with C1.5.8.

Refer to objectives and controls in C1.4 General controls for all development and C1.5 Specific policy for building and site elements.

**Commented [DCP5]:** For ease of cross-referencing, insert new note referencing relevant other sections of Chapter C1.

#### 2.4 Amendments to section C1.3.4 Multi-storey terrace style housing

2.4.1 Strengthen O1, O4 and O5 to protect coherent pairs and groups.

- To retain and conserve the principal building forms of rows, pairs and groups of terraces.
- To retain the shared distinctive characteristics of pairs and groups of buildings.
- To retain, restore and promote the significance, contribution and relationship of a building within the context of a pair or a group of buildings.

**Commented [DCP6]:** Strengthen O1, O4 and O5 to ensure the relationship between coherent pairs or groups is retained.

2.4.2 Remove objectives O6, O7 and O8 as they will be included in C1.4.2.

~~O6 To ensure that side additions to existing buildings are designed and located to achieve a cohesive relationship between the existing buildings, and which retains and enhances the cultural significance of the heritage conservation area.~~

~~O7 To ensure that side additions respect the scale and setting of adjacent contributory buildings.~~

~~O8 To protect the amenity of adjoining or adjacent residential uses.~~

**Commented [DCP7]:** Delete provisions for side additions as they duplicate existing Objectives O3, O4 and O5 in (amended) C1.4.2 *Side elevations and side additions*.

2.4.3 Remove controls C2 to C14, including the final Note as they will be included in C1.4.2. Control C4 is deleted as it contradicts C3 (a)

~~Side additions between buildings~~

~~Character:~~

~~C2 Side additions must:~~

- ~~maintain the significant features and qualities that combine to represent the character of the neighbourhood and area;~~

**Commented [DCP8]:** Move these provisions into (amended) C1.4.2 *Side elevations and side additions* so they can apply to other typologies of buildings (not only multi-storey terraces).

This will also ensure consistency with the overall structure of this Chapter that is organised with C1.3 "Building Types" and C1.4 "General controls for all development."

- b) make a positive contribution to the character of the neighbourhood and area; and
- c) maintain a contextual relationship between the existing building to which it is attached, the adjoining buildings and the streetscape in which it will be located by maintaining the development pattern.

*Scale*

~~C3~~ Side additions must not overwhelm the context and should be subservient to and consistent with the predominant scale of the building to which it is attached, significant development adjoining the site and in the group/row in terms of:

- a) maximum height pattern (measured to the uppermost ridge of the principal building to which it is attached [or the base of the parapet where existing], not including chimneys); and
- b) massing (building volume and size).

~~C4~~ Additional storeys are not permitted within the side addition.

*Form*

~~C5~~ Side additions must be consistent with the predominant built form (volume and configuration) of the building to which it is attached and significant development adjoining the site and in its immediate area in terms of aspects including, but not limited to:—

- a) roof forms and pitch;—
- b) three dimensional modelling of neighbouring buildings;—
- c) modulation and articulation;
- d) relationship of solids and voids;—
- e) fenestration patterns; and —
- f) relationship of floor-to-ceiling heights and horizontal alignment of features (especially ground and first floor levels of the existing buildings to which it is attached).—

Refer also to Section 1.4.4 Roofs and roof forms, Section 1.4.5 Building height, bulk, form and scale, and Section 1.4.6 Site coverage, setbacks and levels.

*Siting*

~~C6~~ Side additions must adopt the established orientation pattern of the existing building to which it is attached. —

~~C7~~ Where there is a uniform building front setback, the side addition must be set back behind the front wall of the principal building form (not including the balcony) to which it is attached and adjoining buildings. —

~~C8~~ Where building front setbacks vary, the side addition must be set back behind the front wall of the principal building form (not including the balcony) to which it is attached. —

~~C9~~ If the side addition occurs on a corner site, the controls in C1.4.2 apply. —

~~C10~~ Rear and side setbacks (including side passages) must align with existing patterns, where visible from the public domain. —

~~C11~~ Side additions must be sited to: —

**Commented [DCP9]:** Delete control C4 as it directly contradicts C3 (a) which may allow side additions to multi-storey terrace style housing.

- a) include sufficient deep soil landscaped area; and
- b) have no adverse impact on significant trees on the site or adjoining land, including public land.

Refer also to Section 1.4.8 Private open space, swimming pools, courtyards and landscaping.

*Materials, finishes, textures and colours*

C12 Materials, finishes, textures and colours must be appropriate to the historic context. They must be similar to the characteristic materials, finishes, textures and colours of the existing building to which it is attached and existing contributory buildings within the streetscape.

C13 Contemporary materials are permitted where their proportions, detailing, quantities and location on the building are in keeping with the character elements (refer to C1.2.3) and the desired future character of the heritage conservation area (refer to C1.2.4).

Refer also to Section 1.5.8 Materials, finishes and details and Section 1.5.9 Exterior colours.

C14 Side additions must:

- a) use render, masonry and/or timber;
- b) avoid large expanses of glass and reflective wall cladding;
- c) if visible from the street or public domain, use roof cladding which matches the existing building to which it is attached;
- d) not have solid masonry front boundary walls; and
- e) use colour schemes which respect the character of the neighbourhood.

**Note:**

For side additions between buildings, a draft site and context analysis is to be submitted to Council for comment as part of a predevelopment application meeting between Council representatives and the applicant.

The following information is to be submitted for comment prior to the lodgement of the development application:  
design options explored and the applicant's preferred design proposal;

a statement outlining the proposed measures to minimise the adverse impact of the side addition on neighbouring lands, including the public domain;

the philosophy of how the design elements relate to the proposal's context in terms of architectural form, materials and character; and

the historic context and impact sections of a draft statement of heritage impact.

For development applications, applicants are required to provide the following information, not limited to:

design options and final preferred design;

a detailed site and context analysis;

profiles of adjoining development;

RLs for the subject site and adjoining properties;

an accurate survey (including accurate RLs, and the accurate location of eaves/gutters, chimneys and other structures on adjoining properties);

~~the structural relationship with the existing building and any adjoining properties (including shared party walls, footings and chimneys); and~~  
~~the final version of the statement of heritage impact.~~  
Other required documentation to be submitted with the development application can be found in the Development Application Guide.

## 2.5 Amendments to section C1.3.13 Infill development (new development)

2.5.1 Add a new objective O5 to protect contributory items.

O5 To ensure that infill development does not prevent the maintenance and conservation of elements that contribute to the significance of the heritage conservation area.

**Commented [DCP10]:** Insert new objective O5 which aims to maintain and conserve elements that contribute to the significance of the heritage conservation area.

2.5.2 Amend C3 by adding a new sub-clause aiming to the maintenance of contributory items, including sandstone walls.

C3 Infill development must:

a) maintain the significant features and qualities that combine to represent the character of the neighbourhood and area; ~~and~~

b) not adversely affect the maintenance of elements that contribute to the significance of the heritage conservation area, for example sandstone walls; and

~~c) b) make a positive contribution to the character of the neighbourhood and area.~~

**Commented [DCP11]:** Insert new sub-clause b) to maintain and conserve elements that contribute to the significance of the heritage conservation area, for example sandstone walls.

## 2.6 Amendments to section C1.4.2 Side elevations to streets and lanes

2.6.1 Rename this section Side elevations and side additions.

C1.4.2 ~~Side~~ elevations ~~and side additions to streets and lanes~~

**Commented [DCP12]:** Amend this heading to include side additions.

2.6.2 Add introductory text related to side additions taken from C1.3.4 *Multi-storey terrace style housing*.

Some sites have the opportunity to develop additions to the sides or adjacent to the principal building form between a row of buildings. Where these are on the same registered land parcel, and where they do not affect 'night soil' or right of way passageways, they may be developed in accordance with the following provisions below. Significant 'night soil' or right of way passageways are to be retained in place and interpreted without additional structures other than fencing.  
Note: Side elevations are to a street or lane, whilst side additions adjoin other buildings.

The aim of this amendment is to ensure that existing Side additions provisions currently in C1.3.4 *Multi-storey terrace style housing* apply to any building type in C1.3.

This will also ensure consistency with the overall structure of the DCP that is organised with C1.3 "Building Types" and C1.4 "General controls for all development."

**Commented [DCP13]:** Rationalise the introductory text from 1.3.4 *Multi-storey terrace style housing* so that existing provisions for side additions apply to all building types.

Refer also to corner terrace style houses in Section 1.3.3 Corner buildings and other relevant sections in C1.3 Building types.

2.6.3 Amend O3 by removing the word 'cultural' to give more emphasis on the fabric of the context.

O3 To ensure that side additions to existing buildings are designed and located to achieve cohesive relationship between the existing buildings, and ~~which retains retain~~ and ~~enhances enhance~~ the ~~cultural~~ significance of the heritage conservation area.

**Commented [DCP14]:** Enhance sentence wording and remove the word 'cultural' to simplify the objective.

2.6.4 Amend C2 to ensure the character of side elevations to a principal building form is not impacted by minor alterations.

C2 Minor alterations to a side elevation of the principal building form or the secondary wing will be permitted if they do not **significantly** impact on the architectural form and character.

**Commented [DCP15]:** Amend control C2 to ensure minor alterations to side elevations do not impact on the architectural form and character of a contributory building.

2.6.5 Add C2- to C14 from C1.3.4 after C11 and renumber them accordingly. C4 is deleted as it contradicts C2 (a). Figure 7 is moved after C3. Also add the final Note.

Side additions between buildings

**Commented [DCP16]:** Move these controls with some minor changes consistent with consolidating the provisions in C1.3.4 *Multi-storey terrace style housing* with (amended) C1.4.2 *Side elevations and side additions*.

C12 Side additions must:

- a) maintain the significant features and qualities that combine to represent the character of the neighbourhood and area;
- b) make a positive contribution to the character of the neighbourhood and area; and
- c) maintain a contextual relationship between the existing building to which it is attached, the adjoining buildings and the streetscape in which it will be located by maintaining the development pattern.

C13 Side additions must not overwhelm the context and should be subservient to and consistent with the predominant scale of the building to which it is attached, significant development adjoining the site and in the group/row in terms of:

- a) maximum height pattern (measured to below the gutter line of the principal building form to which it is attached [or the base of the parapet where existing], not including chimneys); and
- b) massing (building volume and size).

~~C4 Additional storeys are not permitted within the side addition.~~

**Commented [DCP17]:** Delete control C4 as it directly contradicts C2 (a) which may allow side additions to multi-storey terrace style housing. Renumber following controls.

C14 Side additions must be consistent with the predominant built form (volume and configuration) of the building to which it is attached and significant development adjoining the site and in its immediate area in terms of aspects including, but not limited to:

- a) roof forms and pitch;
- b) three dimensional modelling of neighbouring buildings;
- c) modulation and articulation;
- d) relationship of solids and voids;
- e) fenestration patterns; and
- f) relationship of floor to ceiling heights and horizontal alignment of features (especially ground and first floor levels of the existing buildings to which it is attached).

Refer also to Section 1.4.4 Roofs and roof forms, Section 1.4.5 Building height, bulk, form and scale, and Section 1.4.6 Site coverage, setbacks and levels.

C15 Side additions must adopt the established orientation pattern of the existing building to which it is attached.

C16 Where there is a uniform building front setback, the side addition must be set back behind the front wall of the principal building form (not including the balcony) to which it is attached and adjoining buildings.

C17 Where building front setbacks vary, the side addition must be set back behind the front wall of the principal building form (not including the balcony) to which it is attached.

C18 If the side addition occurs on a corner site, the controls in C1.4.2 apply.

C19 Rear and side setbacks (including side passages) must align with existing patterns, where visible from the public domain.

C20 Side additions must be sited to:

- a) include sufficient deep soil landscaped area; and
- b) have no adverse impact on significant trees on the site or adjoining land, including public land.

Refer also to Section 1.4.8 Private open space, swimming pools, courtyards and landscaping.

C21 Materials, finishes, textures and colours must be appropriate to the historic context. They must be similar to the characteristic materials, finishes, textures and colours of the existing building to which it is attached and existing contributory buildings within the streetscape.

C22 Contemporary materials are permitted where their proportions, detailing, quantities and location on the building are in keeping with the character elements (refer to C1.2.3) and the desired future character of the heritage conservation area (refer to C1.2.4).

Refer also to Section 1.5.8 Materials, finishes and details and Section 1.5.9 Exterior colours.

C23 Side additions must:

- a) use render, masonry and/or timber;
- b) avoid large expanses of glass and reflective wall cladding;
- c) if visible from the street or public domain, use roof cladding which matches the existing building to which it is attached;
- d) not have solid masonry front boundary walls; and
- e) use colour schemes which respect the character of the neighbourhood.

Note:

For side additions between buildings, a draft site and context analysis is to be submitted to Council for comment as part of a predevelopment application meeting between Council representatives and the applicant.

The following information is to be submitted for comment prior to the lodgement of the development application:

- ▶ design options explored and the applicant's preferred design proposal;
- ▶ a statement outlining the proposed measures to minimise the adverse impact of the side addition on neighbouring lands, including the public domain;
- ▶ the philosophy of how the design elements relate to the proposal's context in terms of architectural form, materials and character; and
- ▶ the historic context and impact sections of a draft statement of heritage impact.

For development applications, applicants are required to provide the following information, not limited to:

- ▶ design options and final preferred design;
- ▶ a detailed site and context analysis;
- ▶ profiles of adjoining development;

- ▶ [RLs for the subject site and adjoining properties;](#)
  - ▶ [an accurate survey \(including accurate RLs, and the accurate location of eaves/gutters, chimneys and other structures on adjoining properties\);](#)
  - ▶ [the structural relationship with the existing building and any adjoining properties \(including shared party walls, footings and chimneys\); and](#)
  - ▶ [the final version of the statement of heritage impact.](#)
- [Other required documentation to be submitted with the development application can be found in the Development Application Guide.](#)

**2.7 Amendments to section C1.4.3. Rear elevations, rear additions, significant outbuildings and yards**

2.7.1 Delete C1, add new control C4 and renumber controls in between.

~~C1 The height of an alteration and addition to the rear of a double-storey or higher building must be below the gutter line of the main roof of the existing building.~~

**C21** Alterations and additions to a building which comprises one of a group, or pair, must be designed with regard to the overall balance of the group, or pair, in terms of height, alignment, form, scale, breezeway pattern and architectural character and detail.

**C32** The roof of an extension or the new roof for an existing component must be of traditional form appropriate to the building type.

**C43** Roofs must be visible and not screened partly or wholly be features such as parapets. The exception may be corner sites. Parapet roof forms may only be considered appropriate where it can be demonstrated that a parapet form is consistent with the bulk, scale and character of the existing building and group.

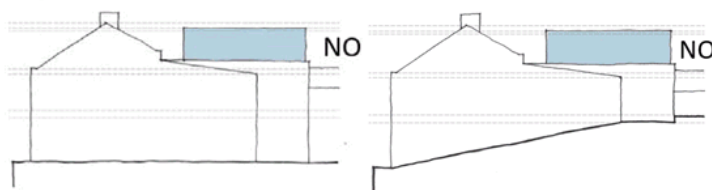
**C4** No part of a rear alteration and addition can be higher than the gutter line of the principal building form (chimney excluded).

**Commented [DCP18]:** Remove control C1 which is being replaced by proposed control C4 which duplicates the intention.

**Commented [FS19]:** Enhance this control so that it applies also to pairs of contributory buildings.

2.7.2 Add new graphics and caption illustrating intrusive additions in a flat and sloping to the rear scenario.

**FIGURE 9A** Intrusive development: rear additions showing additional levels above the gutter line which are not supported by C5. The difference between the two drawings is the topography of the site.



**Commented [DCP20]:** Insert new control C4 (before new diagrams) which does not support rear additions being higher than the gutter line of the principal building form.

**Commented [DCP21]:** Insert new diagrams illustrating intrusive development above the gutter line in a flat scenario and sloping to the rear scenario.

**2.8 Amendments to section C1.4.4 Roofs and roof forms**

2.8.1 Add new objective O4 and C11 to ensure new roof form and roof pitch retains cohesiveness of coherent pairs or groups.

O4 To ensure new rear additions to multi-storey buildings are designed to retain consistency to the group or pair in terms of roof form and roof pitch.

**Commented [DCP22]:** Insert a new objective O4 to ensure that the pitch and roof form of rear additions of coherent groups and pairs is retained.

C11 New rear additions to multi-storey buildings must remain consistent with the group or pair in terms of roof form and roof pitch.

**Commented [DCP23]:** Insert new Control C11 to ensure that the pitch and roof form of rear additions of coherent groups and pairs is retained.

## 2.9 Amendments to section C1.5.7 Lofts over garages and studios

2.16.1 Amend the introductory text to give emphasis that these provisions also apply to sites with no rear laneway access.

O7 To ensure that loft structures above garages and studios do not preclude the maintenance and conservation of items that contribute to the significance of the heritage conservation area.

**Commented [DCP24]:** Insert new objective O7 which aims to maintain and conserve elements that contribute to the significance of the heritage conservation area.

2.16.2 Amend C1 (h) to ensure this control also applies to sites with no rear laneway access and add new sub-clause to ensure the maintenance of elements contributing to the heritage conservation area such as sandstone walls.

C1 Loft structures may be permitted where:

- a) the site dimensions are a minimum of 30m long and 5.24m wide and where the structure will not adversely impact on the traditional character of the rear elevations, yards, and laneways;
- b) the structure will not adversely impact on the amenity, visual privacy and overshadowing of the property, neighbouring properties and public open space (the controls in Section 1.4.5 Building height, bulk, form and scale apply);
- c) the structure does not require the footprint of the garage or studio to be extended so that the controls in Section 1.4.8 Private open space, swimming pools, courtyards and landscaping cannot be satisfied. Where there is an existing non-compliance with these controls, the existing private open space and deep soil landscaping is not to be further reduced;
- d) all access to the loft is provided internally;
- e) habitable room windows within the loft with a direct sightline to the habitable room windows in the existing building on the site and neighbouring buildings have a separation distance of at least 9m;
- f) the structure extends over only a single space garage or studio;
- g) the loft and garage (or studio) structure is a maximum of 4.34m wide;
- h) the roof structure is gable ended to the rear boundary laneway, with a maximum ridge height of 5.5m and maximum wall height of 3.9m (on or adjacent to a side boundary);
- i) windows are located only in the centre of gable ends and must be either: a single double hung sash window, or inward opening window of traditional proportions;
- j) does not include balconies, decks, or other similar cantilevered structures;
- k) a maximum of two skylights per roof plane, provided they comply with controls C28, C29 and C30 in Section 1.5.1 Dormers and skylights; **and**
- l) the ground floor level of the principal building form is higher than the natural ground level at the rear boundary; **and**

**Commented [DCP25]:** Enhance control C1 (h) by removing "laneway". With this change, the numerical controls for lofts above garages can be applied also to studios in sites with no rear laneway access.



- m) [the maintenance of elements that contribute to the heritage conservation area, such as sandstone walls, will not be adversely affected. Also refer to C1.5.6 Fences, walls and gates.](#)

**Commented [DCP26]:** Insert new sub-clause m) to maintain and conserve elements that contribute to the significance of the heritage conservation area, for example sandstone walls.



**Item No:** R5 Recommendation to Council  
**Subject:** **PLANNING PROPOSAL - HERITAGE LISTING OF 'SUNNY BRAE, INCLUDING INTERIORS' AT 40 FITZWILLIAM ROAD, VAUCLUSE**  
**Author:** Flavia Scardamaglia, Strategic Heritage Officer  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/112554  
**Reason for 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 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse as a local heritage item in Woollahra Local Environmental Plan 2014.

**Recommendation:**

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 17 June 2021 for the planning proposal to list 'Sunny Brae, including interiors', at 40 Fitzwilliam Road, Vacluse as a local heritage item in Woollahra Local Environmental Plan 2014.
- B. THAT the planning proposal, as contained in **Annexure 3** of the report to the Environmental Planning Committee meeting of 12 July 2021 be forwarded to the Department of Planning, Industry and Environment with a request for a gateway determination to allow public exhibition.
- 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 environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

---

**1. Background**

On 28 April 2021, a request for a planning proposal was lodged by the Applicant's team to list 'Sunny Brae, including interiors' as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014). The request for a planning proposal was accompanied by a Heritage Assessment prepared by GBA Heritage (**Annexure 1**).

The Heritage Assessment report recommends:

- 'Sunny Brae, including interiors' should be listed as an item of local heritage significance in Schedule 5 of the Woollahra LEP 2014;
- 'Sunny Brae, including interiors' should be nominated for inclusion on the State Heritage Register (SHR) as an item of State significance;
- The curtilage of the item should include only Lot 2 DP 1254483 and Lot 1 DP 1112583.

Council staff support the recommendation to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vacluse as a local heritage item in the Woollahra LEP 2014. With regards to the State Listing, as this is a proactive owner initiated heritage listing, we recommend that the Applicant progresses this element and is responsible for making a SHR nomination to Heritage NSW.

The request for a planning proposal was considered by the Environmental Planning Committee (EPC) on 10 May 2021 (see **Annexure 2**) and subsequently on 24 May 2021, Council resolved:

- A. *THAT a planning proposal be prepared to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee*

At the meeting of the EPC, Councillors requested GBA Heritage insert additional information into the background of the Heritage Assessment. This work was undertaken and has been included in Part 2.2 of the Assessment at **Annexure 1**.

## **2. Planning Proposal**

A planning proposal was prepared in accordance with the Council's decision of 24 May 2021. The objective of the amendment to the Woollahra LEP 2014 is to recognise the heritage significance of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse and provide it with statutory heritage protection.

## **3. Woollahra Local Planning Panel advice**

The matter was referred to the Woollahra Local Planning Panel (Woollahra LPP) on 17 June 2021, where they provided the following advice to Council:

*THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse, as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*

The planning proposal (attached at **Annexure 3**) has been updated to include the advice from the Woollahra LPP.

## **4. Next steps**

Subject to the Council's decision, the planning proposal (with updates to make reference to the Council decision) will be referred to the Department of Planning, Industry and Environment (the Department) for a gateway determination. This will allow the planning proposal to be placed on public exhibition.

The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the *Environmental Planning and Assessment Regulation 2000* and the gateway determination issued by the Department as delegate for the Minister.

The gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days, which is consistent with Council's standard practice for the exhibition of a planning proposal.

Public notification of the exhibition will comprise:

- A notice to the land owner of the site.
- A notice on Council's website.
- A notice to land owners adjoining and in the vicinity of the site.
- A weekly notice in the Wentworth Courier for the duration of the exhibition period (if a hardcopy is being published).
- A letter to local community groups.




To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, Council may request authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act. Part C of the recommendation for this report deals with this request. After public exhibition, the planning proposal and submissions received will be reported to Council.

## 5. Conclusion

The listing of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Woollahra LEP 2014 is supported by an assessment of the heritage significance prepared by GBA Heritage. On 17 June 2021, the Woollahra LPP provided advice to Council that it supports the planning proposal.

The Council may now proceed with referring the planning proposal to the Department requesting a gateway determination to allow public exhibition

## Annexures

1. Assessment of heritage significance (including heritage inventory sheet) by GBA Heritage - June 2021 [↓](#) 
2. Report to the Environmental Planning Committee 10 May 2021 (excluding Annexures) [↓](#) 
3. Updated Planning Proposal (excluding annexures) July 2021 [↓](#) 

**HERITAGE ASSESSMENT REPORT**

“Sunny Brae” - 40 Fitzwilliam Road, Vaucluse

June 2021



**Cover Image:** Looking to front (main) elevation of "Sunny Brae" at 40 Fitzwilliam Road, Vaucluse, c.1920s.  
*Source: Prof. G. Murrell.*

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# 1.0

## INTRODUCTION

### 1.1 BACKGROUND

This Heritage Assessment for 'Sunny Brae', at 40 Fitzwilliam Road, Vaucluse has been prepared for the property's owners, professor George and Deirdre Murrell, in response to their requested heritage listing of the property.

### 1.2 REPORT OBJECTIVES

The objective of this report is to evaluate the heritage significance of the subject property.

### 1.3 REPORT STRUCTURE

The report outlines the historical development of the property, describes its physical condition and assesses its significance.

This assessment follows guidelines set out in the NSW Heritage Manual. The aim of these documents is to assist with the identification of items of heritage significance. This assessment assists in providing guidance on substance, structure and methodology for the determination of heritage significance.

This report is divided into sections, dealing with the history of the building and its immediate area, the physical description of the building, and the assessment of the building's significance.

### 1.4 SITE IDENTIFICATION

The subject site at 40 Fitzwilliam Road, Vaucluse is located on the south-western side of Fitzwilliam Road, near the intersection of Wentworth Road and Fitzwilliam Road. The land currently comprises three lots which are described by NSW Land Registry Services (LRS) as:

- Lot 2, DP 1254483.
- Lot 1, DP 1112583
- Lot 1, DP 115069



Figure 1.1  
Location map showing the subject site shaded in yellow and outlined in red.

Source: NSW LRS SIX Maps website

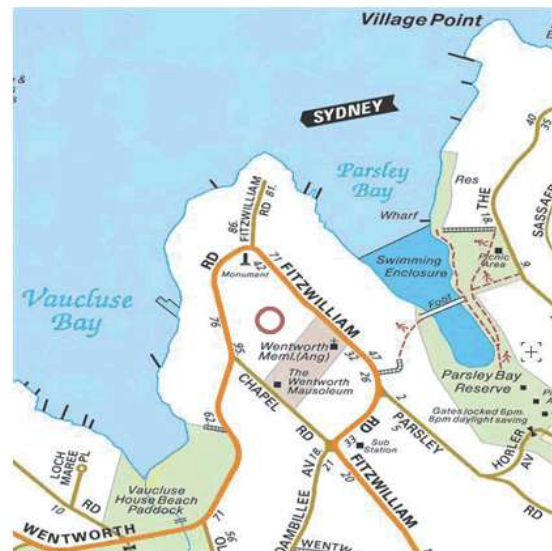


Figure 1.2  
Location Map, showing the subject site circled in pink.

Source: Street Directory, <http://www.street-directory.com.au/nsw/vaucluse>.

The subject site is in the vicinity of the following heritage listed items (Figure 1.3), the closest being:

1. Item 352 (32A) - Wentworth Memorial Church
2. Item 351 (32B) - Grounds and Native Vegetation of Wentworth Memorial Church
3. Item 356 - West Parsley Bay obelisk
4. Item 349 - War Memorial Bus Stop and Shelter
5. Item 355 - Forest Red Gum
6. Item 354 - Tuckeroo
7. Item 353 - Forest Red Gum
8. Item 341 - Wentworth Mausoleum and site

### 1.5 AUTHORSHIP

This report has been prepared by Dr Shabnam Yazdani Mehr, Heritage Consultant, of GBA Heritage and has been reviewed by the Director, Graham Brooks. Unless otherwise noted, all of the photographs and drawings in this report are by GBA Heritage.

### 1.6 REPORT LIMITATIONS

While this report is limited to the investigation of European cultural heritage values, GBA Heritage recognises that for over forty thousand years or more Aboriginal people occupied the land that was later to be claimed as a European settlement.

Recommendations have been made on the basis of documentary evidence viewed and inspection of the existing fabric.

Archaeological assessment of the subject site is outside the scope of this report.

### 1.7 COPYRIGHT

Copyright of this report remains with GBA Heritage.

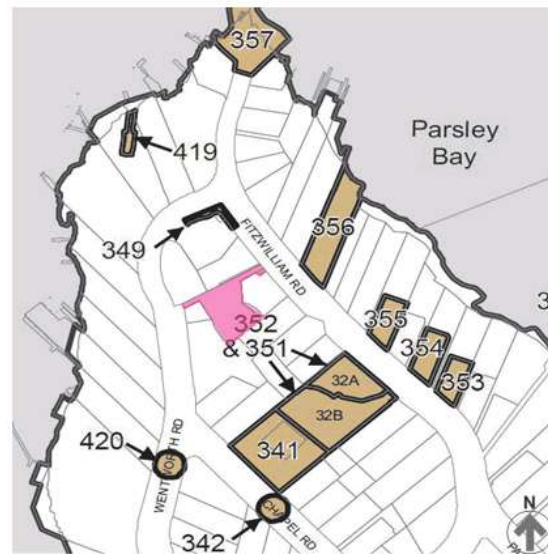


Figure 1.3  
Extract from the Woollahra LEP Heritage Map 004, showing the subject site, shaded in pink, and heritage items in the vicinity.  
Source: Woollahra LEP 2014

# 2.0

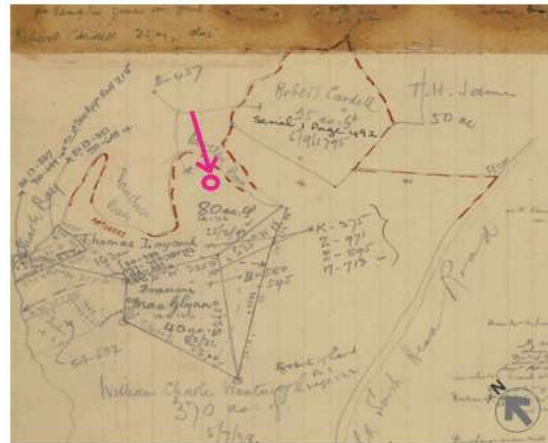
## HISTORICAL SUMMARY

### 2.1 BRIEF HISTORY OF THE LOCALITY

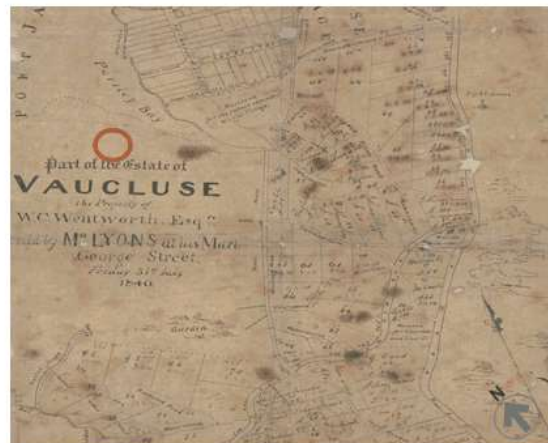
Vaucluse is a mainly residential suburb, located 8 kilometres north-east of the Sydney CBD. Vaucluse is located on the South Head peninsula, with Sydney Harbour on the north and west and the Tasman Sea to the east. It takes its name from the original Vaucluse house that was built and named by Irish convict, Sir Henry Brown Hayes, who purchased the Laycock's 80 acre grant in 1803.<sup>1</sup> Sir Henry Brown Hayes was an avid admirer of the 14<sup>th</sup> century poet Petrarch, and the name was chosen after Petrarch's poem about the famous Fontaine de Vaucluse, which is currently in the Department of Vaucluse in southern France.<sup>2</sup> There is a Petrarch Avenue and Petrarch Lane at the rear of Vaucluse House, to the south. The house was acquired by Captain John Piper in 1822, and then taken over by William Charles Wentworth in 1827.<sup>3</sup>

The Crown of Vaucluse Estate was described as capturing a view of the harbour on one side and the ocean on the other, which cannot be excelled for healthy and desirable situation, traffic facilities, or for prospects of increase in value. The peninsula located between Sydney Harbour and the Pacific, extending from South Head to Rose Bay, has always been considered as one of the choicest of metropolitan residential areas.<sup>4</sup>

William Charles Wentworth made the name of Vaucluse memorable and resided in the oldest house in the borough which appears to be the oldest in all the suburbs.<sup>5</sup>



**Figure 2.1**  
Location map showing Laycock's 80 acre grant, and W. C. Wentworth 370 acre grant. The approximate location of the subject site is circled in pink and shown by a pink arrow.  
Source: NSW Land Registry Services, Primary Application: 10187



**Figure 2.2**  
Location map showing part of the estate of Vaucluse belonged to W. C. Wentworth in 1840. The approximate location of the subject site is circled in red.  
Source: The Dictionary of Sydney. SLNSW\_c017250001h

1 J. Lawrence and A Sharp, Pictorial History of the Eastern Suburbs, p.49  
2 Macmillan Company, The Heritage of Australia, 1981.  
3 The book of Sydney suburbs, Angus & Robertson, 1988  
4 SLNSW. Vaucluse subdivision plans, 1902-1940. 040 - Z/SP/V1/44b - Crown of Vaucluse Estate - No boundaries shown

The establishment of the tram changed Vaucluse, resulting in the growth of development in the area. Accordingly, the unoccupied land was rapidly covered with beautiful residences. This probably resulted in the population growth, in which according to the Crown of Vaucluse Estate described in subdivision plans c.1900, the population of Vaucluse increased 40 percent during the past 10 years (probably from c.1890 to c.1900). Consequently, land values have increased at a much more rapid rate.<sup>5</sup>

Vaucluse was considered a desirable destination for pleasure seekers through its parks, the pleasure grounds, and the coigns of vantage from which magnificent views of harbour and ocean, and also yacht races could be obtained. Of these the following could be mentioned: Clovelly Park (Watson's Bay), the reserve at the head of Parsley Bay, with the designed 'Suspension Bridge', Vaucluse Park, which, with Wentworth's residence and grounds reminds one of the Botanic Gardens.<sup>6</sup>

In 1928, Vaucluse was described in the Daily Telegraph newspaper as the most progressive suburb for some time past. This was evident from the many fine, high-class residences which were constructed in the locality, and the pleasant approach from the city.<sup>6</sup>

The Book of Sydney Suburbs in 1988 described Vaucluse as a pleasant suburb comprising Nielsen Park, Parsley Bay, and Vaucluse Bay, which had fine houses, beautiful gardens and charming views toward the harbour.<sup>7</sup>

## 2.2 EARLY OWNERSHIP OF THE SITE

The original overall site at 40 Fitzwilliam Road was part of an 80-acre Crown Grant at Parsley Bay issued to Thomas Laycock in 1793. Thomas Laycock was a quartermaster who arrived in Sydney in 1791, and eventually became appointed as Deputy-Commissary in 1794 by Lieutenant - Governor Francis Grose. In the early 1800s, Laycock had a substantial land holding of 1,655 acres. Thomas Laycock died in 1809.<sup>8</sup>

In 1797, Thomas Dennett, a mariner, bought Cardell's Farm, which covered from the east of Parsley Bay to Watson's Bay, from Thomas Whittle. At the same year, Thomas Dennett also purchased "Woodmancote", which was located south of Vaucluse Bay, from Thomas Laycock. These two land parcels comprised part of the future Vaucluse Estate.<sup>9</sup>

Thomas Dennett arrived in the colony in 1797 in charge of the ship *Britannia*, and returned to England in the same year. During his stay in the New South Wales, he had a relationship with Elizabeth Rafferty. Consequently, when Dennett left the colony he made a will, stating "the produce of the two properties Laycock's and Cardell's, was to be enjoyed by Elizabeth Rafferty until the unborn child reached 18 years of age."<sup>10</sup>

Elizabeth Rafferty was from Ireland, who was sentenced to transportation for seven years, arriving in the colony in 1797. She was arriving on the same ship as Thomas Dennett. She was pardoned in 1798. From the 1800s, she lived at Parramatta, and expanded her farm, known as Raffert's Farm, upon the sale of other grants such as Laycock's and Cardell's Farms.<sup>11</sup>

However, Dennett's will did not eventuate, and in 1803, two capital farms known as Laycock's and Cardell's Farms were auctioned to be sold by "Vendue" by authorised Auctioneer, Simon Lord.<sup>12</sup> Laycock's farm was described in the advertisement as "containing one hundred acres, most of which has been in cultivation". Laycock's farm, known as "Woodmancote", was purchased by Sir Henry Browne Hayes who arrived in the colony in 1802.<sup>9</sup> Hayes renamed the property 'Vaucluse' and in 1805, he constructed a stone cottage, later known as 'Vaucluse House'.<sup>13</sup>

As reported in Evening News (1905):<sup>14</sup>

*In 1812 Sir H. B. Hayes had to defend a suit brought by Rober S. Walker and Elizabeth [Rafferty], his wife, who claimed the Vaucluse property under what the defendant called a pretended will. The latter showed that he had been in possession of the lands for nine years, after having purchased them at auction, and paid for them by bill of exchange, which had been received in satisfaction of the amount of the said purchase, and had never been returned protested for non-payment. Hayes appears to have won his case against the Walkers.*

5 SLNSW. Vaucluse subdivision plans, 1902-1940. 040 - Z/SP/V1/44b - Crown of Vaucluse Estate - No boundaries shown  
6 Trove. Daily Telegraph (Sydney, NSW: 1883 - 1930), Saturday 10 March 1928, P 26, "Crest of Vaucluse Estate".  
7 The book of Sydney suburbs. Angus & Robertson, 1988  
8 'Laycock, Thomas (1756-1809)', Australian Dictionary of Biography, National Centre of Biography, Australian National University.

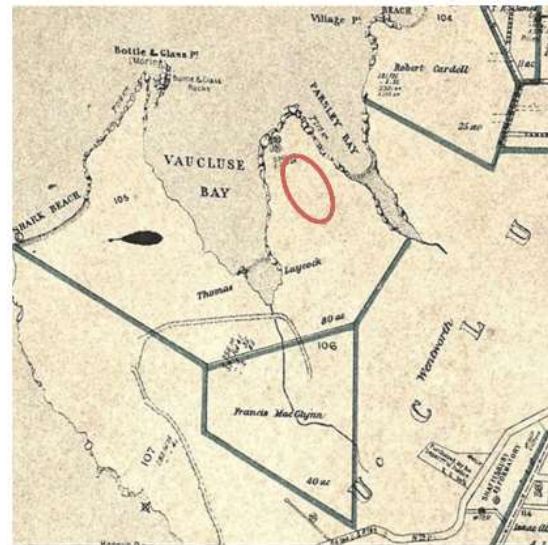
9 Bertie, C. H. (1930), Vaucluse Estate from 1793 to 1829.  
10 Watters, Leslie Francis (2014), Elizabeth Rafferty in Sydney's the Rocks and her Bostock Legacy.  
11 SRNSW - Death of Liberty - RAFFERTY Elizabeth.  
12 The Sydney Gazette and New South Wales Advertiser (NSW: 1803 - 1842), p. 2.  
13 <https://sydneylivingmuseums.com.au/stories/vaucluse-house-brief-history>  
14 Trove: Evening News (1905), The storey of Vaucluse House, p. 10.

In 1817 Elizabeth Rafferty again made claim to the Vaucluse property, the case was dismissed.<sup>13, 15, 16</sup>

In 1804, an indenture was signed by Henry Browne Hayes and Samuel Breakwell, in which Breakwell became the tenant of the Vaucluse property, which included Laycock's and Cardell's farms, for seven years. In 1812, Hayes extended the period of the lease to ninety-nine years.<sup>9</sup> In 1812, Hayes returned to Ireland and leased the Vaucluse property to Mr. Breakwell who further sublet it to Colonel O'Connell. The property was leased several times until 1814 when the Vaucluse property was leased to Captain John Piper, a well-known resident of Sydney at the time.<sup>13</sup> Although Hayes nephew was authorised to sell the property, Thomas Dennett, the younger son of Thomas Dennett, sold it to Captain Robert Lethbridge RN in 1821.<sup>17</sup> In 1822, John Piper purchased the freehold from Captain Lethbridge, who had purchased them from Thomas Dennett (the younger son of Thomas Dennett) the previous year.<sup>9</sup> Accordingly, John Piper became the owner of the Laycock's and Cardell's farms.

Captain John Piper sold the estate to William Charles Wentworth as a result of his financial hardship in 1827.<sup>16</sup> At this time, Wentworth established himself in the area, around Shark Bay, Vaucluse Bay and Parsley Bay. Wentworth further purchased 40 acres from Francis McGlynn on which Vaucluse House was located.<sup>18</sup>

In 1836, Wentworth applied for further acres to increase his holding. Consequently, in 1838, his request was accepted and his holdings increased to 515 acres.<sup>19</sup> Fitzwilliam Wentworth, second son of William Charles Wentworth, married in 1868. William Charles Wentworth adopted a policy of subdividing key portions of his property on behalf of his sons and daughters upon their marriage. Based on this policy, a portion of land comprising the subject site, was transferred to Fitzwilliam and the road was probably named during this time as it appeared on the plan of village of Vaucluse in 1876.<sup>20</sup>



**Figure 2.3**  
Parish of Alexandria, County of Cumberland, showing Thomas Laycock and Rober Cardell grants. The subject site is on the Laycock's land.  
Source: NSW Land Registry Services, Historical Parish Maps.



**Figure 2.4**  
View of the Heads, at the entrance into Port Jackson, showing the landscape of Vaucluse in c. 1822. Note the Vaucluse House in distance.  
Source: Art Gallery NSW.

15 Trove: The Sun (1930), Shadows of old Vaucluse, p. 3.  
16 Trove: The Sun (1911), Vaucluse House, p. 5.  
17 Broomham, Rosemary (2006), Vaucluse - Thematic History.  
18 J. Lawrence and A Sharp, Pictorial History of the Eastern Suburbs.  
19 Statement of Heritage Impact for 40 Fitzwilliam Road, Vaucluse, prepared by Graham Brooks and Associates (now GBA Heritage) in 2012.  
20 NSW Land Registry Services, Vol. 1254 Fol. 98

In the late 1830s, William Charles Wentworth commenced subdividing parts of his estate for sale; however, the land did not sell mainly due to the unreliable road and poor access to the area until the 1850s.<sup>9</sup>

In 1854, William Charles Wentworth left for England and never returned. Accordingly, he left the estate to the hands of his wife, Sarah, and his oldest son, Fitzwilliam. In 1872, W. C. Wentworth died and in 1896, Fitzwilliam Wentworth inherited the remaining 345 acres of the estate.<sup>10</sup>

The roads had significantly improved over time, and since 1880 a tramcar had been operating along part of the way from the city, which was gradually extended and by 1903 it reached as far as Watsons Bay. The establishment and extension of the tramline facilitated and improved transport in this area, resulted in the subdivision and sell of land. The new taxation laws passed in 1895 on unimproved land (previously not taxed), made it financially necessary for further subdividing and selling.<sup>9</sup>

In 1898, Fitzwilliam brought in two accountant partners, James Clegg Taylor and Daniel McAllister, to facilitate the selling and subdividing of the land. The first lot was sold in 1902 and shortly after J. C. Taylor sold his share to Rouland Smith Hill.<sup>9</sup>

According to title deeds in 1906, the joint tenants of the land comprising the subject site, were Fitzwilliam Wentworth, Daniel McAllister, and Rouland Smith Hill (Figure 2.4).<sup>21</sup>

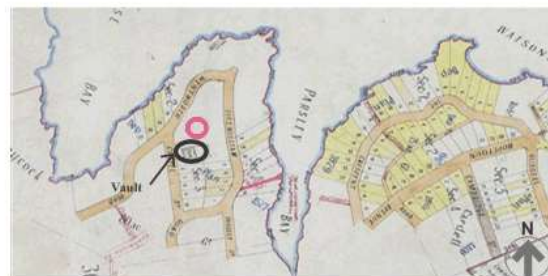
During the 1900s and 1910s, land along the waterfront and landward parts was gradually subdivided. Further subdivision was made in the hinterland of Vaucluse Bay which was bounded by Wentworth Road, Chapel Road, Fitzwilliam Road, Hopetoun Avenue and Oloa Avenue.<sup>11</sup> In the early 1914, sections of this subdivision were offered for sale. Although sales were rapid at first, they petered out until the mid 1920s when all the lots were sold.<sup>9</sup>

On 27 April 1907, the sixth subdivision of the Vaucluse Estate was auctioned. At this time, John Taylor Cooke who was a civil servant, purchased lots 15, 16, 19 and 20 (Figure 2.5)<sup>22</sup>, forming the overall site. Sunny Brae was constructed on the south side of the overall site, on lots 15 and 20. The land was in the possession of Cooke until 1948, when the overall site at 40 Fitzwilliam Road was subdivided into three lots, and transferred to his grandchildren Harry and John Pfeiffer as tenants in common (Lot A), Majorie Kingston (Lot C), and his

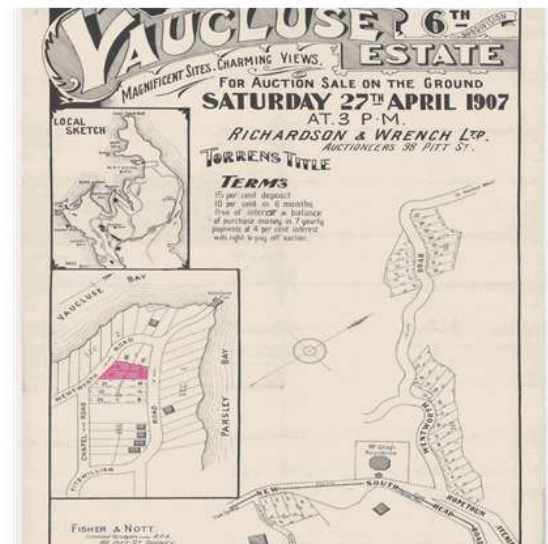
21 NSW Land Registry Services, Vol. 1730 Fol. 42  
22 NSW Land Registry Services, Vol. 3194 Fol. 202.



**Figure 2.5**  
Parish of Alexandria, County of Cumberland, showing Wentworth's grants in 1898. The subject site is circled in pink. The Wentworth family vault is outlined in black and shown by a black arrow. It is currently listed in the Woollahra LEP 2014 as Item 341 - Wentworth Mausoleum and site.  
Source: NSW Land Registry Services, Vol. 1254 Fol. 98



**Figure 2.6**  
Parish of Alexandria, County of Cumberland, showing the subdivision of land in 1906. The subject site is circled in pink. The Wentworth family vault is outlined in black and shown by a black arrow.  
Source: NSW Land Registry Services, Vol. 1730 Fol. 42



**Figure 2.7**  
Auction sale poster in 1907, showing the subdivision of land along Fitzwilliam Road. Lots 15, 16, 19, and 20 were sold to John Taylor Cooke, shaded in pink. As it can be seen, a portion of land in which a Vault was located on, remained unsubdivided.  
Source: SLNSW. Vaucluse subdivision plans, 1902-1940.

daughter Lily Pfeiffer (Lot B).<sup>23</sup> The subject building was located on Lot B (Figure 2.7). Two mortgages were contracted on the property in 1952 and 1958, respectively.

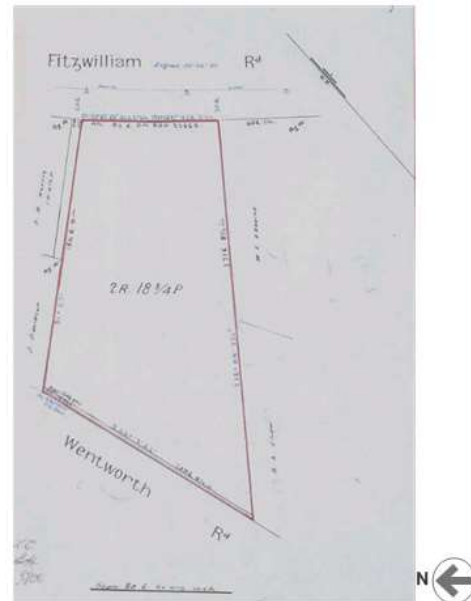
In 1973, Lily died and consequently in 1976, 40 Fitzwilliam Road (Lot B) was transferred to Harry Edmund Pfeiffer who remained the owner of the property for the remainder of the 20<sup>th</sup> century. In 2004, T & P Pfeiffer registered an objection to a Development Application relating to 38 Fitzwilliam Road.<sup>9</sup>

The subject site at 40 Fitzwilliam Road was listed for auction through January - March 2012, and sold to Professor George and Deirdre (Dedee) Murrell, the current owners of the subject site.

### 2.3 EARLY USE OF THE SITE

In 1831, William Charles Wentworth planned to build a family vault at Vaucluse. Although this did not eventuate during his lifetime, he had informed his family that he wished to be buried near a rocky outcrop on the hill above Parsley Bay which was visible from the front verandah of the Vaucluse house, overlooking both the harbour and the estate. To the west of this rock formation, agricultural clearing happened and coastal forest was replaced by open grassland. The site was considered favourable by the Wentworth family in which it appeared in their correspondence as 'Parsley Hill'. It was W. C. Wentworth's favourite place to view Sydney Harbour during his residence at Vaucluse. A letter from Sara Wentworth in 1831, mentioning the family's desire to construct a vault at Vaucluse, shows a burial site at Vaucluse had been selected many years earlier. Based on the early map of the area (Figure 2.3 and 2.4) which shows the existence of a Vault in a close proximity to the subject site, it appears that the Vault was constructed in c.1830s. The Vault was replaced by the Wentworth Mausoleum which was designed and constructed in 1872-1874.<sup>24</sup>

As it can be seen from the historical maps of the area (Figures 2.5 - 2.9), the land comprising the subject site was not subdivided until around 1907 when it was auctioned. The subdivision of land in this area was probably followed by the establishment and extension of a tramcar that reached as far as Watsons Bay in 1903.



**Figure 2.8**  
The land was further subdivided and in 1907 John Taylor Cooke purchased four allotments, comprising two roods, eighteen and three quarter perches. These allotments were amalgamated in 1921 and formed the overall site. The subject site is part of this land.  
Source: NSW Land Registry Services, Vol. 3194 Fol. 202.



**Figure 2.9**  
The land was subdivided and in 1950 the ownership of the subject site (lot B) was transferred to Lily Pfeiffer, daughter of John Taylor Cooke.  
Source: NSW Land Registry Services, Vol. 6196 Fol. 32.

<sup>23</sup> NSW Land Registry Services, Vol. 6196 Fol. 32..

<sup>24</sup> Heritage NSW. Wentworth Mausoleum and site. <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5045532>

## 2.4 INITIAL CONSTRUCTION OF THE BUILDING - 1909-1910

In 1861, John Cooke emigrated to Australia from England and took the position of the Assistant Under-Secretary in the NSW Department of Lands. He asked North Sydney architect Ferdinand Wilhelm Friederich to design a building (The architect and his works are further discussed in the following section). The plans were approved by local Mayor William Giliver in September 1909. It appears that the construction of the building commenced shortly thereafter, as the 1909 Rates Books show the undeveloped land, while in 1910 it is shown as having a 'House & land', with an unimproved value of £300 and an improved value of £1,800.<sup>25</sup> In the subsequent Rates Books, the dwelling is described as a brick cottage, comprising eight rooms.<sup>26</sup> However, the property was not listed in the Sands Sydney Directory until 1911, when the building was occupied by both John Cooke and Henry Pfeiffer until 1932-33.<sup>27</sup> Henry Pfeiffer was Cooke's son-in-law, who married his daughter, Lily, in 1910.<sup>27</sup> Accordingly, the newlyweds took up residence with her parents in the newly constructed dwelling. After Henry Pfeiffer's death in 1930, Lily and her children, Harry and Jack, remained in the property.<sup>28</sup>

The location of the site was considered favourable, as both John Cooke and his grandson Harry Pfeiffer were keen sailors and the location provided easy access to the waterfront. The family kept a skiff moored off the Wentworth Road side of the site which proved providential on occasion, as when in 1950 an 18-foot launch capsized in the harbour, Harry heard the cry for help and used to skiff to reach the vessel and tow it towards Watsons Bay.<sup>29</sup>

The subject site was adjacent to the Wentworth Vault (now Wentworth Mausoleum which is a heritage listed item in the Woollahra LEP 2014), part of a rocky outcrop on the hill above Parsley Bay. This site was popular with Wentworth family and was called 'Parsley Hill'. The site had an important role in vistas to and from Vaucluse House. Its hilltop location made it visible from the front verandah of the Vaucluse House and had views to both the harbour and the estate.

The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided extensive harbour views and made the building visible from Fitzwilliam Road. This shows and confirms the significant siting, setting, and views of the original house. Furthermore, as it can be seen from Figure 2.8, the location of the original house on the subject site provided ample open space/garden around the house.

The architectural elevation (Figure 2.13) unusually includes scenery backdrops to the distant opposite shore line behind the house. This graphic illustration emphasises the importance of the significant elevated setting and views to the first owners.

25 Municipality of Vaucluse Rates Books, 1909; 1910, Woollahra Local Studies Library.

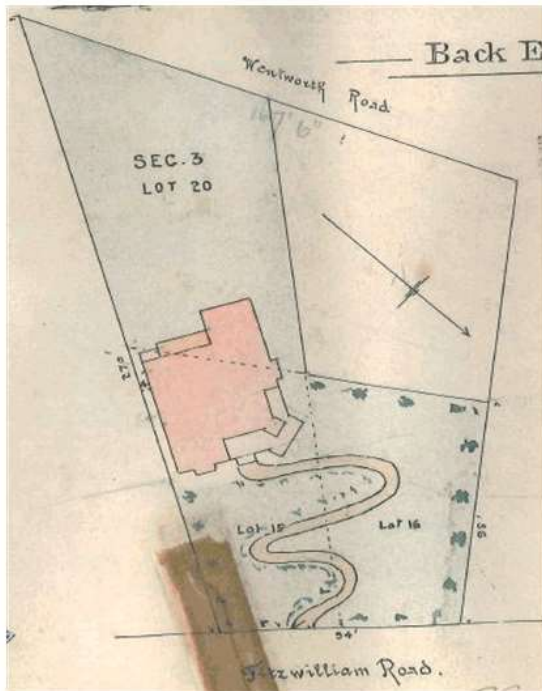
26 Municipality of Vaucluse Rates Book, 1923, Woollahra Local Studies Library.

27 No.2390/10. NSW Registry of Births, Deaths and Marriages.

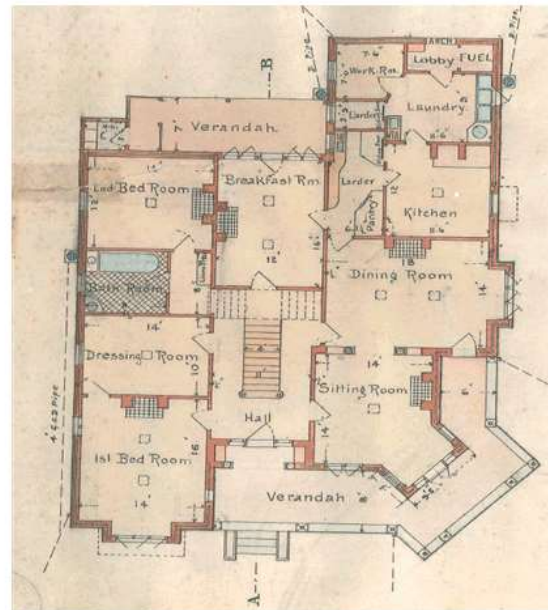
28 Sydney Morning Herald, 30 May, 1930.

29 "Three Sailors Saved from Capsized Launch after Night Ordeal in Harbour," Sydney Morning Herald, 22 May, 1950.

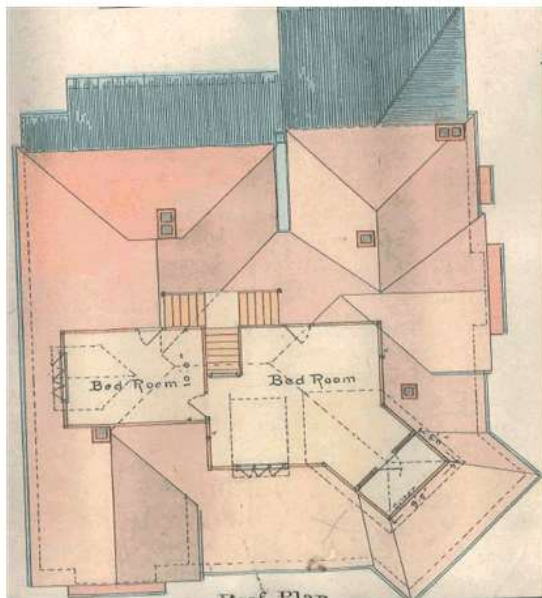




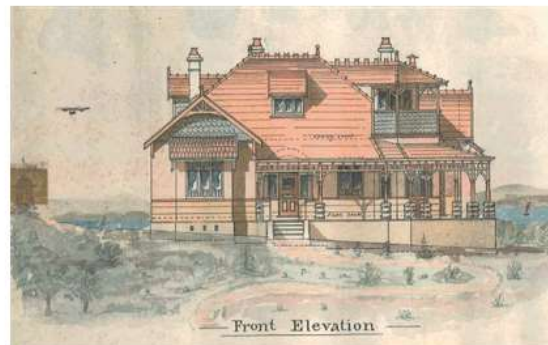
**Figure 2.10**  
 Site plan of the proposed residence, 1909  
 Source: Prof. G. Murrell



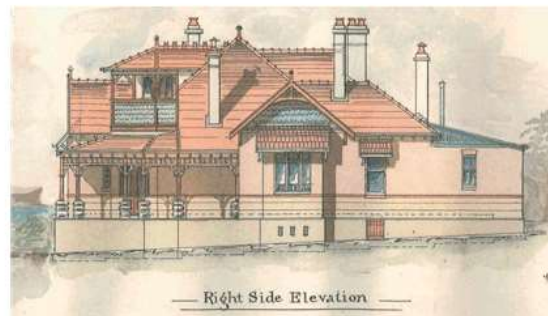
**Figure 2.12**  
 Ground floor plan of the proposed residence, 1909.  
 Source: Prof. G. Murrell



**Figure 2.11**  
 Roof plan of the proposed residence, 1909  
 Source: Prof. G. Murrell



**Figure 2.13**  
 Front elevation of the proposed residence to Fitzwilliam Road, 1909, showing the scenery backdrops to the distant opposite shore line and gap behind the house.  
 Source: Prof. G. Murrell



**Figure 2.14**  
 Side elevation of the proposed residence, 1909.  
 Source: Prof. G. Murrell



**Figure 2.15**  
c. 1920s photograph of 40 Fitzwilliam Road residence, showing the hilltop location of the house and landscape/garden around the house.  
Source: Prof. G. Murrell



**Figure 2.18**  
Informal sitting room, c.1920s  
Source: Prof. G. Murrell



**Figure 2.16**  
Rear (west) garden, c. 1920s, looking west to Wentworth Road, showing the subject building was located on the highest part of the overall site to enjoy the pleasant outlook.  
Source: Prof. G. Murrell



**Figure 2.19**  
View of central stair leading from the entry foyer up to the first floor, c.1920s  
Source: Prof. G. Murrell



**Figure 2.17**  
Breakfast room, c. 1920s  
Source: Prof. G. Murrell

## 2.5 FERDINAND WILHELM FRIEDERICH (W. FRIEDERICH)

Ferdinand Wilhelm Friederich was born in Germany in 1851 and arrived in Australia in 1881. Although he was mainly involved in projects located in North Sydney, he also designed several buildings in various suburbs of Sydney, mainly from 1907 to 1915. Friederich is assumed to be of limited local prominence as an architect during the 20<sup>th</sup> century.

According to the Department of Public Works record, Friederich was employed as a draftsman in the Railway and Tramway Construction Branch from 1882. Friederich was a draughtsman until mid 1908 when he started working as an architect. However, he was never registered with the Board of Architects, given that in 1923 when the registration began, he was in his early 70s and it appears that he may have retired during this time.<sup>30</sup>

In 1886, Friederich became Australian citizen, enabling him to buy properties in NSW. Accordingly, he purchased in North Sydney, Wahroonga, Pymble, Turramurra and Lindfield, most of which appear to be investment properties.<sup>22</sup>

From 1915, there are no records of his works, which could be due to the anti-German sentiment brought about by WWI. It is also assumed that during this time he was 64, at his retirement age, so he was not working as an architect.<sup>22</sup> F. W. Friederich died in Chatswood in 1929.<sup>31</sup>

Some of Friederich's works are listed in the following table:<sup>22, 32</sup>

1907	Warrawee – Erection of a cottage residence.
1908	Randwick - W.B. (Congregational) Church at St. Paul's Street.
	West Ryde - Presbyterian (Congregational) Church at Macpherson Street.
	Turramurra - Dwelling house at 5 Warrangi Street.
1909	Turramurra - Brick Cottage at 55 Bellevue Street..
	Additions and alterations to the Congregational Sunday School.

1910	Little Coogee - Cottage residence.
	Vaucluse - Sunny Brae at 40 Fitzwilliam Road.
1911	Killara - A residence.
	Randwick - 2 S.D. Brick Cottages.
1912	Lindfield - Shop and dwelling – Killara
	Roseville - Residence
1913	Turramurra - Weatherboard cottage
1914	Turramurra - Brick cottage (tenders accepted).
	North Sydney - Brick Cottage – Toongarah Road (tenders accepted).
	Killara - Cottage at Wattle-Street.
	Killara - Cottage in Woolwich Road
	Turramurra - Brick Cottage at Bobbin Head Road.
	Turramurra - Brick cottage in Gilroy Road.
	Turramurra - Brick cottage at Hastings Road.
1915	Wahroonga - erection of a brick residence (for plans and specification apply to Friederich).
	Killara - Weatherboard Cottage at Grassmere Road.
	Hunters Hill - Brick cottage at Woolwich Road.
	Wahroonga - Brick residence at Hilda Street.
	Gordon - Brick cottage

From the above list of his works, only the following buildings have been identified as heritage listed; however, the residence at 55 Bellevue Street, Turramurra, is also another surviving example of his work which is not listed.

30 Rieth, Kathie, Wilhelm Friederich. Draft article for *The Historian*, KHS 2011

31 <https://www.nsw.gov.au/births-deaths-marriages>

32 Trove. National Library of Australia, <https://trove.nla.gov.au/>

**Dwelling House**  
**5 Warrangi Street, Turramurra**  
Construction year: c.1908

The building was designed by Friederich in c.1906 when the site was transferred to him. The building first appeared in the 1908 Sands' Directories under the name 'Warro'. From 1908, the building was occupied by Robert Thorburn and his family until c.1954. It appears that the building was constructed by Robert Thorburn.

The following information is sourced from the Heritage Impact Statement 2020 prepared by Weir Phillips Heritage and Planning:

*No. 5 Warrangi Street is a single-storey (with attic) Federation style dwelling constructed from face brick in contrasting tones of red and brown and sits on a sandstone base. It has a hipped roof clad in terracotta tiles and several tall chimneys clad in roughcast render with terracotta pots. There is a timber-framed dormer at the rear.*

*The front elevation has a verandah that wraps around halfway along the northern elevation. It has a brick balustrade with timber posts and a timber ceiling and floor. The entry is on the northern elevation via set of stairs with treads clad in slate. The entry is a timber door with a glazed opening and top light and side lights. Window openings are timber-framed casements with multi-paned highlight openings.*

*The rear elevation comprises an enclosed verandah with timber-framed window openings that conceal the original brick elevation. The rear wing extends from the southern side of the dwelling. It is constructed from weatherboard and has a hipped roof clad in terracotta tiles. A covered patio with a tiled floor and timber posts runs along the northern and eastern elevations. Window and door openings are timber-framed and glazed.*

**Statement of Significance**

*No. 5 Warrangi Street was constructed c. 1907-1908 by Robert Thorburn, who also constructed the State heritage listed dwelling 'Meerogal' at Nowra. Thorburn was a farmer, goldminer and coachman in the Shoalhaven area before retiring to Sydney and can be considered to be of local prominence.*

*The subject dwelling, 'Warro', forms part of a pattern of large dwellings constructed in this part of Turramurra during the early 20th century. It was likely designed by Wilhelm Friederich, a German-born architect who designed several other dwellings in the North Shore around this time.*

*No. 5 Warrangi Street is a good example of a Federation dwelling and retains many of the characteristics that demonstrate the style. Its position within a garden setting that includes significant established vegetation such as a Chinese elm ensures it stands out and can be considered to have local significance.*

The building is listed as item of local heritage significance on Schedule 5 of the Ku-ring-gai LEP 2015 (I801).



**Figure 2.20**  
Thorburn family members on the front verandah of Warro, 5 Warrangi Street, Turramurra, Around 1908.  
Source: Sydney Living Museum; Caroline Simpson Library & Research Collection



**Figure 2.21**  
Warro, 5 Warrangi Street, Turramurra in 2019.  
Source: realestate.com.au

**Presbyterian, Congregational Church (former);  
Temple Society Church**  
7-9 Macpherson Street, West Ryde  
Construction year: 1907-1908

The NSW Heritage Database provides the following information for the church, Database No. 2340075:

**Statement of Significance**

*The church is of historical significance for its history as a Presbyterian church operating from 1919 to 1924, subsequently as a Presbyterian Sunday School, and thereafter as a church for the Temple Society (a German Church Society). The church is of aesthetic significance as a highly intact, simplified Federation Gothic style building of domestic scale, representative of early 20<sup>th</sup> century church buildings built for protestant denominations.*

**Physical description**

*The church site has frontages to both Macpherson Street and Forsyth Street West Ryde. The church is set in landscaped grounds on the south-eastern side of a double block bordered by a wire fence.*

*The church is a dark brick structure in a simplified Federation Gothic style, comprising a gabled nave with gabled front porch and featuring a belfry or fleche. The building has a sandstone base, dark brick walls with upper wall surfaces finished in rough cast render. Timber-framed windows are set into Gothic arched openings, and the gable end features a circular ventilator. The gabled roofs of the building are clad in unglazed terracotta tiling.*

The church is listed as an item of local heritage significance on Schedule 5 of the Ryde LEP 20154 (I64).



**Figure 2.22**  
Temple Society Church, West Ryde, 2020  
Source: Google Map

## 2.6 COMPARISON BETWEEN SUNNY BRAE AND WARRO

Warro and Sunny Brae were designed between c.1907 and c.1910, in Federation architectural style which was the dominant domestic architecture in Australia during the late 19<sup>th</sup> and early 20<sup>th</sup> century. Warro is a single storey dwelling, while Sunny Brae was designed and constructed as a single storey residential building with an attic. Both buildings were constructed with specific features of the style including red-brown face brickwork, one room at the front projecting forward towards the street, and tall chimneys. Warro is listed as an item of local heritage significance.

In the design of Sunny Brae, the hilltop location of the overall site was thoroughly considered with the building was designed on the highest part of the site. In order to capture the view, the veranda extends around the house and an upper floor dormer window is diagonally placed which is an unusual feature, making the building a rare example of Federation style and confirming the specific design of the house to capture the extensive harbour views.

Both buildings were originally designed to be centrally located on their sites, where Warro is set amongst large and mature trees, the landscape around Sunny Brae has changed as a result of later subdivision and development. Accordingly, views to both buildings have been mainly blocked from the street. However, the hilltop location of Sunny Brae makes it visible from the long distance.

Both Warro and Sunny Brae have experienced alterations and additions over time. Alterations to Warro include the installation of a rear dormer and the enclosure of the rear verandah had changed the principal building form. Sunny Brae was restored to its original early condition in 2012, while contemporary sympathetic additions were constructed on the north-west side of the building, reflecting the original design philosophy and adding to its significance.

Sunny Brae is a good example in showing how the architect thoughtfully considered the important features of the site in terms of location and view, to design a building that captures the extensive harbour views.

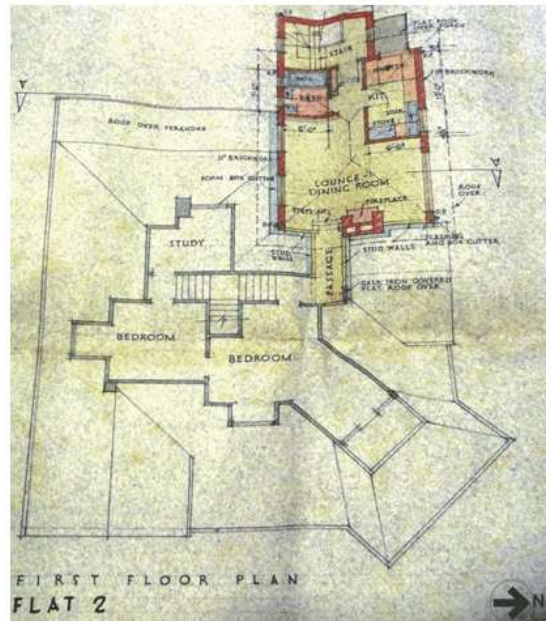
## 2.7 SUBSEQUENT MAJOR PHASES OF DEVELOPMENT - 1950s

The original house (Sunny Brae) experienced minimal changes until 1952, when new two storey unsympathetic additions were constructed at the rear (north-west side) of the building.

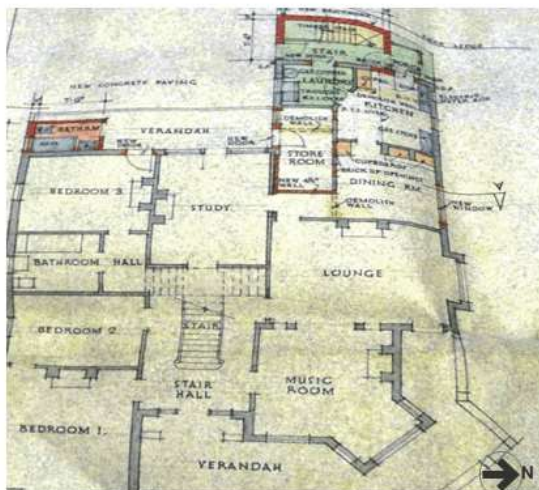
The following information is taken from the 2012 SHI:<sup>6</sup>

*In 1951, Lily Pfeiffer commissioned architect Lionel Barton to prepare plans for a proposed conversion of 40 Fitzwilliam Road into four flats. This required the removal of the verandah and a large extension made to the original building.*

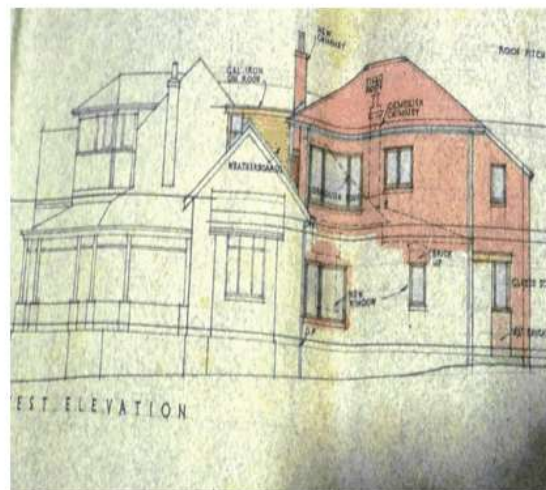
*These plans were evidently abandoned by late 1951, with Peter Priestly revising drawings under Barton, this time for alterations and additions to the building in December 1952. This work entailed partial demolition of roofing to facilitate the new, substantial addition, with removal of an original chimney and the enclosure of selected windows. The ground floor was to be designated as Flat 1, while the first floor room was to be Flat 2. While the rear part of the house, comprising the laundry, fuel store, larder and work room were demolished to make way for the rear addition, and much of the alterations and additions were carried out. However, there is no evidence that there was a formal flat separation, and the rear addition was likely occupied by a member of the Pfeiffer family, with Lily continuing to reside in the main part of the house.*



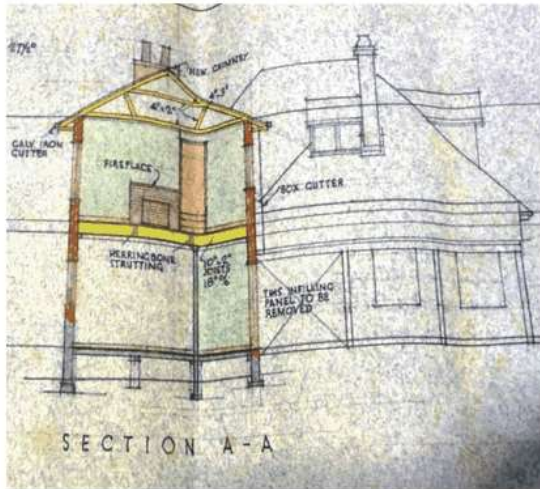
**Figure 2.24**  
Proposed changes to the first floor, December 1952, showing Flat 2 situated in the new rear (north-west) addition and connected via a passageway.  
Source: Woollahra Council.



**Figure 2.23**  
Proposed changes to the ground floor, December 1952.  
Source: Woollahra Council.



**Figure 2.25**  
West elevation, showing proposed works, December 1952.  
Source: Woollahra Council.



**Figure 2.26**  
Section drawing, showing proposed works, December 1952.  
Source: Woollahra Council.



**Figure 2.28**  
Upper Floor plan in 2012. The 1950s alterations and additions to Sunny Brae are shown shaded.  
Source: David White Architects, 2020.



**Figure 2.27**  
Ground Floor Plan in 2012. The 1950s alterations and additions to Sunny Brae are shown shaded.  
Source: David White Architects, 2020.



**Figure 2.29**  
Looking south to Sunny Brae, showing the 1950s unsympathetic additions at the rear (north-west side) of the building (on right).  
Source: Graham Brooks And Associates (now GBA Heritage), 2012

## 2.8 MAJOR ALTERATIONS AND ADDITIONS - 2011-2020

As the result of land subdivision, there was no driveway access to the subject building until 2011. The subject site had two strips of land which gave it small frontages to both Fitzwilliam Road and Wentworth Road. The Wentworth Road frontage is elevated well above the road level, so there has been no access to the subject building from this strip. The Fitzwilliam Road frontage provided only pedestrian access to the property. In 2011, it was approved by Council to provide a driveway access and an excavated parking area to the subject site on the Fitzwilliam Road frontage (DA 437/2011/1).<sup>33</sup>

In 2012, upon the purchase of the original house (Sunny Brae) by George and Dedee Murrell, they saw the potential of the original house to be restored, retained, and extended. The desire of the current owners to preserve the original house, with no statutory heritage constraint on the property, resulted in the demolition of unsympathetic 1950s additions, restoration of the original house to its previous early condition, and construction of contemporary sympathetic additions, referencing the Federation detail of the old house.

David White Architects designed the new addition. Their design focused on restoring and preserving the existing house with its fine decorative features, whilst at the same time incorporating a significant sympathetic addition. For the design of the extension, a traditional style of architecture, compatible with the Federation style of the original house, was applied. David White Architects thoughtfully considered the location of additions on the north-west side of the original house, retaining and respecting its extensive harbour views.

The work comprised the restoration of the original house (Sunny Brae) and its fine decorative features, the removal of the unsympathetic 1952 addition at the rear (north-west side) of the building, and the construction of a sympathetic addition. A hexagonal Belvedere was constructed, which is a pivotal element of the new design that delineates the junction between the new and the old. The Belvedere has a typical architectural feature of the federation period. The Belvedere and roof terrace provide the house with expansive harbour views, as the original design intent. As such, the restoration of Sunny Brae and its new additions embrace a sympathetic union of the original architecture with contemporary practicalities within a traditional guise.<sup>34</sup>

As it can be seen from the architectural drawings, the new additions to the original house retain, conserve, and integrate all those components of the house that are regarded as significant and that have retained their original integrity. As such, the retained and restored part of the original house continues to present its original and complex Federation architectural composition within the total project.

Preservation and restoration of the majority of the surviving portions of the original house was a priority in designing new additions, informed and infused the siting and composition of the new additions on the northern side of the original house. New additions have complemented the strong Federation architectural style of the original house (Sunny Brae), by extending a compatible language and imagery, whilst they form a distinguishable new wing.

David White Architects was the winner of the 2019 Mayor's Award of the Woollahra Design Excellence Awards, for designing the alterations and additions to Sunny Brae. This award is only once every 5 years:<sup>35</sup>

*The new additions have been sympathetically designed to continue the tradition of the original house whilst celebrating its increased scale with carefully modulated elements.*

*Restoration of the original interiors were made by referencing original glass negative photos of the house interiors found in the attic by our client. The original photographs now befittingly line the walls of the restored Entrance hall. The original formal rooms are decorated using rich period colours and William Morris wallpaper. The original hand painted ceilings, featuring medallions of red roses and bluebirds, have been carefully and traditionally restored.*

The restoration and conservation work was carried out by ICS (International Conservation Services) that is Australia's largest private fine art and heritage conservation practice, providing a comprehensive cultural heritage services, ranging from hands on conservation to advice and planning for the care of collections. The project was supervised by Adam Godjin, who is a senior paintings conservator and Head of Conservation for Fine & Decorative Arts.

<sup>33</sup> Statement of Environmental Effects for proposed alterations and additions to existing house at 40 Fitzwilliam Road Vaucluse prepared by David White Architects Pty Ltd, 2012.

<sup>34</sup> Woollahra Design Excellence Awards 2019. [https://www.woollahra.nsw.gov.au/designawards/nominations/david\\_white\\_architects\\_-\\_sunny\\_brae](https://www.woollahra.nsw.gov.au/designawards/nominations/david_white_architects_-_sunny_brae)

<sup>35</sup> Woollahra Design Excellence Awards 2019. David White Architects. Sunny Brae. [https://www.woollahra.nsw.gov.au/designawards/nominations/david\\_white\\_architects\\_-\\_sunny\\_brae](https://www.woollahra.nsw.gov.au/designawards/nominations/david_white_architects_-_sunny_brae)



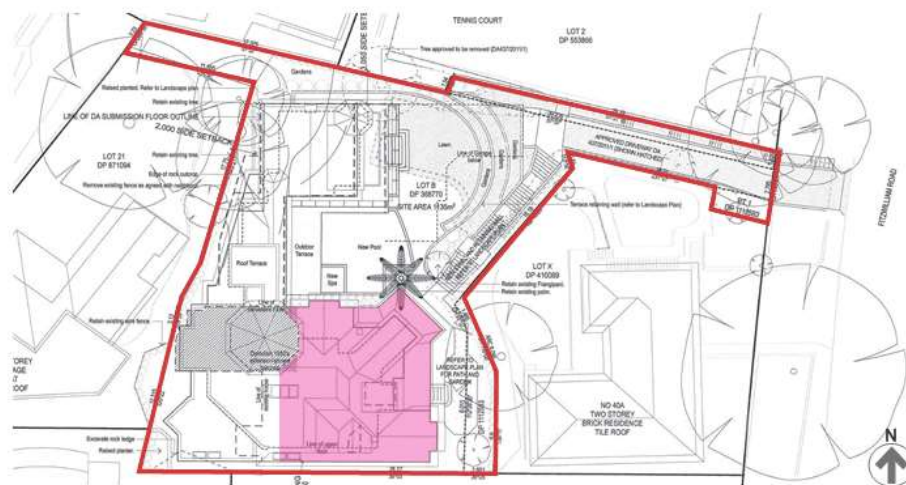
*The restoration of Sunny Brae and its new additions embrace a sympathetic union of the original architecture with contemporary functionality. Today, Sunny Brae is a celebration of the conversation between the old and the new and the continuance of tradition.<sup>26</sup>*

- Master Builders Association of New South Wales: Award 2018 Excellence in Housing Awards. HiPAC Corporation - Winner Alteration and Additions, External Over 5 Million.

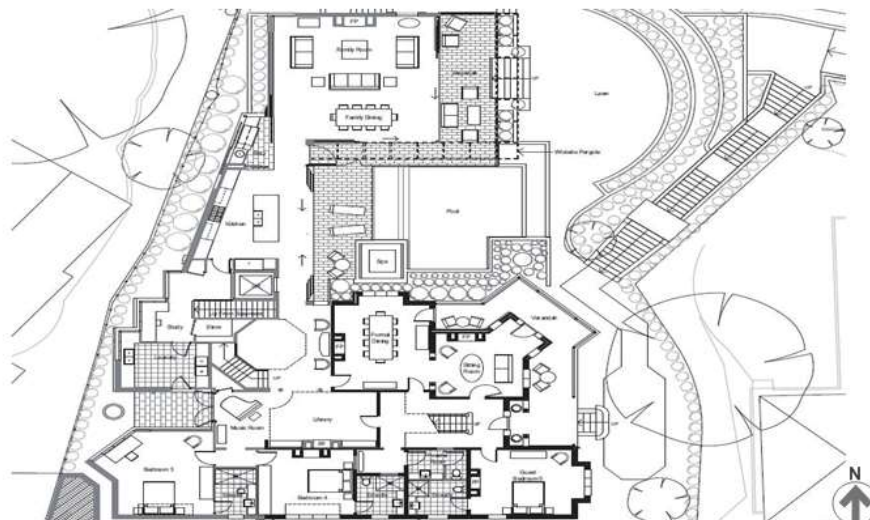
The quality of the work is reflected in the following awards:

In August 2018, the National Trust of Australia (NSW) selected Sunny Brae as one of the properties to be open to the public. Over 500 people came to visit the building, which resulted in Sunny Brae receiving the National Trust (NSW) medal. The high number of visitors shows the importance of Sunny Brae to the community.

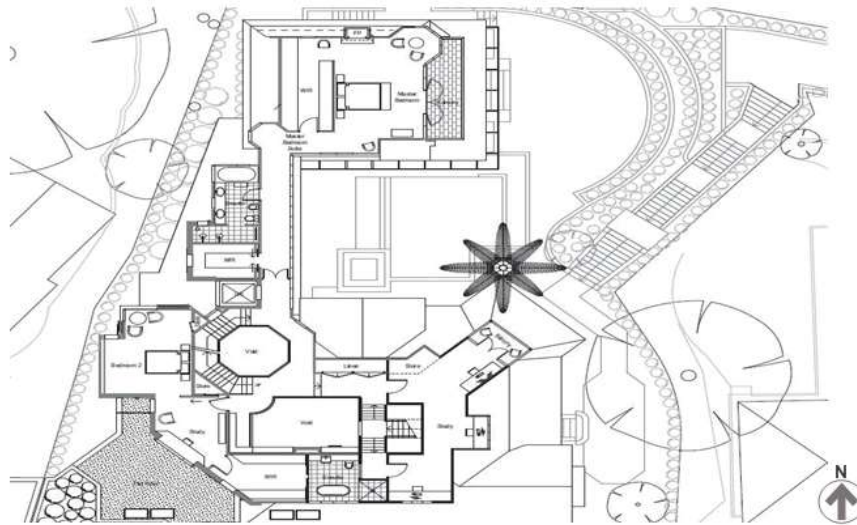
- 2017 Roofing Industry Association of NSW - "Master Tradesman to the Industry" Award of Excellence to MLR Slate Roofing for Outstanding Craftsmanship in Best Slate Roofing.



**Figure 2.30**  
Site plan showing Sunny Brae, shaded in pink, within the subject site, outlined in red.  
Source: David White Architects, 2020.



**Figure 2.31**  
Ground Floor Plan. The original walls of Sunny Brae are shown in black.  
Source: David White Architects, 2020.



**Figure 2.32**  
Upper Floor Plan. The original walls of Sunny Brae are shown in black.  
Source: David White Architects, 2020.



**Figure 2.33**  
Looking to Sunny Brae showing sympathetic contemporary additions are integrated into the original house, forming a union.

## 2.9 DAVID WHITE ARCHITECTS PTY LTD

The current alterations and additions were designed by David White Architects, an Architectural practice specialising in the restoration and adaptive reuse of heritage listed properties with over 30 years experience.

David White, the principal director, is a member of the Hornsby Council Heritage Advisory Committee, an active member of the NSW National Trust, and deputy chair of the Friends of Ahimsa Committee, being constantly involved in heritage issues.

The work of David White Architects has been predominantly located in the North Shore of Sydney; however, it also extends to the City, Eastern suburbs, the Blue Mountains, and the Southern Highlands. The high quality work of David White Architects is reflected in awards it has won with Woollahra Council, Ku-ring-gai Council, Hornsby Council, and the AIA SPUN Awards for the following projects:

- 'Coppins' 29 Telegraph Road, Pymble (Griffin designed Pratten House) (State Heritage Listed).
- 42 Greengate Road, Killara
- 118 Beecroft Road, Beecroft
- 24 The Boulevard Cheltenham

David White Architects, an experienced and well-known practice in the adaptive reuse and restoration of heritage buildings, thoughtfully restored Sunny Brae by referencing original glass negative photos of the house interior. They also designed sympathetic additions, applying the same architectural language as the original house, forming a unity.

# 3.0

## SITE DESCRIPTION

### 3.1 URBAN CONTEXT

The subject building is located at 40 Fitzwilliam Road, on the top of a hill situated between the junction of Fitzwilliam Road and Wentworth Road, Vaucluse, on part of the original Wentworth Estate called "Parsley Hill".

The neighbourhood around the subject site is mostly residential. Fitzwilliam Road is a tree-lined wide street which slopes away northward. This part of Vaucluse was established in the early 20th century. Accordingly, The majority of original buildings dates from this period; however, in recent years a number of early original houses have been replaced with new buildings.

### 3.2 VIEWS TO AND FROM THE SITE

The original house (Sunny Brae) was constructed on a large allotment of land fronting Fitzwilliam Road to the east and Wentworth Road to the west. At that time, the land was in the ownership of John Taylor Cooke until 1948, when the land was further subdivided to form the three separate allotments of 40A, 40, and 40B Fitzwilliam Road. These subdivisions have resulted in the loss of views to Sunny Brae from the public domains of both Wentworth Road and Fitzwilliam Road.

Although the original house (Sunny Brae) is not easily visible from Fitzwilliam Road and Wentworth Road, it has panoramic harbour views. Due to an elevated topography of the site and hilltop location of the subject building, it has extensive views across Parsley Bay and Watsons Bay, as well as views from secondary elevations of the building to Vaucluse Bay and also to the 'Gap'. The subject building is partially visible from Parsley Bay.

The topography of the subject site and its panoramic harbour views have been always considered favourably from the early ownership of the site by William Charles Wentworth. The rocky outcrop site, was popular with the Wentworth family, and was addressed as 'Parsley Hill' due to its extensive views to the harbour and the Vaucluse Estate.<sup>1</sup>

<sup>1</sup> Heritage NSW. Wentworth Mausoleum and site. <https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails>.



**Figure 3.1**  
Looking to the subject site, showing elevated topography of the overall site.



**Figure 3.2**  
View looking south along Fitzwilliam Road.



**Figure 3.3**  
View looking north along Fitzwilliam Road. Drive access to the subject building is on the right, shown by a red arrow.

The subject site was considered favourably by the Cooke family in terms of location and view. As stated by Mr. Pfeiffer, "As a wedding present, my great-grandfather (John Taylor Cooke) gave his daughter (Lily Pfeiffer) a choice of buying a home on the waterfront in the Crescent, or building her a home on top of the hill on Fitzwilliam Road. For her it was an easy choice. She chose this spot."<sup>2</sup> Furthermore, the location of the subject site provided easy access to the waterfront, that was a privilege for John Cooke who was a keen sailor.

The original building was constructed in 1911, when it was listed in the Sands Sydney Directory. The subject building was called "Sunny Brae".<sup>3</sup> Brae is translated by Oxford Dictionary as 'a steep slope or hill'.<sup>4</sup> Brae is a Scottish word. In Gaelic (Scottish Gaelic) the word 'Brae' is usually translated as 'hill', and interpreted as 'a slope to the sea'.<sup>5</sup> Accordingly, the name of 'Sunny Brae' was chosen for the original house due to its location on a hillside near water in Vaucluse.

The hilltop location of the site, as well as the thoughtful design and construction of the original house on the highest part of the overall site, provided extensive harbour views and made the original house visible from Fitzwilliam Road. The imposition of a restrictive height covenant for 40A Fitzwilliam Road in 1957 indicates the enduring importance of long distant views from the house. As stated in the Memorandum of Transfer (1957):

*No building or structure or other erection or any part thereof which may be erected upon the said Lot X as shown on the said plan annexed hereto shall exceed in height at any point forty (40) feet above the level of the intersection of the formation of Fitzwilliam Road as shown on the said plan and the prolongation of the south-eastern boundary of Lot X being a point bearing 38 degrees 6 minutes 30 feet 0 inches from the eastern corner of the said Lot X.*

Lot X is a reference to No. 40A Fitzwilliam Road.

It appears that when John and Harry Pfeiffer sold their lot (40A Fitzwilliam Road) in 1957, they imposed this covenant to protect the extensive harbour views of Sunny Brae, confirming the visual significance of the house.

A comprehensive Visual impact and view sharing assessment report for 40A Fitzwilliam Road Vaucluse prepared by Richard Lamb and Associates has identified and analysed five positions for the existing views as follows:

1. The view from the ground floor (doorstep of the original house) looking approximately east-north-east.
2. The view from the ground floor (doorstep of the sitting room, original house). This view has a lower viewing level, while the expanse of water is reduced.
3. The view from the top floor (bedroom at upper floor level) diagonally located above the front door of the original house. Views are available through any of the three windows.
4. The view from the second step on front stair of the original house, which includes views across Parsley Bay, part of South Head and Gap Park.
5. The view from the ground floor bedroom on the south side of the original house, looking east-north-east.



**Figure 3.4**  
View of properties opposite the subject site, at 40 Fitzwilliam Road.



**Figure 3.5**  
Looking west to the original house, Sunny Brae, from Fitzwilliam Road. The original house is not visible from the street.

aspix?ID=5045532  
2 Sivric, Helena. 40 Fitzwilliam Rd, Vaucluse. Wentworth courier. 2012.  
3 City of Sydney. Archives & History Resources. Sands' Sydney, Suburban and Country Commercial Directory 1911.  
4 Oxford University Press, 2020. <https://www.oxfordlearnersdictionaries.com/definition/english/brae>  
5 The festive town of Brae, 1995-2020. <https://www.scotland.com/regions/shetland/brae/>



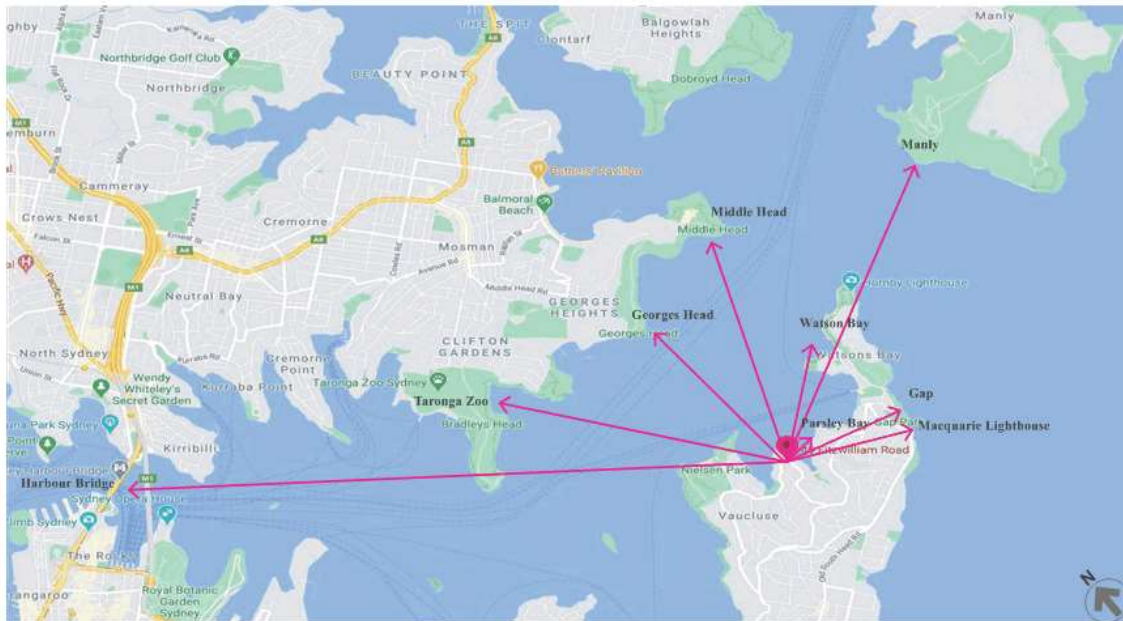
**Figure 3.6**  
Looking east to Parsley Bay and Watsons Bay from front door on the ground floor verandah.



**Figure 3.7**  
Panorama photo, looking north to Middle Head and Georges Head and looking north-east to Manly.  
Source: *Images For Business*, 2020.



**Figure 3.8**  
Looking to harbour bridge from the west side of the building.



**Figure 3.9**  
Aerial photo showing visual curtilage of the subject site. The subject site is shown in red, sited on a hilltop location with an extensive views to Parsley Bay, the Gap, Macquarie Lighthouse, Manly, Taronga zoo, and Harbour Bridge, shown by pink arrows.  
Source: Google Map.

### 3.3 DESCRIPTION OF THE BUILDING EXTERIOR

Sunny Brae is a two storey house that was designed in the Federation Queen Anne style constructed in 1909-1910. Federation Queen Anne style was the dominant style in Australian domestic architecture in the 1900s. The house has asymmetrical form and has been a fine and dramatic example of the style internally and externally. The house was built with specific features to capture views from its hilltop location including one room at the front projecting forward towards Fitzwilliam Road, Parsley Bay, and the Gap, as well as verandah extending over the remainder of the frontage, providing expansive panoramic harbour views.

The central position of the original house on the overall site, provided ample open space/garden around the house (Figure 2.8). Although the subdivision of the overall site in 1948 resulted in a reduced open space around the house, its eastern garden is significant as a remnant original landscape and adds to the overall significance of the original house.

The original house almost remained intact until 1952, when the building underwent alterations and additions to provide an independent flat at the rear (north-west side). These additions were unsympathetic in terms of architectural style of the original house. In 2012, these unsympathetic additions were demolished to give way for the construction of sympathetic new additions.

The current contemporary addition on the north-west side of the original house (Sunny Brae) comprises the hexagonal Belvedere that reflects a typical architectural feature of the federation period and is an important element of the new design. The new extension is compatible with and continues the tradition of the original house in its detail, while it also incorporates contemporary design elements. The contemporary distinguishable additions enable the original building to be read and interpreted without compromising its fine and dramatic Federation Queen Anne architectural style.

Sunny Brae underwent restoration and refurbishment in 2012. Accordingly, the building exterior is in excellent condition. The building has a painted brick exterior, being compatible with the red-brown face brickwork feature of the Federation Queen Anne style. The prominent exterior features of the building, reflecting Federation Queen Anne architectural style, have remained intact including exterior timber detailing, complex gable roofs with slate tiles and timber gable ends, tall chimneys, connecting wraparound verandah featured timber post and ornamental brackets, exposed eaves batons, as well as leadlight windows with displayed coloured glass.



Figure 3.10  
Stairs leading to the original house, showing the hill top location of the house.



Figure 3.11  
Looking south to the original house.



Figure 3.12  
Front elevation of the original house.  
Source: Images For Business, 2020.





**Figure 3.13**  
Looking north to the original house.  
*Source: Images For Business, 2020.*



**Figure 3.14**  
Looking to the original house, showing the sympathetic connection between the old and the new. The hexagonal Belvedere is visible on the right.  
*Source: Images For Business, 2020.*



**Figure 3.15**  
Front entrance, with original arch, columns and windows.



**Figure 3.16**  
Looking to the ground floor verandah.

### 3.4 DESCRIPTION OF THE BUILDING INTERIOR

The original 1909 interior component and features of the existing building has high integrity. Internal key features of the building include the original internal layout and circulation spaces, decorative ceilings, staircases, fireplaces, windows and joinery. Principal rooms of the original building remain intact; however, bathrooms and kitchens have been upgraded as needed.

As the original house underwent restoration and refurbishment in 2012, consequently the building interior is in excellent condition. The design focused on restoring and preserving the existing house with its fine decorative features, while at the same time incorporating a significant sympathetic addition. Restoration of the original interiors were made by referencing original glass negative photos of the house interiors found in the attic by the children of the current owner of the house. The original photographs befittingly line the walls of the restored Entrance Hall. The original formal rooms were decorated using rich period colours and William Morris wallpaper. The original hand painted ceilings, featuring medallions of red roses and bluebirds, were carefully and traditionally restored and re-gilded by International Conservations Services (ICS).

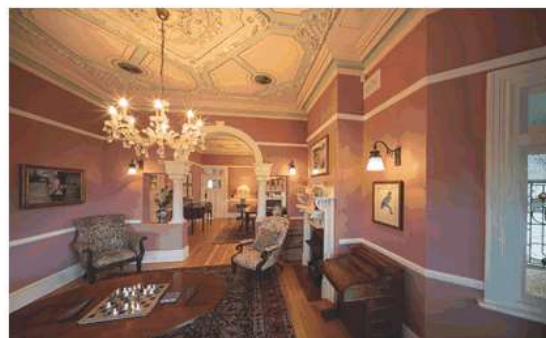
The 1950s additions on the north-west side of the original house were demolished and replaced with new sympathetic additions. Although current additions are simpler in design, they continue the tradition of the original house. The key internal features of the original house have been mainly restored and preserved.



**Figure 3.17**  
Original stairs leading to upper level.  
Source: Images For Business, 2020.



**Figure 3.18**  
Interior view of the original dining room, showing original arch, columns, decorative hand painted ceilings, as well as leadlight windows and doors. The original arch separates the dining room from the front sitting room.  
Source: Images For Business, 2020.



**Figure 3.19**  
View of the entry hall (the original reception room), showing the original interior components of the building.  
Source: Images For Business, 2020.



**Figure 3.20**  
Entry hall (sitting room), with original ceiling and windows.



**Figure 3.21**  
View from the room at the front projecting forward towards Parsley Bay, and the Gap. This photo shows leadlight window displayed coloured glass in flowering patterns, one of the significant features of Federation Queen Anne style.



**Figure 3.22**  
Bedroom interior showing original layout, window fabric, and restored ceiling.  
Source: Images For Business, 2020.



**Figure 3.23**  
Interior showing original room layout, fabric, fireplace and surrounds, as well as original window.



**Figure 3.24**  
Restored decorative hand painted ceiling, featuring medallions of red roses.  
Source: Images For Business, 2020.



**Figure 3.25**  
Original glass skylight and decorative hand painted ceiling above the stairs, which was uncovered by the heritage painter.  
Source: Images For Business, 2020.



**Figure 3.26**  
Looking to the gallery, hexagonal Belvedere, and the original house from the master bedroom on the second floor.



**Figure 3.27**  
Looking to the original house from the master bedroom on the second floor.



**Figure 3.28**  
The two storey library, connects the original house to the new additions. A large antique painted glass skylight was sourced from the Beecham family residence in the London, UK.



**Figure 3.29**  
The contemporary kitchen and hallway fronting the pool, connecting the original house with the new addition.



**Figure 3.30**  
Contemporary bathroom fitout on the first floor of new additions.



**Figure 3.31**  
Contemporary living room which is part of the new additions. Large glazed openings create a seamless transition between indoors and outdoors.

### 3.5 CONDITION AND INTEGRITY

The building underwent two major alterations/additions in the 1950s and 2012; however, both additions were mainly focused on north-west side of the building. The unsympathetic 1950s additions were demolished as part of the 2012 sympathetic alterations and additions, continuing the tradition of the original house. Although the new additions have been well integrated into the original house, there is a well defined separation between the original architecture and the contemporary functionality. The original photos of the house, found in the attic by the current owner, guided the restoration of 'Sunny Brae'.

The following figures provide a comparison between the original and the existing restored house. Following recent conservation works, it is observed that the building is in excellent condition and has a high level of integrity externally and internally. Sunny Brae has retained its important Federation Queen Anne architectural style externally and internally.



**Figure 3.32**  
Dining room, c.1920s  
Source: Prof. G. Murrell.



**Figure 3.33**  
Dining room, 2020  
Source: Images For Business, 2020.



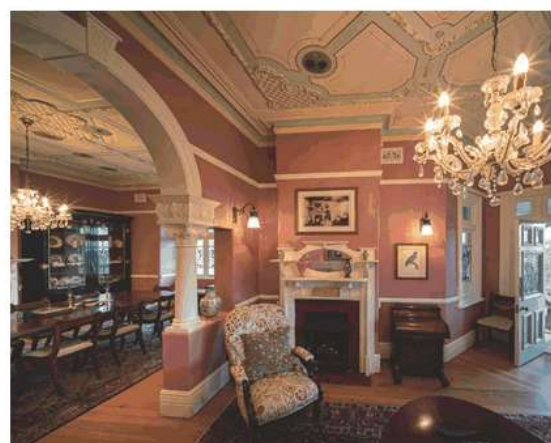
**Figure 3.34**  
Guest bedroom, c.1920s  
Source: Prof. G. Murrell.



**Figure 3.35**  
Guest bedroom, 2020  
Source: Images For Business, 2020.



**Figure 3.36**  
Reception room, c.1920s  
Source: Prof. G. Murrell.



**Figure 3.37**  
Reception room, 2020  
Source: Images For Business, 2020.



**Figure 3.38**  
Stairs leading to the first floor, c.1920s  
Source: Prof. G. Murrell.



**Figure 3.39**  
Stairs leading to the first floor, 2020.  
Source: Images For Business, 2020.



**Figure 3.40**  
Breakfast room, c.1920s  
Source: Prof. G. Murrell.



**Figure 3.41**  
Breakfast room was repurposed to a double vaulted library during the 2020 renovations. The original fireplace remains intact.  
Source: Images For Business, 2020.



**Figure 3.42**  
Front garden looking north, showing the hilltop location of the building and its extensive harbour views. The building had views to and from Fitzwilliam Road. c.1920s  
Source: Prof. G. Murrell.



**Figure 3.43**  
Front garden looking north in 2020. The building has still extensive harbour views. However, due to the growth of vegetation, as well as the later subdivision and development in front of the original house, it is not visible from Fitzwilliam Road.  
Source: Images For Business, 2020.

# 4.0

## ASSESSMENT OF CULTURAL SIGNIFICANCE

### 4.1 INTRODUCTION

Heritage, or “cultural” value, is a term used to describe an item’s value or importance to our current society and is defined as follows in *The Australia ICOMOS Burra Charter*, 2013, published by Australia ICOMOS (Article 1.0):

*Cultural significance* means **aesthetic, historic, scientific or social or spiritual value** for past, present or future generations.<sup>1</sup>

This section establishes the criteria which are used to understand significance and identifies the reasons for the cultural value of the site and its components.

The NSW Heritage Office (now Heritage NSW of the NSW Department of Premier and Cabinet) evaluation criteria for potential LEP heritage listing set a high threshold for entry. Terminology such as “important”, “special” and “strong” establish the need for a property to be more than just average in its heritage values if it is to be listed.

### 4.2 COMPARATIVE ANALYSIS

Assessment of the subject site has included comparison with, but was not limited to, the following buildings constructed in the same period and architectural style located in Woollahra LGA.

#### House

13 Ian Street, Rose Bay, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2711241:

#### Statement of Significance

*No 13 is a representative Federation style house in Rose Bay built in the early part of the 20th century which has aesthetic and historical connections.*

*The house has historical significance through the association with the prominent local architect E. Lindsay Thompson who designed the house in 1910 - 1911, for Mrs L.E. White, the wife of Henry Hunter White of Havilah, Mudgee.*

*Although the house has been modified, the original pictorial Federation character survives. 13 Ian Street is a brick and sandstone house in reasonable original condition.*



Figure 4.1  
House at 13 Ian Street, Rose Bay.  
Source: Google Map

<sup>1</sup> *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013, p.2



#### House and grounds

28 Darling Point Road, Darling Point, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2711207:

##### **Statement of Significance**

*The house and the subdivision demonstrate a major historical phase in the development of Darling Point as a residential suburb in the late 19th century and the early 20th century. This phase saw the breaking up of the early large land grants and estates, in this case the Mona Estate, and the closer subdivision and development of the peninsular for good quality upper middle class housing.*

*The building, built c.1910, is a good representative example of a house in the Federation Queen Anne style popular for good quality houses at the time and provides evidence of contemporary aesthetic tastes. The house demonstrates key characteristics of the style including its informal picturesque composition of projecting square and faceted wings, gables, bays, verandahs and other elements, semi-octagonal corner bay with its pyramidal 'candle snuffer' roof, large two storey verandah with turned posts and arched verandah beams facing Mona Road and decorative elements such as half timbering and decorative stucco elements, curved timber eaves brackets, timber sill brackets and the semi circular rusticated sandstone arch supported by dressed sandstone pilasters flanking the entrance porch.*

*The garden appears to retain a great deal of its early layout and features, including a number of very large trees, asphalt paths and paved areas with brick edging, crazy paving to a terrace at the north of the house and at southeast of the house, bush rock terracing and edging to garden beds and other plantings. The garden to the north of the house contains two very large trees. Together with very large street trees in the vicinity, these give the corner a distinctive landmark quality.*

*Together with the street trees and the trees within the site, the house forms part of a group with St Marks Church and Manse and houses at Nos 3 and 5 Green oaks Avenue.*



**Figure 4.2**

House and grounds at 28 Darling Point Road, Darling Point.  
Source: Google Map

#### House, outbuildings, front garden, Norfolk island Pine

629 New South Head Road, Rose Bay, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2710108:

##### **Statement of Significance**

*The site was part of the original grant to Daniel Cooper and Solomon Levey in 1830. The building at 629 New South Head Road, Rose Bay was constructed in 1904 for Francis Tessertand has aesthetic significance for its style and detailing even though the building appears to have been modified with a roof extension. The building retains relatively intact with the timber detailing of the two storey verandahs at the front elevation. The building also has aesthetic significance for the contribution it makes to the character of the immediate area. The building has social significance for its association with the Tessert family for a number of years.*



**Figure 4.3**  
House at 629 New South Head Road, Rose Bay  
Source: NSW Heritage Inventory sheet, Database No. 2710108.

**Mindarraba - house, grounds and sandstone retaining wall to Mona La**

16 Mona Road, Darling Point, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2711530:

**Statement of Significance**

*The subdivision and the house demonstrate a major historical phase in the development of Darling Point as a residential suburb in the early part of the 20th century. This phase saw the breaking up of the early large land grants and estates, in this case the Mona Estate, and the closer subdivision and development of the southern part of the peninsular for good quality upper middle class investment housing, principally for the rental market. The house also demonstrates the trend in the area to higher residential densities commencing in the 1920s with the widespread conversion of houses to duplexes and flats.*

*The house is a fine representative example of good quality upper middle class investment housing built in the Federation Queen Anne style popular at the time, and provides evidence of the aesthetic tastes of the period. The building demonstrates many of the key characteristics of the style and a range of characteristic formal and decorative elements and finishes including an extensive use of decorative timber work in various forms such as half-timbered gable ends, turned timber verandah posts with timber capitals, balustrades and friezes and elaborate curved and turned brackets.*

*The house is a significant component of the distinctive streetscape of the locality in both Mona Road (including the characteristic street trees) and in Mona Lane. The sandstone retaining wall to Mona Lane continues the sandstone wall of the neighbouring properties and the relationship of the building with the land form and its neighbours are all characteristic of the streetscape of this locality.*



**Figure 4.4**  
Mindarraba house at 16 Mona Road, Darling Point.  
Source: NSW Heritage Inventory sheet, Database No. 2711530.

**Brereton - former house, grounds and sandstone retaining wall to Mona La**  
18 Mona Road, Darling Point, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2711513:

**Statement of Significance**

*The subdivision and the house demonstrate a major historical phase in the development of Darling Point as a residential suburb in the early part of the 20th century. This phase saw the breaking up of the early large land grants and estates, in this case the Mona Estate, and the closer subdivision and development of the southern part of the peninsular for good quality upper middle class investment housing, principally for the rental market. The house demonstrates the nature of upper middle class investment housing built in the area at the time and the trend in the area to higher residential densities commencing in the 1920s with the widespread conversion of houses to duplexes and flats.*

*One of three originally identical adjoining houses, the building is a fine representative example of good quality investment housing built in a restrained version of the Federation Queen Anne style popular at the time, and provides evidence of the aesthetic tastes of the period. The building demonstrates many of the key characteristics of the style and a range of characteristic formal and decorative elements and finishes including an extensive use of decorative timber work in various forms such as the Art Nouveau curved timber arch to the entrance porch, fretwork gable end detailing, turned timber verandah posts, fretwork beam ends and fretwork and spindle work friezes.*

*The three buildings are part of group of houses in Mona Road of similar scale, form and character all built within the first decade of the 20th century and later converted to duplexes. In combination, the winding alignment of Mona Road, the large ficus hillii street trees and the group of buildings form a distinctive streetscape characteristic of Mona Road. The sandstone retaining wall to Mona Lane continues the sandstone wall of the neighbouring properties and contributes to its distinctive character. Significant views of the rear of the group, to which their designs are generally orientated, are available from Mona Lane, New Beach Road and Rushcutters Bay Park.*



**Figure 4.5**  
Brereton House at 18 Mona Road, Darling Point.  
Source: NSW Heritage Inventory sheet, Database No. 2711513.

#### **Balgowan - house and grounds**

8 Annadale Street, Darling Point, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2711214:

#### **Statement of Significance**

*The house and the subdivision demonstrate a major historical phase in the development of Darling Point as a residential suburb in the late 19th century and the early 20th century. This phase saw the breaking up of the large early land grants and estates, in this case the grounds of the 19th century house 'Como', and the closer subdivision and development of the peninsular for good quality upper middle class housing.*

*Built c.1906, the house is a fine representative example of cottage built in the Federation Queen Anne style, a popular style for good quality homes in the early years of the 20th century. It demonstrates key characteristics of the style including its picturesque asymmetrical composition, dominant hipped roof forms, prominent chimneys, projecting two storey semi-octagonal balcony with pyramidal 'candle snuffer' roof, turned verandah posts, balusters and spindle work frieze.*



**Figure 4.6**  
Balgowan House at 8 Annadale Street, Darling Point.  
Source: NSW Heritage Inventory sheet, Database No. 2711214.

### House

142 Wolseley Road, Point Piper, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2710168:

#### **Statement of Significance**

*The property forms part of the original grant to John Piper in 1820. The building named 'Notrella' at 142 Wolseley Road Point Piper has aesthetic significance as a fine and largely intact example of the Federation Queen Anne style. The two storey red brick building on its prominent location also has aesthetic significance for the strong contribution it makes to the character of the immediate area. The building has social significance for its association with the parliamentarian, the Hon. Bruce Smith, M. P. and for its long association with the Gisbone family from the early 20th. century until 1977. The mature hedges and trees are contributory to the aesthetic significance of the building.*



**Figure 4.7**  
House at 142 Wolseley Road, Point Piper.  
Source: NSW Heritage Inventory sheet, Database No. 2710168.

### Residential flat building front garden and retaining wall

33-34 New Beach Road, Darling Point, Woollahra

The NSW Heritage Database provides the following information for House, Woollahra Database No. 2710100:

#### **Statement of Significance**

*The site formed part of the original grant to Arthur Frederick Smart in 1888. This group of twelve residential buildings have aesthetic significance as a largely intact grouping of Federation Queen Anne style buildings which were constructed as a group for John Cameron in 1911. Although the buildings were modified as flats in the 1930s, they have retained their style, form and scale of the exterior and are a rare cohesive group of buildings in identical styling to remain intact in the district. The buildings have high aesthetic significance as a group for the strong contribution they make to the streetscape of the immediate area even though they have undergone some modification throughout the years. The building has social significance for their association with the Cameron family throughout the twentieth century.*



**Figure 4.8**  
Group of houses at 33-34 New Beach Road, Darling Point.  
Source: Google Map

**Glasson House - house**

19 Wentworth Road, Vaucluse, Woollahra

The NSW Heritage Database provides the following information for Glasson House, Woollahra Database No. 2710157:

**Statement of Significance:**

*The house named Glasson House at 19 Wentworth Road, Vaucluse originally formed part of the Crown Grant to Thomas MacGlynn in 1831 and William Charles Wentworth in 1838. The house in a Federation Queen Anne style has aesthetic significance as a large and prominent example of the style. The building is significant as a largely intact example of the style still retaining its original red face brick facades and dominant roofscape. The building has historic and social significance for its association with a number of prominent persons in the district.*



**Figure 4.9**  
Glasson House at 19 Wentworth Road, Vaucluse.  
Source: Google Map

**4.2.1 CONCLUSION**

All comparable buildings are listed as heritage items in Schedule 5 of Woollahra LEP 2014. They are either one or two storey buildings which were constructed between 1904 - 1911, in a Federation Queen Anne architectural style.

Most of selected buildings are representative of the breaking up of the early large grants and estates. All selected buildings are good representative examples of the Federation Queen Anne style. Although all selected buildings have undergone several alterations and additions over time, the key characteristics of style have largely remained intact, contributing to their aesthetic significance.

'Brereton' has experienced 8 phases alterations and additions over time; however, it still demonstrates many of the key characteristics of the Federation Queen Anne style, and is a fine representative example of this style. 'Mindarraba' and 'Balgowan' have undergone 5 phases and 4 phases alterations and additions respectively, but they are still fine representative examples of housing in the Federation Queen Anne style.

#### 4.3 ANALYSIS OF CULTURAL SIGNIFICANCE

The following commentary discusses how each of the criteria established by the NSW Heritage Office (now Heritage NSW of the NSW Department of Premier and Cabinet) relate to the subject site.

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

*Guidelines for Inclusion: When the item shows evidence of a significant human activity or is associated with a significant activity of historical phase. When it maintains or shows the continuity of a historical process or activity.*

*Guidelines for Exclusion: When the item has incidental or unsubstantiated connections with historically important activities or processes. When it provides evidence of activities or processes that are of dubious historical importance or has been so altered that it can no longer provide evidence of a particular association*

Land along the waterfront and landward sections of Vaucluse were gradually subdivided during the 1900s and 1910s. Sunny Brae occupies one of the peak elevated properties formed following the initial 1890s subdivision. The subject site was considered favourably in terms of location and view by the Cooke family. Lily Pfeiffer, daughter of John Taylor Cooke and wife of Henry Pfeiffer, chose this spot as a wedding present rather than a home on the waterfront in the Crescent. Furthermore, the location of the subject site provided easy access to the waterfront, that was a privilege for John Cooke who was a keen sailor. From the construction of the original house in c.1910, the building was named ‘Sunny Brae’, indicating and emphasising its hilltop location, and sunrise feature of the geographical position which renders the Old Norse origin of ‘Sunny Brae’. Therefore, Sunny Brae has constantly had an outstanding setting.

The overall site demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vaucluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay.

The site was an important component of the early 1890s subdivision of the expansive Wentworth family Estate that had survived relatively intact until the late 1820s. The land that comprises the subject site was popular with Wentworth family and was addressed as ‘Parsley Hill’, indicating its hilltop location and extensive panoramic harbour views.

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

*Guidelines for Inclusion: When an item shows evidence of a significant human occupation or is associated with a significant event, person or group of persons.*

*Guidelines for Exclusion: When an item has incidental or unsubstantiated connections with historically important people or events. When it provides evidence of people or events that are of dubious historical importance or has been so altered that it can no longer provide evidence of a particular association.*

The house is strongly associated with North Sydney architect, Ferdinand Wilhelm Friederich who thoughtfully designed the building in c.1909 to capture extensive harbour views. A comparison between Sunny Brae and Warro (another surviving work of the architect) confirms the subject building is a substantial surviving work in the career of the architect.

The subject site was part of the Crown Grant to Thomas Laycock in 1793, which was sold to William Charles Wentworth in 1827. William Charles Wentworth (1790-1872) was born in Sydney. He was sent to England for education. He returned to Sydney in 1810, keen to explore. As such, he joined Blaxland and William Lawson in finding a way across the Blue Mountains, then went on to explore the South Pacific. He was also one of Australia’s prominent politicians, a strong proponent of free press and the constitution, and with an associate found the ‘Australian newspaper’.

The land comprising the subject site is strongly associated with William Charles Wentworth, a prominent person who was an explorer, barrister, statesman, landowner, and author. He owned the land from 1827, was planned to be eventually consecrated for the Wentworth family Vault. William Charles Wentworth intended to be buried within the rock outcrop which comprises the subject site.

Although John Taylor Cooke was a civil servant, he does not appear to have had a high profile within the community. However, John Taylor Cooke Memorial Trophy was presented by Harry Edward Pfeiffer at the Sydney Amateur Sailing Club for the winner of the Classic Division. This has been donated annually by the Pfeiffer family since the 1930s, in the memory of John Taylor Cooke who was a keen sailor.

**Criterion (c) - An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)**

*Guidelines for Inclusion: When an item shows or is associated with, creative or technical innovation or achievement. When it is the inspiration for a creative or technical innovation or achievement, is aesthetically distinctive, has landmark qualities or exemplifies a particular taste, style or technology.*

*Guidelines for Exclusion: When an item is not a major work by an important designer or artist, has lost its design or technical integrity. When an item's positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded or has only a loose association with a creative or technical achievement*

Sunny Brae demonstrates a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, bay windows, fine joinery, dramatic main staircase, finely detailed plaster ceilings, wrap-around front verandah, and spatial composition. The original house experienced minor changes until 1952 when a new two storey unsympathetic additions were constructed on the north-west side of the building and did not impact on the substantive part of the original dwelling. These additions were demolished when a new contemporary wing with sympathetic architectural character was constructed in 2018-2020. In conjunction with the construction of the new wing, the original house was carefully restored and renovated. It is in excellent condition, and the original extravagant Federation Queen Anne character is retained. Sunny Brae is a fine representative of the Federation Queen Anne style. The key characteristics of the style have mainly remained intact or have been restored, externally and internally, contributing to the aesthetic significance of the original house.

The highly complex architectural composition of the two storey Federation Queen Anne "Sunny Brae" house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. The unusual diagonal wraparound verandah and upper floor dormer window confirm that the original house was specifically designed to capture the fine, expansive views provided by its hilltop location.

The building exterior demonstrates many of the key characteristics of the style including exterior timber detailing, complex gable roofs, slate tiles and timber gable ends, tall chimneys, connecting wraparound verandah featured timber post with ornamental brackets, exposed eaves batons, as well as leadlight windows with display coloured glass. The building interior also comprises many of the key characteristics of the style as well as a range of characteristic decorative elements and finishes including original interior layout and circulation spaces, fireplaces, hand painted and gilded decorative ceilings, stairs, as well as windows and joinery. Accordingly, the building has aesthetic significance as a good example of the Federation Queen Anne style house, internally and externally.

Given that in recent years, a number of early houses in the immediate locality have been replaced with new buildings, Sunny Brae is one of the surviving houses in Federation Queen Anne style from the early development of the area as a residential suburb mainly in the first decades of the 20th century. Accordingly, the original house contributes to the character of the immediate area for the relative intactness and integrity of the original fabric, internally and externally.

For design of sympathetic additions, a traditional style of the original house, compatible with the Federation style was applied, integrating all those components of the old house that are regarded as significant and that have retained their original integrity. David White Architects thoughtfully considered the location of additions on the north-west side of the original house, respecting and retaining its extensive harbour views. Accordingly, new additions have added to the aesthetic significance of the original house, forming a union.

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

*Guidelines for Inclusion: When an item is important for its association with an identifiable group or is important to a community's sense of place.*

*Guidelines for Exclusion: When an item is only important to the community for amenity reasons or is retained only in preference to a proposed alternative.*

David White Architects, who have extensive experience in the restoration and adaptive reuse of heritage buildings in Sydney's North Shore, designed the new additions, applying a traditional style of architecture, compatible with the Federation style of the original house. The qualities of the additions are reflected in the work being awarded 2017 for outstanding craftsmanship in best Slate Roofing of the year, 2018 Master Builders Association of New South Wales award for alterations and additions, and 2019 winner of the Mayor's Award of the Woollahra Design Excellence for the design of alterations and additions. Furthermore, in 2018, Sunny Brae received the National Trust (NSW) medal for the high number of visitors in 'Open Day', showing the importance of the house to the community. Accordingly, it is reasonable to conclude that the recent alterations and additions have added social significance to Sunny Brae.

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

*Guidelines for Inclusion: When an item has the potential to yield new or further substantial scientific and/or archaeological information. When it is an important benchmark or reference site or type or provides evidence of past human cultures that is unavailable elsewhere.*

*Guidelines for Exclusion: When the knowledge gained would be irrelevant on science, human history or culture. When the item has little archaeological or research potential or only contains information that is readily available from other resources or archaeological sites. Where the knowledge gained would be irrelevant to research on science, human history or culture.*

As Sunny Brae was the first building to be constructed on the subject site, it is considered that there may be little potential for the site to yield information that may contribute to a greater understanding of the history of Vaucluse area.

**Criterion (f) - An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)**

*Guidelines for Inclusion: Where an item provides evidence of a defunct custom, way of life or process or demonstrates a process, custom or other human activity that is in danger of being lost. Where it shows unusually accurate evidence of a significant human activity or is the only example of its type. When an item demonstrates designs or techniques of exceptional interest or shows rare evidence of a significant human activity important to a community.*

*Guidelines for Exclusion: When an item is not rare or is numerous and not under threat.*

As Federation Queen Anne style was a common architectural style in the early 20<sup>th</sup> century, the building is not considered rare, uncommon or endangered. However, regarding the recent replacement of early houses with new buildings, Sunny Brae is considered as only a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra from the early development of the area as a residential suburb in the first decades of the 20<sup>th</sup> century. Therefore, Sunny Brae may be considered rare within the neighbourhood.

Its finely executed and complex architectural design places the original house as a rare example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney's Eastern Suburbs.

The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, made the building visible from Fitzwilliam Road and the water. Although subsequent subdivision and recent development of the area, especially on 40A Fitzwilliam Road, has mainly blocked views to the building, it is still partially visible from Watson Bay, and retains the qualities of its expansive early hill-top setting (Figure 3.10).

The latest sympathetic alterations and additions to Sunny Brae continued the tradition and architectural language of the original house. It is unusual and commendable that the house has been sympathetically restored due solely to the desire of the owners without a statutory constraint (heritage listing). The choice of a traditional approach in the new design, which references the Federation detail of the old house into the new addition, while being a contemporary distinguishably addition, adds to the rare aspect of the building.



**Criterion (g) - An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places; or cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments)**

*Guidelines for Inclusion: When an item is a fine example of its type or has the principal characteristics of an important class or group of items. When an item has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity or is a significant variation to a class of items. Where it is outstanding because of its setting, condition or size or may be part of a group, which collectively illustrates a representative type. When an item is outstanding because of its integrity of the esteem in which it is held.*

*Guidelines for Exclusion: When an item is a poor example of its type or does not include or has lost the range of characteristics of a type. An item that does not represent well the characteristics that constitutes a type or variation from it.*

The two storey residence is an excellent representative example of the Federation Queen Anne architectural style. Unsympathetic additions on the north-west side of the original house were recently demolished and replaced with sympathetic contemporary additions which continue the architectural design traditions of the original house. The original house underwent restoration based on the original photographs of the house, that resulted in the preservation of key characteristics of the style.

Although the building has undergone alterations and additions over time, the original structure and internal layout retain their legibility and contribute to the aesthetic significance of the house for its style and detailing. The additions have been well integrated into the original house, while there is a well defined separation between the original house and the contemporary additions. Following recent conservation works, it is observed that Sunny Brae is in excellent condition and has a high level of integrity and intactness internally and externally.

4.3.1 NSW HERITAGE ASSESSMENT  
CRITERIA SUMMARY (LOCAL LEVEL)

The following table provides a summary of the assessment of the heritage significance of 40 Fitzwilliam Road, Vaucluse against the seven criteria, at the local level, demonstrating that the subject house meets six of the seven criteria for local listing.

Criteria	Meets criteria for heritage listing and grading of significance		
	Guidelines for Inclusion		Guidelines for Exclusion
(a) An item is important in the course, or pattern, of the cultural or natural history of the local area	• shows evidence of a significant human activity		• has incidental or unsubstantiated connections with historically important activities or processes
	• is associated with a significant activity or historical phase	✓	• Provides evidence of activities or processes that are of dubious historical importance
	• maintains or shows the continuity of a historical process or activity	✓	• has been so altered that it can no longer provide evidence of a particular association
(b) An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area	• shows evidence of a significant human occupation		• has incidental or unsubstantiated connections with historically important people or events
	• is associated with a significant event, person, or group of persons.	✓	• Provides evidence of people or events that are of dubious historical importance
			• has been so altered that it can no longer provide evidence of a particular association

(c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area	• shows or is associated with, creative or technical innovation or achievement	✓	• is not a major work by an important designer or artist	
	• is the inspiration for a creative or technical innovation or achievement		• has lost its design or technical integrity	
	• is aesthetically distinctive	✓	• its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded	
	• has landmark qualities		• has only a loose association with a creative or technical achievement	
	• exemplifies a particular taste, style or technology	✓		
(d) An item has strong or special association with a particular community or cultural group in the local area for social, cultural or spiritual reasons	• is important for its associations with an identifiable group	✓	• is only important to the community for amenity reasons	
	• is important to community's sense of place	✓	• is retained only in preference to a proposed alternative	
(e) An item has potential to yield information that will contribute to an understanding of the cultural or natural history of the local area	• has the potential to yield new or further substantial scientific and/or archaeological information		• the knowledge gained would be irrelevant to research on science, human history or culture	
	• has an important benchmark or reference site or type		• has little archaeological or research potential	✓
	• provides evidence of past human cultures that is unavailable elsewhere		• only contains information that is readily available from other resources or archaeological sites	

(f) An item possesses uncommon, rare or endangered aspects the cultural or natural history of the local area	• provides evidence of a defunct custom, way of life or process		• is not rare	
	• demonstrates a process, custom or other human activity that is in danger of being lost		• is numerous but under threat	
	• shows unusually accurate evidence of a significant human activity			
	• is the only example of its type			
	• demonstrates design or techniques of exceptional interest	✓		
	• shows rare evidence of a significant human activity important to a community	✓		
(g) An item is important in demonstrating the principal characteristics of a class of the local area's:  • cultural or natural places; or • cultural or natural environments.	• is a fine example of its type	✓	• is a poor example of its type	
	• has the principal characteristics of an important class or group of items	✓	• does not include or has lost the range of characteristics of a type	
	• has attributes typical of a particular way of life, philosophy, custom, significant process, design, techniques or activity	✓	• does not represent well the characteristics that make up a significant variation of a type	
	• is a significant variation to a class of items	✓		
	• is part of a group which collectively illustrates a representative type	✓		
	• is outstanding because of its setting, condition or size	✓		
	• is outstanding because of its integrity or the esteem in which it is held	✓		

4.3.2 NSW HERITAGE ASSESSMENT  
CRITERIA SUMMARY (STATE LEVEL)

The following table provides a summary of the assessment of the heritage significance of 40 Fitzwilliam Road, Vaucluse against the seven criteria, at the State level, demonstrating that the subject house meets five of the seven criteria for State listing.

Criteria	Meets criteria for heritage listing and grading of significance		
	Guidelines for Inclusion	Guidelines for Exclusion	
(a) An item is important in the course, or pattern, of NSW's cultural or natural history	<ul style="list-style-type: none"> <li>shows evidence of a significant human activity</li> </ul>		<ul style="list-style-type: none"> <li>has incidental or unsubstantiated connections with historically important activities or processes</li> </ul>
	<ul style="list-style-type: none"> <li>is associated with a significant activity or historical phase</li> </ul>	✓	<ul style="list-style-type: none"> <li>Provides evidence of activities or processes that are of dubious historical importance</li> </ul>
	<ul style="list-style-type: none"> <li>maintains or shows the continuity of a historical process or activity</li> </ul>		<ul style="list-style-type: none"> <li>has been so altered that it can no longer provide evidence of a particular association</li> </ul>
(b) An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history of the local area	<ul style="list-style-type: none"> <li>shows evidence of a significant human occupation</li> </ul>		<ul style="list-style-type: none"> <li>has incidental or unsubstantiated connections with historically important people or events</li> </ul>
	<ul style="list-style-type: none"> <li>is associated with a significant event, person, or group of persons.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Provides evidence of people or events that are of dubious historical importance</li> </ul>
			<ul style="list-style-type: none"> <li>has been so altered that it can no longer provide evidence of a particular association</li> </ul>

(c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW	• shows or is associated with, creative or technical innovation or achievement	✓	• is not a major work by an important designer or artist	
	• is the inspiration for a creative or technical innovation or achievement		• has lost its design or technical integrity	
	• is aesthetically distinctive	✓	• its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded	
	• has landmark qualities		• has only a loose association with a creative or technical achievement	
	• exemplifies a particular taste, style or technology	✓		
(d) An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons	• is important for its associations with an identifiable group	✓	• is only important to the community for amenity reasons	
	• is important to community's sense of place		• is retained only in preference to a proposed alternative	
(e) An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history	• has the potential to yield new or further substantial scientific and/or archaeological information		• the knowledge gained would be irrelevant to research on science, human history or culture	
	• has an important benchmark or reference site or type		• has little archaeological or research potential	
	• provides evidence of past human cultures that is unavailable elsewhere		• only contains information that is readily available from other resources or archaeological sites	

(f) An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history	• provides evidence of a defunct custom, way of life or process		• is not rare	
	• demonstrates a process, custom or other human activity that is in danger of being lost		• is numerous but under threat	
	• shows unusually accurate evidence of a significant human activity			
	• is the only example of its type			
	• demonstrates design or techniques of exceptional interest			
	• shows rare evidence of a significant human activity important to a community			
(g) An item is important in demonstrating the principal characteristics of a class of NSW's:  • cultural or natural places; or • cultural or natural environments.	• is a fine example of its type	✓	• is a poor example of its type	
	• has the principal characteristics of an important class or group of items	✓	• does not include or has lost the range of characteristics of a type	
	• has attributes typical of a particular way of life, philosophy, custom, significant process, design, techniques or activity	✓	• does not represent well the characteristics that make up a significant variation of a type	
	• is a significant variation to a class of items	✓		
	• is part of a group which collectively illustrates a representative type	✓		
	• is outstanding because of its setting, condition or size	✓		
	• is outstanding because of its integrity or the esteem in which it is held	✓		

#### 4.4 INTEGRITY/ INTACTNESS

Following recent conservation works, it is observed that the building is in excellent condition and has a high level of integrity/intactness externally and internally. Sunny Brae has retained its important /key Federation Queen Anne architectural style features externally and internally.

#### 4.5 STATEMENT OF SIGNIFICANCE

"Sunny Brae", the fine Federation house at 40 Fitzwilliam Road, Vaucluse, designed by W Friederich and erected in 1910, has a high level of historic significance in Woollahra, as one of the first houses built high on the Vaucluse headland, following the late 19<sup>th</sup> century subdivision of the expansive, early 19<sup>th</sup> century Wentworth Estate. It demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vaucluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay. Fitzwilliam Road is named after the son of William Charles Wentworth and reflects his role in the subdivision of the Vaucluse portion of the family estate.

Compared with the more enclosed low level foreshore topography in which Vaucluse House is sited, the ridgeline on which "Sunny Brae" is located was a favourite elevated lookout for William Charles Wentworth called "Parsley Hill" where he wanted to be buried. Once subdivided, the site was deliberately chosen by John Taylor Cooke for its fine and expansive outlook over Watsons Bay, the Gap, Manly and the nearby dynamic topography that characterises the southern shores of the outer Harbour. Cooke was a keen sailor, as were his descendants, and views from the house gave them a ready appreciation of their favourite recreation. Cooke's newly married daughter, Lily and her husband Henry Pfeiffer, moved into the freshly constructed house, with her parents. Successive members of the Pfeiffer family continued to live in the house for almost a century.

The highly complex architectural composition of the two storey Federation Queen Anne "Sunny Brae" house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. Both internally and externally, the original components of the house, demonstrate a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, wrap-around front verandah, bay windows, fine joinery, dramatic main staircase and finely detailed plaster ceilings and spatial composition. Recent alterations and additions

have replaced an unsympathetic wing (on the north-west side of the building) from the 1950s with carefully designed, complementary two-storey extension that extends the original architectural language, enhances family amenity and responds to its expansive visual curtilage.

The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided an extensive harbour views and made the original house visible from Fitzwilliam Road. Despite the progressive subdivision of its original site and the erection of surrounding residential buildings, "Sunny Brae" retains the qualities of its expansive early hill-top setting, qualities that are reflected in the origins of its Scottish Gaelic name.

The ridge-top location and subsequent housing development on surrounding lots meant that "Sunny Brae" has almost become imperceptible to the general public from the surrounding streetscape in Fitzwilliam Road and from further afield.

"Sunny Brae" has rarity value as one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney's Eastern Suburbs.

The contemporary additions to 'Sunny Brae', designed by David White Architects, have added to the significance of the building by applying a traditional style of architecture, compatible with the Federation style of the original house.



#### 4.6 CURTILAGE ANALYSIS

The NSW Heritage Office (now Heritage NSW of the NSW Department of Premier and Cabinet) publication *Heritage Curtilages*<sup>2</sup> defines “heritage curtilage” as the area of land surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance. Heritage curtilage can be classified as one of four types:

- Lot Boundary Heritage Curtilage: for places where the legal boundary of the allotment is defined as the heritage curtilage. The allotment should, in general, contain all significant related features, for example outbuildings and gardens, within its boundaries.
- Reduced Heritage Curtilage: for places where an area less than the total allotment is defined as the heritage curtilage. Applicable where not all parts of a property contain places associated with its significance.
- Expanded Heritage Curtilage: for places where the heritage curtilage is larger than the allotment. Particularly relevant where views to and/or from a place are of significance.
- Composite Heritage Curtilage: for larger areas that include a number of separate related places, such as heritage conservation areas based on a block, precinct or whole village.

Part of the land comprising the subject site was not subdivided until 1907, when the sixth subdivision of the Vaucluse Estate was auctioned. During this time, the overall site was subdivided into four lots of 15, 16, 19, and 20. In 1921, all four lots were amalgamated and reformed as one allotment (the overall site) (Figure 4.10) until 1948, when the overall site subdivided again into three separate allotments of A, B, and C. Accordingly, the heritage curtilage for the subject site is a Reduced Heritage Curtilage. The Reduced Heritage Curtilage is shown in Figure 4.10 (shaded in yellow), which comprises three lots, described by NSW Land Registry Services (LRS) as:

- Lot 2, DP 1254483
- Lot 1, DP 1112583



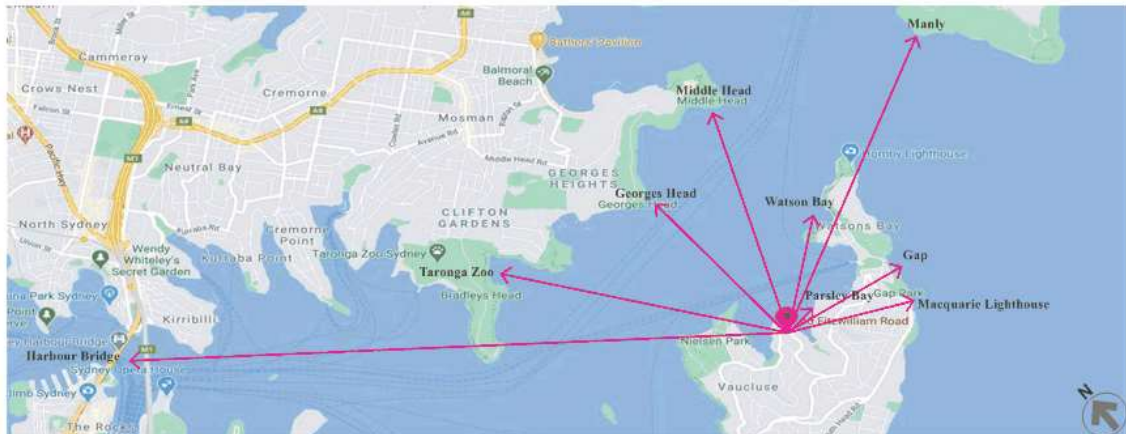
**Figure 4.10**  
Aerial view showing the whole lot boundary that was subdivided and sold in 1948, outlined in pink. The Reduced Heritage Curtilage is outlined in yellow.  
source: [maps.au.nearmap.com](https://maps.au.nearmap.com)

##### 4.6.1 VISUAL CURTILAGE

Regarding the views to and from the subject site, the heritage curtilage for the subject site is an Expanded Heritage Curtilage. The subject site was deliberately selected for its hill top location and extensive harbour views. The original design of the house confirms the intention of the architect in taking the advantage of elevated site, capturing the extensive harbour views. The visual curtilage of the subject site is shown in Figure 4.11.

The architectural elevation (Figure 4.18) unusually includes scenery backdrops to the distant opposite shore line and gap behind the house. This graphic illustration emphasises the importance of the significant elevated setting and views to the first owners.

<sup>2</sup> Warwick Mayne-Wilson, *Heritage Curtilages*, NSW Heritage Office and the Department of Urban Affairs and Planning, NSW, 1996



**Figure 4.11**  
Aerial photo showing visual curtilage of the subject site. The subject site is shown in red, sited on a hilltop location with an extensive views to Parsley Bay, the Gap, Macquarie Lighthouse, Manly, Taronga zoo, and Harbour Bridge, shown by pink arrows.  
Source: Google Map.



**Figure 4.12**  
Looking east from the ground floor front verandah to Parsley Bay, Watson Bay, the Gap, Macquarie Lighthouse, Manly.  
Source: Images For Business, 2020.



**Figure 4.13**  
Looking north and north-east from the ground floor verandah to Middle Head, Georges Head, and Manly.  
Source: Images For Business, 2020.



**Figure 4.14**  
Looking east from the ground floor verandah to the Gap, Parsley Bay, Watson Bay, Macquarie Lighthouse.  
Source: Images For Business, 2020.



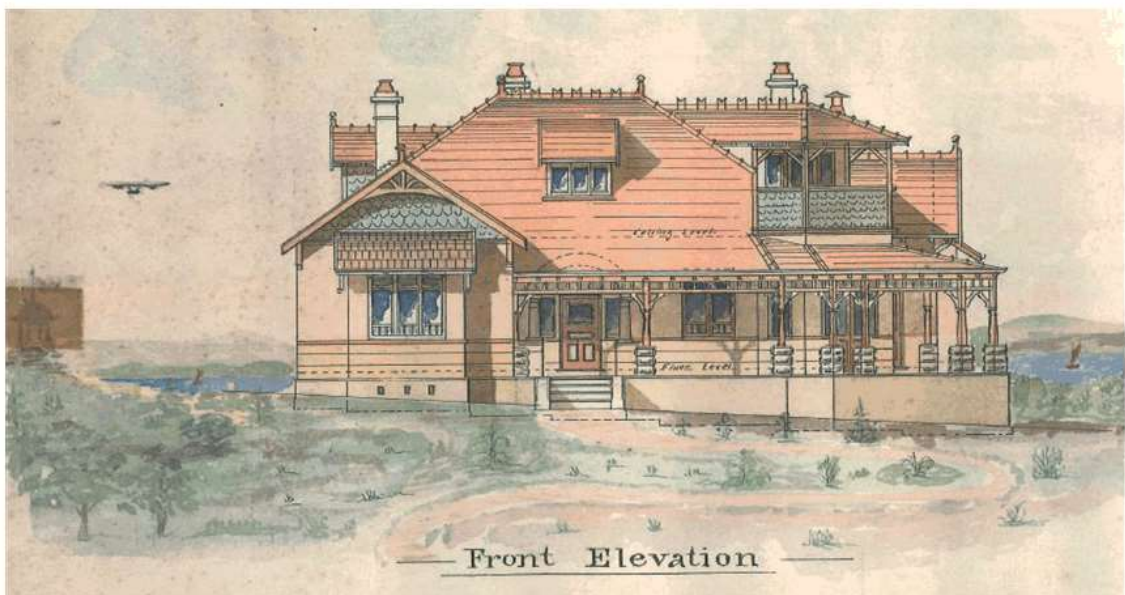
**Figure 4.15**  
Looking east from the first floor verandah to the Gap, Parsley Bay, Watson Bay, Macquarie Lighthouse, and Manly.  
Source: *Images For Business*, 2020.



**Figure 4.16**  
Looking north and north-east from the first floor verandah to Middle Head, Georges Head, Manly, Watson Bay, Parsley Bay, the Gap, Macquarie Lighthouse, and Manly.  
Source: *Images For Business*, 2020.



**Figure 4.17**  
Looking east from the study room to Watson Bay, Parsley Bay, the Gap, and Macquarie Lighthouse.



**Figure 4.18**  
Front elevation of the proposed residence to Fitzwilliam Road, 1909, showing the scenery backdrops to the distant opposite shore line and gap behind the house.  
Source: Prof. G. Murrell

#### 4.7 RECOMMENDATIONS

It is recommended that 'Sunny Brae' to be listed as an item of local heritage significance on Schedule 5 of the Woollahra LEP 2014, and to be nominated for NSW State Heritage Register listing. The heritage listing is recommended to apply to:

- "Sunny Brae" - House and interiors.

The following lots should be included as part of the curtilage of the heritage item:

- Lot 2, DP 1254483
- Lot 1, DP 1112583

#### 4.8 CONCLUSION

Given the recent development of the area and the replacement of early houses with new buildings, Sunny Brae in the Federation Queen Anne style has aesthetic significance as a prominent example of the style in Fitzwilliam Road from the first decades of the 20<sup>th</sup> century. The original building is significant as a relatively intact example of Federation Queen Anne style, as the key characteristics of the style have been restored and retained, externally and internally.

Sunny Brae has a significant setting and an extensive panoramic Harbour view due to its hill top location, adding to its significance. Accordingly, we have no hesitation in recommending to Council that it proceeds with the heritage listing of 'Sunny Brae' at 40 Fitzwilliam Road, Vaucluse.

# 5.0

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## APPENDIX ONE: PHOTOGRAPHS OF SUNNY BRAE -2020



**Figure 3**  
Looking east and north-east from the upper floor verandah to Watson Bay, Parsley Bay, Gap, Manly, and Macquarie Lighthouse.  
Source: *Images For Business*, 2020.



**Figure 1**  
Looking north, showing the original house on the left and the landscape/garden in front of the house.  
Source: *Images For Business*, 2020.



**Figure 4**  
Looking east from the ground floor verandah.  
Source: *Images For Business*, 2020.



**Figure 2**  
Looking out from the front (main) entry.  
Source: *Images For Business*, 2020.



**Figure 5**  
Looking east and south-east from the ground floor verandah.  
Source: *Images For Business*, 2020.



***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

ITEM DETAILS			
<b>Name of Item</b>	<b>Sunny Brae</b>		
<b>Former name</b>	<b>Sunny Brae</b>		
<b>Item type</b>	<b>Residential</b>		
<b>Address</b>	Number <b>40</b>	Street <b>Fitzwilliam Road</b>	Suburb <b>Vaucluse</b>
<b>Property description</b>	Lot <b>2</b>	DP <b>1254483</b>	
<b>Owner</b>	Name <b>Mr &amp; Mrs Murrell</b>	Address 40 Fitzwilliam Road, Vaucluse	
<b>Use</b>	Current <b>Residential</b>	Former <b>Residential</b>	

## ***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

<p><b>Statement of significance</b></p>	<p>“Sunny Brae”, the fine Federation house at 40 Fitzwilliam Road, Vaucluse, designed by W Friederich and erected in 1910, has a high level of historic significance in Woollahra, as one of the first houses built high on the Vaucluse headland, following the late 19<sup>th</sup> century subdivision of the expansive, early 19<sup>th</sup> century Wentworth Estate. It demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vaucluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay. Fitzwilliam Road is named after the son of William Charles Wentworth and reflects his role in the subdivision of the Vaucluse portion of the family estate.</p> <p>Compared with the more enclosed low level foreshore topography in which Vaucluse House is sited, the ridgeline on which “Sunny Brae” is located was a favourite elevated lookout for William Charles Wentworth called “Parsley Bay” where he wanted to be buried. Once subdivided, the site was deliberately chosen by John Taylor Cooke for its fine and expansive outlook over Watsons Bay, the Gap, Manly and the nearby dynamic topography that characterises the southern shores of the outer Harbour. Cooke was a keen sailor, as were his descendants, and views from the house gave them a ready appreciation of their favourite recreation. Cooke’s newly married daughter, Lily and her husband Henry Pfeiffer, moved into the freshly constructed house, with her parents. Successive members of the Pfeiffer family continued to live in the house for almost a century.</p> <p>The highly complex architectural composition of the two storey Federation Queen Anne “Sunny Brae” house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. Both internally and externally, the original components of the house, demonstrate a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, wrap-around front verandah, bay windows, fine joinery, dramatic main staircase and finely detailed plaster ceilings and spatial composition. Recent alterations and additions have replaced an unsympathetic wing (on the north-west side of the building) from the 1950s with carefully designed, complementary two-storey extension that extends the original architectural language, enhances family amenity and responds to its expansive visual curtilage.</p> <p>The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided an extensive harbour views and made the original house visible from Fitzwilliam Road. Despite the progressive subdivision of its original site and the erection of surrounding residential buildings, “Sunny Brae” retains the qualities of its expansive early hill-top setting, qualities that are reflected in the origins of its Scottish Gaelic name.</p> <p>The ridge-top location and subsequent housing development on surrounding lots meant that “Sunny Brae” has almost become imperceptible to the general public from the surrounding streetscape in Fitzwilliam Road and from further afield.</p>
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***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

	<p>“Sunny Brae” has rarity value as one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney’s Eastern Suburbs.</p> <p>The contemporary additions to ‘Sunny Brae’, designed by David White Architects, have added to the significance of the building by applying a traditional style of architecture, compatible with the Federation style of the original house.</p>		
<b>Level of significance</b>	State: Yes	Local: Yes	
<b>Heritage listings</b>			
<b>DESCRIPTION</b>			
<b>Designer</b>	Ferdinand Wilhelm Friederich (W. Friederich)		
<b>Builder</b>			
<b>Construction years</b>	c.1909-1910		

## *Draft Woollahra 2015: Heritage inventory sheet*

Based on the NSW Heritage Office State Heritage Inventory sheet

<p><b>Physical Description</b></p>	<p>Sunny Brae is a two storey house that was designed in the Federation Queen Anne style constructed in 1909- 1910. Federation Queen Anne style was the dominant style in Australian domestic architecture in the 1900s. The house has asymmetrical form and has been a fine and dramatic example of the style internally and externally.</p> <p>The central position of the original house on what was, at the time of construction, the overall site, provided ample open space/garden around the house. Although the subdivision of the overall site in 1948 resulted in a reduced open space around the house, its eastern garden is significant as a remnant original landscape and adds to the overall significance of the original house.</p> <p>The original house almost remained intact until 1952, when the building underwent alterations and additions to provide an independent flat at the rear (north-west side). These additions were unsympathetic in terms of architectural style of the original house. In 2012, these unsympathetic additions were demolished to give way for the construction of sympathetic new additions.</p> <p>The current contemporary additions on the north-west side of the original house (Sunny Brae) comprises the hexagonal Belvedere that reflects a typical architectural feature of the federation period and is an important element of the new design. The new extension is compatible with and continues the tradition of the original house in its detail, while it also incorporates contemporary design elements. The contemporary distinguishable additions enable the original building to be read and interpreted without compromising its fine and dramatic Federation Queen Anne architectural style.</p> <p>Sunny Brae underwent restoration and refurbishment in 2012. Accordingly, the building exterior is in excellent condition. The building has a painted brick exterior, being compatible with the red-brown face brickwork feature of the Federation Queen Anne style. The prominent exterior features of the building, reflecting Federation Queen Anne architectural style, have remained intact including exterior timber detailing, complex gable roofs with slate tiles and timber gable ends, tall chimneys, connecting wraparound verandah featured timber post and ornamental brackets, exposed eaves batons, as well as leadlight windows with displayed coloured glass.</p> <p>The original 1909 interior component, with numerous features of the existing building, has high integrity. Internal key features of the building include the original internal layout and circulation spaces, decorative ceilings, staircases, fireplaces, windows and joinery. Principal rooms of the original building remain intact; however, bathrooms and kitchens have been upgraded as needed.</p> <p>As the original house underwent restoration and refurbishment in 2012, consequently the building interior is in excellent condition. The design focused on restoring and preserving the existing house with its fine decorative features, while at the same time incorporating a significant sympathetic addition. Restoration of the original interiors were made by referencing original glass negative photos of the house interiors found in the attic by the children of the current owner of the house. The original photographs befittingly line the walls of the restored Entrance Hall. The original formal rooms were decorated using rich period colours and William Morris wallpaper. The original hand painted ceilings, featuring medallions of red roses and bluebirds, were carefully and traditionally restored and re-gilded by International Conservations Services (ICS).</p>
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Based on the NSW Heritage Office State Heritage Inventory sheet

<b>Physical condition</b>	Following recent conservation works, the building is in excellent condition and has a high level of internal and external integrity. Sunny Brae has retained and recaptured its important/key features of Federation Queen Anne architectural style externally and internally.
<b>Modification and Dates</b>	1952 – New two storey unsympathetic additions were constructed on the north-west side of the building (since demolished).  2012 – Demolition of the 1950s additions, restoration of Sunny Brae and its fine decorative features, and the construction of a sympathetic addition.  Architect: David White Architects Restoration of the original house: ICS (International Conservation Services)
<b>Archaeological potential</b>	As Sunny Brae was the first building to be constructed on the subject site, it is considered that there may be little potential for the site to yield information that may contribute to a greater understanding of the history of Vaucluse area.

### **HISTORY**

The original overall site at 40 Fitzwilliam Road was part of an 80-acre Crown Grant at Parsley Bay issued to Thomas Laycock in 1793. Thomas Laycock (1756-1809) was a quartermaster who arrived in Sydney in 1791, and eventually became appointed as Deputy-Commissary in 1794 by Lieutenant -Governor Francis Grose. In the early 1800s, Laycock had a substantial land holding of 1,655 acres.

In 1803, Laycock sold 80 acres, known as Woodmancote, to Irish convict Sir Henry Brown Hayes who renamed it Vaucluse. The property was purchased by Captain John Piper who sold the estate to William Charles Wentworth following financial hardship in 1827. At this time, Wentworth established himself in the area, around Shark Bay, Vaucluse Bay and Parsley Bay. Wentworth further purchased 40 acres from Francis McGlynn on which Vaucluse House was located.

In 1836, Wentworth applied for further acres to increase his holding. Consequently, in 1838, his request was accepted, and his holdings increased to 515 acres.

Fitzwilliam Wentworth, second son of William Charles Wentworth, married in 1868. William Charles Wentworth adopted a policy of subdividing key portions of his property on behalf of his sons and daughters upon their marriage. Based on this policy, a portion of land comprising the subject site, was transferred to Fitzwilliam and the road was probably named during this time as it appeared on the plan of village of Vaucluse in 1876.

In the late 1830s, William Charles Wentworth commenced subdividing parts of his estate for sale; however, the land did not sell mainly due to the unreliable road and poor access to the area until the 1850s.

In 1854, William Charles Wentworth left for England and never returned. Accordingly, he left the estate to the hands of his wife, Sarah, and his oldest son, Fitzwilliam. In 1872 W. C. Wentworth died and in 1896, Fitzwilliam Wentworth inherited the remaining 345 acres of the estate.

The roads had significantly improved over time, and since 1880 a tramcar had been operating along part of the way from the city, which was gradually extended and by 1903 it reached as far as Watsons Bay. The establishment and extension of the tramline facilitated and improved transport in this area, resulted in the subdivision and sell of land. The new taxation laws passed in 1895 on unimproved land (previously not taxed), made it financially necessary for further selling and subdividing.

In 1898, Fitzwilliam brought in two accountant partners, James Clegg Taylor and Daniel McAllister, to facilitate the selling and subdividing of the land. The first lot was sold in 1902 and shortly after J. C. Taylor sold his share to Rouland Smith Hill.

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According to title records in 1906, the joint tenants of the land comprising the subject site, were Fitzwilliam Wentworth, Daniel McAllister, and Rouland Smith Hill.

During the 1900s and 1910s, land along the waterfront and landward parts was gradually subdivided. Further subdivision was made in the hinterland of Vaucluse Bay, which was bounded by Wentworth Road, Chapel Road, Fitzwilliam Road, Hopetoun Avenue and Oloa Avenue. In the early 1914, sections of this subdivision were offered for sale. Although sales were rapid at first, they petered out until the mid-1920s when all the lots were sold.

On 27 April 1907, the sixth subdivision of the Vaucluse Estate was auctioned. At this time, John Taylor Cook who was a civil servant, purchased four lots (15, 16, 19 and 20), forming the overall site. Sunny Brae was constructed on the south side of the overall site, on lots 15 and 20. The land was in the possession of Cook until 1948, when the overall site at 40 Fitzwilliam Road was subdivided into three lots and transferred to his grandchildren Harry and John Pfeiffer as tenants in common (Lot A), Marjorie Kingston (Lot C), and his daughter Lily Pfeiffer (Lot B). Two mortgages were contracted on the property in 1952 and 1958, respectively.

In 1973, Lily died and consequently in 1976, 40 Fitzwilliam Road (Lot B) was transferred to Harry Edmund Pfeiffer who remained the owner of the property for the remainder of the 20th century.

The subject site at 40 Fitzwilliam Road was listed for auction through January - March 2012, and sold to Professors George and Deirdre (Dedee) Murrell, the current owners of the subject site.

HISTORICAL THEMES		
Australian Theme	NSW Theme	Local Theme
4 Building settlements, towns and cities	Land tenure	Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal <b>Comment:</b> The subject site demonstrates a very specific aspect of the general subdivision and suburbanization of the broader Harbourside locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay.

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8 Developing Australia's cultural life	Creative endeavour	<p>Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities.</p> <p><b>Comment:</b> Sunny Brae is one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney's Eastern suburbs.</p>
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HERITAGE SIGNIFICANCE ASSESSMENT	
<p><b>Historical significance</b> SHR criteria (a)</p>	<p>Land along the waterfront and landward sections of Vacluse were gradually subdivided during the 1900s and 1910s. Sunny Brae occupies one of the peak elevated properties formed following the initial 1890s subdivision. The subject site was considered favourably in terms of location and view by the Cooke family. Lily Pfeiffer, daughter of John Taylor Cooke and wife of Henry Pfeiffer, chose this spot as a wedding present rather than a home on the waterfront in the Crescent. Furthermore, the location of the subject site provided easy access to the waterfront, that was a privilege for John Cooke who was a keen sailor. From the construction of the original house in c.1910, the building was named 'Sunny Brae', indicating and emphasising its hilltop location, and sunrise feature of the geographical position which renders the Old Norse origin of 'Sunny Brae'. Therefore, Sunny Brae has constantly had an outstanding setting.</p> <p>The overall site demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vacluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay.</p> <p>The site was an important component of the early 1890s subdivision of the expansive Wentworth family Estate that had survived relatively intact until the late 1820s. The land that comprises the subject site was popular with Wentworth family and was addressed as 'Parsley Hill', indicating its hilltop location and extensive panoramic harbour views.</p>

### ***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

<p><b>Historical association significance</b> SHR criteria (b)</p>	<p>The house is strongly associated with North Sydney architect, Ferdinand Wilhelm Friederich who thoughtfully designed the building in c.1909 to capture extensive harbour views. A comparison between Sunny Brae and Warro (another surviving work of the architect) confirms the subject building is a substantial surviving work in the career of the architect.</p> <p>The subject site was part of the Crown Grant to Thomas Laycock in 1793, which was sold to William Charles Wentworth in 1827. William Charles Wentworth was William Charles Wentworth (1790-1872) was born in Sydney. He was sent to England for education. He returned to Sydney in 1810, keen to explore. As such, he joined Blaxland and William Lawson in finding a way across the Blue Mountains, then went on to explore the South Pacific. He was also one of Australia's prominent politicians, a strong proponent of free press and the constitution, and with an associate found the 'Australian newspaper'.</p> <p>The land comprising the subject site is strongly associated with William Charles Wentworth, a prominent person who was an explorer, barrister, statesman, landowner, and author. He owned the land from 1827, was planned to be eventually consecrated for the Wentworth family Vault. William Charles Wentworth intended to be buried within the rock outcrop which comprises the subject site.</p> <p>Although John Taylor Cooke was a civil servant, he does not appear to have had a high profile within the community. However, John Taylor Cooke Memorial Trophy was presented by Harry Edward Pfeiffer at the Sydney Amateur Sailing Club for the winner of the Classic Division. This has been donated annually by the Pfeiffer family since the 1930s, in the memory of John Taylor Cooke who was a keen sailor.</p>
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Based on the NSW Heritage Office State Heritage Inventory sheet

<p><b>Aesthetic significance</b> SHR criteria (c)</p>	<p>Sunny Brae demonstrates a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, bay windows, fine joinery, dramatic main staircase, finely detailed plaster ceilings, wrap-around front verandah, and spatial composition. The original house experienced minor changes until 1952 when a new two storey unsympathetic additions were constructed on the north-west side of the building and did not impact on the substantive part of the original dwelling. These additions were demolished when a new contemporary wing with sympathetic architectural character was constructed in 2018-2020. In conjunction with the construction of the new wing, the original house was carefully restored and renovated. It is in excellent condition, and the original extravagant Federation Queen Anne character is retained. Sunny Brae is a fine representative of the Federation Queen Anne style. The key characteristics of the style have mainly remained intact or have been restored, externally and internally, contributing to the aesthetic significance of the original house.</p> <p>The highly complex architectural composition of the two storey Federation Queen Anne "Sunny Brae" house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. The unusual diagonal wraparound verandah and upper floor dormer window confirm that the original house was specifically designed to capture the fine, expansive views provided by its hilltop location.</p> <p>The building exterior demonstrates many of the key characteristics of the style including exterior timber detailing, complex gable roofs, slate tiles and timber gable ends, tall chimneys, connecting wraparound verandah featured timber post with ornamental brackets, exposed eaves batons, as well as leadlight windows with display coloured glass. The building interior also comprises many of the key characteristics of the style as well as a range of characteristic decorative elements and finishes including original interior layout and circulation spaces, fireplaces, hand painted and gilded decorative ceilings, stairs, as well as windows and joinery. Accordingly, the building has aesthetic significance as a good example of the Federation Queen Anne style house, internally and externally.</p> <p>Given that in recent years, a number of early houses in the immediate locality have been replaced with new buildings, Sunny Brae is one of the surviving houses in Federation Queen Anne style from the early development of the area as a residential suburb mainly in the first decades of the 20th century. Accordingly, the original house contributes to the character of the immediate area for the relative intactness and integrity of the original fabric, internally and externally.</p> <p>For design of sympathetic additions, a traditional style of the original house, compatible with the Federation style was applied, integrating all those components of the old house that are regarded as significant and that have retained their original integrity. David White Architects thoughtfully considered the location of additions on the north-west side of the original house, respecting and retaining its extensive harbour views. Accordingly,</p>
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Based on the NSW Heritage Office State Heritage Inventory sheet

	new additions have added to the aesthetic significance of the original house, forming a union.
<b>Social significance</b> SHR criteria (d)	David White Architects, who have extensive experience in the restoration and adaptive reuse of heritage buildings in Sydney's North Shore, designed the new additions, applying a traditional style of architecture, compatible with the Federation style of the original house. The qualities of the additions are reflected in the work being awarded 2017 for outstanding craftsmanship in best Slate Roofing of the year, 2018 Master Builders Association of New South Wales award for alterations and additions, and 2019 winner of the Mayor's Award of the Woollahra Design Excellence for the design of alterations and additions. Furthermore, in 2018, Sunny Brae received the National Trust (NSW) medal for the high number of visitors in 'Open Day', showing the importance of the house to the community. Accordingly, it is reasonable to conclude that the recent alterations and additions have added social significance to Sunny Brae.
<b>Technical/Research significance</b> SHR criteria (e)	As Sunny Brae was the first building to be constructed on the subject site, it is considered that there may be little potential for the site to yield information that may contribute to a greater understanding of the history of Vaucluse area.
<b>Rarity</b> SHR criteria (f)	<p>As Federation Queen Anne style was a common architectural style in the early 20<sup>th</sup> century, the building is not considered rare, uncommon or endangered. However, regarding the recent replacement of early houses with new buildings, Sunny Brae is considered as only a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra from the early development of the area as a residential suburb in the first decades of the 20<sup>th</sup> century. Therefore, Sunny Brae may be considered rare within the neighbourhood.</p> <p>Its finely executed and complex architectural design places the original house as a rare example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney's Eastern Suburbs.</p> <p>The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, made the building visible from Fitzwilliam Road and the water. Although subsequent subdivision and recent development of the area, especially on 40A Fitzwilliam Road, has mainly blocked views to the building, it is still partially visible from Watson Bay, and retains the qualities of its expansive early hill-top setting.</p> <p>The latest sympathetic alterations and additions to Sunny Brae continued the tradition and architectural language of the original house. It is unusual and commendable that the house has been sympathetically restored due solely to the desire of the owners without a statutory constraint (heritage listing). The choice of a traditional approach in the new design, which references the Federation detail of the old house into the new addition, while being a contemporary distinguishably addition, adds to the rare aspect of the building.</p>

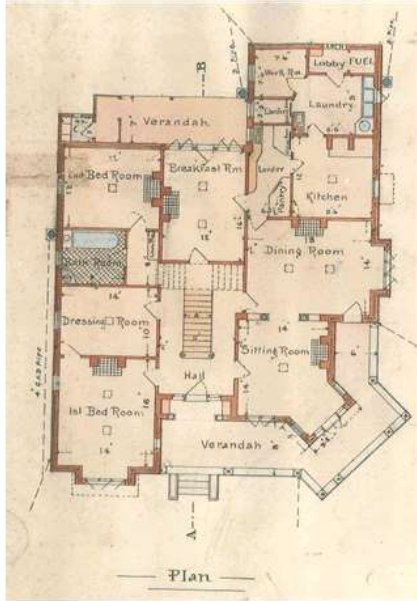
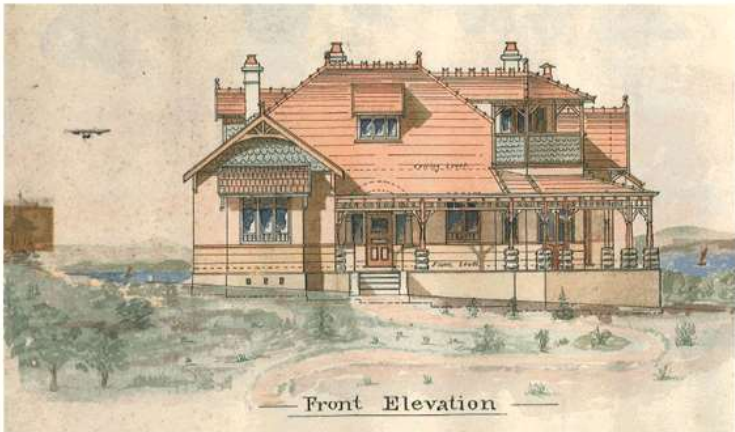
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<p><b>Representativeness</b> SHR criteria (g)</p>	<p>The two storey residence is an excellent representative example of the Federation Queen Anne architectural style. Unsympathetic additions on the north-west side of the original house were recently demolished and replaced with sympathetic contemporary additions which continue the architectural design traditions of the original house. The original house underwent restoration based on the original photographs of the house, that resulted in the preservation of key characteristics of the style.</p> <p>Although the building has undergone alterations and additions over time, the original structure and internal layout retain their legibility and contribute to the aesthetic significance of the house for its style and detailing. The additions have been well integrated into the original house, while there is a well defined separation between the original house and the contemporary additions. Following recent conservation works, it is observed that Sunny Brae is in excellent condition and has a high level of integrity and intactness internally and externally.</p>			
<p><b>Integrity</b></p>	<p>Following recent conservation works, the building is in excellent condition and has a high level of integrity/intactness externally and internally. Sunny Brae has retained its important/ key Federation Queen Anne architectural style features externally and internally.</p>			
<b>RECOMMENDATIONS</b>				
<p><b>Recommendations</b></p>	<p>Sunny Brae has a significant setting and an extensive panoramic Harbour view due to its hilltop location, adding to its significance. Accordingly, we have no hesitation in recommending to Council that it proceeds with the heritage listing of 'Sunny Brae' at 40 Fitzwilliam Road, Vaucluse.</p>			
<b>INFORMATION SOURCES</b>				
<p><b>Type</b></p>	<p><b>Author/Client</b></p>	<p><b>Title</b></p>	<p><b>Year</b></p>	<p><b>Repository</b></p>
<p>Report</p>	<p>Dr Shabnam Yazdani Mehr/ Professors George and Deirdre Murrell</p>	<p>Heritage Assessment report</p>	<p>2021</p>	

**Draft Woollahra 2015: Heritage inventory sheet**

Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
<b>Image Caption</b>	Ground floor plan of the proposed residence, 1909.		
			
<b>Image Year</b>	1909	<b>Image author and Copyright Holder</b>	W. Friederich Architect (Source: Prof. G. Murrell)
IMAGES			
<b>Image Caption</b>	Front elevation of the proposed residence to Fitzwilliam Road, 1909, showing the scenery backdrops to the distant opposite shore line and gap behind the house.		
			
<b>Image Year</b>	1909	<b>Image author and Copyright Holder</b>	W. Friederich Architect (Source: Prof. G. Murrell)


**Draft Woollahra 2015: Heritage inventory sheet**

Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
<b>Image Caption</b>	Site plan showing Sunny Brae, shaded in pink, within the subject site, outlined in red.		
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	David White Architects
IMAGES			
<b>Image Caption</b>	Front elevation of the original house.		
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business



***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
<b>Image Caption</b>	Looking north, showing the original house on the left and the landscape/garden in front of the house.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business
IMAGES			
<b>Image Caption</b>	Stairs leading to the original house, showing the hill top location of the house.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business



***Draft Woollahra 2015: Heritage inventory sheet***

Based on the NSW Heritage Office State Heritage Inventory sheet

<b>IMAGES</b>			
<b>Image Caption</b>	View of the entry hall (the original reception room) and dining room, showing the restored original interior components of the building.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business
<b>IMAGES</b>			
<b>Image Caption</b>	Original stairs leading to upper level, showing the restored original interior components of the building.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business

***Draft Woollahra 2015: Heritage inventory sheet***



Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
<b>Image Caption</b>	Looking east from the first floor verandah to the Gap, Parsley Bay, Watson Bay, Macquarie Lighthouse, and Manly.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business
IMAGES			
<b>Image Caption</b>	Looking east from the ground floor front verandah to Parsley Bay, Watson Bay, the Gap, Macquarie Lighthouse, Manly.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business



**Draft Woollahra 2015: Heritage inventory sheet**

Based on the NSW Heritage Office State Heritage Inventory sheet

IMAGES			
<b>Image Caption</b>	Looking south to the original house, showing the sympathetic addition compatible with the Federation style of the original house, forming a union.		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business
IMAGES			
<b>Image Caption</b>	Looking north to the 2020 sympathetic additions		
			
<b>Image Year</b>	2020	<b>Image author and Copyright Holder</b>	Images For Business
AUTHOR OF THIS REPORT			
<b>Name</b>		<b>Date</b>	
Dr Shabnam Yazdani Mehr		23/04/2021	

<b>Item No:</b>	R1 Recommendation to Council
<b>Subject:</b>	<b>REQUEST FOR A PLANNING PROPOSAL - HERITAGE LISTING OF SUNNY BRAE AT 40 FITZWILLIAM ROAD, VAUCLUSE</b>
<b>Author:</b>	Flavia Scardamaglia, Strategic Heritage Officer
<b>Approvers:</b>	Anne White, Manager - Strategic Planning Nick Economou, Acting Director Planning & Place
<b>File No:</b>	21/74156
<b>Reason for Report:</b>	To present the heritage significance assessment prepared by GBA Heritage for Sunny Brae at 40 Fitzwilliam Road, Vaucluse. To recommend that Council resolves to prepare a planning proposal to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vaucluse as a heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.

**Recommendation:**

- A. THAT a planning proposal be prepared to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014*.
- B. THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.
- C. THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.

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**1. Background**

This request for a planning proposal is a proactive approach to heritage listing, facilitated by the owners of the site at 40 Fitzwilliam Road, Vaucluse (the subject site).

On 24 February 2021, a pre-application meeting was held at the subject site with the owners, heritage consultant Graham Brooks and staff from the Strategic Planning Team. A pre-application consultation response was sent to the Applicant on 11 March 2021 (see **Annexure 3**).

On 28 April 2021, a request for a planning proposal was lodged by the Applicant team to list Sunny Brae, including interiors as a heritage item in Schedule 5 of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014). The request for a planning proposal was accompanied by a Heritage Assessment prepared by GBA Heritage.

**2. The Site**

The subject site is described as 40 Fitzwilliam Road, Vaucluse (Lot 1 DP 1112583 and Lot 2 DP 1254483). The subject site is located on the western side of Fitzwilliam Road in a battle-axe allotment, and the property on the site is accessed via a gate leading to a driveway which runs along the northern boundary of 40A Fitzwilliam Road. It has an irregular shape with an area of 1,078m<sup>2</sup> and a frontage of approximately 5m to Fitzwilliam Road.

The site is located on the top of a ridge, and the site slopes significantly (by approximately 10m) from the northern to the eastern corner.

The site contains a single storey dwelling with a pitched roof known as Sunny Brae built in the Federation Queen Anne style. The main features of the Federation Queen Anne style are:

- An asymmetrical form,
- Wraparound verandah with ornamental timber brackets,
- Complex roof form with timber gable ends and tall chimneys, and
- Leadlight doors and windows with coloured glass.

In the 1950s, an unsympathetic two-storey addition was built to the rear of Sunny Brae. This addition was demolished via approved development application 182/2019 and a two-storey contemporary addition was built to the design of David White Architects. The project won the Mayor's Award in the Woollahra Design Excellence Awards 2019.

### **3. Assessment of heritage significance**

The assessment of heritage significance was undertaken in accordance with the document *Assessing heritage significance*, published by the NSW Heritage Office in 2001 by *GBA Heritage*. The assessment used the process and criteria set out in that document. There are seven criteria used in the process of assessing heritage significance.

#### **Criterion (a)**

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

#### **Criterion (b)**

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

#### **Criterion (c)**

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

#### **Criterion (d)**

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

#### **Criterion (e)**

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

#### **Criterion (f)**

*An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).*

#### **Criterion (g)**

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

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

- *cultural or natural places, or*
- *cultural or natural environments).*

Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. Meeting one of the criteria at State level makes an item eligible for nomination on the State Heritage Register (SHR).

A copy of the assessment report prepared by GBA Heritage dated 27 April 2021 is at **Annexure 1**. The assessment report concludes that the property meets six of the seven criteria for heritage listing at the local level and five of the seven criteria for listing at the State level. Accordingly, and consistent with this recommendation, GBA Heritage have prepared a heritage inventory sheet for listing Sunny Brae, including interiors on the Woollahra LEP 2014 (see **Annexure 2**).

**Table 1** below provides a summary of the assessment of the heritage significance of 40 Fitzwilliam Road, Vaucluse, including interiors, against the seven criteria at the local and State levels.

**Table 1: NSW Heritage Assessment criteria summary**

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).	√	√
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).	√	√
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).	√	√
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.	√	√
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).	x	x
(f)	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).	√	x
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places, or</li> <li>• cultural or natural environments, (or a class of the local area's</li> <li>• cultural or natural places, or</li> <li>• cultural or natural environments).</li> </ul>	√	√

The following statement of significance was provided for 40 Fitzwilliam Road, Vacluse:

*“Sunny Brae”, the fine Federation house at 40 Fitzwilliam Road, Vacluse, designed by W Friederich and erected in 1910, has a high level of historic significance in Woollahra, as one of the first houses built high on the Vacluse headland, following the late 19<sup>th</sup> century subdivision of the expansive, early 19<sup>th</sup> century Wentworth Estate. It demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vacluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay. Fitzwilliam Road is named after the son of William Charles Wentworth and reflects his role in the subdivision of the Vacluse portion of the family estate.*

*Compared with the more enclosed low level foreshore topography in which Vacluse House is sited, the ridgeline on which “Sunny Brae” is located was a favourite elevated lookout for William Charles Wentworth called “Parsley Hill” where he wanted to be buried. Once subdivided, the site was deliberately chosen by John Taylor Cooke for its fine and expansive outlook over Watsons Bay, the Gap, Manly and the nearby dynamic topography that characterises the southern shores of the outer Harbour. Cooke was a keen sailor, as were his descendants, and views from their house gave them a ready appreciation of their favourite recreation. Cooke’s newly married daughter, Lily and her husband Henry Pfeiffer, moved into the freshly constructed house, with her parents. Successive members of the Pfeiffer family continued to live in the house for almost a century.*

*The highly complex architectural composition of the two storey Federation Queen Anne “Sunny Brae” house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. Both internally and externally, the original components of the house, demonstrate a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, wrap-around front verandah, bay windows, fine joinery, dramatic main staircase and finely detailed plaster ceilings and spatial composition. Recent alterations and additions have replaced an unsympathetic wing (on the north-west side of the building) from the 1950s with carefully designed, complementary two-storey extension that extends the original architectural language, enhances family amenity and responds to its expansive visual curtilage.*

*The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided an extensive harbour views and made the original house visible from Fitzwilliam Road. Despite the progressive subdivision of its original site and the erection of surrounding residential buildings, “Sunny Brae” retains the qualities of its expansive early hill-top setting, qualities that are reflected in the origins of its Scottish Gaelic name.*

*The ridge-top location and subsequent housing development on surrounding lots meant that “Sunny Brae” has almost become imperceptible to the general public from the surrounding streetscape in Fitzwilliam Road and from further afield.*

*“Sunny Brae” has rarity value as one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney’s Eastern Suburbs.*

*The contemporary additions to 'Sunny Brae', designed by David White Architects, have added to the significance of the building by applying a traditional style of architecture, compatible with the Federation style of the original house.*

*(GBA Heritage: Heritage Assessment report, 27 April 2021, p. 50)*

#### **4. Recommendations of the Assessment of Heritage Significance report**

The Heritage Assessment report recommends the listing of:

- Sunny Brae, including interiors be listed as an item of local heritage significance in Schedule 5 of the Woollahra LEP 2014;
- Sunny Brae, including interiors be nominated for inclusion on the State Heritage Register (SHR) as an item of State significance;
- The curtilage of the item is Lot 2 DP 1254483 and Lot 1 DP 1112583.

Council staff support the recommendation to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse as a local heritage item in the Woollahra LEP 2014.

#### **5. Woollahra Local Planning Panel advice**

Section 2.19 of the *Environmental Planning and Assessment Act 1979* (the Act) sets out the functions of local planning panels. One of those functions is “to advise the council on any planning proposal that has been prepared or is to be prepared by the council under section 3.33 and that is referred to the panel by the council”.

Additionally, the *Local Planning Panel Direction – Planning Proposals* which was issued by the Minister for Planning on 27 September 2018 identifies the types of planning proposals that are to be referred to a local planning panel for advice prior to a planning proposal being sent to the *Department of Planning, Industry and Environment* for a gateway determination.

Under the terms of the Direction, the planning proposal to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse, as a local heritage item must be referred to the Woollahra LPP for advice. This step will be undertaken at the next available meeting of the Woollahra LPP should the Council decide to prepare a planning proposal.

#### **6. Next steps**

If Council supports the recommendation of this report, the next steps in the listing process are to:

- Prepare a planning proposal under section 3.33 of the Act to list Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse as an item of local heritage significance in the Woollahra LEP 2014.
- Refer the draft planning proposal to the Woollahra LPP for advice.
- Report the advice received from the Woollahra LPP to the Environmental Planning Committee.

With regards to the State Listing, as this is a proactive owner initiated heritage listing, we recommend that the Applicant progresses this element and is responsible for making a SHR nomination to *Heritage NSW*.




## 7. Conclusion

The heritage significance of Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse, has been assessed by GBA Heritage in accordance with the NSW Heritage guidelines. The assessment concludes that the subject site at 40 Fitzwilliam Road, Vacluse has local and State heritage significance and it should be listed in Schedule 5 of the Woollahra LEP 2014 and on the SHR.

It is therefore recommended that Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse, is listed as a heritage item in Schedule 5 of the Woollahra LEP 2014.

To facilitate the listing at the local level, a planning proposal should be prepared to amend Schedule 5 of the Woollahra LEP 2014 by adding Sunny Brae, including interiors at 40 Fitzwilliam Road, Vacluse as a local heritage item. The planning proposal should be referred to the Woollahra LPP for advice.

### Annexures

1. Heritage Assessment by GBA Heritage dated 27 April 2021 [↓](#) 
2. Heritage Inventory Sheet by GBA Heritage - 27 April 2021 [↓](#) 
3. Pre-application response - 11 March 2021 [↓](#) 



# Local Heritage Listing

## Sunny Brae

### 40 Fitzwilliam Road, Vaucluse

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Version Date:	June 2021, updated July 2021
Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Flavia Scardamaglia – Strategic Heritage Officer
HPE CM Record Number:	21/91219



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**Supporting information (separately attached)**

1. Environmental Planning Committee Report dated 10 May 2021 (Annexures removed)
2. Assessment of Heritage Significance by GBA Heritage dated 2 June 2021 (including heritage inventory sheet)
3. Council resolution dated 24 May 2021
4. Woollahra Local Planning Panel advice date 17 June 2021

## 1. Introduction

### 1.1. Background

This planning proposal seeks to amend the provisions of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) for land at 40 Fitzwilliam Road, Vaucluse. Specifically, the planning proposal seeks to include 'Sunny Brae, including interiors' as a local heritage item in Schedule 5 of the Woollahra LEP 2014 and the inclusion of the land (identified as Lot 1 DP 1112583 and Lot 2 DP 1254483) on the Woollahra LEP 2014 Heritage Map (Sheet HER\_004).

This planning proposal applies to the land owned by George and Deirdre Murrell which contains a dwelling known as *Sunny Brae*. The planning proposal is supported by a Heritage Assessment Report and Heritage Inventory Sheet that has evaluated the heritage significance of the dwelling and interiors and demonstrates that the relevant criteria for local heritage listing have been satisfied.

On 10 May 2021, a report was presented to Council's Environmental Planning Committee (EPC) regarding the heritage listing 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse.

On 24 May 2021, Council resolved:

- A. *THAT a planning proposal be prepared to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

On 17 June 2021, the planning proposal was considered by the Woollahra Local Planning Panel (Woollahra LPP), who provided the following advice to Council:

*THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal to list 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse, as a local heritage item in Schedule 5 of the Woollahra Local Environmental Plan 2014.*

### 1.2. Description of this planning proposal

This planning proposal is made in relation to *Sunny Brae* at 40 Fitzwilliam Road, Vaucluse (Lot 1 DP 1112583 and Lot 2 DP 1254483) and explains the intended effect of an amendment to Woollahra LEP 2014.

The objective of the planning proposal is to amend the Woollahra LEP 2014 to list 'Sunny Brae, including interiors' as a local heritage item in Schedule 5. Heritage listing will provide ongoing protection and recognition of the heritage significance of the site, including its main building and interiors.

This planning proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the two documents prepared by the formerly named NSW Department of Planning and Environment (now known as the NSW Department of Planning, Industry and Environment) titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

### 1.3. Assessment of heritage significance

The Heritage Assessment Report prepared by GBA Heritage outlines the historical development of the property and provides a description of its physical condition and an assessment of its heritage significance. The draft assessment was completed in June 2021.

The assessment of heritage significance was undertaken in accordance with the document titled *Assessing heritage significance*, published by the NSW Heritage Office in 2001.

There are seven criteria used in the process of assessing heritage significance. Each criterion has inclusion and exclusion guidelines which are used to assist in the assessment process. If an item meets one of the seven heritage criteria at a local level, and retains the integrity of its key attributes, it can be considered to have local heritage significance. To be assessed for State significance an item will meet more than one of the seven heritage criteria at a State level, or if an item satisfies only one of the criteria, the item is of such particular significance to NSW that it should be listed.

Table 1 below provides a summary of the assessment of the heritage significance of *Sunny Brae* against the seven criteria, at both the local and State levels.

Criteria		Meets criteria for heritage listing and grading of significance	
		Local	State
(a)	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✓
(b)	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✓
(c)	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).	✓	✓
(d)	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.	✓	✓
(e)	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).	✗	✗

(f)	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).	✓	✗
(g)	An item is important in demonstrating the principal characteristics of a class of NSW's <ul style="list-style-type: none"> <li>• cultural or natural places,</li> <li>• cultural or natural environments, (or a class of the local area's</li> <li>• cultural or natural places, or</li> <li>• cultural or natural environments).</li> </ul>	✓	✓

#### 1.4. Statement of heritage significance

*Sunny Brae, the fine Federation house at 40 Fitzwilliam Road, Vaucluse, designed by W Friederich and erected in 1910, has a high level of historic significance in Woollahra, as one of the first houses built high on the Vaucluse headland, following the late 19th century subdivision of the expansive, early 19th century Wentworth Estate. It demonstrates a very specific aspect of the general subdivision and suburbanisation of the broader Vaucluse locality, generated by improved transportation links with the older areas of Rose Bay, Edgecliff and Double Bay. Fitzwilliam Road is named after the son of William Charles Wentworth and reflects his role in the subdivision of the Vaucluse portion of the family estate.*

*Compared with the more enclosed low level foreshore topography in which Vaucluse House is sited, the ridgeline on which Sunny Brae is located was a favourite elevated lookout for William Charles Wentworth called "Parsley Hill" where he wanted to be buried. Once subdivided, the site was deliberately chosen by John Taylor Cooke for its fine and expansive outlook over Watsons Bay, the Gap, Manly and the nearby dynamic topography that characterises the southern shores of the outer Harbour. Cooke was a keen sailor, as were his descendants, and views from their house gave them a ready appreciation of their favourite recreation. Cooke's newly married daughter, Lily and her husband Henry Pfeiffer, moved into the freshly constructed house, with her parents. Successive members of the Pfeiffer family continued to live in the house for almost a century.*

*The highly complex architectural composition of the two storey Federation Queen Anne Sunny Brae house has a high level of aesthetic significance in Woollahra, for its deliberate north-east orientation and asymmetrical composition designed to capture the remarkable views from its elevated ridgeline site. Both internally and externally, the original components of the house, demonstrate a high degree of design and craftsmanship, which are strongly expressed in its complex roof composition, wrap-around front verandah, bay windows, fine joinery, dramatic main staircase and finely detailed plaster ceilings and spatial composition. Recent alterations and additions have replaced an unsympathetic wing (on the north-west side of the building) from the 1950s with carefully designed, complementary two-storey extension that extends the original architectural language, enhances family amenity and responds to its expansive visual curtilage.*

*The hilltop location of the site and the thoughtful design and construction of the original house on the highest part of the overall site, provided an extensive harbour views and made the original house visible from Fitzwilliam Road. Despite the progressive subdivision of its original site and the erection of surrounding residential buildings,*

*Sunny Brae retains the qualities of its expansive early hill-top setting, qualities that are reflected in the origins of its Scottish Gaelic name.*

*The ridge-top location and subsequent housing development on surrounding lots meant that Sunny Brae has almost become imperceptible to the general public from the surrounding streetscape in Fitzwilliam Road and from further afield.*

*Sunny Brae has rarity value as one of a relatively small number of first quality Federation Queen Anne style houses erected in spectacular topographic locations across Woollahra. Its finely executed and complex architectural design places the original house as a significant representative example of the broader Federation housing styles from one of the most widely spread periods of domestic and suburban architecture in Sydney's Eastern Suburbs.*

*The contemporary additions to 'Sunny Brae', designed by David White Architects, have added to the significance of the building by applying a traditional style of architecture, compatible with the Federation style of the original house.*

*(GBA Heritage: Heritage Assessment report, 27 April 2021, p. 50)*

The Heritage Assessment report recommends:

- 'Sunny Brae, including interiors' be listed as an item of local heritage significance in Schedule 5 of the Woollahra LEP 2014;
- 'Sunny Brae, including interiors' be nominated for inclusion on the State Heritage Register (SHR) as an item of State significance;
- The curtilage of the item is Lot 2 DP 1254483 and Lot 1 DP 1112583.

## 2. Existing site and surrounding context

### 2.1. The site

The subject site comprises a battle axe lot with an area of approximately 1,078m<sup>2</sup> having a legal description of Lot 1 DP 1112583 and Lot 2 DP 1254483. The location of the subject site is shown edged red in the cadastral image at Figure 1 and aerial image provided at Figure 2.

Access to the site is via a pedestrian entrance and vehicular driveway off Fitzwilliam Road along a 20m access handle with 3m frontage. The majority of the site is occupied by the part two, part three storey dwelling including the original dwelling along the south-eastern boundary. More recent additions to the dwelling including a swimming pool and landscaping occupy the northern parts of the site.

Photographs of the subject site depicting existing conditions are provided at Figures 3 to 6. Further photographic imagery of the site and its heritage and local context are included in the Heritage Assessment Report provided with the submission.

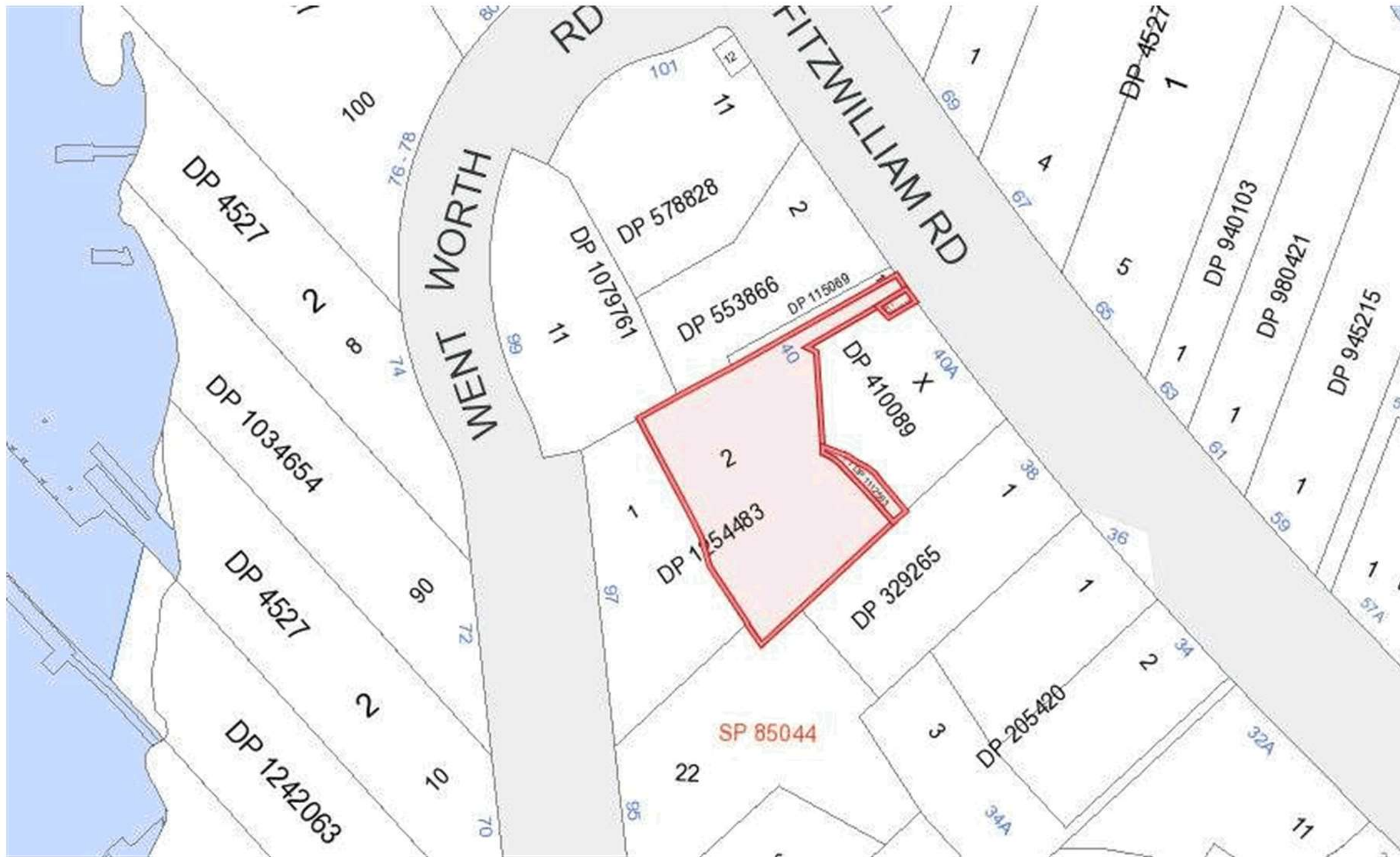


Figure 1: Cadastral image of 40 Fitzwilliam Road Vacluse within its context (Source: Woollahra MAPS)



Figure 2: Aerial view of 40 Fitzwilliam Road Vacluse, within its context (Source: Woollahra MAPS)





Figure 3: The original house from the entry path



Figure 4: Looking north, showing the original house on the left and the landscape/garden in front of the house (Source: Images For Business, 2020)



Figure 5: Front elevation of the original dwelling



Figure 6: Front elevation of the contemporary additions

## 2.2. Existing context

### 2.2.1. Metropolitan context

The subject site is located in the suburb of Vaucluse and is approximately 6km east of the Sydney CBD. The site is within the urban residential area under the Eastern City District Plan.

### 2.2.2. Local context

The subject site is located within a predominantly residential urban area in the harbour side suburb of Vaucluse.

The subject site is located on the top of a hill situated between the junction of Fitzwilliam Road and Wentworth Road, Vaucluse, on part of the original Wentworth Estate called "Parsley Hill".

The development on the site, being a detached dwelling house, is generally characteristic of the dominant built form in the locality, being large residential dwellings. The local area is characterised by a range of development and architectural styles which include existing locally listed heritage items.

The site and its context within the Vaucluse locality is illustrated on the zoning map extract in Figure 7.



Figure 7: Context within the wider Vaucluse locality (Source: NSW Planning Portal)

### 2.3. Surrounding development

The site is located within a harbour side residential area that is typified by large, detached single dwellings interspersed with occasional medium density residential development or other land uses compatible with the residential zoning. Land uses directly adjoining the site comprise detached dwellings and dual occupancy development.

The aerial image provided at Figure 8 indicates key features of the immediate area.



Figure 8: Key features in proximity to the subject site

### 3. Existing planning controls

#### 3.1. Woollahra Local Environmental Plan 2014

The site is subject to the existing planning controls of the Woollahra LEP 2014. The current development standards that apply to the land under the Woollahra LEP 2014 are summarised as follows:

Table 2: Summary of current development standards

	Zone	Maximum building height	Minimum Lot Size
40 Fitzwilliam Road, Vacluse	R2 Low Density Residential	9.5 m	675 sqm

The objectives of the R2 Low Density Residential zone are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.
- To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.

No changes to the principal development standards currently applicable to the site under the Woollahra LEP 2014 are proposed to change under this planning proposal request.

The land is not mapped as being subject to **floor space ratio** controls or being within a flood planning area.

The land is not currently identified in the Woollahra LEP 2014 as containing any items of **heritage** significance.

The land is identified under the Woollahra LEP 2014 as potentially containing **Class 5** acid sulfate soils. The land is not known to be subject to any other environmental constraints.

#### 3.2. Woollahra Development Control Plan 2015

The *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) applies to the subject site and its surrounds. Any development proposals either on the site or on adjoining sites are required to address any relevant Woollahra DCP 2015 controls.

The site is within the Vacluse West Precinct as identified in Part B of the Woollahra DCP 2015, which specifies a character statement for the precinct and outlines the desired future character of the precinct that any new development proposals are required to address. The proposed listing of the site as a heritage item as requested in this Planning Proposal is generally consistent with the specified character statement and desired future character of the Vacluse West Precinct and will not impact on its continued application.

#### 4. Objective of the planning proposal

The objective of the planning proposal is to recognise the heritage significance of the historic dwelling house known as 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse and provide it with statutory heritage protections under the provisions of the Woollahra LEP 2014.

The planning proposal will amend Schedule 5 and the Heritage Map of the Woollahra LEP 2014 to include reference to Lot 1 DP 1112583 and Lot 2 DP 1254483, being the historic dwelling known as *Sunny Brae* at 40 Fitzwilliam Road, Vaucluse, including its interiors.

The inclusion of the item in Schedule 5 of Woollahra LEP 2014 will mean any future development proposals either on the subject site or on any land within its vicinity will need to consider the provisions of Clause 5.10 (5) of Woollahra LEP 2014. This will provide a statutory requirement for development proposals to consider the effects of proposed development on the heritage significance of the item.

#### 5. Explanation of provisions

The proposed outcome will be achieved by amending the Woollahra LEP 2014 to:

- Insert a local heritage listing for 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse in Part 1 (Heritage Items) of Schedule 5 Environmental Heritage, and
- Amend the Heritage Map (Sheet HER\_004) of the Woollahra LEP 2014 to identify the land containing *Sunny Brae* (Lot 1 DP 1112583 and Lot 2 DP 1254483) as a heritage item.

#### 6. Justification

The planning proposal has strategic merit. The heritage significance of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse has been established by the assessment undertaken by GBA Heritage. The heritage listing will provide ongoing protection and recognition of the heritage significance of the item.

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

##### 6.1. Need for planning proposal

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

Yes. The planning proposal is the result of the recommendations of the Heritage Assessment Report prepared by GBA Heritage which has been initiated by the owners of the subject site.

The report concludes that *Sunny Brae* meets six out of seven criteria for listing as a local heritage item. The report recommends that:

*It is recommended that 'Sunny Brae' to be listed as an item of local heritage significance on Schedule 5 of the Woollahra LEP 2014, and to be nominated for*

*NSW State Heritage Register listing. The heritage listing is recommended to apply to:*

- "Sunny Brae" - House and interiors.

*The following lots should be included as part of the curtilage of the heritage item:*

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- Lot 2, DP 1254483
- Lot 1, DP 1112583

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

Yes. The objective of this planning proposal is to list 'Sunny Brae, including interiors' as a local heritage item in Schedule 5 of the Woollahra LEP 2014. The best, and only, means of achieving this objective is through the planning proposal process.

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

**6.2. Relationship to strategic planning framework**

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

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

**Greater Sydney Region Plan: A Metropolis of Three Cities**

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

The heritage listing of 'Sunny Brae, including its interiors', will provide ongoing protection and recognition of the heritage significance of this item.

**Eastern City District Plan**

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

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

*Action 20 Identify, conserve and enhance environmental heritage by:*

- engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of the place*
- applying adaptive re-use and interpreting heritage to foster distinctive local places*
- managing and monitoring the cumulative impact of development on the heritage values and character of places.*

This planning proposal seeks to initiate the process of conserving the environmental heritage of Woollahra LGA. Identifying, conserving, interpreting and celebrating Woollahra's heritage values leads to a better understanding of history and respect for the experiences of diverse communities.

The heritage listing of 'Sunny Brae, including its interiors', will provide ongoing protection and recognition of the heritage significance of this item.

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

Yes. The planning proposal is consistent with the *Woollahra Local Strategic Planning Statement 2020* and Council's Community Strategic Plan, *Woollahra 2030 – our community, our place, our plan* (Woollahra 2030).

The planning proposal is consistent with Planning Priority 5 of the Woollahra Local Strategic Planning Statement:

*Planning Priority 5 Conserving our rich and diverse heritage*

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

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

- *reviewing and updating provisions in Woollahra Local Environmental Plan 2014 and Woollahra Development Control Plan 2015*
- *sustainably managing visitation to our heritage conservation areas and destinations*
- *promoting a high standard of urban design in both the public and private domain that respects and communicates with heritage and our heritage conservation areas*
- *supporting implementation of legislation for Aboriginal Heritage.*

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

The planning proposal is also consistent with Council's Community Strategic Plan, *Woollahra 2030*. Notably, the planning proposal meets the following strategy within Goal 4 (Well planned neighbourhoods) under the theme Quality places and spaces:

*4.3 Protect our heritage, including significant architecture and the natural environment*

This planning proposal seeks to initiate the process of conserving the environmental heritage of Woollahra LGA. Identifying, conserving, interpreting and celebrating Woollahra's heritage values leads to a better understanding of history and respect for the experiences of diverse communities.

The heritage listing of 'Sunny Brae, including its interiors', will provide ongoing protection and recognition of the heritage significance of this item.

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

Yes. The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State Environmental Planning Policies (refer to **Schedule 1**).

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

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



### 6.3. Environmental, social and economic impact

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

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

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

No. There are no other likely environmental effects expected to arise as a result of the planning proposal. Measures to conserve the heritage item are unlikely to result in environmental harm and will be managed through the development assessment process.

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

Yes. The heritage assessment undertaken by GBA Heritage has considered *Sunny Brae* in its context at 40 Fitzwilliam Road, Vaucluse against the criteria for 'cultural significance' as defined in the Australia ICOMOS Burra Charter, being the aesthetic, historic, scientific, social or spiritual value for past, present or future generations. The assessment has found that 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse meets the historic, aesthetic, research potential, rarity and representativeness criteria at local level.

Identifying the site as a heritage item will require any future development applications (DAs) on the site to be considered against the heritage conservation provisions in Clause 5.10 of Woollahra LEP 2014. In addition, in respect of development that is proposed to be carried out on any site that is within the vicinity of the item, the Council will have the power to require that an assessment be undertaken of the extent to which the carrying out of that development would affect the heritage significance of the item.

To facilitate the assessment process, any future DA on the site will need to be accompanied by a heritage impact statement prepared by a suitably qualified professional. Any future DA on land in the vicinity of the item will also need to address and have regard for potential impacts on the heritage character of *Sunny Brae*. Accordingly, this will result in a minor additional costs in the preparation of an application on or adjoining a site which is listed as a heritage item.

Another effect of the land being identified as containing a heritage item is the prevention of certain works being carried out as either exempt or complying development.

### 6.4. State and Commonwealth interests

#### 10. Is there adequate public infrastructure for the planning proposal?

Yes. The planning proposal involves the local heritage listing of 'Sunny Brae, including interiors' at 40 Fitzwilliam Road, Vaucluse and does not involve any amendments to the planning controls that will facilitate intensified development.

Currently, the dwelling-house on the site has access to adequate public infrastructure such as water, sewer, electricity and telephone services. The site has direct frontage to Fitzwilliam Road which provides vehicular and pedestrian access. Fitzwilliam Road is also serviced by regular public transport.

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

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

This section will be completed following consultation with public authorities identified in the gateway determination. The following public authorities, including but not limited to, will be notified:

- Heritage NSW, Department of Premier and Cabinet
- National Trust of NSW

Any other authorities identified by the Greater Sydney Commission and Department of Planning, Industry and Environment will be consulted during the public exhibition of the planning proposal, in accordance with the Gateway Determination.

## 7. Mapping

The planning proposal seeks to amend the Woollahra LEP 2014 Heritage Map (Sheet HER\_004) to identify and label the land containing *Sunny Brae* at 40 Fitzwilliam Road, Vacluse (identified as Lot 1 DP 1112583 and Lot 2 DP 1254483).

An extract of the existing and proposed heritage maps are shown in Figures 9 and 10.

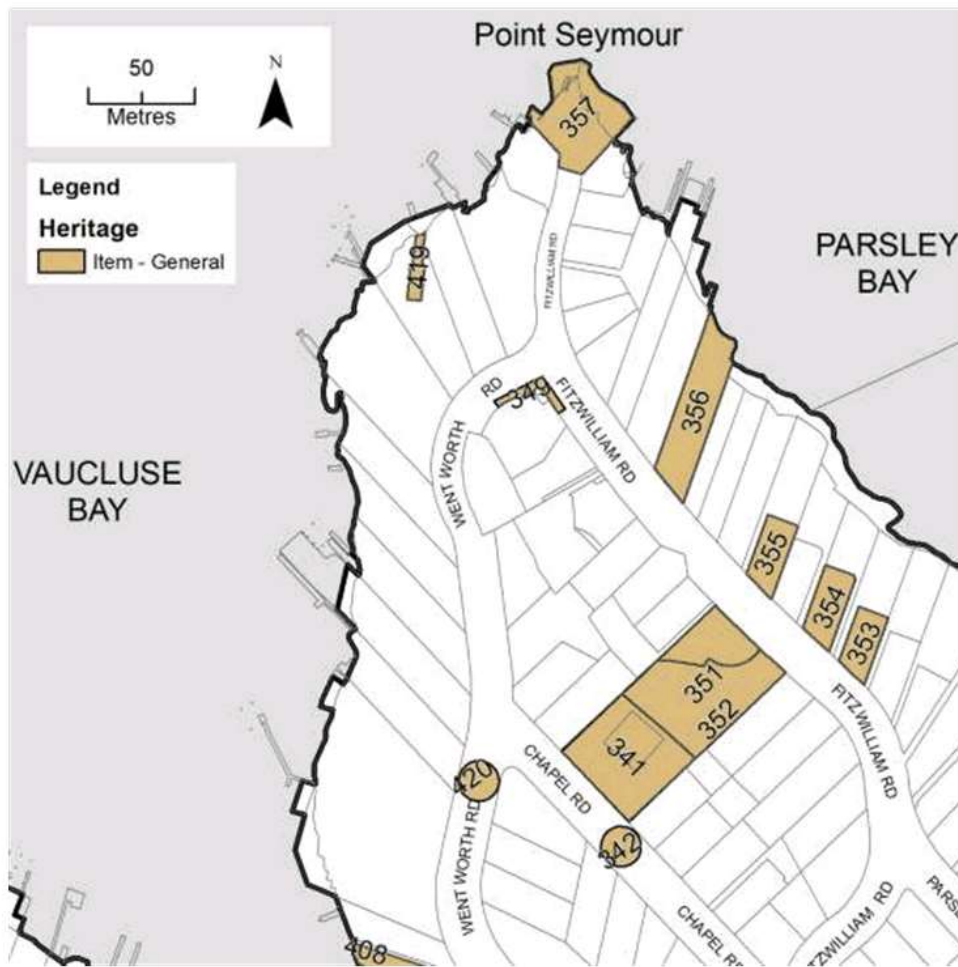


Figure 9: Extract from existing Woollahra LEP 2014 Heritage Map (Sheet HER\_004)

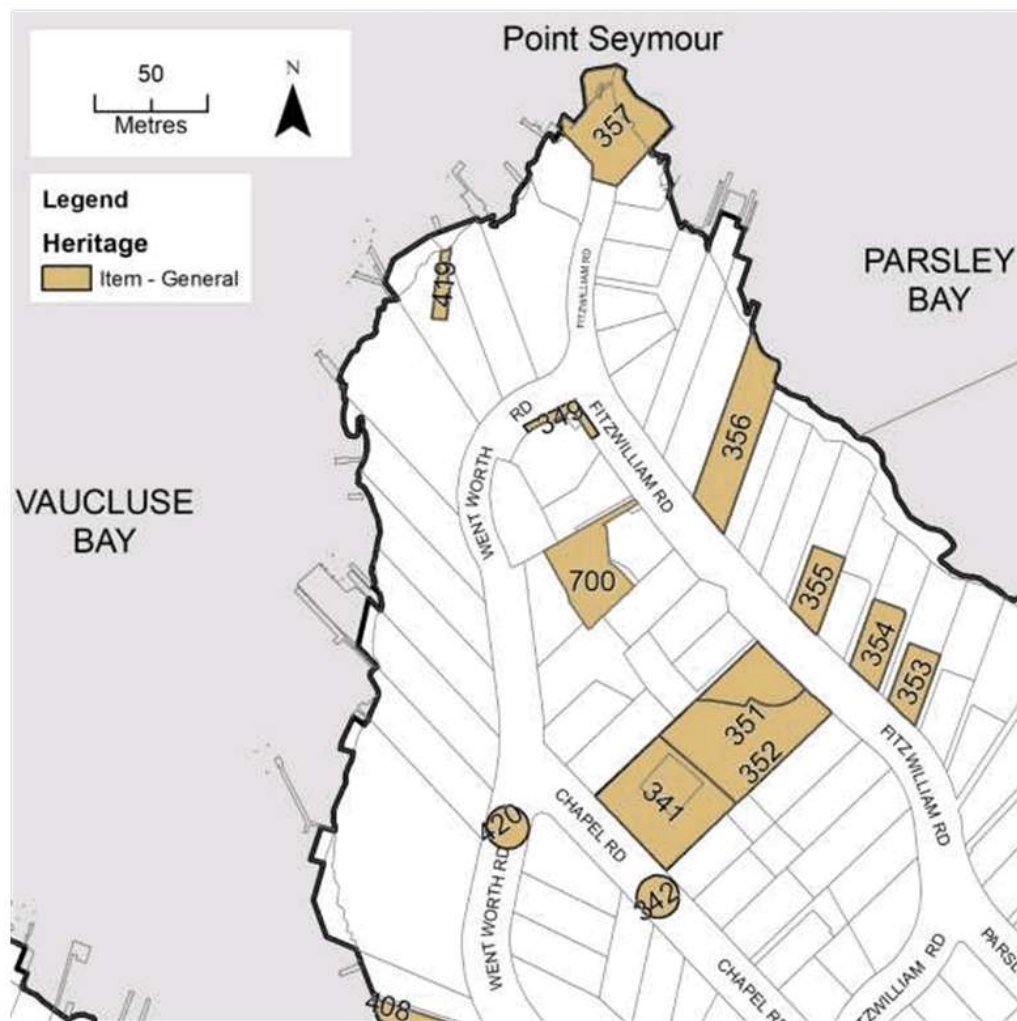


Figure 10: Extract from proposed Woollahra LEP 2014 Heritage Map (Sheet HER\_004)  
(Note: the heritage item number is indicative only and will be confirmed upon finalisation of the proposal).

## 8. Community consultation

### 8.1. Consultation with landowners

The owners of 40 Fitzwilliam Road are the proponents of this planning proposal. The owners have engaged GBA Heritage to undertake a heritage assessment of their property in accordance with the NSW Heritage Guidelines.

The owner George Murrell spoke in favour of heritage listing at Council's EPC meeting of 10 May 2021.

In progressing the planning proposal, consultation with the owners will be undertaken in accordance with the EP&A Act and the *Environmental Planning & Assessment Regulation 2000*.

### 8.2. Submission

One submission in favour of the proposed heritage listing was received on 6 May 2021 by the owner of the neighbouring property at 38 Fitzwilliam Road Vaucluse.

### 8.3. Public exhibition

Public exhibition of the planning proposal will be undertaken in accordance with the requirements of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000*, also having regard to other relevant plans and guidelines including the *Woollahra Community Participation Plan 2019* and *Local Environmental Plans – a guide to preparing local environmental plans (2018)* and any conditions of the Gateway Determination.

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

Public notification of the exhibition will comprise:

- a weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period, when a hardcopy version of that newspaper is being published.
- a notice on Council's website.
- a letter to land owners in the vicinity of the site.
- notice to local community, resident and business groups.

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

- the planning proposal, in the form approved by the gateway determination.
- the gateway determination.
- information relied upon by the planning proposal (such as the heritage significance assessment and relevant Council reports).

## 9. Project timeline

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

Plan-making step	Estimated completion
Council resolution to prepare planning proposal	24 May 2021
Local Planning Panel provides advice	17 June 2021
Environmental Planning Committee recommends proceeding	July 2021
Council resolution to proceed	July 2021
Gateway determination	August 2021
Completion of technical assessment	Usually none required
Government agency consultation	September 2021
Public exhibition period	September 2021

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Submissions assessment	October 2021
Council assessment of planning proposal post exhibition	November 2021
Council decision to make the LEP amendment	November 2021
Council to liaise with Parliamentary Counsel to prepare LEP amendment	December 2021
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	February 2022
Notification of the approved LEP	February 2022

## Schedules

### Schedule 1 – Consistency with State Environmental Planning Policies

State environmental planning policy	Comment on consistency
SEPP No 19 – Bushland in Urban Areas	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 21 – Caravan Parks	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 33 – Hazardous and Offensive Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 36 – Manufactured Home Estates	Not applicable
SEPP No 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP No 55 – Remediation of Land	Applicable  Consistent. The planning proposal does not seek to rezone land and will not affect the application of the SEPP for the purpose of promoting the remediation of contaminated land and reducing the risk of harm to human health or any other aspect of the environment.
SEPP No 64 – Advertising and Signage	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP No 65 – Design Quality of Residential Apartment Development	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.  See section 6.3 of the planning proposal for more information.
SEPP No 70 – Affordable Housing (Revised Schemes)	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
SEPP (Affordable Rental Housing) 2009	Applicable  Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.

State environmental planning policy	Comment on consistency
SEPP (Building Sustainability Index: BASIX) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Coastal Management) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Concurrences and Consents) 2018	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Educational Establishments and Child Care Facilities) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Exempt and Complying Development Codes) 2008	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.  Listing the land as a heritage item will have the effect of preventing certain works being carried out as either exempt or complying development.
SEPP (Gosford City Centre) 2018	Not applicable.
SEPP (Housing for Seniors or People with a Disability) 2004	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Infrastructure) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Koala Habitat Protection) 2020	Not applicable. The Woollahra LGA is not specified in Schedule 1 of SEPP (Koala Habitat Protection) 2021.



State environmental planning policy	Comment on consistency
SEPP (Koala Habitat Protection) 2021	Not applicable. The Woollahra LGA is not listed in Schedule 1.
SEPP (Kosciuszko National Park - Alpine Resorts) 2007	Not applicable
SEPP (Kurnell Peninsula) 1989	Not applicable
SEPP (Major Infrastructure Corridors) 2020	Not applicable. No future corridors are identified within the Woollahra LGA.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Penrith Lakes Scheme) 1989	Not applicable
SEPP (Primary Production and Rural Development) 2019	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State and Regional Development) 2011	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (State Significant Precincts) 2005	Applicable There are currently no identified state significant precincts located in the Woollahra LGA.
SEPP (Sydney Drinking Water Catchment) 2011	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Sydney Region Growth Centres) 2006	Not applicable
SEPP (Three Ports) 2013	Not applicable
SEPP (Urban Renewal) 2010	There are currently no potential urban renewal precincts in the Woollahra LGA which are identified in the SEPP.

State environmental planning policy	Comment on consistency
SEPP (Vegetation in Non-Rural Areas) 2017	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
SEPP (Western Sydney Aerotropolis) 2020	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map.
SEPP (Western Sydney Employment Area) 2009	Not applicable
SEPP (Western Sydney Parklands) 2009	Not applicable

<b>Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies</b>	<b>Comment on consistency</b>
SREP No 8 (Central Coast Plateau Areas)	Not applicable
SREP No 9 - Extractive Industry (No 2 - 1995)	Not applicable
SREP No 16 – Walsh Bay	Not applicable
SREP No 20 - Hawkesbury- Nepean River (No 2 - 1997)	Not applicable
SREP No 24 - Homebush Bay Area	Not applicable
SREP No 26 – City West	Not applicable
SREP No 30 - St Marys	Not applicable
SREP No 33 - Cooks Cove	Not applicable
SREP (Sydney Harbour Catchment) 2005	<p>Applicable</p> <p>Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.</p> <p>The planning proposal applies to land within the Sydney Harbour Catchment. Therefore the planning principles under Part 2, clause 13 Sydney Harbour Catchment of the SREP have been considered during its preparation. The planning proposal is consistent with the principles.</p> <p>The site is not land in the Foreshores and Waterways Area, therefore the principles of clause 13 Foreshores and Waterways Area are not applicable to this planning proposal.</p>

**Schedule 2 – Compliance with section 9.1 directions**

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
<b>1</b>	<b>Employment and resources</b>	
1.1	Business and industrial zones	Not applicable. The land is not zoned for business or industry.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
<b>2</b>	<b>Environment and heritage</b>	
2.1	Environment protection zones	Not applicable. The planning proposal does not apply to land within an environmental protection zone or land identified for environmental protection.
2.2	Coastal management	Not applicable. The planning proposal does not apply to land within the coastal zone.
2.3	Heritage conservation	Applicable. Consistent. The heritage listing of 'Sunny Brae, including its interiors', will provide ongoing protection and recognition of the heritage significance of this item.
2.4	Recreation vehicle areas	Not applicable. The planning proposal does not apply to sensitive land or land with significant conservation values. It will not allow land to be developed for a recreation vehicle area.
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable. The planning proposal does not apply to land in the Far North Coast.
2.6	Remediation of contaminated land	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the objective of this direction.
<b>3</b>	<b>Housing, infrastructure and urban development</b>	
3.1	Residential zones	Applicable. Consistent. The subject land is zoned for residential purposes. The planning proposal does not contain any provision which is contrary to the operation of this direction.
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks and manufactured home estates.

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
3.3	Home occupations	Revoked 9 November 2020.
3.4	Integrating land use and transport	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
3.5	Development near regulated airports and defence airfields	Not applicable. The planning proposal does not apply to land near a regulated airport or defence airfield.
3.6	Shooting ranges	Not applicable. The planning proposal does not apply to land adjacent to or adjoining an existing shooting range.
3.7	Reduction in non-hosted short term rental accommodation period	Not applicable. The planning proposal does not apply to land in the Byron Shire Council.
<b>4</b>	<b>Hazard and risk</b>	
4.1	Acid sulfate soils	Applicable. Consistent. Existing acid sulfate soils provisions will not be altered by the planning proposal.
4.2	Mine subsidence and unstable land	Not applicable. The planning proposal does not apply to land within a proclaimed Mine Subsidence District or to land identified as unstable.
4.3	Flood prone land	Not applicable.
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
<b>5</b>	<b>Regional planning</b>	
5.1 - 5.9	Strategies 5.1-5.9	Not applicable. These strategies do not apply to the Woollahra LGA.
5.10	Implementation of Regional Plans	<p>Applicable. The planning proposal is consistent with the objectives of the <i>Greater Sydney Regional Plan: A Metropolis of Three Cities</i>, particularly Objective 13 'Environmental heritage is identified, conserved and enhanced.'</p> <p>The heritage listing of 'Sunny Brae, including interiors', will provide ongoing protection and recognition of the heritage significance of the item.</p> <p>Refer to Schedule 1 of this report.</p>

<b>Planning proposal – Compliance with section 9.1 directions</b>		
<b>Direction</b>		<b>Applicable/comment</b>
5.11	Development of Aboriginal Land Council land	Not applicable. The planning proposal does not apply to land identified in State Environmental Planning Policy (Aboriginal Land) 2019.
<b>6</b>	<b>Local plan making</b>	
6.1	Approval and referral requirements	Applicable. Consistent. The planning proposal does not contain a provision which is contrary to the operation of this direction.
6.2	Reserving land for public purposes	Not applicable. The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3	Site specific provisions	Not applicable. The planning proposal does not allow a particular development to be carried out.
<b>7</b>	<b>Metropolitan Planning</b>	
7.1	Implementation of <i>A Metropolis of Three Cities</i> (March 2018)	Revoked 9 November 2020.
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.

**Item No:** R6 Recommendation to Council  
**Subject:** **REVIEW OF THE LAND USE ZONING OF RIDDELL STREET, BELLEVUE HILL**  
**Author:** Kelly McKellar, Team Leader Strategic Planning  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/107717  
**Reason for Report:** To present the planning and urban design review undertaken by consultants Studio GL of the land use zoning of Riddell Street, Bellevue Hill.

**Recommendation:**

- A. THAT the planning and urban design review of the land use zoning of Riddell Street, Bellevue Hill prepared by consultants *Studio GL* and contained in **Annexure 1** of the report to the Environmental Planning Committee of 12 July 2021 is received and noted.
- B. THAT a planning proposal is prepared to amend the *Woollahra Local Environmental Plan 2014* to:
- i. rezone the following properties from R3 Medium Density Residential to R2 Low Density Residential:
    - a. 13, 15, 17, 19, 21, 23, 25 and 27 Riddell Street, Bellevue Hill
    - b. 14 and 15 Buller Street, Bellevue Hill.
  - ii. Amend *Schedule 1 – Additional Permitted Uses* to permit development for a residential flat building on the site at 21 & 23 Riddell Street, Bellevue Hill.
- C. THAT the planning proposal is referred to the Woollahra Local Planning Panel for advice.
- D. THAT the advice of the Woollahra Local Planning Panel is reported to a future Committee meeting of Council.
- E. THAT a draft development control plan is prepared to accompany the planning proposal amending Chapter B1 and Chapter B3 of the *Woollahra Development Control Plan 2015* to:
- i. incorporate the land proposed to be rezoned R2 Low Density Residential into the Bellevue Hill North character precinct
  - ii. insert an additional clause for front setbacks.

---

**1. Background**

On 12 August 2019, in response to a Notice of Motion Council resolved:

*THAT Council receives a report, as soon as practicable, in relation to amending its current Local Environmental Plan 2014 to rezone that part of Riddell Street, Bellevue Hill, 2023 (currently zoned R3 Medium Density Residential) back to an R2 Low Density Residential zone.*

In the background to the Notice of Motion, Councillors' noted that:

*A recent development application (DA 487/2018) (the "DA"), submitted for development of a 3 story residential flat building at 21-23 Riddell Street, Bellevue Hill, 2023 was before the Woollahra Local Planning Panel ("WLPP") on 18 July 2019.*

*The DA was refused by the WLPP on a number of bases, including, inter alia, that:*

- *it was unsuitable and out of character with the neighbourhood and the precinct;*
- *there would be excessive impacts on trees and landscape;*
- *there were issues relating to traffic generation and parking and*
- *there were concerns over excavation.*

*The DA, and its discussion at the WLPP, clearly indicated that the area of Riddell Street that is currently zoned R3 Medium Density Residential may not be suited to this type of building intensity, given its location on a ridge, current issues with traffic and parking and existing streetscape vegetation.*

*A report into the rezoning of this section of Riddell Street is therefore necessary to re-examine all these issues.*

## **2. Planning and Urban Design Review**

In May 2021, consultants *Studio GL* were engaged to undertake a planning and urban design review to address the matters raised in Council's resolution. The review comprised land in Riddell Street, Bellevue Hill currently zoned R3 Medium Density Residential under the *Woollahra Local Environmental (LEP) 2014* (as show in yellow outline in **Figure 1** below).

*Studio GL* have prepared a detailed planning and urban design report which includes the following:

- Discussion of the planning context of the study area including the strategic context, existing local planning controls, the recent court approval for a residential flat building at 21-23 Riddell Street, and other recent development applications.
- Study of the existing condition and character of the built form and public domain, including the pattern of development (urban structure, blocks and lot), topography, landscape and tree canopy, public domain and key local infrastructure.
- 3D modelling of the existing built form.
- Analysis including 3D modelling of four potential development scenarios testing different land use zoning and corresponding planning controls, including the impact of these options on the surrounding context, housing targets and parking.

A copy of the report prepared by consultants *Studio GL* is contained in **Annexure 1**.

### **2.1. Amendments to Woollahra LEP 2014**

Based on their review, consultants *Studio GL* recommend that part of Riddell Street, comprising ten sites, is rezoned from R3 Medium Density Residential to R2 Low Density Residential. These sites are shown in blue on the map in **Figure 2** below.

The recommendation is accompanied by the following justification in support of the rezoning:

- These sites form a gateway to the adjoining lower density residential areas along Bradley Avenue and Lennox Street.
- Development of these sites, under the current zoning, would change the landscape character of the street and front setbacks.

The report notes that should the rezoning go ahead, the recently approved apartment building at 21-23 Riddell Street (which is now under construction) would be subject to the existing use rights provisions in the *Environmental Planning and Assessment Act 1979*.



Accordingly, Council staff recommend that in addition to rezoning the land from R3 Medium Density Residential to R2 Low Density Residential, the planning proposal includes an amendment to *Schedule 1 – Additional Permitted Uses* of the Woollahra LEP 2014 to make a residential flat building permissible on the site at 21-23 Riddell Street, Bellevue Hill.



**Figure 1: Extract of Woollahra LEP 2014 Land Zoning Map showing Riddell Street and the surrounding area.**



**Figure 2: Area in blue recommended to be rezoned from R3 Medium Density Residential to R2 Low Density Residential**

**Table 1** identifies all the properties located in the study area, and also identifies which sites *Studio GL* has recommend are rezoned to R2 Low Density Residential and which sites should remain R3 Medium Density Residential.

**Table 1: Properties in the study area**

Address	Lot & DP	Lot size	Studio GL recommendation
29 Bellevue Hill Rd	SP 49772	516m <sup>2</sup>	Retain current R3 Medium Density Residential zone
14 Buller Rd	Lot 1, DP 726797	576m <sup>2</sup>	Rezone R2 Low Density Residential
15 Buller Rd	Lot 1, DP 195893 Lot B, DP 300636	161m <sup>2</sup> 238m <sup>2</sup>	Rezone R2 Low Density Residential
29 Lennox St	SP 19281	456m <sup>2</sup>	Retain current R3 Medium Density Residential zone
1 Riddell St	Lot 25, DP 979515	423m <sup>2</sup>	Retain current zone
2 Riddell St	Lot 5, DP 32541	585m <sup>2</sup>	Retain current R3 Medium Density Residential zone
3 Riddell Street	Lot 1, DP 77130	201m <sup>2</sup>	Retain current R3 Medium Density Residential zone
4 Riddell St	Lot 7, DP 215856	447m <sup>2</sup>	Retain current R3 Medium Density Residential zone
5 Riddell St	Lot 1, DP 195894	186 m <sup>2</sup>	Retain current R3 Medium Density Residential zone
6 Riddell St	Lot 8, DP 615267	432m <sup>2</sup>	Retain current R3 Medium Density Residential zone
7 Riddell St	Lot 27, DP 137229	171m <sup>2</sup>	Retain current R3 Medium Density Residential zone
9 Riddell St	Lot 1, DP 849875	166m <sup>2</sup>	Retain current R3 Medium Density Residential zone
11 Riddell St	Lot 28, DP 73399	326m <sup>2</sup>	Retain current R3 Medium Density Residential zone
13 Riddell St	Lot A, DP 300636	702m <sup>2</sup>	Rezone R2 Low Density Residential
15 Riddell St	Lot 4, DP 6028	846m <sup>2</sup>	Rezone R2 Low Density Residential
17 Riddell St	Lot 2, DP 220814	392m <sup>2</sup>	Rezone R2 Low Density Residential
19 Riddell St	Lot 1, DP 220814	354m <sup>2</sup>	Rezone R2 Low Density Residential
21 – 23 Riddell St	Lot 2, DP 6028 Lot 1, DP 658568	660m <sup>2</sup> 343m <sup>2</sup>	Rezone R2 Low Density Residential
25 Riddell St	Lot 1, DP 950091	294m <sup>2</sup>	Rezone R2 Low Density Residential
27 Riddell St	Lot D, DP 984055	313m <sup>2</sup>	Rezone R2 Low Density Residential
154 Victoria Rd	Lot A, DP 984055	627 m <sup>2</sup>	Retain current R3 Medium Density Residential zone

## 2.2. Amendments to Woollahra DCP 2015

In addition to the rezoning, *Studio GL* recommends amendments to the *Woollahra Development Control Plan (DCP) 2015* as follows:

- **Chapter B1:**

Incorporate the sites being rezoned to R2 Low Density Residential into the Bellevue Hill North residential precinct (see **Figure 3** below). This precinct is predominately low density in character and will reflect the proposed R2 Low Density Residential zoning of the land. Currently, these sites are located in the Bellevue Hill South Precinct which is predominantly medium density in character.

- **Chapter B3:**

Insert an additional control for front setbacks where the front boundary is not at right angles to the side boundaries. By applying site specific setback controls, this will help to ensure that the unusual lot and setback configuration in Riddell Street will maintain the characteristic front setback irrespective of the lot orientation. (See diagrams by Studio GL in **Figure 4** below).

In progressing the amendments to the planning provisions, *Studio GL* recommends that Council consults with the land owners affected by the recommended rezoning and changes to DCP provisions.

Should Council endorse the proposed amendments, Council staff recommend that all property owners are notified in writing of Council’s decision, next steps and invite feedback.



**Figure 3: Map of existing Bellevue Hill North Precinct and sites recommended to be incorporated into this Precinct.**

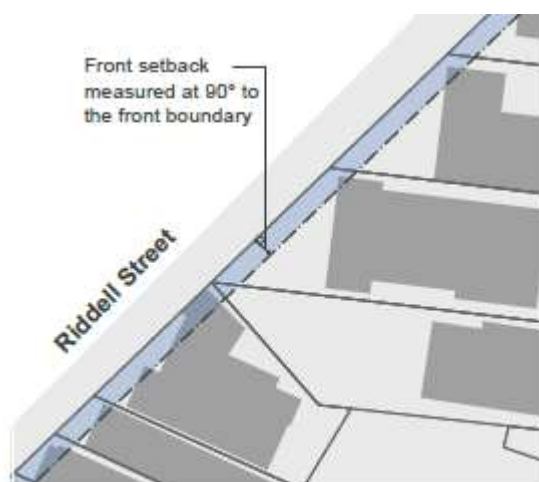


Figure 39 Diagram showing the existing DCP controls for Front Setbacks

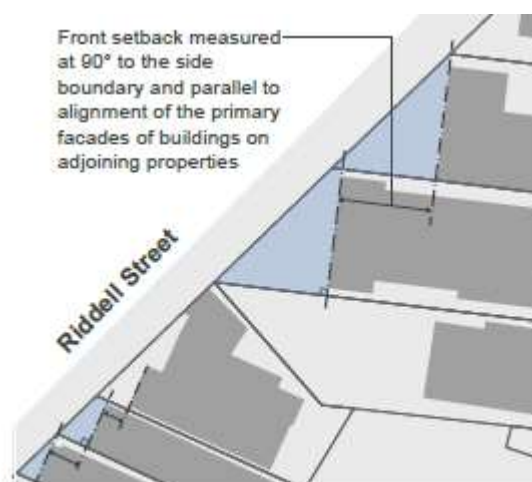


Figure 40 Diagram showing the recommended DCP controls for Front Setbacks

**Figure 4: Diagrams by Studio GL illustrating the current and proposed front setback controls**

### 3. Next steps

The planning and urban design review by Studio GL has provided a robust analysis in response to the Notice of Motion. Council staff recommend proceeding with the report recommendations, subject to including an amendment to *Schedule 1: Additional permitted uses*, to allow a residential flat building on the site at 21-23 Riddell Street.

Should Council resolve to proceed, the next steps are to:

- prepare a planning proposal to amend the Woollahra LEP 2014 to rezone ten sites in Riddell Street from R3 Medium Density Residential to R2 Low Density Residential and amend *Schedule 1 – Additional Permitted Uses* to permit residential flat buildings on the site at 21-23 Riddell Street.
- prepare a draft development control plan (draft DCP) to amend Chapter B1 of the Woollahra DCP 2015 to incorporate the sites being rezoned into the Bellevue Hill North residential precinct and Chapter B3 to insert a new front setback provision
- notify affected landowners of Council’s decision and invite feedback.

The planning proposal will be referred to the Woollahra Local Planning Panel (LPP) for advice consistent with Section 2.19 of the *Environmental Planning and Assessment Act 1979* and the *Local Planning Panel Direction – Planning Proposals* issued by the Minister on 27 September 2018. We will concurrently refer the draft DCP to the Woollahra LPP.

The advice of the Woollahra LPP will be reported to a future committee meeting of Council.

### 4. Conclusion

On 12 August 2019, in response to a Notice of Motion, Council resolved to receive a report in relation to rezoning part of Riddell Street, Bellevue Hill from R3 Medium Density Residential to R2 Low Density Residential.

In May 2021, consultants *Studio GL* were engaged to undertake a planning and urban design review to address the matters raised in Council’s resolution. The report is contained in **Annexure 1**.

Based on the report by *Studio GL*, Council staff recommend that Council resolve to prepare a planning proposal to rezone the following properties from R3 Medium Density Residential to R2 Low Density Residential:

- 13, 15, 17, 19, 21, 23, 25 and 27 Riddell Street, Bellevue Hill
- 14 and 15 Buller Street, Bellevue Hill.

Council staff further recommend that the planning proposal include an amendment to *Schedule 1 – Additional Permitted Uses* to permit residential flat buildings on the site 21-23 Riddell Street.

Concurrently with this planning proposal, Council staff will prepare a draft DCP to amend Chapter B1 and B3 of the Woollahra DCP 2015 to amend the relevant precincts and the front setback controls as recommend in the report by *Studio GL*.

Should Council resolve to prepare a planning proposal and a draft DCP, these will be reported to the Woollahra LPP for advice. This advice will be reported to a future committee meeting of Council.

#### Annexures

1. Studio GL Planning & Urban Design Review Riddell St, Bellevue Hill Report [↓](#) 



PLANNING & URBAN DESIGN REVIEW  
**RIDDELL ST, BELLEVUE HILL**  
Final Report

July 2021  
Prepared for Woollahra Municipal Council  
by Studio GL



Document Information

Job title	Riddell St, Bellevue Hill
Client	Woollahra Municipal Council
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Note: This document takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party. The report layout is designed to be printed at A4 portrait.



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# 1. Introduction

- 1.1. Background
- 1.2. Study area
- 1.3. Strategic review
- 1.4. DA review



## 1.1. Background



### Introduction

Woollahra Municipal Council commissioned Studio GL in May 2021 to undertake a planning and urban design review of land around Riddell Street in Bellevue Hill and investigate the suitability of the current land zoning. The land surrounding Riddell Street is currently dominated by low density housing but is zoned R3 Medium Density Residential.

A recent development proposal that complies with the current controls has raised concerns relating to its suitability with the existing character of the area, as well as the potential for excessive impacts on existing trees and landscaping, the risk posed by excavation, and issues related to parking and traffic generation.

Subsequently, Council resolved to investigate the down zoning of this land, from R3 Medium Density Residential to a R2 Low Density Residential zoning.

This review will identify potential development outcomes based on the current land use zone and applicable controls and make recommendations in response to the analysis of the appropriateness of these outcomes.

### Approach and Methodology

This report is divided into the following chapters:

- [Introduction](#) - Provides background to the study area and reviews existing controls under local planning instruments (LEP and DCP). A recent development approval is also investigated to understand the nature of applications previously lodged and determined in the study area.
- [Existing Context](#) - This chapter presents a photographic study showing the existing condition and character of the built form and public domain. It also includes context mapping showing the pattern of development (urban structure, blocks and lot), topography, landscape and public domain and key local infrastructure. The analysis is further supported by views of a 3D model of the location.
- [Potential Scenarios and Impacts](#) - This chapter identifies potential development scenarios based on the retention or change in the land use zone and the related relevant controls. The impact and advantages and disadvantages of these options on the surrounding context is also discussed.
- [Recommendations](#) - This chapter provides a summary of the findings of scenario testing and provides clear recommendations and justifications for the proposed option. It also identifies any changes required to be made to the current planning controls and outlines the impacts of any proposed change on development capacity of the area, including housing and housing targets, jobs and parking.

## INTRODUCTION

### 1.2. Study area



Riddell Street is located within the suburb of Bellevue Hill. The street runs north east for approximately 215m from an intersection with Bellevue Road. Technically the north eastern corner of Riddell Street intersects with Victoria Road, however after Bradley Avenue the land falls steeply and the road was not constructed. This section of the road has become a park and is known as the Bradley Avenue Reserve.

The study area includes 17 residential properties located on the south-east side of the street and 3 properties on the north-west side. The majority of the properties within the study area are accessed via Riddell Street. Two lots are accessed off Buller Street and one property is accessed off Victoria Road.

The study area includes a terraced public reserve, known as the Bradley Avenue Reserve, which provides pedestrian access from Bradley Avenue to Victoria Road. The study area is immediately adjacent to the Bellevue Hill Shops located to the south, which is identified as a neighbourhood business centre in the Woollahra Local Strategic Planning Statement 2020.

The local character of the area is a combination of the natural undulating landform, the urban structure of lots with respect to the street, the dense tree canopy, and the prominent views to the harbour, and the low rise built form. These elements shape the physical attributes of the place.

The study area lies within the Woollahra Municipal Council Local Government Area (LGA) and is subject to the Woollahra Local Environmental Plan (LEP) 2014 and the Woollahra Development Control Plan (DCP) 2015.





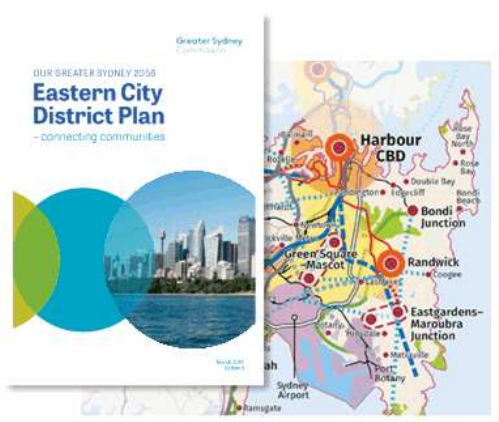
Figure 1 Aerial map of the study area and local context (aerial source: nearmap.com 2021)

## INTRODUCTION

### 1.3. Strategic review

#### Eastern City District Plan 2036

Author: Greater Sydney Commission (March 2018)



The Eastern City District Plan (the District Plan) is a 20-year plan to manage growth in the Eastern City District comprising the Council areas of Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West, Randwick, Strathfield, Waverley and Woollahra.

The aims of the District Plan are to help achieve the 40-year vision of the Region Plan which aligns growth in the Eastern City District to support innovation and global competitiveness. The Plan seeks to achieve a liveable, productive and sustainable future for the district, leading to an improvement in the District's lifestyle and environmental assets.

The District Plan outlines a set of twenty-one planning priorities which local planning strategies, planning proposals, controls and policies must be consistent with. These planning priorities are to be implemented through associated action by Councils, NSW Government departments and agencies by 2036.

The District Plan outlines the need for an increase in dwellings to support the growing population within the district over the next 20 years. It proposes an 157,500 increase in the number of dwellings in the district which will generally be achieved through urban renewal and infill development.

The plan promotes a place-based approach and consideration of the local context for the provision of any new housing. It also encourages additional dwellings to respond to predicted changes in household and age structures, which forecasts a significant increase in single-person households.

In accordance with the Planning Priority W5 regarding housing supply, the District Plan seeks to provide a diverse mix of housing to match the community's needs and preferences. It also encourages councils to investigate additional opportunities for medium density housing.

The District Plan recognises the value of local neighbourhoods within leafy suburbs such as Bellevue Hill, and their contribution to creating a sense of place and identity. The plan seeks to retain such great places and foster the sense of belonging.

The District Plan aims to improve the sustainability of the district, via increasing urban tree canopy cover and expanding the Green Grid to link open spaces, waterways and bushland.

#### Summary points

The strategy encourages councils to identify opportunities for the provision of medium density housing.

Housing should respond to the changes in household structures.

The plan encourages suburbs to foster great places and retain the sense of belonging within local neighbourhoods.

**Woollahra Local Strategic Planning Statement 2020**

Author: Woollahra Municipal Council (2020)



The Local Strategic Planning Statement (Woollahra LSPS) is a 20-year planning vision, emphasising land use, transport and sustainability objectives in alignment with the directions set out by A Metropolis of Three Cities - The Greater Sydney Region Plan. It directs how future growth and change is to be managed in the Woollahra LGA.

The plan envisions Woollahra as "Outstanding heritage, lifestyle, leafy, boutique villages and an unrivalled open, sunny harbour-side landscape in Sydney's east." In addition to providing the vision, the document outlines planning priorities and actions.

The structure plan illustrates the close proximity of the study area to the Bellevue Hill Shops, schools, parks, playground, and the Bondi Junction Strategic Centre. The LSPS identifies an aspiration to sustain diverse and affordable housing options provided within accessible locations provide for a range of needs and incomes. The LSPS references the changing age demographics of the area in outlining the need for diverse housing solutions that cater to the changing needs.

The LSPS states that new housing developments in and around the villages need to respect the area's character, heritage, lifestyle and scenic landscape. Future housing should also consider the sloping topography and protecting tree canopy and urban forest. One of the actions within the LSPS aims to develop a local character statement which identifies "areas in our low density residential zones where a local exclusion from the Low Rise Medium Density Housing Code may be appropriate".

The LSPS identifies Bellevue Hill to have a dense tree canopy coverage and encourages strengthening controls to protect deep soil landscape areas and ensure any development responds appropriately to topography and reduces excavation.

**Summary points**

The council aims to ensure new housing supports diversity, affordability and accessibility.

All development should respond appropriately to the local character, heritage, topography and protect the tree canopy cover.

INTRODUCTION

1.4. Strategic review

**The Woollahra Local Environmental Plan 2014**

Author: Woollahra Municipal Council (2014)

The Woollahra Local Environmental Plan (LEP) 2014 guides development and planning decisions within the local government area. LEP provisions provide a framework for land use to ensure development is appropriate and supports the relevant objectives such as achieving the desired future character. The key planning controls are land use zoning, limits to the permissible floor space ratio, lot size and building height, and identification of heritage listed items and conservation zones.

**Land Use Zoning**

The predominant land use zone within the study area is R3 Medium Density Residential. The objectives of this zone are:

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

The zoning permits residential dwelling houses and a range of other uses are permitted with consent, including Boarding houses, Centre-based child care facilities, Hostels, Community facilities, Dual occupancies, Office premises, Residential flat buildings, Semi-detached dwellings, Seniors housing, Multi dwelling housing, Dwelling houses, Neighbourhood shops and Recreation areas.

Two lots within the study area are zoned R2 Low Density Residential. These lots are consistent with the surrounding development north of the study area. This zone seeks to provide housing within a low density residential environment and ensures the compatibility of any proposed development with the character and amenity of the surrounding neighbourhood.

The study area also includes an open space located to the north east of the study area identified as RE1 Public Recreation zone. There is also extensive land, known as Cooper Park, south-west of Bellevue Road and south-east of Victoria Road that has been zoned RE1 Public Recreation.

Land immediately south of the study area, along Bellevue Road is zoned B1 Neighbourhood Centre, which consists of small-scale retail and businesses.



**Floor Space Ratio**

Density regulations are expressed as a floor space ratio (FSR). The objectives of this control for development in Zone R3 Medium Density Residential are:

- To ensure the bulk and scale of new development is compatible with the desired future character of the area
- To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain
- To ensure that development allows adequate provision on the land for deep soil planting and areas of private open space

The LEP generally applies an FSR of 0.75:1 across the R3 Medium Density Residential areas within the study area, with an increased ratio of 1:1 for the lot fronting Bellevue Road. No FSR currently applies to land zoned R2 Low Density Residential. Additionally, the FSR is not applicable for development of dwelling-house, dual occupancy or semi-detached dwelling sited on the identified land on the map.



**Maximum Floor Space Ratio**

N1	1	P	1.25		Refer to Clause 4.4B
G1	0.65	S1	1.5		Study area boundary
I1	0.75	T	2		

**Height of Buildings**

The maximum building height control seeks to be in alignment with the character of the area, provide a transition in scale between zones, provide adequate solar access to existing buildings and open space, protect views and privacy, and minimise overshadowing.

The permissible maximum height of buildings is generally 10.5m within the study area, although the two lots zoned R2 Low Density Residential have a maximum height of 9.5m. However, the LEP applies a maximum height of 9.5 metres for development of a dwelling house, dual occupancy or semi-detached dwelling on land in Zone R3 Medium Density Residential.

The adjacent neighbourhood centre has a maximum building height that ranges from 10.5 to 11m.



**Maximum Building Heights**

J2	9.5	Q2	19.5		Refer to Clause 4.3A
K	10.5	Q3	20.5		Study area boundary
L1	11	N2	13.5		

**INTRODUCTION**

1.4. Strategic review

**Minimum Lot Size**

Minimum lot size is established by the LEP and relates to the resultant size of a lot after subdivision. The objectives of this control seek to ensure that development is consistent with the desired future character of the neighbourhood, lots have a minimum size to retain or enhance amenity by providing useable areas for building and landscaping and identifies locations that are suitable for increased development density.

All lots zoned R3 Medium Density Residential within the study area have a minimum lot size of 700m<sup>2</sup>. The minimum lot size for lots zoned R2 Low Density Residential is 675m<sup>2</sup>. However, R3 Medium Density Residential zoned land may be subdivided into 3 or more lots for the erection of a dwelling house/ attached dwelling/ semi-detached dwelling if the size of each lot is equal to or greater than 230m<sup>2</sup>.



**Minimum Lot Size**  
 P 675  
 Q 700  
 — Study area boundary

**Heritage**

There are no heritage items or conservation areas identified within the study area or in its immediate vicinity. Cooper Park and the Bellevue Hill Public School located south-west and south-east of the study area are the only identified heritage items in the general area. Cooper Park is in the process of being nominated for State Heritage listing.

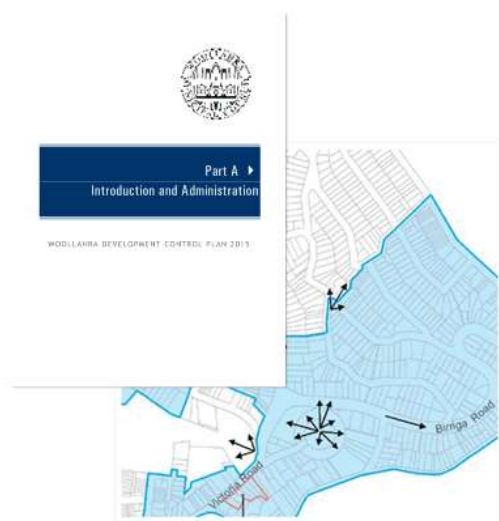


**Heritage**  
 Item - General  
 — Study area boundary



**The Woollahra Development Control Plan 2015**

Author: Woollahra Municipal Council (2015)



The Woollahra Development Control Plan (DCP) 2015 provides more detailed provisions for development to achieve the purpose of the Woollahra LEP 2014.

Part A is a general Introduction. It identifies how the DCP is to be used and then covers general items such as the Purpose of the DCP, the land that is affected by the controls, the aims of the DCP and the relationship of the DCP to the LEP, State Environmental Planning Policies and other DCPs. There is also a Dictionary, setting out the meaning of identified terms.

Part B of the DCP applies to general residential. The most relevant parts within this section, for the study area, are Chapter B1.7 Bellevue Hill South Precinct and Chapter B1.8 Bellevue Hill North Precinct which set site specific controls, and Chapter B3 General

Development Controls which guides development in predominantly R2 Low Density Residential and R3 Medium Density Residential zones but also sets controls for other land uses such as Public Recreation and Infrastructure.

The objectives set out in Chapter B2 Residential Precincts are to ensure that any proposed development is compatible with the future desired character of the area, to protect the key contributing features of precincts with unique character, to ensure that the design response is well founded and responsive to the site context, to consider amenity for both the users of the site, and the surrounding locality and, to protect prominent views, streetscape quality and tree canopies.

Character Statement: The study area lies at the boundary between two residential precincts outlined within the DCP: Bellevue Hill South Precinct and Bellevue Hill North Precinct. Most lots within the study area form part of the south precinct. Only two lots on the north-east side of Riddell Street fall within the Bellevue Hill North Precinct.

The character of Bellevue Hill South Precinct as identified by the DCP is highlighted by the nature of its landform and how the urban structure responds to it, including the mix of dwelling houses, prominent views, significant open spaces, and existing tree canopy.

The DCP encourages new development along local roads to consist of a mix of well designed dwelling densities and styles. All development should respond sympathetically to the existing topography, minimising cut and fill, and promoting view sharing. Provisions should be made for deep soil landscaping within the front and rear setbacks to reinforce the landscape setting and maintain the tree canopy. Development should 'establish a transition of development scale from the detached dwelling houses at the northern end of Bellevue Hill to the residential flat buildings that address the major streets'.

## INTRODUCTION

### 1.4. Strategic review

The key elements that help characterise Bellevue Hill North Precinct include the variety of quality residential architectural styles and forms set within highly visible gardens, prominent views of the harbour, mature street trees and grassed verges and sandstone walls. New development should respect the existing scale, character and built form of the streets; respond in form and siting to the street and subdivision pattern; and ensure that any on-site parking does not dominate the streetscape.

Chapter B3 of the DCP sets general objectives and controls under a wide range of topics to ensure design excellence is achieved by all future development. Selected provisions considered of most relevance to the study area are summarised below.

*Building envelope:* Controls set for development in the R2 Low Density Residential Zone are also applicable to dwelling houses, semi-detached dwellings and dual occupancies that are located within the R3 Medium Density Residential Zone set by the WLEP 2014. Numeric controls are set to maintain consistent front, side and rear setbacks for all development. Controls also determine the maximum wall height and inclined plane for dwelling houses to limit the visual impact of the bulk and scale of built form on the street, limit overshadowing and promote views.

*Floorplate:* These controls set the maximum development potential for the sites where FSR does not apply. It limits the size of all development within the R2 Low Density Residential Zone, and dwelling houses, semi-detached dwellings and dual occupancies within the R3 Medium Density Residential Zone.

*Excavation:* Provisions are made to limit the volume of land on a site that can be excavated to accommodate residential development. This is to encourage buildings to respond appropriately to the natural topography, minimise extensive excavation and structural risks to adjoining structures. The extent of excavation is determined by the type and site area of the dwelling. These controls do not apply to backyard swimming pools and tennis courts located outside the building envelope.

*Built form and context:* This section provides controls for residential development to address considerations such as streetscape and local character, overshadowing, public and private views, acoustic and visual privacy, and internal amenity. The objectives of this part address a range of issues, but the most relevant for this review include the support of development which does not dominate, but harmonises with a treed landscape, contributes to the desired future character of the area, is sympathetic to the street and locality in which it is located, corresponds with the topography, and the imperative to protect and manage the impact of development on adjoining properties in terms of solar access and privacy.

The DCP recognises the contribution of views to the unique character of Woollahra and focuses on preserving the public and private views between buildings and vegetation terminating at the Sydney Harbour or other local landmarks. Controls seek to promote view sharing between properties, and to 'strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties.'

*On-site parking:* The specified parking controls relate to the requirement for minimal visual impact of garages, car parking structures and driveways on the streetscape. This allows for the preservation of trees and on-street parking. The controls for car parking structures include its maximum width, location, maximum height, form, materials, and interface with the street.

*External areas:* The controls relating to external areas address landscaped area and private open space with a focus on the retention of existing mature trees, vegetation and other landscape features. The controls also ensure the provision of well-designed and adequate open spaces that add to the amenity of the dwellings. Provisions for the design of private facilities such as swimming pools, tennis courts and outbuildings seek to provide enhanced private amenity without adversely affecting the natural landform or landscape.

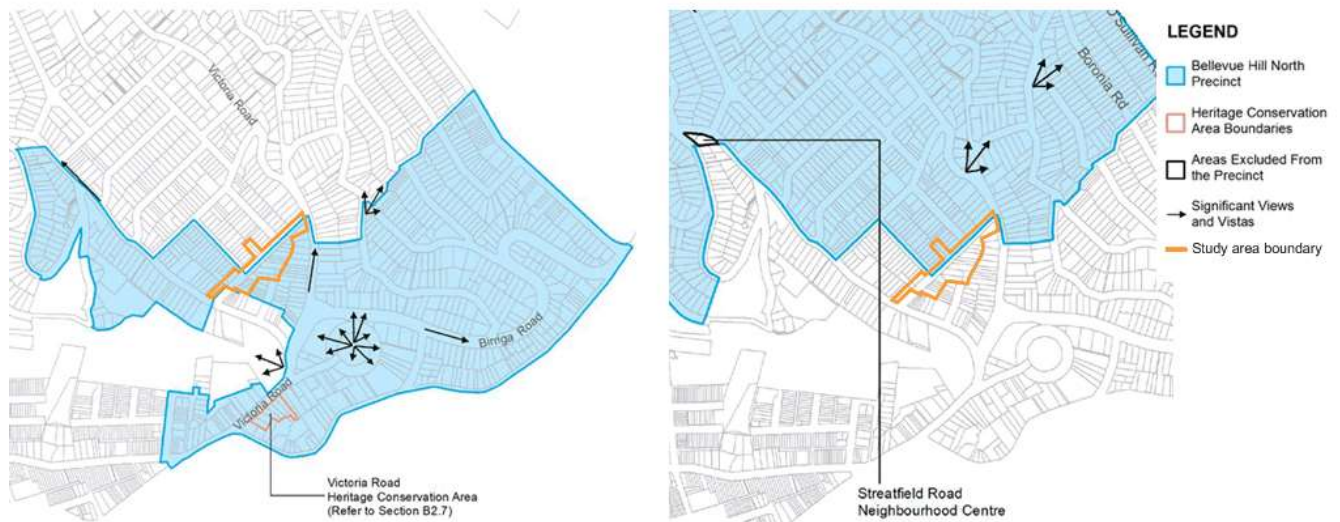


Figure 2 Extent of Bellevue Hill North and South Precinct Boundaries (DCP 2015)

This section also provides controls for the design, size and arrangement of fences in order to ensure they contribute positively to the streetscape and the surrounding views, whilst also maintaining private amenity.

Additional controls for development other than dwelling houses: This section provides controls that relate to other types of dwellings such as secondary dwellings, semi-detached dwellings, residential flat buildings, Inter-War flat buildings, etc. These are arranged into a series of sub-parts, addressing considerations for each type of development, with differing objectives that address issues under each type.

Additional controls for development in sensitive locations: This part focuses on controls relating to specific situations, such as development on land adjoining public open space. Given the significance of landscape, trees, landform and character of an area as outlined in the previous sections, the need for sensitive management of all new development adjacent to public open space areas has been highlighted. The requirements seek to protect public use, access, safety and vegetation of the open space.

### Summary points

A dedicated section in the Woollahra DCP is site specific to the Bellevue Hill North and South Precincts and outlines the existing and desired character for the area with a range of objectives. Riddell Street lies at the junction of these two residential precincts, and therefore needs to consider the impact of any future development on both the identified precinct characters.

The significance of views, landform and landscape are highlighted within both the residential precincts.

The majority of general controls describe the intent and desired outcome and target both the design of the public domain and private development. Most private development is regulated by numerical provisions.

INTRODUCTION

1.4. DA review

Address: 21 & 23 Riddell Street

DA Number: DA2018/487 | Date: 2018-2020



Key Characteristics

Site Parameters	
<b>Existing</b>	
Lot width	31m
Lot Depth	48m
<b>Proposed development</b>	
Type of development	Residential flat building
Total height	11m
No of floors	3 storeys
No of units	6 X 3-bedroom apartments
Front setback	2m
Side setback	3m
FSR	0.75:1
Parking	Basement parking for 12 vehicles
Landscaping	-Provided on site and within embankment -Removal of 6 existing trees
Status	Approved by the Court

This section illustrates how the planning controls are being used by proponents in developing proposals that are permissible in Riddell Street under the current land zone. A recent development application, a proposal for 21 & 23 Riddell Street creates a precedent for future residential flat buildings. This section reviews the design and impacts of the proposal.

The development proposed construction of a 3 storey residential flat building over two lots on the south-east side of Riddell Street. The proposal involved the demolition of two existing single dwellings, removal of 6 on-site and street trees, and excavation of the embankment fronting the lot to accommodate a driveway to the proposed basement parking. Pedestrian access is retained along the existing embankment to the ground level of the building, separate from the vehicular entry point.

The development is surrounded by single dwelling houses to the north and semi-detached dwelling houses to the south. Dwellings on either side of the development are two storeys high with a pitched roof. Predominantly, existing dwellings that face the same side of the street currently do not have their street fronting edge aligned parallel with the street, creating a varying front setback. The proposed development creates a variation to this character by aligning its fronting edge parallel to the street.

**Design characteristics of the proposed development**

The proposed residential building has an overall height of 11m. The height excludes the depth of the basement. The units have an east-west orientation with balconies overlooking the street and the rear of the building. The development provides a private swimming pool for each of the two units on the ground floor.

The development proposes a 2m setback from the street, 3m side setbacks, and a deep rear setback that varies between 9m to 14m (approximately).

The landscape plan illustrates the provision of 4 new trees and the retention of 1 existing tree along one of the side boundaries within the site. Additional vegetation includes shrubs, groundcovers, climbers and planting within all the setbacks.

The building predominantly has a flat roof with shallow eaves along its edges. It proposes a paint and render finish with aluminium battens vertically across the front and side elevations.

#### Outcome of the proposal

The development application was refused by the Woollahra Local Planning Panel on the grounds of its inconsistency with certain objectives and provisions set out within the Woollahra Development Control Plan 2015, Woollahra Local Environmental Plan 2014, and SEPP 65.

In general, the notice of refusal outlined that the development application was at variance with the built form, height and scale for the desired character of the neighbourhood.

The notice highlighted that the extent of excavation to accommodate the driveway and basement, and demolition of existing trees were inconsistent with the objectives and controls provided within the controls governing all development in the area.

As per the notice, the proposed front setback does not comply with the objectives laid out by the DCP. Additional issues identified include risks of excessive traffic generation, inadequate deep soil landscaping, blockage of views and amenity of the adjacent dwellings, and public submissions in opposition to the proposal.

The proposal was amended and appealed to the Land and Environment Court in 2019. Following a conciliation conference, the court ruled to uphold the appeal.

Amendments made to the drawings include an increase in the front setback by shifting the entire building 2m towards the rear, minor adjustments to the built form, changes to internal layouts of the units and provision of additional fenestration.



Figure 3 Roof plan of amended development application submitted in 2019



## 2. Existing Context

- 2.1. Study Area Photos
- 2.2. Local Context
- 2.3. Urban Structure
- 2.4. Landform, Topography & Views
- 2.5. Landscape & Public Domain
- 2.6. Built Form
- 2.7. Lot Sizes

## 2.1. Study Area Photos

Riddell Street is a characteristic example of the leafiness of Bellevue Hill, which has an above average tree canopy cover as compared with the wider LGA. Many mature trees line Riddell Street forming an arbour, and adding to the aesthetic character of the streetscape.



Houses along Riddell Street are predominantly low density dwellings, which vary in height, width and alignment to the street. The houses are typically 1- 2 storeys in height on the street front side. They also vary in styles, ranging from traditional to contemporary.



The only exception to the generally low density dwelling houses along Riddell Street is an Inter-War flat building at the corner of Riddell Street and Lennox Street.



Due to the lot structure and alignment of houses to the street, a few dwellings have a large front setback which is often well landscaped and consists of mature trees.



EXISTING CONTEXT



◀ Within the road reserve width of Riddell Street is one traffic lane in each direction, significant provision for parking, and a wide verge and narrow footpath on both sides of the street.



◀ As a result of the varying landform along Riddell Street, the dwellings at the north-eastern end of Riddell Street are set much higher than the street level. These properties are accessed via an elevated pedestrian footpath leading up to the houses. The embankment between the footpath and travel lane is densely vegetated.



◀ Riddell Street terminates into Bradley Avenue Reserve, a small terraced open space which slopes down to Victoria Road. Alongside the landscaped reserve, a flight of steps provides pedestrian access to Victoria Road.



◀ The undulating topography and the corresponding stepping of dwellings down the hillside allows for views towards Sydney Harbour. The views from public spaces and view corridors between buildings add to the character of the area.



The study area is adjacent to a Neighbourhood Centre on Bellevue Road, consisting of small-scale retail, restaurants and cafes. The close proximity of this centre, along with the provision of bus stops, adds to the amenity of the study area. It also results in increased traffic generation along Riddell Street.



A 9-storey residential flat building along Bellevue Road is the tallest building in Bellevue Hill and is visible from Riddell Street. The building is located on land zoned B1 Neighbourhood Centre and consists of shops on the ground level fronting Bellevue Road.



The study area is located north of Cooper Park, a large bushland reserve with many walking tracks and recreational facilities. Cooper Park is a heritage item and is in the process of being nominated for State Heritage listing.



The Bellevue Hill Public School, which is also a local heritage item, is located 250m south-east of the study area. The study area is within the catchment area for the school. The study area is also located within 1.5km of Scots College.



EXISTING CONTEXT

2.2. Local Context



High tree canopy cover adds to the streetscape amenity



Stepping of the built form in response to the topography



The neighbourhood centre adjacent to the study area

Bellevue Hill is located about 5.5km south-east of Sydney CBD and 2km north-east of Bondi Junction. Its proximity to Bondi Junction, identified as a Strategic Centre in The Greater Sydney Region Plan, makes it a location with high amenity and with good proximity to local facilities. The area is accessible by car via New South Head Road and Old South Head Road, and by bus from Bondi Junction Station and Edgecliff Station.

Places of interest nearby include Cooper Park, Royal Sydney Golf Club, Bellevue Hill Public School, Scots College, Crambrook Hill, and small-scale neighbourhood shops along Bellevue Road.

Bellevue Hill is characterised by a landscaped setting with an undulating topography generating views and split level built form. Small pockets of open space throughout the suburb capture distant views of the city skyline and the harbour.

The roads respond to the landform, resulting in an organic mix of curvilinear and rectilinear street patterns. Similarly, the blocks sizes are irregular, with development stepping down the hillside on sloping sites.

There is a diverse mix of housing types and styles available in the suburb, including dwelling houses, semi-detached houses, multi-dwelling housing and residential flat buildings. The height and scale of built form in the southern part of Bellevue Hill is higher than the low density residences to the north, providing a transition from high density residential flat buildings along the main roads that tend to follow a ridgeline.



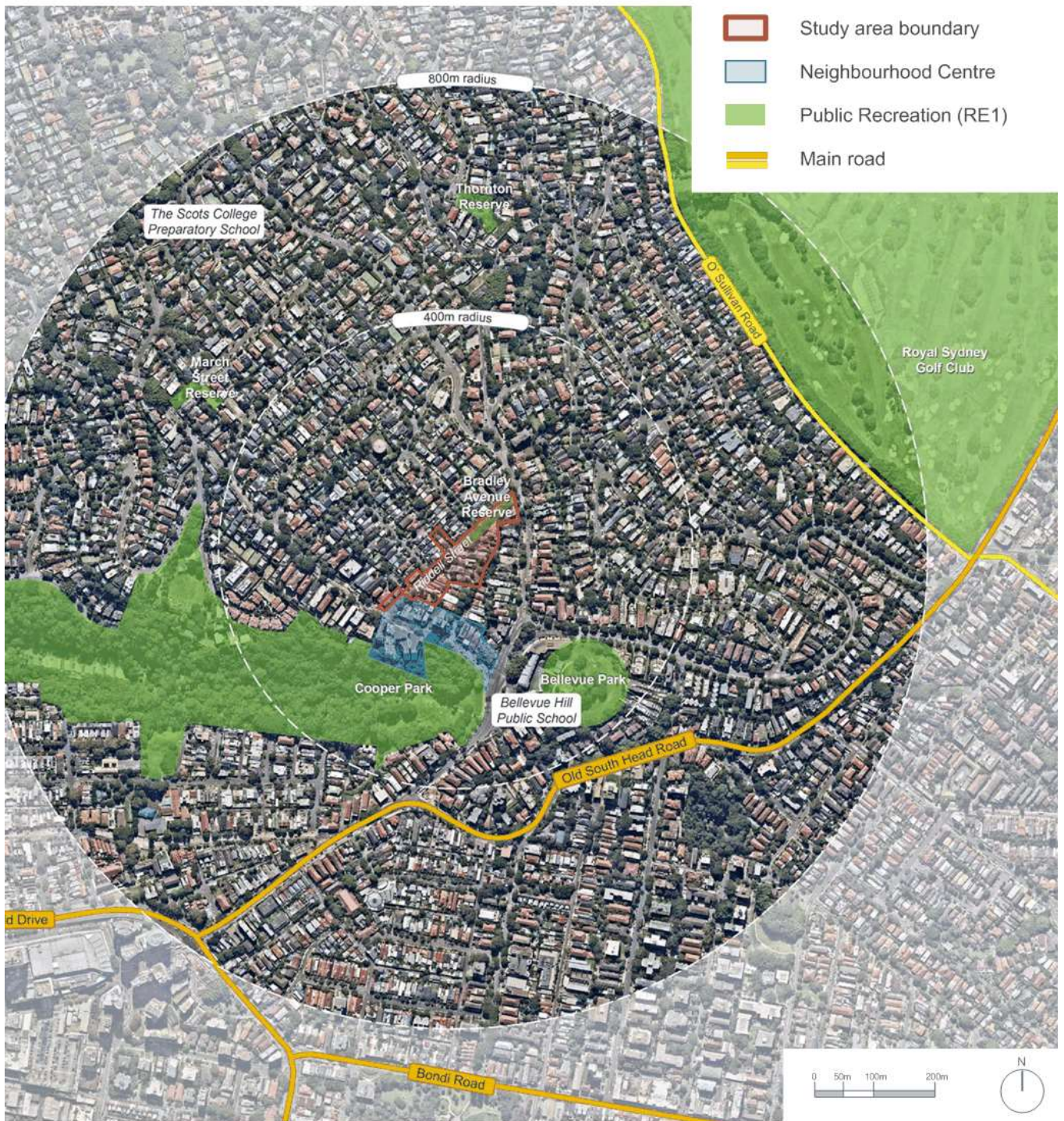


Figure 4 Local Context

EXISTING CONTEXT

2.3. Urban Structure

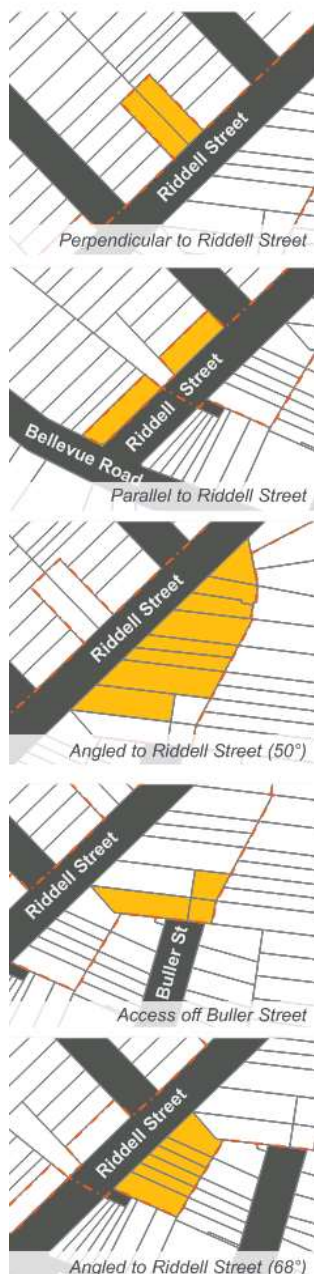


Figure 5 Lot orientation types

The urban structure of Bellevue Hill is predominantly dictated by its undulating topography, with Victoria Road generally following a contour around the hillside while Riddell, Bradley and Lennox Streets are located on a plateau. The blocks facing Victoria Road and in hillside areas are typically irregular in shape as they follow the street alignment. On the plateau lots are more regular and rectilinear in size. Smaller, narrower lots are located close to the shops along Bellevue Road.

The study area is part of a block that is defined by Victoria Road, Bellevue Road and Riddell Street. The alignments of these three streets has created an 'angled' block geometry and the shape, orientation and size of lots within this block vary widely. Three lots within the study area have a primary frontage that is not on Riddell Street but on the adjacent streets of Victoria Road and Buller Street.

The lots within the Riddell Street study area have five different orientations, as shown in Figure 6.

- Lots north of the street are perpendicular to the street
- Lots south-west of the street are aligned parallel to the street.
- Lots to the north-east are aligned at 50° to the street and align with the lots at the rear that are perpendicular to Victoria Road.
- Two lots aligned at 50° to the street to the south-east are accessed off Buller Street.
- Lots to the south-east are oriented at 68° to the street.

The Urban structure diagram also identifies intersections to highlight the high 'intersection density', or walkability of the surrounding study area and shows where a choice of travel is possible. The diagram shows the majority of intersections within and around the study area are three-way intersections.



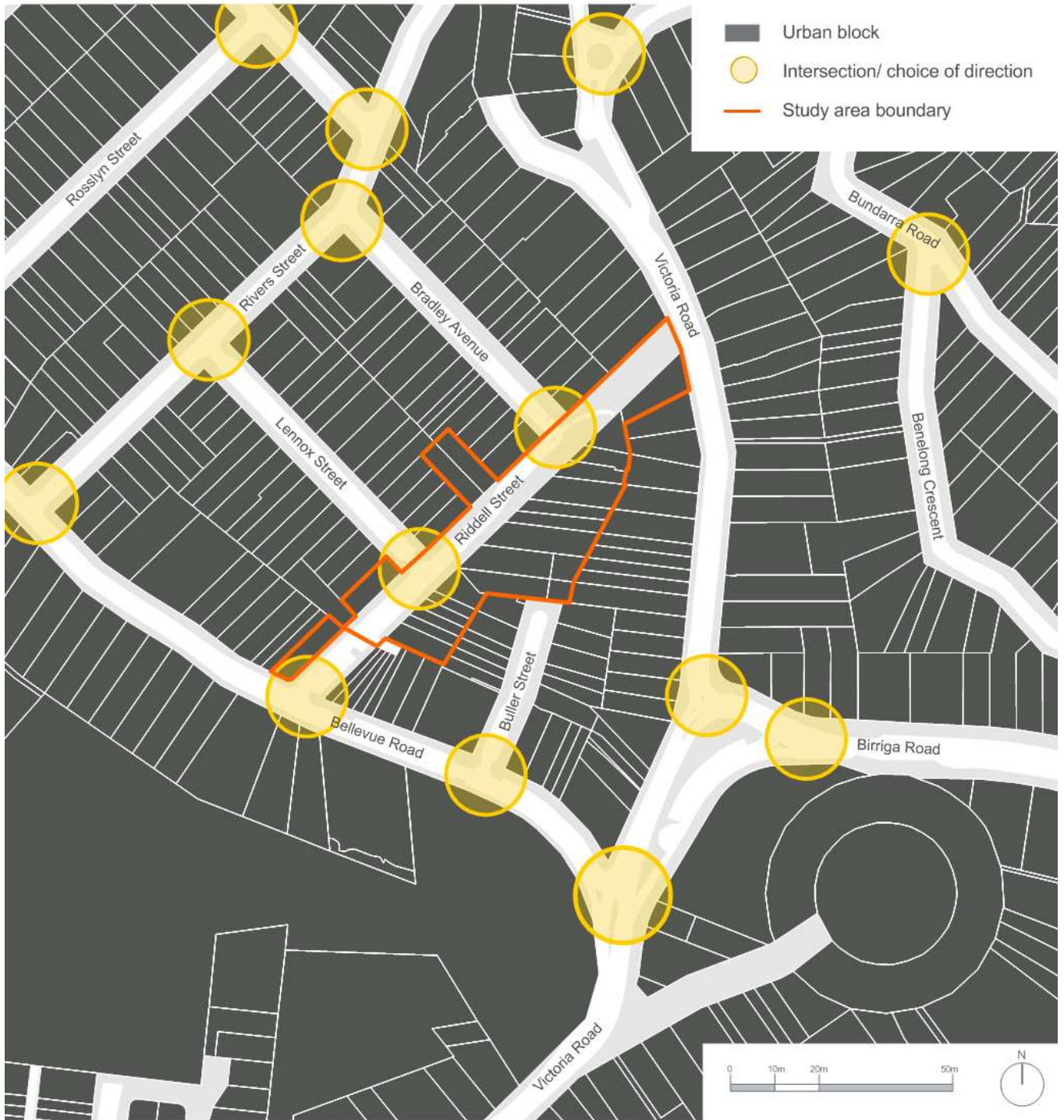


Figure 6 Urban Structure

EXISTING CONTEXT

## 2.4. Landform, Topography & Views



Views of the Harbour available from the north-eastern end of the Riddell Street



The steep terrain in Cooper Park forms a natural gully



Roads and development adjacent to the study area are laid over a plateau

The area is characterised by the topography gently sloping down north-westwards towards the Sydney Harbour and the steeply sloping down eastwards towards Bondi Beach and the Pacific Ocean. The main roads adjacent to the study area, such as Bellevue Road and Victoria Road are curvilinear in response to the natural topography.

Riddell Street is located on the eastern edge of a natural plateau which is generally flat. The majority of surrounding development to the east and north of the study area steps down to follow the slope.

The north-eastern part of the study area is situated on one of the highest points in the suburb. From this high point, the steep slope of the terrain northward and eastward provides opportunities of long distant views to the harbour and the ocean, which is captured from private dwellings and the terraced public open space, known as Bradley Avenue Reserve, located at the north-eastern end of Riddell Street. This reserve extends Riddell Street via a flight of stairs alongside the reserve and connects with Victoria Road.

Other local high points located within 400m of the study area include Bellevue Hill Park and dwelling houses along Rosslyn Street and Buller Street. Cooper Park to the south of the study area is located within a natural gully with a creek running through the park.



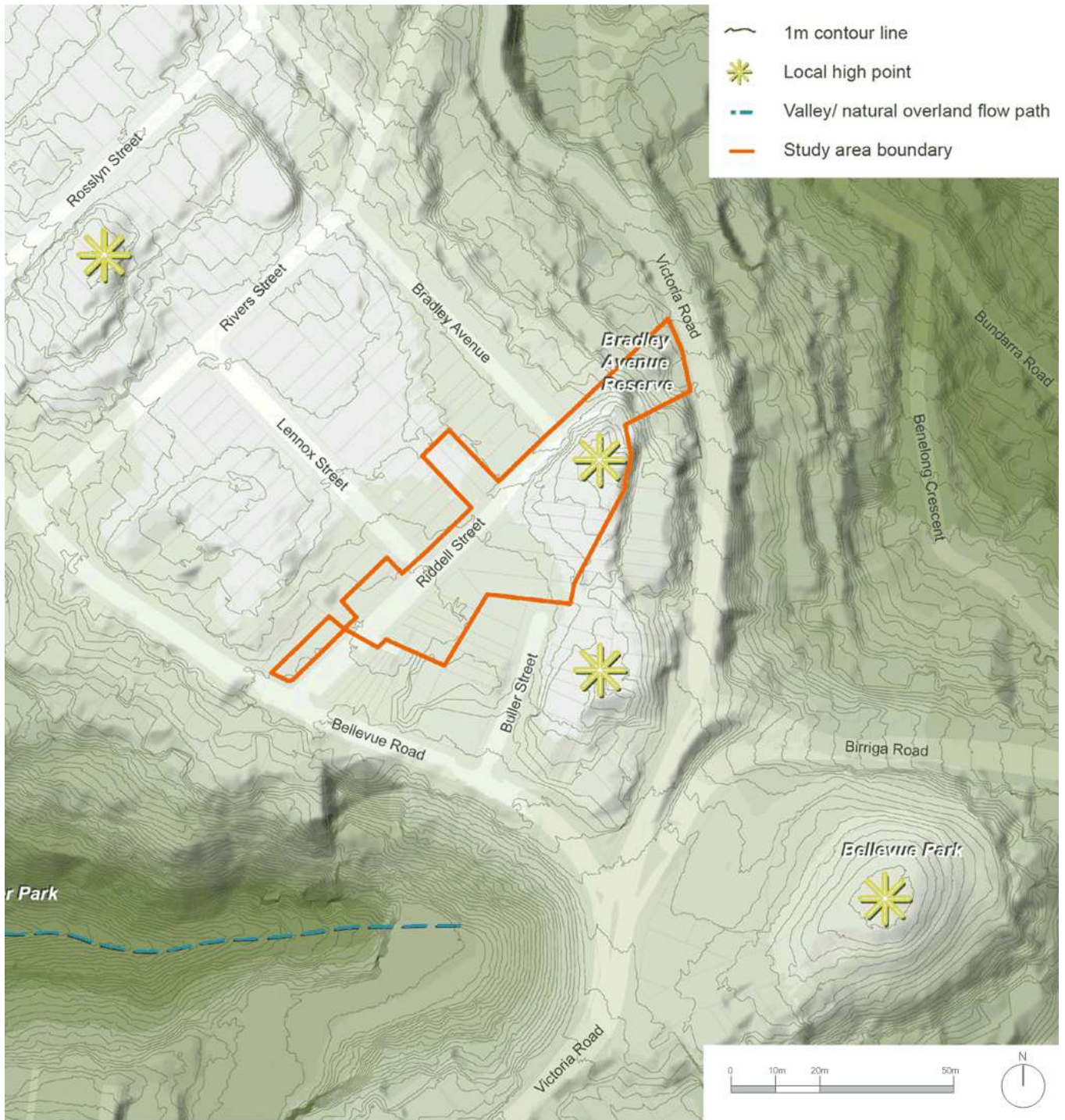


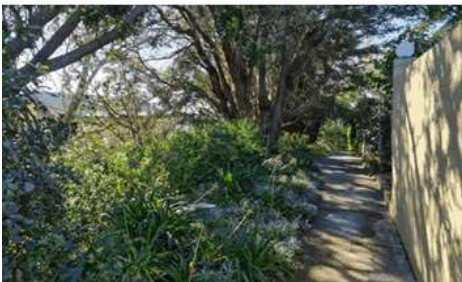
Figure 7 Topography

EXISTING CONTEXT

## 2.5. Landscape & Public Domain



The arbour formed by mature trees on either side of Riddell Street adds to its aesthetic appeal



Raised footpath and vegetated embankment on the north-eastern end of Riddell Street



Wide landscaped verges incorporated within the road reserve of Riddell Street

The study area and surrounding streets contain large mature trees, both along streets and within private lots. The area is heavily vegetated which screens the built form and this is a characteristic of the area. The Landscape and Tree Canopy Cover diagram illustrates the extent of the existing tree canopy coverage within the study area and surrounding streets. The high tree canopy cover helps to create shady streets and has a positive impact on the local micro-climate.

Wide landscaped verges within road reserves and the arbours formed by the street trees add to the aesthetic character of the streetscape. The undulating landform, in particular within the study area, has created opportunities for densely terraced and landscaped street verges.

Bradley Avenue Reserve, which terminates Riddell Street on the north-eastern end, is a small terraced open space located within the study area. It provides seating and mature, shady trees. Other important public open spaces surrounding the study area include Cooper Park and Bellevue Hill Park, both located south of the study area. Cooper Park, in particular, is a popular destination with recreational facilities, walking tracks, and dense foliage.

Cycleways exist along Bellevue Road and Victoria Road. Riddell Street is not identified as a cycling route, however the street has limited through traffic providing a slow speed environment.

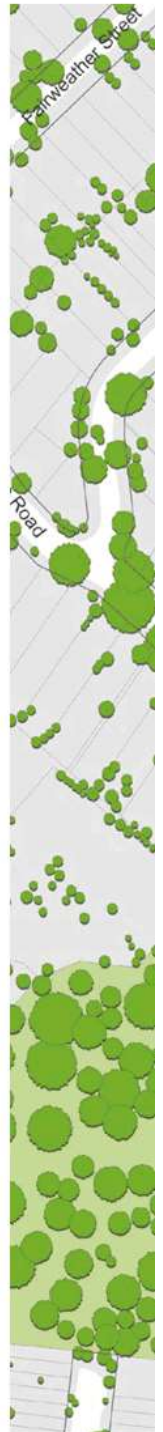






Figure 8 Landscape and Tree Canopy Cover

EXISTING CONTEXT

2.6. Built Form



A mix of housing densities along Riddell Street



Large landscaped gardens formed due to varying setbacks



Existing Inter-War residential flat building within the study area

The Built Form diagram illustrates simplified massing of the existing built form within and around the study area. It shows that the majority of buildings within the study area are detached and small scale residential built form with small front setback, very small side setbacks and deeper rear setbacks. The setbacks of dwellings along Riddell Street varies with lot orientation. Dwellings located on the angled lots tend to be located parallel to the side boundaries which creates an irregular setback to the street. This triangular front setback is generally well landscaped.

The built form surrounding the study area varies in size and type. There is a mix of dwelling houses, semi-detached houses, multi-dwelling housing and residential flat buildings throughout Bellevue Hill. Within the study area is a small two storey apartment building located south-east of the street along Bellevue Road and a few two storey semi-detached houses. A recently approved three storey apartment building is currently under construction.

Residential buildings with larger floor plates are located along Bellevue Road and Victoria Road. A few lots at the intersection between Riddell Street and Bellevue Road are built to the boundary which creates an urban character that defines the public domain and activates the local centre.

The overall height of dwellings within the study area is currently one and two storeys. Despite the consistent height limit set by LEP controls, the differences in elevation across the study area results in some dwellings appearing significantly taller than others in the street.

The heights of buildings surrounding the study area also varies. Many sites along Bellevue Road and Victoria Road utilize the topography to achieve additional storeys within the maximum building height limit.

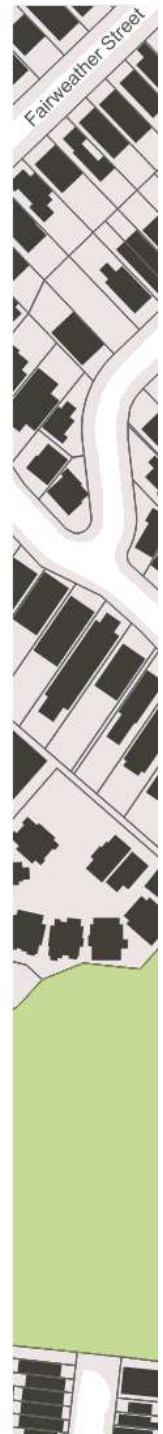




Figure 9 Built Form

EXISTING CONTEXT

## 2.7. Lot Sizes



Varying size of lots along Riddell Street

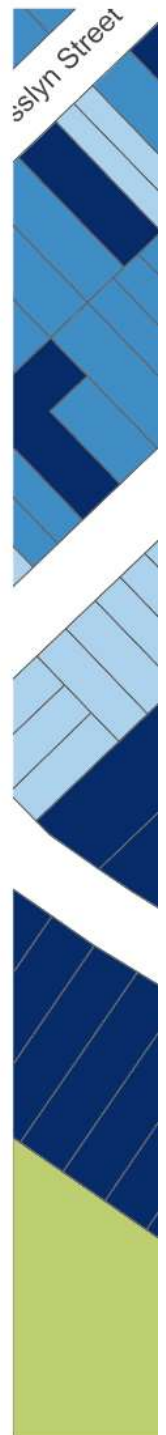


Smaller lot sizes at the intersection of Riddell Street and Bellevue Road allows for fine-grain retail

The adjacent diagram shows the existing sizes of lots within and surrounding the study area. The size of lots along Riddell Street varies considerably. Lot sizes range from below 200m<sup>2</sup> to greater than 700m<sup>2</sup>. The current controls regarding lot sizes set out a minimum requirement of 700m<sup>2</sup> to allow the development of residential flat buildings and a minimum of 460m<sup>2</sup> for attached dual occupancies.

Given that a majority of lots within the study area are zoned R3 Medium Density Residential, the diagram illustrates that with the exception of two lots, the existing lots would not be able to support the development of residential apartments. This means that amalgamation of multiple lots would be required to achieve the minimum area requirements. While amalgamation of two lots is possible, development of smaller sites which require multiple lots to amalgamate is less common and can have high cost implications.

The smaller narrow frontage lots create a rhythm and variety along the streetscape which adds to the character of the street. If multiple lots were to be amalgamated, resulting in a wider development fronting the street, the rhythm would be broken. The smaller lots also contribute to a diversity of dwelling size in the street.



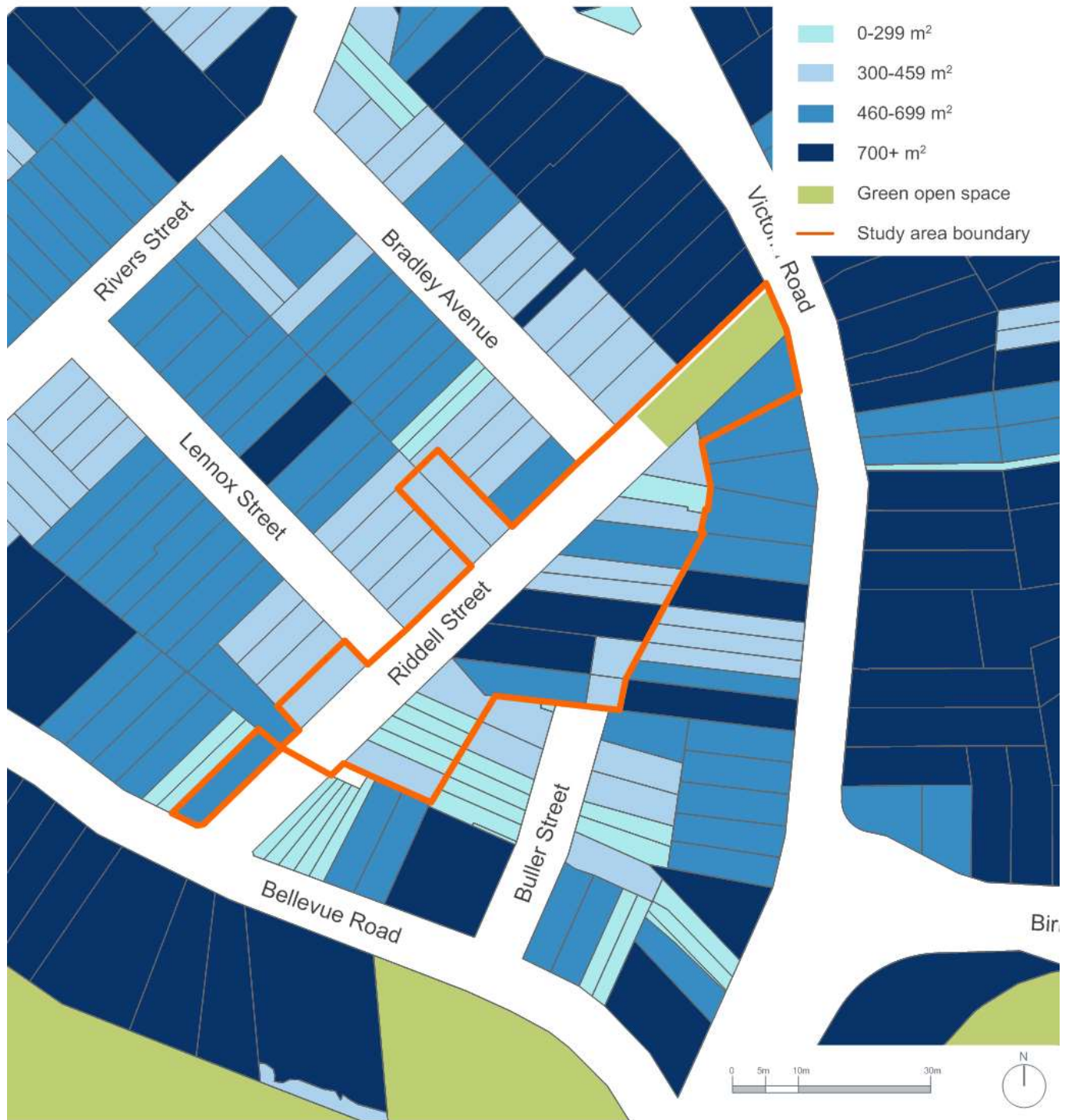


Figure 10 Lot sizes



## 3. Potential Scenarios & Impacts

- 3.1. Introduction
- 3.2. Scenario 1 - Maintain Existing Zones
- 3.3. Scenario 2 - Rezone to R2 Low Density
- 3.4. Scenario 3 - Rezone sites less likely to develop
- 3.5. Scenario 4 - Rezone sites more likely to develop

### 3.1. Introduction

This chapter builds on the previous chapters and explores the potential impact of development under the current LEP and DCP controls and explores the impact that varying these controls would have.

The eastern side of Riddell Street is zoned for Medium Density dwellings and given the accessibility and amenity of the neighbourhood, and its proximity to the key strategic centre of Bondi Junction, it seems likely it would be desirable location for the provision of new housing supply. The recent approval of an apartment building in Riddell Street will remove street trees and alter the character of the street. An increase in the number of low rise apartments along Riddell Street appears likely to impact the scale and character of the streetscape.

A myriad of possible options and permutations are possible within a study area of this size and so assumptions about the amalgamation pattern, type and intensity of development, and potential achievable within the applicable LEP and DCP controls have been provided. Common to all scenarios is the assumption that will development will be similar to recent approvals and all developments will seek to maximise FSR and/or site coverage and all apartments will be large (3 bedroom). Each scenario also considers solar access, tree canopy, landscape area, parking, overshadowing, and impact on the character of the place.

The potential development outcomes consider four different scenarios:

Scenario 1 assumes no changes are made to the existing controls and development occurs to the full potential allowable under the R3 Medium Density Residential zone and other applicable controls.

Scenario 2 analyses the impact of down zoning of all medium density lots within the study area to a R2 Low Density Residential zoning and models the subsequent development permissible under these revised controls.

Scenario 3 considers the retention of lots within the study area that are most likely to develop as apartments and down zoning sites less likely to develop to a R2 Low Density Residential zoning and models the subsequent development permissible under the revised controls.

Scenario 4 explores ways to minimise the impact of development of key sites on the character of Riddell Street. This scenario considers down zoning lots within the study area that are most likely to develop to R2 Low Density Residential and retaining the remaining sites as R3 Medium Density Residential.



Lots currently under construction within the study area



Recent development within the study area

POTENTIAL SCENARIOS & IMPACTS

### 3.2. Scenario 1 - Maintain Existing Zones

Scenario 1 assumes no changes to existing controls and all lots within the study area currently zoned R3 Medium Density Residential retain this zoning.



Figure 11 Land zoning for Scenario 1- overlaid with topography

#### Key Assumptions

The minimum lot size required for residential apartments in a R3 zone under the Woollahra LEP 2014 is 700m<sup>2</sup>. Amalgamation of some lots have been assumed in order to support the development of a residential apartment building.

- A** No change is assumed for lots on the north-western side of Riddell Street, south of Lennox Street (29 Lennox Street and 29A, B, C Bellevue Road) remain as they are too small to be apartment sites and have already been developed to their maximum capacity.
- B** Lots on the north-western side of Riddell Street, north of Lennox Street (4 and 6 Riddell Street) are not up zoned to R3 Medium Density as these sites are surrounded by low density housing. These sites are too small to be developed as dual occupancies but a larger dwelling could be constructed on each site.
- C** 154 Victoria Rd, 25 and 27 Riddell Street provide the best opportunities to capitalise on the surrounding views. Each site is too small to be developed individually however if the lots were amalgamated the resultant site would be approximately 1,200m<sup>2</sup> and could be developed as two separate buildings with addresses off Victoria Road and Riddell Street.

- D** No change is assumed on sites at 21, 23, 17 and 19 Riddell Street as two are currently under construction and the other two appear to have been recently constructed.
- E** 13 and 15 Riddell Street are each large enough sites to develop as individual apartment buildings. However, in this scenario, it is assumed that 15 Riddell Street, 14 and 15 Buller Street could be amalgamated to be developed as one large residential apartment building. The change in level between Riddell Street and Buller Street would allow garage access off Buller Street and pedestrian access from Riddell Street. To maximise orientation and development potential it is assumed the side of the development faces Riddell Street with frontage off Buller Street.
- F** 1, 3, 5, 7, 9 and 11 Riddell Street are generally small sites (i.e. less than 200m<sup>2</sup>) although 1 and 11 Riddell Street are both larger. For the purposes of this scenario it is assumed that 1 Riddell Street (the largest) is amalgamated with adjoining sites (3 and 5 Ridedell Street) to create a site large enough for an apartment building.
- G** The remaining sites 7, 9 and 11 Riddell Street combined are an insufficient size for a residential apartment. It is assumed these sites are developed individually into larger detached dwellings.





Figure 12 Potential Development outcome for Scenario 1 - view from north-west looking south-east

### Key Planning Controls

The building envelopes outlined in this scenario outline the maximum building capacity permissible under the existing LEP and DCP controls. It is assumed that the built form will be created within these envelopes to comply with ADG requirements.

In addition it is assumed that significant excavation and change to the natural landform, for development and vehicular access and basement parking, will occur to match that of those previously approved.

*Front setbacks* - The proposed building envelopes exceed the minimum requirements set by the Woollahra DCP 2015 and match that of the recent DA reviewed in Chapter 1. This is to ensure compliance with the objectives set within Part B3.2.2 (Front Setback) of the DCP 2015.

*Rear Setbacks* - The proposed building envelopes conform to the rear setback formula as set out by the DCP 2015, which is the result of the permissible front setback and building depth subtracted from the total site depth. A building depth is considered to be 60%

of the site depth for all residential apartments. For dwelling houses the building depth is determined by the sliding scale illustrated in Part B3.2.4 of the DCP.

*FSR* - The proposed building envelopes have an FSR of 0.75:1 for apartments. Dwelling-houses modelled do not have a maximum FSR as per the LEP. However, they conform to the maximum total floorplate area specified by the DCP 2015, which multiplies the buildable area by a factor of 1.65. The buildable area is the remainder of site identified once the front, rear and side setbacks have been established.

*Landscape area* - The proposed building envelopes assume a deep soil landscaped area of 50% of the site area outside the buildable area.

*Parking* - Parking for the apartment buildings is assumed to be located in a basement while for dwelling houses it is assumed that it is located in garages facing the street. Parking numbers for residential apartments are assumed to be 2 spaces per unit for a 3 bedroom apartment and 0.25 visitor spaces. 2 spaces have been assumed for all proposed dwelling houses.

POTENTIAL SCENARIOS & IMPACTS

3.2. Scenario 1 - Maintain Existing Zones



Figure 13 Potential Development outcome for Scenario 1 - plan view

**Key Impacts**

	Existing	Scenario 1
No. of dwellings	30	53 (approx).
Car parking	41 parking spaces (incl. visitor parking)	101 parking spaces (incl. visitor parking)

*Tree canopy* - Under this scenario there is a high chance that trees within the front setbacks of 15, 25 and 27 Riddell Street would be lost as the minimum front setback required is approximately 2- 4m (based on the recently approved DA). It is also possible that street trees in front of 15, 25 and 27 Riddell Street would be removed in order to incorporate driveways. The majority of trees at the rear of lots should be able to be retained due to the large rear setbacks. Where lots are amalgamated (for example on 15, 25 and 27 Riddell Street) trees and established landscaping between lots is likely to be lost.

*Dwellings* - In general, the size of apartments within the apartment developments is assumed to match that of recent DA's, i.e. large 3 bedroom apartments, the only exception to which is 154 Victoria Rd. There are 41 X 3-bedroom units, 1 X 4-bedroom unit, and 1 X 2-bedroom unit. Dwelling houses and dual occupancies (where relevant) have been designed to maximise the size of the dwelling.

*Overshadowing* - Under this scenario there is a high chance that overshadowing of neighbouring lots will be increased. Overshadowing of 12 Buller Street is particularly problematic.

*Views* - There is a chance that the height and scale of potential new development would impact the existing view corridors between buildings available from the public domain and access to views from the surrounding properties.



Figure 14 Potential Development outcome for Scenario 1 - view from east looking west



Figure 15 Overshadowing Diagram (Midday, 21 June)

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>• Increased dwelling density in high amenity area and close to a strategic centre.</li> <li>• Increased mix of housing types.</li> <li>• Expected high amenity for new developments due to opportunity for views and proximity to neighbourhood amenities.</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of existing streetscape character, including trees and change in scale of built form along the street.</li> <li>• Potential for excavation and modification of natural landform.</li> <li>• Loss of views from the existing dwellings.</li> <li>• Increased traffic generation.</li> <li>• Increased overshadowing of neighbouring properties especially 12 Buller Street.</li> <li>• Likely reduction in street trees and trees in the front setback that are viewed from the public domain.</li> <li>• High cost of amalgamating lots for the development of residential apartment buildings.</li> </ul>

POTENTIAL SCENARIOS & IMPACTS

### 3.3. Scenario 2 - Rezone to R2 Low Density

In this scenario all lots within the study area zoned R3 Medium Density Residential are rezoned to R2 Low Density Residential.



Figure 16 Land zoning for Scenario 2 - overlaid with topography

#### Key Assumptions

- A** There is no change to lots on the north-western side of Riddell Street, south of Lennox Street (29 Lennox Street and 29A, B, C Bellevue Road) as they have already been developed to their maximum development capacity under the R3 Medium Density Residential zone.
- B** Lots on the north-western side of Riddell Street, north of Lennox Street (4 and 6 Riddell Street) have already been developed under the existing R2 Low Density Residential zone. However, they could have larger modern dwellings constructed on each.
- C** The minimum lot size required for dual occupancy in an R2 zone under the Woollahra LEP 2014 is 460m<sup>2</sup>. 154 Victoria Rd has the minimum lot size to support this type of development and could develop as a dual occupancy to capitalise on the surrounding views.
- D** No change is assumed on sites at 21, 23, 17 and 19 Riddell Street as two are currently under construction and the other two appear to have been recently constructed.
- E** 25 and 27 Riddell Street, and lots between 1 and 11 Riddell Street, and 15 Buller Street have insufficient lot sizes to construct dual occupancy houses but could develop into larger detached dwellings.
- F** 13 and 15 Riddell Street, are assumed to retain their current built form but could be further developed to include additions within their existing rear setbacks to reach their maximum development potential.
- G** Since the primary frontage for 14 Buller Street is on Buller Street, it is assumed that additional development is permitted within the side setbacks of the dwelling to reach its maximum development potential.



Figure 17 Potential Development outcome for Scenario 2 - view from north-west looking south-east

### Key Planning Controls

The building envelopes outlined in this scenario outline the maximum building capacity permissible under the revised LEP and DCP controls. It is assumed that the built form will be created within these envelopes to comply with ADG requirements.

*Front setbacks* - The proposed building envelopes conform with the minimum front setback requirements set by the Woollahra DCP 2015 and are sited to match the orientation of adjacent dwellings.

*Rear Setbacks* - The proposed building envelopes conform to the rear setback formula as set out by the DCP 2015, which is the result of the permissible front setback and building depth subtracted from the total site depth. For all development within the R2 Low Density Zone, the building depth is determined by the sliding scale illustrated in Part B3.2.4 of the DCP.

*FSR* - The proposed building envelopes for dwelling-houses have a maximum total floorplate area as specified by the DCP 2015, which multiplies the buildable area by a factor of 1.65. The buildable area is the remainder of site identified once the front, rear and side setbacks have been established.

*Height* - The proposed building envelopes are well below the maximum height of 9.5m as set out by the LEP 2014.

*Landscape area* - The proposed building envelopes assume a deep soil landscaped area of 50% of the site area outside the buildable area.

*Parking* - Parking for the dwelling houses and dual occupancies is assumed to be located in garages facing the street. Parking numbers for all proposed development are assumed to be 2 spaces per dwelling.

POTENTIAL SCENARIOS & IMPACTS

3.3. Scenario 2 - Rezone to R2 Low Density



Figure 18 Potential Development outcome for Scenario 2 - plan view

**Key Impacts**

	Existing	Scenario 2
No. of dwellings	30	31 (approx).
Car parking	41 parking spaces (incl. visitor parking)	56 parking spaces (incl. visitor parking)

**Tree canopy** - Compared with Scenario 1, the extent of tree removal is significantly lower as no lots would be amalgamated. The impact of any new driveways is also considerably lower as existing driveways could potentially be retained, such as for 4, 6 and 27 Riddell Street. The majority of trees at the rear of lots should be able to be retained due to the large rear setbacks. Permissible additions made to 13 and 15 Riddell Street and 14 Buller Street are shown to have minimal impact on the surrounding trees.

**Dwellings** - Dwelling houses and dual occupancies (where relevant) have been designed to maximise the size of the dwelling. Most proposed dwellings in this scenario incorporate an additional storey.

**Overshadowing** - Given the likelihood of additional storeys within each dwelling, increased overshadowing of neighbouring lots is likely. However, the extent of overshadowing would be considerably lower than that shown in Scenario 1.

**Views** - There is a chance that the height and scale of larger dwellings shown in this scenario might impact on views from the surrounding properties. Since there are no lot amalgamations in this scenario, the impact on the public domain in terms of the loss of view corridors between buildings is significantly lower than that of Scenario 1.



Figure 19 Potential Development outcome for Scenario 2 - view from east looking west



Figure 20 Overshadowing Diagram (Midday, 21 June)

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>Retention of the existing streetscape character, including trees and less change in scale of built form along the street.</li> <li>Limited excavation and modification of the natural landform.</li> <li>Minimal impact on the tree canopy cover of the area.</li> <li>View corridors from the public domain retained. Minimal impact on access to views from surrounding properties.</li> </ul>	<ul style="list-style-type: none"> <li>Loss of an opportunity to increase dwelling density in a high amenity area, close to a strategic centre.</li> <li>Less diverse range of housing types and fewer smaller dwellings.</li> <li>Limited contribution to additional housing supply.</li> </ul>

POTENTIAL SCENARIOS & IMPACTS

### 3.4. Scenario 3 - Rezone sites less likely to develop

In this scenario, the sites within the study area that are less likely to develop are retained as R3 Medium Density Residential while others are down zoned to R2 Low Density Residential.



Figure 21 Land zoning for Scenario 3 - overlaid with topography

#### Key Assumptions

- A** Lots on the north-western side of Riddell Street, south of Lennox Street (29 Lennox Street and 29A, B, C Bellevue Road) retain current zoning as these sites have been developed to their maximum development capacity under the R3 Medium Density Residential Zone.
- B** Lots on the north-western side of Riddell Street, north of Lennox Street (4 and 6 Riddell Street) are not up zoned to R3 Medium Density as they are surrounded by low density housing. These sites are too small to be developed as dual occupancies but a larger modern dwelling could be constructed on each.
- C** 154 Victoria Rd, 25 and 27 Riddell Street could be rezoned as the sites are too small for the development of residential apartments.
- D** The minimum lot size required for residential apartments in an R3 zone under the Woollahra LEP 2014 is 700m<sup>2</sup>. 15 Riddell Street has sufficient size to support the development of a residential flat building and hence would retain its existing zoning.
- E** No change is assumed on sites at 21, 23, 17 and 19 Riddell Street as two are currently under construction and the other two appear to have been recently constructed.
- F** The amalgamation of 13 Riddell Street, 14 and 15 Buller Street offers the greatest development potential for a large residential apartment. The zoning for these lots has been retained as R3 Medium Density Residential. The change in level between Riddell Street and Buller Street would allow garage access off Buller Street and pedestrian access from Riddell Street. The orientation is designed to maximise views in all directions. To maintain the streetscape character of Riddell Street, it is assumed the primary frontage of the development faces Riddell Street with secondary access off Buller Street.
- G** Lots between 1 and 11 Riddell Street are to be down zoned to R2 Low Density Residential to retain the finer grain nature of existing development. The lots are generally small (i.e. less than 200m<sup>2</sup>) and it is assumed these sites will be developed into larger detached dwellings.





Figure 22 Potential Development outcome for Scenario 3 - view from north-west looking south-east

### Key Planning Controls

The building envelopes outlined in this scenario outline the maximum building capacity permissible under the existing LEP and DCP controls. It is assumed that the built form will be created within these envelopes to comply with ADG requirements.

Excavation and change to the natural landform for vehicular access and basement parking on 15 Riddell Street is assumed.

*Front setbacks* - The proposed building envelopes of residential flat buildings exceed the minimum requirements set by the Woollahra DCP 2015 and match that of the recent DA reviewed in Chapter 1. This is to ensure compliance with the objectives set within Part B3.2.2 (Front Setback) of the DCP 2015. The building envelopes for detached dwellings are sited to match the orientation of adjacent dwellings.

*Rear Setbacks* - The proposed building envelopes conform to the rear setback formula as set out by the DCP 2015, which is the result of the permissible front setback and building depth subtracted from the total site depth. A building depth is considered to be 60% of the site depth for all residential

apartments. For dwelling houses the building depth is determined by the sliding scale illustrated in Part B3.2.4 of the DCP. For 13 Riddell Street, 14 and 15 Buller Street, the large depth of the amalgamated lots necessitates the provision of a large rear setback to comply with the controls.

*FSR* - The proposed building envelopes have an FSR of 0.75:1 for apartments. Dwelling-houses modelled conform to the maximum total floorplate area specified by the DCP 2015, which multiplies the buildable area by a factor of 1.65. The buildable area is the remainder of site identified once the front, rear and side setbacks have been established.

*Landscape area* - The proposed building envelopes assumes to have a deep soil landscaped area of 50% of the site area outside the buildable area.

*Parking* - Parking for apartment buildings is assumed to be located in a basement while for dwelling houses it is assumed that it is located in garages facing the street. Parking numbers for residential apartments are assumed to be 2 spaces per unit for a 3 bedroom apartment and 0.25 visitor spaces. 2 spaces have been assumed for all proposed dwelling houses and dual occupancy.

POTENTIAL SCENARIOS & IMPACTS

3.4. Scenario 3 - Rezone sites less likely to develop



Figure 23 Potential Development outcome for Scenario 3 - plan view

**Key Impacts**

	Existing	Scenario 3
No. of dwellings	30	48 (approx).
Car parking	41 parking spaces (incl. visitor parking)	90 parking spaces (incl. visitor parking)

**Tree canopy** - Similar to Scenario 2, the extent of tree removal in this scenario is significantly lower than Scenario 1 due to the smaller number of lots to be amalgamated. Development of 13 Riddell Street, 14 and 15 Buller Street will result in the loss of trees within the site. It is also possible that street trees and the large tree in the front setback of 15 Riddell Street would be removed in order to incorporate driveways. The majority of trees at the rear of lots should be able to be retained due to the large rear setbacks.

**Dwellings** - The size of the apartments within the developments are assumed to match that of recent DA's, i.e. large 3 bedroom apartments. Dwelling houses and dual occupancies (where relevant) have been designed to maximise the size of the dwelling. Most proposed dwellings in this scenario incorporate an additional storey.

**Overshadowing** - The extent of overshadowing would be similar to Scenario 2. However, the extent of overshadowing of 12 Buller Street due to the development of 13 and 15 Riddell Street and 14 Buller Street is similar to that in Scenario 1 and is likely to be problematic.

**Views** - The amalgamation of 13 and 15 Riddell Street and 14 Buller Street would impact the existing view corridor from the public domain. There is also a chance that the height and scale of larger detached dwellings shown in this scenario would reduce views from the surrounding properties.



Figure 24 Potential Development outcome for Scenario 3- view from east looking west



Figure 25 Overshadowing Diagram (Midday, 21 June)

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>Retains some of the existing streetscape character, including trees and the existing scale of built form in the street.</li> <li>Increases the mix of housing types in the area.</li> <li>Reduced impact on tree canopy cover (compared to Scenario 1).</li> <li>Minimal excavation and modification of natural landform.</li> <li>Expected high amenity for new developments due to opportunity for views and proximity to neighbourhood amenities.</li> </ul>	<ul style="list-style-type: none"> <li>The development of residential apartments on the large sites in the centre of the study area has a significant visual impact on the streetscape.</li> </ul>

POTENTIAL SCENARIOS & IMPACTS

### 3.5. Scenario 4 - Rezone sites more likely to develop

In order to help develop the recommendations, an additional option was explored which involves down zoning the sites within the study area that are more likely to develop, to R2 Low Density Residential. This scenario aims to minimise the impact of any new development on the character of Riddell Street. Remaining sites are retained as R3 Medium Density Residential zone.



Figure 26 Land zoning for Scenario 4 - overlaid with topography

#### Key Assumptions

- (A)** Lots on the north-western side of Riddell Street, south of Lennox Street (29 Lennox Street and 29A, B, C Bellevue Road) retain current zoning as these sites have been developed to their maximum development capacity under the R3 Medium Density Residential Zone.
- (B)** Lots on the north-western side of Riddell Street, north of Lennox Street (4 and 6 Riddell Street) are not up zoned to R3 Medium Density as they are surrounded by low density housing. These sites are too small to be developed as dual occupancies but a larger modern dwelling could be constructed on each.
- (C)** 154 Victoria Rd is retained as R3 Medium Density Residential Zone, to match its adjacent sites which are also accessed off Victoria Road and located on sloping sites. It could further develop as a dual occupancy to capitalise on the surrounding views.
- (D)** 25 and 27 Riddell Street could be rezoned as the sites are too small for the development of residential apartments. However, these houses could develop into larger detached dwellings.
- (E)** No change is assumed on sites at 21, 23, 17 and 19 Riddell Street as two are currently under construction and the other two appear to have been recently constructed. However, these lots could be down zoned to R2 Low Density Residential to minimise further development.
- (F)** 13 and 15 Riddell Street, 14 and 15 Buller Street are the sites that are most likely to develop within the study area. In this Scenario it is assumed that these sites are rezoned to R2 Low Density Residential. They are assumed to retain their current built form but could be further developed to include additions within their existing rear setbacks to reach their maximum development potential under the R2 Low Density Residential zone.
- (G)** Given the insufficient size of 1, 3, 5, 9 and 11 Riddell Street, apartment development on these sites is unlikely. However, for the purposes of this scenario it is assumed that 1 Riddell Street (the largest) is amalgamated with adjoining sites 3 and 5 Riddell Street to create one site large enough to be developed as an apartment building.



Figure 27 Potential Development outcome for Scenario 4 - view from north-west looking south-east

### Key Planning Controls

The building envelopes outlined in this scenario outline the maximum building capacity permissible under the existing LEP and DCP controls. It is assumed that the built form will be created within these envelopes to comply with ADG requirements.

Excavation and change to the natural landform for vehicular access and basement parking for the residential flat building on 1, 3 and 5 Riddell Street is assumed.

*Front setbacks* - The proposed building envelope of the residential flat building on 1, 3 and 5 Riddell Street exceeds the minimum requirements set by the WDCP 2015 and matches that of the recent DA reviewed in Chapter 1. This is to ensure compliance with the objectives set within Part B3.2.2 (Front Setback) of the WDCP 2015. The building envelopes for detached dwellings are sited to match the orientation of adjacent dwellings.

*Rear Setbacks* - The proposed building envelope conforms to the rear setback formula as set out by the WDCP 2015, which is the result of the permissible front setback and building depth subtracted from the

total site depth. A building depth is considered to be 60% of the site depth for all residential apartments. For dwelling houses the building depth is determined by the sliding scale illustrated in Part B3.2.4 of the WDCP 2015.

*FSR* - The proposed building envelopes have an FSR of 0.75:1 for apartments. Dwelling-houses modelled conform to the maximum total floorplate area specified by the WDCP 2015, which multiplies the buildable area by a factor of 1.65. The buildable area is the remainder of site identified once the front, rear and side setbacks have been established.

*Landscape area* - The proposed building envelopes assume a deep soil landscaped area of 50% of the site area outside the buildable area.

*Parking* - Parking for the apartment building on 1, 3 and 5 Riddell Street is assumed to be located in a basement while for dwelling houses it is assumed that it is located in garages facing the street. Parking numbers for the residential apartment are assumed to be 2 spaces per unit for a 3 bedroom apartment and 0.25 visitor spaces. 2 spaces have been assumed for all proposed dwelling houses and dual occupancy developments.

POTENTIAL SCENARIOS & IMPACTS

3.5. Scenario 4 - Rezone sites more likely to develop



Figure 28 Potential Development outcome for Scenario 4 - plan view

Key Impacts

	Existing	Scenario 4
No. of dwellings	30	34 (approx).
Car parking	41 parking spaces (incl. visitor parking)	64 parking spaces (incl. visitor parking)

**Tree canopy** - The extent of tree removal in this scenario is significantly lower than Scenario 1 and 3 due to the smaller number of lots to be amalgamated. Development of 1, 3 and 5 Riddell Street will result in the loss of trees within the site. It is also possible that street trees and the large tree in the front setback of 1 Riddell Street would be removed in order to incorporate driveways. The majority of trees at the rear of lots should be able to be retained due to the large rear setbacks. Permissible additions made to 13 and 15 Riddell Street and 14 Buller Street are shown to have minimal impact on the surrounding trees.

**Dwellings** - The size of the apartment building on 1, 3 and 5 Riddell Street is assumed to match that of recent DA's, i.e. large 3 bedroom apartments. Dwelling houses and dual occupancies (where relevant) have been designed to maximise the size of the dwelling. Most proposed dwellings in this scenario incorporate an additional storey.

**Overshadowing** - The extent of overshadowing would be similar to Scenario 2 and lower than Scenario 1 and 3. Given the likelihood of additional storeys within each dwelling, increased overshadowing of neighbouring lots is likely.

**Views** - The amalgamation of 1, 3 and 5 Riddell Street would impact the existing view corridor from the public domain. There is also a chance that the height and scale of larger detached dwellings shown in this scenario would reduce views from the surrounding properties.



Figure 29 Potential Development outcome for Scenario 4- view from east looking west



Figure 30 Overshadowing Diagram (Midday, 21 June)

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>Retains most of the existing streetscape character by maintaining the existing scale of built form on the large sites in the centre of the study area and ensuring minimal visual impact of new development.</li> <li>Increases the mix of housing types in the area.</li> <li>Reduced impact on tree canopy cover (compared to Scenario 1 and 3).</li> <li>Minimal excavation and modification of natural landform.</li> <li>Expected high amenity for new developments due to opportunity for views and proximity to neighbourhood amenities.</li> </ul>	<ul style="list-style-type: none"> <li>The potential development of residential apartments on 1, 3 and 5 Riddell Street would have a visual impact on the streetscape as it forms the gateway to Riddell Street.</li> </ul>



## 4. Recommendations

- 4.1. Findings
- 4.2. Recommendations
- 4.3. Impacts & Next Steps



## 4.1. Findings

### Context and Local Character

The character of the study area is diverse, inconsistent, and influenced by dramatic changes in topography and a wide range of lot sizes, shapes and orientation. Riddell Street is located close to the eastern edge of a natural plateau which falls steeply to Victoria Road. This means that lots on the north-eastern side of Riddell Street, while sharing the same orientation as adjoining lots along Victoria Road, are visually strongly linked to Riddell Street.

Riddell Street is extensively landscaped with well established trees and these trees play an important role in establishing the street character. The street trees are more prevalent in front of wider blocks and where access to parking is more discrete. Well established trees are also located within the front setbacks of larger dwellings, along the rear boundary of properties on the north-eastern side of Riddell Street and occasionally between lots.

The wide variety of lot size and shape creates a diversity of dwelling size, a diverse street frontage and inconsistent front setbacks. The majority of lots are too small to be developed individually as apartments and so lot amalgamations are required to achieve the minimum lot size. Although the area is zoned for R3 Medium Density Residential the majority of dwellings are small or large detached houses with a few attached dwellings.

### Recent development

A recent development at 21 and 23 Riddell Street demolished two dwellings to create 6 apartments (all large luxury 3 bedroom units) with basement parking for 12 vehicles. Six trees (both on the property and the street reserve) were removed with four new trees proposed in the landscape plans.

#### *Key findings*

Riddell Street is close to the eastern edge of a natural plateau which falls steeply to Victoria Road. The topography means lots fronting Victoria Road are much lower than lots fronting Riddell Street (see Figure 31) and development along Riddell Street appears taller and overlooks the rear of properties along Victoria Street.

Riddell Street has well established trees and these trees play an important role in the street character.

Although the area is zoned R3 Medium Density Residential the majority of current dwellings are small or large detached houses.

The wide variety of lot size and shape creates a diversity of dwelling size, a diverse street frontage and irregular front setbacks.

Development of large sites within the study boundary is likely to change the character and create larger built forms with smaller front setbacks, fewer trees and increased vehicles.



Figure 31 Section showing impact of topography on development and the character of the street

## RECOMMENDATIONS

### 4.1. Findings

#### Scenario testing

Four Scenarios were tested to explore the potential impact of development under the current LEP and DCP controls to determine the impact of varying these controls. All scenarios assumed development would be similar to recent approvals and would seek to maximise FSR and/or site coverage. Each scenario also considered impacts on tree canopy, landscape area, parking, overshadowing and the character of the place.

Scenario 1 assumed no changes to the existing controls with development occurring to the full potential allowable under the R3 Medium Density Residential zone and other applicable controls.

Scenario 2 assumed all medium density lots were down zoned to a R2 Low Density Residential zone.

Scenario 3 retained the R3 Medium Density Residential zone on lots that were most likely to develop as apartments and down zoned sites less likely to develop as apartments to a R2 Low Density Residential zone.

Scenario 4 rezoned lots within the study area that were most likely to develop as apartments to R2 Low Density Residential and retained the remaining sites as R3 Medium Density Residential.

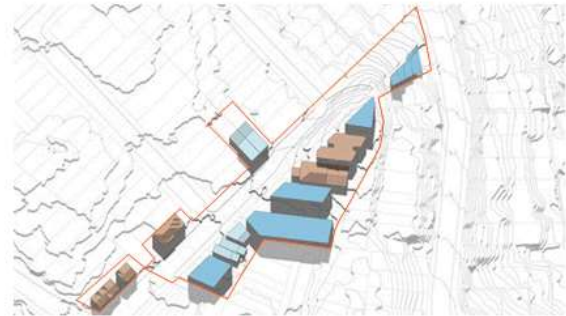


Figure 32 Scenario 1 (Overshadowing at Midday, 21 June)

Scenario 1 assumes no changes to existing controls. This scenario generated an increase of 24 dwellings however this relied on site amalgamations of up to three sites which may not be possible. Scenario 1 also generated 60 additional car spaces. Some of the additional spaces resulted from an increase in parking provision for dwelling houses. This scenario had the highest parking numbers and greatest impact on tree canopy, landscape area, overshadowing and the character of the place.



Figure 33 Scenario 2 (Overshadowing at Midday, 21 June)

Scenario 2 assumed all lots within the study area currently zoned R3 Medium Density Residential are rezoned to R2 Low Density Residential. This scenario generates an increase of 1 dwelling. Scenario 2 also generated 15 additional car spaces from increased parking provision for dwelling houses. This scenario had the highest parking numbers and the lowest impact on tree canopy, landscape area, overshadowing and the character of the place.

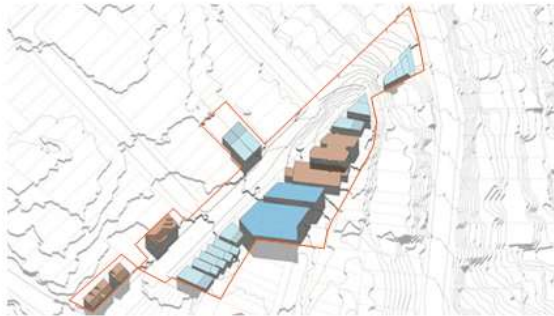


Figure 34 Scenario 3 (Overshadowing at Midday, 21 June)

Scenario 3 retained the R3 Medium Density Residential zone on lots that were most likely to develop. This scenario generates an increase of 18 dwellings although has a site amalgamation of three sites which is likely to be challenging. Scenario 3 also generates 49 additional car spaces although some additional spaces result from an increase in parking provision for dwelling houses. This scenario had the second highest parking numbers and greatest impact on tree canopy, landscape area, overshadowing and the character of the place.



Figure 35 Scenario 3 (Overshadowing at Midday, 21 June)

Scenario 4 rezoned lots within the study area that were most likely to develop as apartments to R2 Low Density Residential. This scenario generated an increase of 4 dwellings. Scenario 4 also generates 23 additional car spaces, the majority as a result from an increase in the parking provision for dwelling houses. This scenario had the highest parking numbers and the lowest impact on tree canopy, landscape area, overshadowing and the character of the place.

#### Key Findings

The wide variety of lot size and shape creates a diversity of dwelling size and dwelling type. This diversity remains regardless of the zone.

Although the area is zoned R3 Medium Density Residential the majority of current dwellings are small or large detached houses. The study area has two apartment buildings (one currently under construction) and a number of duplexes and small dwellings.

Many of the sites currently zoned to allow Medium Density housing are too small to be developed individually as an apartment building. All sites except 13 and 15 Riddell Street would need to amalgamate with at least one other site to develop as an apartment building. A number are so small they would need to amalgamate with at least two adjoining sites.

15 Riddell Street could also be amalgamated with 14 and 15 Buller Street to create a larger development site. Due to the unusual triangular lot shape an apartment building in this location would overshadow the rear gardens of 12 Buller Street and 11 Riddell Street.

The triangular shaped front gardens of 13 and 15 Riddell Street and the rear garden of 14 Buller Street, combined with trees in the street reserve, provide a green landscape setting along this section of Riddell Street. Apartment development on these sites, similar to the one recently approved at 21-23 Riddell Street, would substantially change the streetscape character.

Retaining the existing lot pattern and front setbacks provides the greatest opportunity for retaining as much of the existing trees canopy cover as possible

All scenarios generate more parking as this is highly desirable in this neighbourhood however apartment buildings, as they generate more dwellings result in the highest increase in car parking provision.

## RECOMMENDATIONS

### 4.2. Recommendations

#### General Comments

Sites in the local area are being developed for apartments, dual occupancies, as well as residential alterations and additions and rebuilds. It is an attractive and desirable place to live and so change is inevitable. Recent development occurring in and around the study area is larger than older style development, with fewer trees (both within property boundaries and along the street frontage) and often includes increased parking provisions. While new detached and attached dwellings are modifying the character, apartment buildings, with a higher FSR and increased built form, are having a greater impact on the scale and character of the existing streetscape.

From a strategic perspective the study area is in a high amenity, well located area and the current zoning encourages a variety and choice of housing types for the local area. From an urban design perspective the urban character of the study area is much closer to the low density housing character of Bradley Avenue, Lennox Street and Rivers Street than the high density character of apartments along Victoria Road. This is partly due to the generally smaller lot size but it is also a result of the underlying topography and the steep fall between Riddell Street and Victoria Road. The topography also means that development on some sites is visually prominent as they are located at a local high point. It is also noted that the wide variety of lot size, lot frontage and lot shape has already created a diversity of dwelling size and there is a range of dwelling types in the study area.

#### Matters for consideration

With a study of this nature it is necessary to ask if any change, ie a rezoning, is needed and what would be the impact of the change. This study has taken the approach that changes should only be recommended when the change is likely to make a significant difference to the character and amenity of the area.

It has also considered the zoning of surrounding sites to avoid incompatibility with adjoining land uses. For example, while typically the same zone is recommended on adjacent sites, the steep topography makes it possible for lots fronting Riddell Street to have a lower density than lots fronting Victoria Road but still have a built form that is taller and unlikely to be overlooked or overshadowed. Similarly the unusual lot shape of 14 Buller Street means that development of 11 Riddell Street overlooks a narrow section of the triangular shaped rear garden of 14 Buller Street.

When considering the impact of a rezoning it is also necessary to consider how critical these sites are in the provision of existing and future housing needs and how likely it is that the sites affected would be developed? Within the study area most sites are highly unlikely to become apartment developments due to the size and/or shape of lots. While amalgamations can and do occur these become less likely when more than one adjoining site is required. For example while Scenario 1 appears to generate an additional 24 dwellings this relies on site amalgamations of up to three sites, which is unlikely.

It is also noted that the study area is a very small part of a much larger area that is zoned R3 Medium Density Residential and many of the sites within the study area are much smaller and narrower than most of the sites in the wider medium density area.



Figure 36 Study area in context of area zoned R3 Medium Density Residential



Figure 37 Land zoning for recommended scenario- overlaid with topography

**Land Zone**

It is recommended that the central part of the study area is rezoned from R3 Medium Density Residential to R2 Low Density Residential. These sites are located on a ridge and have a local character similar to Bradley Avenue and Lennox Street which are accessed off Riddell Street and form a gateway to these adjoining lower density areas. Apartment development on these sites would change the landscape character of the study area. This includes the following sites;

- (A) • Detached dwellings at 25 and 27 Riddell St.
- A recently approved apartment building at 21-23 Riddell Street. This apartment building once completed would rely on existing use rights for any future applications.
- Attached dwelling at 17 and 19 Riddell Street.
- Detached dwellings at 13 and 15 Riddell Street.
- Detached dwellings at 14 and 15 Buller Street. These sites wrap around 13 Riddell Street and could create interface incompatibility issues.

It is recommended that the following sites retain their current land zone:

- (B) 154 Victoria Road is located on Victoria Road and is much lower than properties on Riddell Street. While the site is too small to be an apartment development it could be amalgamated with the adjoining site.

- (C) 1, 3, 5, 9 and 11 Riddell Street are small narrow frontage sites close to the local shops. While their small size makes them unlikely to be suitable for apartment development they are a higher density of development for the local area.
- (D) 29 A,B & C Bellevue Road have recent dual occupancies and detached dwellings on this corner site. These sites have been developed to their maximum development capacity under the R3 Medium Density Residential zoning and so changes are unlikely. These sites are also surrounded by R3 Medium Density Residential.
- (E) 29 Lennox Street is a small apartment building with 4 dwellings. These apartments have been developed to a maximum development capacity under the R3 Medium Density Residential zoning. This site is also surrounded by R3 Medium Density Residential sites.
- (F) 4 & 6 Riddell Street are two sites facing Riddell Street. These sites are currently R2 Low Density Residential and are surrounded by sites zoned R2 Low Density Residential. These sites are too small to be developed as dual occupancies but a larger modern dwelling could be constructed.

RECOMMENDATIONS

4.3. Impacts & Next Steps

**Housing Targets**

The recommended changes to the zone of 10 sites within the study area could reduce the theoretical potential yield by approximately 20 dwellings. This is a small reduction, partly because it only affects a few sites and also partly because a number of these sites do not have much development potential, either because they have recently developed or because the site is too small to be developed as an apartment site.

It is also noted that, due to the desirability of the location, apartment developments are typically large luxury apartments that are a minimum of 3 bedrooms in size. While popular, large apartments play a small role in increasing the diversity of housing supply and do little to provide a more affordable option for smaller households.

It is suggested that the real loss of dwellings will not be as high as 20 as this theoretical yield assumes amalgamation of several sites will be possible and financially viable. A realistic loss is probably closer to half i.e 10 dwellings.

**Jobs Targets**

The study area is zoned for residential development and the changes proposed retain this residential zoning. The changes should have no impact on jobs targets.

**Parking**

The recommended changes would require the provision for 23 car spaces, inclusive of visitor parking. This is 37 car parking spaces less than the numbers that would be required for Scenario 1 (retain the current controls).

**Low Rise Housing Diversity Code**

Under this code, the sites currently zoned R3 Medium Density Residential could be developed into dual occupancy, manor house or multi dwelling housing (terraces). However, by rezoning the 10 sites to R2 Low Density Residential zone, that type of development would not be permitted.

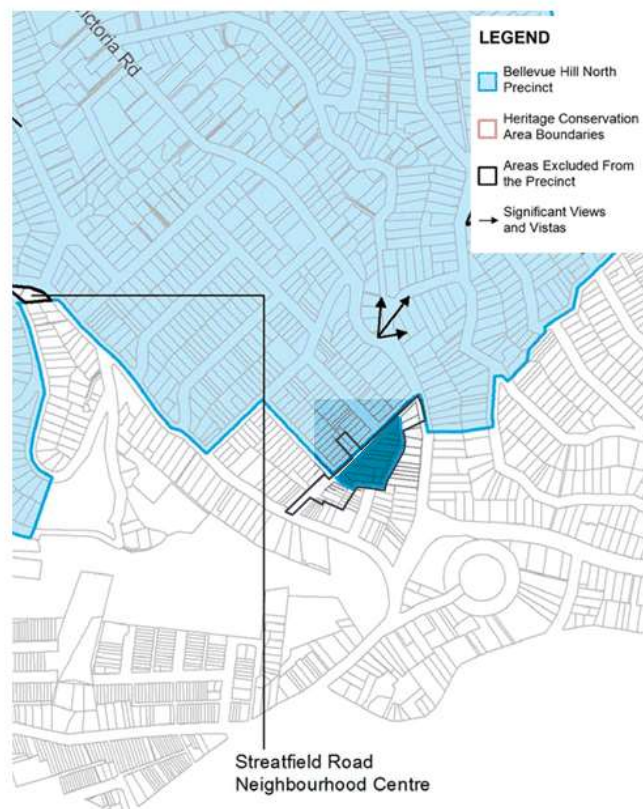


Figure 38 Diagram showing the suggested extension to the Bellevue Hill North character precinct

**DCP amendments**

*Precinct Character*

The study area is located on the edge of two character precincts, Bellevue Hill North and South Precinct. One outcome of these rezoning recommendations would be that the boundary of these two character areas is redrawn. Bellevue Hill North should be expanded to included the south-eastern side of Riddell Street which, as identified earlier, is clearly part of this plateau. The Figure 38 shows where this extension would occur. Bellevue Hill South would similarly need to be revised to remove the section identified.

*Front setbacks*

During the preparation of this report it has been observed that a key challenge at the north-eastern side of Riddell Street has been the unusual lot design and the way that the front setback control has been written and interpreted. The lot boundaries are not at a right angle to the street which traditionally has resulted in triangular shaped front gardens. On large sites these gardens are large and contribute to the landscaped character of the street. With recent development the DCP front setback control has been interpreted to allow development parallel with the front boundary (see Figure 39) and much closer to the front boundary which is resulting in a loss of landscape character.

Regardless of Council's decision to submit or not submit a planning proposal to rezone the land it is strongly recommended that Council include an additional control for front setbacks where the front boundary is not at right angles to the side boundaries and where the current characteristic front setback is not consistent across the front of the site. A suggested control could be something like:

Front setbacks are to be consistent with the predominant building line and streetscape character established by adjoining and nearby houses. Where the front setback is at an angle to the side boundaries, a stepped or varied front setback may be appropriate (see Figure 40).

**Actions for Council**

If Council chooses to accept the recommendation to rezone 10 sites within the study area to R2 Low Density Residential the next step will be to prepare a planning proposal for these sites. The planning proposal would need to identify that the change was of minor significance and also provide consideration of the change on the variety and choice of housing types and impact on the environment. The planning proposal would also have to identify the required changes to the LEP and DCP.

It is strongly recommended that Council undertake discussions with land owners affected by this change as it could have both negative and positive impacts. If the owners are intending to retain a detached or attached dwelling on the site the change would ensure that neighbouring sites along Riddell Street could not become an apartment development. If the owners have an aspiration to develop their site as an apartment development then the rezoning would make this impossible.

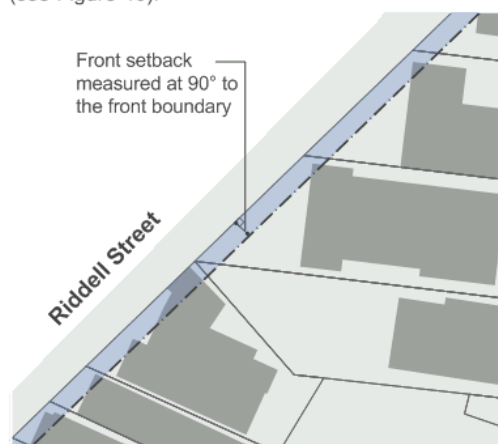


Figure 39 Diagram showing the existing DCP controls for Front Setbacks

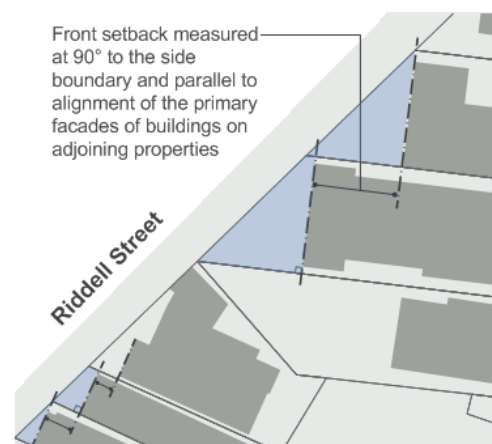


Figure 40 Diagram showing the recommended DCP controls for Front Setbacks





**Item No:** R7 Recommendation to Council  
**Subject:** **POST EXHIBITION REPORT - DRAFT WOOLLAHRA SECTION 7.12 DEVELOPMENT CONTRIBUTIONS PLAN 2021**  
**Author:** Kelly McKellar, Team Leader Strategic Planning  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/108797  
**Reason for Report:** To report on the public exhibition of the Draft Woollahra Section 7.12 Development Contributions Plan 2021  
To obtain Council's approval of the Draft Woollahra Section 7.12 Development Contributions Plan 2021 which will repeal and replace the Woollahra Section 94A Development Contributions Plan 2011.

**Recommendation:**

THAT Council approve the *Draft Woollahra Section 7.12 Development Contributions Plan 2021*, as attached at **Annexure 1** of the report to the Environmental Planning Committee meeting of 12 July 2021, which will repeal and replace the *Woollahra Section 94A Development Contributions Plan 2011*.

---

**1. Background**

Section 7.12 (previously 94A) of the *Environmental Planning and Assessment Act 1979* (the Act) allows councils to impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage of the proposed cost of carrying out the development.

For Council to impose a condition under 7.12 of the Act to levy development contributions, a contributions plan must be in place. Contributions plans must comply with the requirements of the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

Funds obtained through the section 7.12 levy are applied towards the provision, extension or augmentation of public amenities or public services or towards recouping the costs in providing, extending or augmenting those amenities or services.

Section 7.12 funds are only one source of revenue available to Council for expenditure on projects. As such, the Section 7.12 plan is not the mechanism for approving expenditure on projects, nor does it approve the carrying out of the works. Expenditure of Section 7.12 funds is facilitated through the approval of Council's annual budget which is contained in Council's annual operational plan.

The *Woollahra Section 94A Development Contributions Plan 2011* commenced on 31 August 2011. The 2011 Plan authorises Council to impose conditions on development consents requiring the Applicant to pay Council a maximum levy of 1% of the proposed cost of carrying out the development.

The current Section 94A Contributions Plan is now 10 years old, and requires updating. Accordingly, staff prepared the *Draft Woollahra Section 7.12 Contributions Plan 2021* (Draft Plan) to replace the 2011 Plan. It introduces substantial changes including updating class references to the Act<sup>8</sup>, the indexation method, and updating the associated works schedule.

On 10 May 2021 the Environmental Planning Committee considered a report presenting the updated contributions plan (a copy of the report is attached at **Annexure 3**). Subsequently, on 24 May 2021 Council resolved:

- A. *THAT the report on the Draft Woollahra Section 7.12 Development Contributions Plan 2021 be received and noted.*
- B. *THAT Council resolve to exhibit the Draft Woollahra Section 7.12 Development Contributions Plan 2021 as contained in the late correspondence tabled to Council Meeting on 24 May 2021.*

## 2. Public exhibition

The Draft Plan and supporting material was placed on public exhibition from to 2 June 2021 to 2 July 2021. Public exhibition was consistent with the requirements of the Act, the Regulation, the *Woollahra Community Participation Plan 2019* (Woollahra CPP 2019) and the relevant NSW Government Practice Notes and Planning Circulars.

Public exhibition and notification included the following:

1. Five weekly notices in the *Wentworth Courier* providing details of the exhibition, appearing on 2 June 2021, 9 June 2021, 16 June 2021, 23 June 2021 and 30 June 2021.
2. A public exhibition webpage on *Your Say Woollahra*. This webpage was visited by 42 people during the exhibition period.
3. Display of the Draft Plan and supporting materials at the Customer Service counter of the Woollahra Council Chambers at Double Bay, available during normal business hours.
4. A notification letter or email sent to the following stakeholders:
  - Darling Point Society
  - Double Bay Residents Association
  - HarbourView Neighbourhood Watch and Residents Group
  - Point Piper Residents Association
  - Queen Street & West Woollahra Association
  - Rose Bay Residents Association
  - The Paddington Society
  - The Watsons Bay Association
  - Vacluse West Residents' Association
  - Vacluse West Residents' Association
  - Vacluse Progress Association.

We received one submission to the public exhibition of the Draft Plan from The Scots College (**Annexure 3**). In summary, the submission requests that a clause is added to allow Council to exercise discretion to exempt schools and other charitable organisations from contributions levies.

---

<sup>8</sup> In March 2018, the Act was updated to make it easier to navigate and understand. References in the Act were updated, including an update to the references for and associated with development contributions.

The submission makes reference to the recent development application (DA) where Council levied over \$288k under our current development contributions plan, despite there being no increase in student numbers.

Notwithstanding that there is no increase in student numbers for this DA, the works proposed are an intensification of the existing use of the land, and there are consequential impacts on Council managed infrastructure such as roads and parks & reserves.

Council staff note that the Draft Plan is an update of the 2011 Plan, and the 2011 Plan does not include provisions which exempt schools.

Council staff do not recommend any changes to the Draft Plan in relation to the matters raised in the submission.

### **3. Post-exhibition administrative amendments**

Council staff recommend that post exhibition administrative amendments are made to the Draft Plan. These amendments are minor in nature and relate to references to the Act and cross-references between sections of the Draft Plan.

The most substantial amendment is on page eight where staff recommend that section 2.15 is separated into three sections to more easily identify when payment of development contributions is required in relation to construction certificates, complying development certificates, subdivision certificates and occupation certificates.

The recommended administrative amendments are identified in ~~red strikethrough~~ and blue underline in **Annexure 1**.

### **4. Finalisation**

The process for preparing a contributions plan is set out in the Act and the Regulation. Should Council resolve to approve the *Draft Woollahra Section 7.12 Development Contributions Plan 2021* at **Annexure 1** it will be updated to remove the annotations referred to above.

In accordance with Section 31(2) of the Regulation, notice of Council's decision will be published on Council's website and in the Wentworth Courier. The Draft Plan will then come into effect on the date that the public notice appears or on a later date specified in the notice. Its commencement will repeal the 2011 Plan.

Should the Council decide not to proceed with the Draft Plan, the notice must set out the reasons for the decision.

### **5. Conclusion**




The current Section 94A Contributions Plan is 10 years old, and requires updating. Staff have prepared the *Draft Woollahra Section 7.12 Contributions Plan 2021* which if adopted by Council, will repeal the 2011 Plan.

The public exhibition was held between 2 June 2021 and 2 July 2021. The exhibition website was viewed by 42 people and one submission was received from the Scots College relating to exemptions for schools and other charitable organisations. Having considered that matters raised in the submission, staff do not recommend further amendments the *Draft Woollahra Section 7.12 Contributions Plan 2021* which is essentially an update of the 2011 Plan.

Staff are recommending minor post exhibition administrative amendments. These amendments include formatting changes to section 2.15 so that applicants can more easily identify when payment of development contributions are required.

The Draft Plan was exhibited in accordance with the Act, the Regulation, the Woollahra CPP and relevant Government Practice Notes and Planning Circulars. Staff recommend that Council resolve to approve the *Draft Woollahra Section 7.12 Contributions Plan 2021* as contained at **Annexure 1**.

### Annexures

1. Draft Woollahra Section 7.12 Development Contributions Plan 2021 with recommended post exhibition amendments - July 2021 [↓](#) 
2. Report to Environmental Planning Committee - 10 May 2021 (Annexures removed) [↓](#) 
3. Redacted copy of submission to the public exhibition [↓](#) 



# Woollahra Section 7.12 Development Contributions Plan 2021

DRAFT July 2021

Draft Woollahra Section 7.12 Development Contributions Plan 2021

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## 1. Introduction

Section 7.12 of the *Environmental Planning and Assessment Act 1979* (the Act) authorises the consent authority ~~in respect of a development application~~ 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:

<b>Schedule 1</b>	▶ Summary of works for which levies are required. The schedule was adopted on [TBC] 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:

- 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

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#### 2.3.1. Land to which plan applies

This Plan applies to all land within the [Woollahra Municipal Council local government area Municipality of Woollahra](#).

#### 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.

#### 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](#) ~~certifying authority~~ 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 TBC and commenced on TBC.

*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
<b>Development that has a proposed cost of carrying out the development</b>	
• 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

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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

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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.

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### 2.11. Deferred or periodic payment

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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<sup>3</sup>.

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

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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 reflect 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.

$$NL = L_o + \frac{L_o \times [\text{current CPI} - \text{base CPI}]}{\text{base CPI}}$$

where

NL	Is the new section 7.12 levy
L <sub>o</sub>	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.](#)

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~~2.14 Construction certificates and certifying authority~~

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

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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

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A ~~certifying authority~~ 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 ~~in accordance with the consent~~ has been ~~satisfied~~ 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.

~~The certifying authority must ensure that the applicant provides a receipt(s) confirming that the levy has been fully paid. Where the certifying authority is not the Council, a copy of the receipt must be provided with the copies of the documentation submitted by the registered certifier to the Council following determination of the construction certificate application.~~

~~The exception to this requirement may occur where the Council has agreed to the payment of the levy in a particular manner after a construction certificate is issued. In these cases, the registered certifier must provide a copy of the agreement with the copies of documentation submitted to the Council following determination of the construction certificate application.~~

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*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.

Draft Woollahra Section 7.12 Development Contributions Plan 2021

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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:

- The works listed in this schedule are to be funded from a mix of sources, including section 7.12 funds.
- 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.
- 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 <ul style="list-style-type: none"> <li>Pedestrianisation</li> </ul>	300,000	Short
LGA	2	General Works <ul style="list-style-type: none"> <li>As identified in accordance with Council's Asset Management Policy and Asset Management Strategy</li> </ul>	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 construction <ul style="list-style-type: none"> <li>Construction of multi-courts at Lough Playing fields</li> </ul>	310,000	Short
3	5	Eastbourne Reserve upgrade <ul style="list-style-type: none"> <li>Retaining wall replacement and landscaping</li> </ul>	140,000	Short
4	6	Park lighting upgrade <ul style="list-style-type: none"> <li>Installation of lighting at Royal Hospital for Woman Park</li> </ul>	80,000	Short
5	7	Bellevue Park extension of pathway and landscaping <ul style="list-style-type: none"> <li>Bellevue Park Stage 2 Design &amp; Consultation.</li> </ul>	35,000	Short - Medium

Draft Woollahra Section 7.12 Development Contributions Plan 2021

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
6	8	Tingira Reserve Landscape upgrades <ul style="list-style-type: none"> <li>Pathway renewal, irrigation and landscaping improvements</li> </ul>	100,000	Short - Medium
7	9	Lyne Park Landscape Upgrade <ul style="list-style-type: none"> <li>Improved entry garden beds to Lyne Park off New South Head Rd</li> </ul>	50,000	Short
8	10	Landscape improvements <ul style="list-style-type: none"> <li>Landscaped improvements to Moncur Reserve, Plumb Reserve and Raoul Wallenburg Reserve</li> </ul>	100,000	Short
9	11	Trumper Park Pathway renewal <ul style="list-style-type: none"> <li>Pathway renewal from the Trumper Park Tennis Courts to Edgecliff Train Station (Bowes Avenue)</li> </ul>	195,000	Short - Medium
10	12	Chester St Embankment landscaping <ul style="list-style-type: none"> <li>Revegetation and landscaping of the Chester St embankment</li> </ul>	60,000	Short
11	13	Parsley Bay cliff columns <ul style="list-style-type: none"> <li>Renewal of columns under cliff edges</li> </ul>	105,000	Short
12	14	Figtree Reserve landscaping <ul style="list-style-type: none"> <li>Landscaping works due to flood damage to Figtree Reserve overlooking Cooper Park</li> </ul>	190,000	Short
13	15	Dillion Street Reserve <ul style="list-style-type: none"> <li>Stage 2 upgrade of Dillion Street Reserve including landscaping and play equipment</li> </ul>	200,000	Short
14	16	Rushcutters Bay Park Youth Facility <ul style="list-style-type: none"> <li>Construction</li> </ul>	325,000	Short
15	17	Yarranabbe Park <ul style="list-style-type: none"> <li>Northern Plaza and stairs construction</li> </ul>	290,000	Short
16	18	Sayonara Slipway <ul style="list-style-type: none"> <li>Construction of improvements</li> </ul>	150,000	Short
17	19	Playground - renewal <ul style="list-style-type: none"> <li>Lyne Park Playground Design &amp; Consultation.</li> </ul>	30,000	Short to Medium
18	20	Synthetic Cricket wicket upgrades <ul style="list-style-type: none"> <li>Replacement of synthetic on Rushcutters Bay Park and Lough Playing Fields cricket pitches</li> </ul>	30,000	Short to Medium
LGA	21	Park & Street Tree Planting	150,000	Short

▶ Pg.12

Draft Woollahra Section 7.12 Development Contributions Plan 2021

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
		<ul style="list-style-type: none"> <li>Annual planting programs of street and park trees including maintenance</li> </ul>		
LGA	22	Park furniture <ul style="list-style-type: none"> <li>Renewal and new park furniture replacement in parks across the LGA.</li> </ul>	150,000	Short
LGA	23	Park and Venue Signage <ul style="list-style-type: none"> <li>Renewal and new park signage in parks across the LGA. Identified in the asset register</li> </ul>	60,000	Short
LGA	24	Park Fencing - New and Replace <ul style="list-style-type: none"> <li>Renewal of park fencing identified in the asset register</li> </ul>	150,000	Short
LGA	25	Softfall renewal <ul style="list-style-type: none"> <li>Softfall renewal as identified in asset register</li> </ul>	100,000	Short
LGA	26	Fitness Station Renewal <ul style="list-style-type: none"> <li>Various upgrades</li> </ul>	100,000	Short
LGA	28	Project Management <ul style="list-style-type: none"> <li>Designs for future capital projects</li> </ul>	50,000	Short
LGA	29	General works <ul style="list-style-type: none"> <li>As identified in accordance with Council's <i>Asset Management Policy</i> and <i>Asset Management Strategy</i></li> </ul>	100,000	Short

### 3. Property and Projects Management

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
LGA	30	General Works <ul style="list-style-type: none"> <li>As identified in accordance with Council's <i>Asset Management Policy</i> and <i>Asset Management Strategy</i></li> </ul>	100,000	Short
LGA	31	Disabled access improvements <ul style="list-style-type: none"> <li>Disabled access improvements as determined annually on inspection by Council's Property team</li> </ul>	50,000	Short
19	32	Part funding of interest on Kiaora Place Loan	275,000	Short
LGA	33	Essential services upgrades	15,000	Short

Draft Woollahra Section 7.12 Development Contributions Plan 2021

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
		<ul style="list-style-type: none"> <li>Upgrade of fire safety and essential services as determined annually on inspection by Council's Property team</li> </ul>		

#### 4. Environmental Works

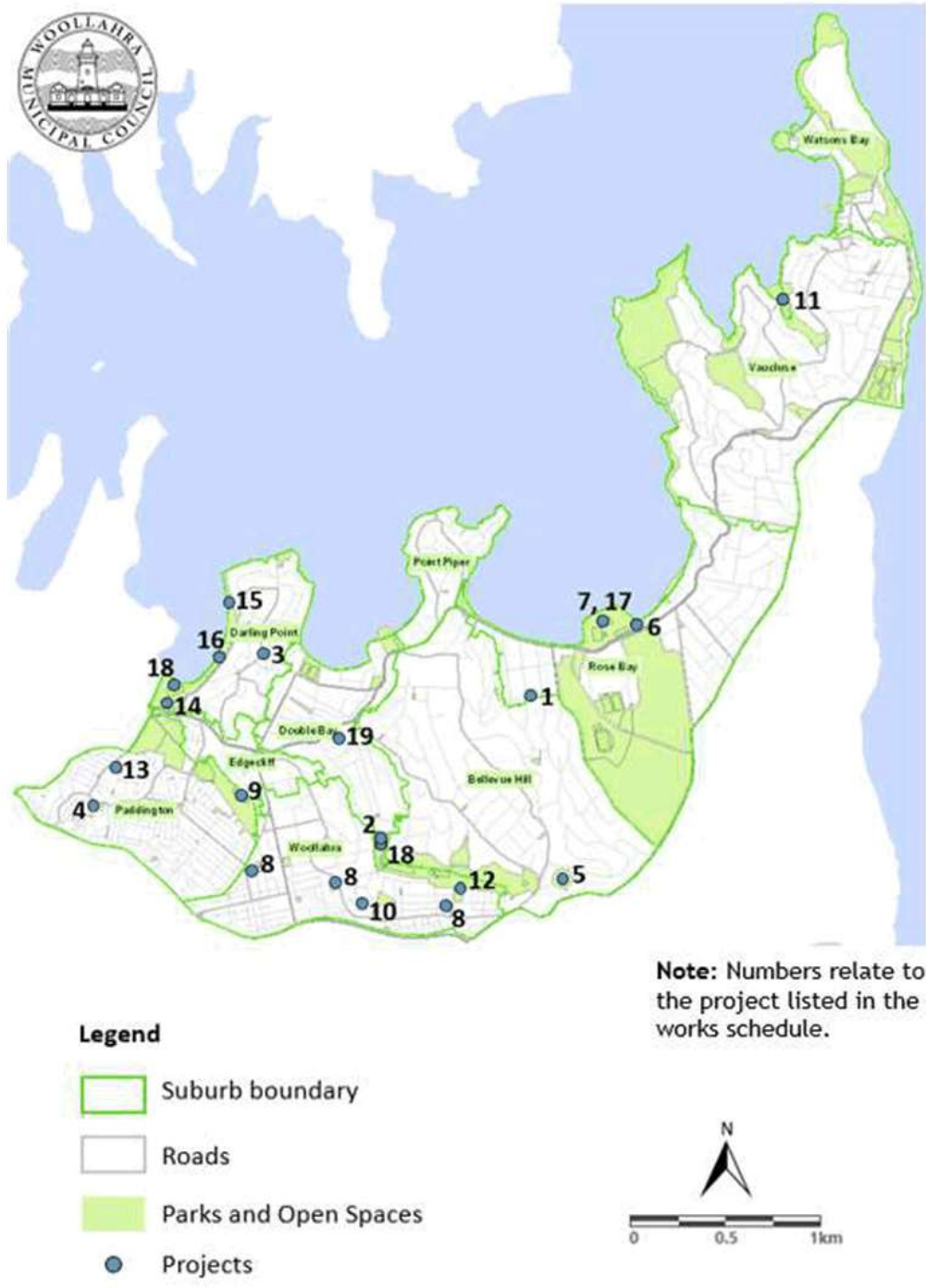
Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
LGA	34	General works <ul style="list-style-type: none"> <li>As identified in accordance with Council's Environmental Sustainability Action Plan 2013-2025</li> </ul>	100,000	Short

#### 5. Community facilities

Map ref	Item No.	Public facility works	Estimated cost (\$)	Estimated time (term)
LGA	35	Public Art throughout municipality <ul style="list-style-type: none"> <li>Installations at locations to be identified</li> </ul>	100,000	Short

▶ Pg.14

### 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

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- 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



Draft Woollahra Section 7.12 Development Contributions Plan 2021

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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.*

Woollahra Municipal Council  
Environmental Planning Committee Agenda

10 May 2021

**Item No:** R4 Recommendation to Council  
**Subject:** **DRAFT WOOLLAHRA SECTION 7.12 DEVELOPMENT CONTRIBUTIONS PLAN 2021**  
**Author:** Anne White, Manager - Strategic Planning  
**Approver:** Nick Economou, Acting Director Planning & Place  
**File No:** 21/77927  
**Reason for Report:** To propose a new Section 7.12 Development Contributions Plan to reflect updates to the Environmental Planning and Assessment Act 1979, an updated schedule and indexing.  
To obtain Councils approval to exhibit a draft development contributions plan.

**Recommendation:**

- A. THAT the report on the *Draft Woollahra Section 7.12 Development Contributions Plan 2021* be received and noted.
- B. THAT Council resolve to exhibit the *Draft Woollahra Section 7.12 Development Contributions Plan 2021* as contained in **Annexure 2** of the report to the Environmental Planning Committee of 10 May 2021.

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**1. Background**

Section 7.12 (previously 94A) of the *Environmental Planning and Assessment Act 1979* (the Act) allows councils to impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage of the proposed cost of carrying out the development.

For Council to impose a condition under 7.12 a contributions plan, that complies with the requirements of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), must be in place.

Council approved the *Woollahra Section 94A Development Contributions Plan 2011* on 22 August 2011 (the 2011 Plan) and it commenced on 31 August 2011 (see **Annexure 1**). The 2011 Plan authorises Council to impose conditions on development consents, which requires the applicant to pay Council a maximum levy of 1% of the proposed cost of carrying out the development.

A Minister Direction under (the then) section 94E of the Act (10 November 2006) directs the maximum percentage of the levy, based on the range of the development cost:

- up to \$100,000 the maximum percentage of the levy is Nil
- \$100,001 - \$200,000 the maximum percentage of the levy is 0.5%
- more than \$200,001 the maximum percentage of the levy is 1.0%

These limitations are set down in the Regulation.

Funds obtained through the section 7.12 levy are applied towards the provision, extension or augmentation of public amenities or public services or towards recouping the costs in providing, extending or augmenting those amenities or services.

In preparing a Section 7.12 Plan, Council must show the public amenities or public services in a schedule and also on a map. The funds from levies paid may be pooled and used progressively, and indicative priorities for expenditure should be set out in the Plan.

Section 7.12 funds are only one source of revenue available to Council for expenditure on projects. As such, the Section 7.12 plan is not the mechanism for approving expenditure on projects, nor does it approve the carrying out of the works. Expenditure of Section 7.12 funds is facilitated through the approval of Council's annual budget which is contained in Council's annual operational plan.

## **2. Current Woollahra Section 94A Contributions Plan 2011**

Section 7.12 levies acquired by condition of consent under the 2011 Plan are applied to the provision, extension or augmentation of public facilities or towards recouping the cost of their provision, extension or augmentation.

The demand for public facilities is related to expected residential, commercial, retail and other non-residential development across the Municipality. The schedule of works included in the current plan is now ten years old, and some projects have been completed and additional projects have been identified.

## **3. Draft Woollahra Section 7.12 Contributions Plan 2021**

The *Draft Woollahra Section 7.12 Contributions Plan 2021* (Draft Plan) has been prepared to replace the 2011 Plan. The Draft Plan introduces substantial changes including updating class references to the Act<sup>1</sup>, the indexation method, and updating the associated works schedule. The Draft Plan is provided at **Annexure 2**. The Draft Plan will repeal the 2011 Plan.

### **3.1. Consumer Price Index**

To ensure that the value of contributions for the construction and delivery of infrastructure is not eroded over time by inflation, the 2011 Plan authorises that contributions will be adjusted over time. In this way, the contribution will accurately reflect the actual cost of the proposed development at the time of construction,

Since the adoption of the 2011 Plan, Council has used the Building Price Index (BPI) issued initially by the NSW Department of Commerce. However, the BPI has been discontinued so another mechanism to index payments is required for the Draft Plan.

In preparing this report, staff have reviewed best practice for indexation including legislation, Ministerial directions, practice notes and other Sydney Council contributions plans. In the examples used, all Council's index their contributions plans using the *Consumer Price Index (CPI) Sydney - All Groups* as published by the Australian Bureau of Statistics (ABS). The index is freely available and referenced in the Regulation as "readily accessible". Therefore, it is recommended that Council also adopt the use of the CPI Sydney – All Groups as published by the ABS as the method of indexing Section 7.12 development contributions.

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<sup>1</sup> In March 2018, the Act was updated to make it easier to navigate and understand. References in the Act were updated, including an update to the references for and associated with development contributions. These changes have been reflected in the Draft Plan.

### **3.2. Works Schedule**

It is noted that the Draft Plan is shorter than the 2011 Plan. This is because the Draft Plan has been prepared as an interim measure to update the 2011 Plan, and the works schedule has been based on the works identified in the 2021/22 draft budget. The location of individual public facility works are shown on the accompanying map.

As Council prepares its new draft budget for 2022/2023, a corresponding (and longer term) Section 7.12 Plan will be prepared which will identify short term (1-2 years), medium term (3-5 years) and long term (5-10 years) projects.

### **3.3. Timing of deferred or periodic payments**

The Draft Plan requires that, as a condition of accepting a deferred or periodic contribution payment, Council requires a bank guarantee in which the bank unconditionally agrees to pay the contribution to Council on completion of the development. The 2011 Plan requires that this payment must be made on completion of the development, or no earlier than 12 months from the provision of the guarantee whichever occurs first. However, due to the difficulty in managing the 12 month deferral, we recommend the removal of this element in the Draft Plan.

## **4. Infrastructure Contributions Review**

In April 2020, the Minister for Planning and Public Spaces requested the NSW Productivity Commissioner undertake a review of the infrastructure contributions system in New South Wales.

The Final Report was released on 3 December 2020 and it contained a series of recommendations for review. Priority recommended reforms include:

- amending the local government rate peg to reflect population growth
- cost reflective section 7.11 contributions based on efficient costs
- requiring infrastructure contributions plans to be developed upfront prior to rezoning
- retaining the simplicity of section 7.12 levies but with a higher maximum rate for residential development
- restoring water charges for Sydney Water and Hunter Water, which are currently set at zero.

In March 2021, the Government accepted all 29 recommendations in the Final Report. Over the coming months. The Department of Planning, Industry and Environment (DPIE) have identified that they will progress the Review's recommendations in line with a project roadmap. Council staff will monitor the roll out of the recommendations and the potential implications to Woollahra and report back to Council as required.

## **5. Next Steps**

If Council supports the Draft Plan, the next step is to exhibit the Draft Plan. The process for exhibiting a contributions plan is set out in the EP&A Act 1979, the *Environmental Planning and Assessment Regulation 2000*, and the *Woollahra Community Participation Plan 2019*.



The Draft Plan must be publicly exhibited for a minimum of 28 days. Public notice will be given in the *Wentworth Courier* each week of the exhibition and on Council's website. The outcome of the public exhibition will be reported to a future Committee meeting.

## 6. Conclusion

The current Section 94A Contributions Plan is now 10 years old, and requires updating to identify new projects that have been identified for completion in the 2021/2022 budget. Staff have prepared a Draft Plan which if adopted by Council, will repeal the 2011 Plan.

Staff recommend that Council resolve to exhibit the *Draft Woollahra Section 7.12 Contributions Plan 2021* as contained in **Annexure 2**.

### Annexures

1. Woollahra Section 94A Development Contributions Plan 2011 [↓](#) 
2. Draft Woollahra Section 7.12 Development Contributions Plan 2021 [↓](#) 

The Scots College  
[REDACTED]  
Bellevue Hill NSW 2023

2 July 2021

The General Manager  
Woollahra Municipal Council  
PO Box 61  
Double Bay NSW 1360

Dear Sir,

**RE: Woollahra Municipal Council Development Contributions Plan 2021**

I refer to the above draft document on public display and wish to highlight that no provision for exemption from contributions exists for educational establishments, and other not-for-profit charities and entities.

The College has recently been levied over \$288k under Council's s7.12 development contributions plan in spite of the development being the upgrading of an existing building with no consequent increase in student numbers, thus resulting in no increased demand for public services or facilities.

Listed as an exhibition document, *Section 7.12 fixed development consent levies - Practice note - February 2021* by Planning NSW notes, that under 1.6 'Councils may choose to exempt some types of development from s7.12 levies; low income (affordable) housing, works undertaken for charitable purposes or by a registered charity, places of worship, public hospitals, police and fire stations, childcare facilities, libraries, and other community or educational facilities.'

These exemptions have traditionally existed to reflect the public good provided by not-for-profit entities. In the case of Scots and other independent schools, it is the provision of education in a local government area where no public high school exists. Reviewing the draft *Woollahra Municipal Council Development Contributions Plan 2021*, I note that there is no clause referring to any exemptions from the levies; the absence of this clause means that Council does not give itself the discretion to exercise any such exemption as is permitted under the practice note above.

By way of comparison with other schools, in various LGAs, in their resultant development consents:

- St Joseph's College Hunters Hill and MLC Burwood had their section 94A/7.12 contributions waived upon request;

- In the Wenona, Pymble Ladies College, and Knox Grammar School Secretary's Assessment Reports, there is useful commentary regarding why these schools should not have contributions (under section 94/7.11) imposed i.e. there is no increase to student numbers and no demand;
- For St Aloysius, Loreto, Shore, Redlands, and St Ignatius, there was no section 94A/7.12 contributions plan in force, though no increases to student numbers were proposed, and no section 7.11 contributions were imposed;
- At St Catherine's, Rouse Hill Anglican College, and Catherine McAuley, there were substantial increases to student numbers and contributions were imposed under either section 7.11 or section 7.12;
- Regarding state schools, no contributions were imposed despite student numbers being increased at Alexandria Park Community School and Mainsbridge School for Specific Purposes.

I request that Council give consideration to including a clause allowing provision for discretion in imposing levies on schools and other charitable organisations.

Yours sincerely,



Director of Property and Works

**Item No:** R8 Recommendation to Council  
**Subject:** **POST EXHIBITION REPORT - DRAFT WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015 (AMENDMENT NO. 17) - PROVISIONS FOR FIRE HYDRANT AND BOOSTER INSTALLATIONS**  
**Authors:** Emma Williamson, Strategic Planner  
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Nick Economou, Acting Director Planning & Place  
**File No:** 21/109339  
**Reason for Report:** To report on the public exhibition of the Draft Woollahra Development Control Plan 2015 (Amendment No. 17).  
To obtain Council's approval of the Draft DCP to enhance the provisions for fire hydrant and booster installations.

**Recommendation:**

THAT Council approve the *Draft Woollahra Development Control Plan 2015 (Amendment No. 17)* as attached at **Annexure 1** of the report to the Environmental Planning Committee meeting of 12 July 2021.

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**1. Background**

On 26 October 2020, Council adopted the following Notice of Motion (NOM):

*THAT Council:*

- A. *undertake a review of, and prepare a report to Council, on measures that can be taken in its planning instruments (including any amendment to its current Development Control Plan or Local Environmental Plan, amongst others) to ensure that:*
1. *all development in the municipality properly and thoroughly considers all possible mechanisms to avoid having to install fire hydrant and/ or fire hydrant boosters, including investigation as to potential upgrade to existing water pipes and water pressure measures;*
  2. *any fire hydrant and/ or fire hydrant booster required in relation to development in the municipality is properly catered for onsite and is situated, as far as possible, away from the street and/ or public domain such that it is not visible from the street; and*
  3. *in the event that the objectives of (A) or (B) above cannot be met despite the best endeavours of developers of sites, that any fire hydrant and/or fire hydrant booster that is visible from the street be properly enclosed and hidden from public view, and*
- B. *consider and report to Council on what measures may (if any) be employed to retrospectively mandate that exposed and visible fire hydrants and/or fire hydrant boosters be enclosed from public view.*



The following background information accompanied the NOM on the meeting agenda:

*Council's current planning instruments are unclear and uncertain as to the installation of fire hydrant and fire hydrant boosters in developments that are occurring in the municipality.*

*This infrastructure seems to be increasingly required, especially in multi-unit developments to boost water pressure on site and is an increasing blight on the streetscape, as they are often installed at eye level by the footpath.*

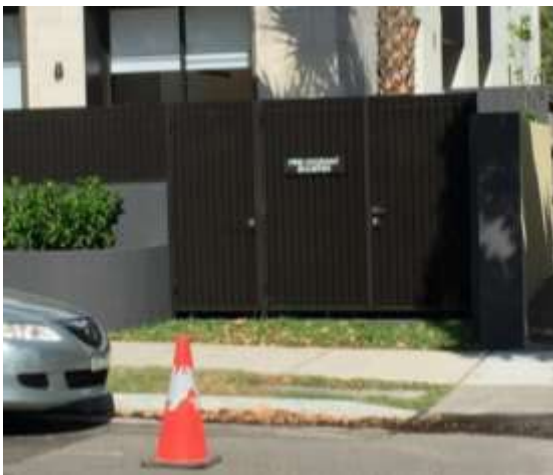
*Some developments have enclosed this infrastructure, whilst other developments have not.*



*New South Head Road, Rose Bay opposite  
"Embrace" sculpture and Lyne Park*



*Old South Head Road, Rose Bay*



*Newcastle St, Rose Bay*

Staff reviewed the existing planning provisions and identified opportunities in the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to update and strengthen the sections on site facilities by introducing objectives and controls to address the visual impact of hydraulic fire services, such as fire hydrants and boosters.

The amendments seek to ensure that new site facilities do not detract from Woollahra's streetscapes and require fire hydrant and booster installations to be housed in a cabinet or enclosure that is thoughtfully integrated into the design of the development (including the building, fencing and landscaping).

The suggested amendments are contained in the following chapters of Woollahra DCP 2015:

- Chapter B3 – General Development Controls
- Chapter C1 – Paddington Heritage Conservation Area
- Chapter C2 – Woollahra Heritage Conservation Area
- Chapter C3 – Watsons Bay Heritage Conservation Area
- Chapter D3 – General Controls for Neighbourhood and Mixed Use Centres
- Chapter D4 – Edgecliff Centre
- Chapter D5 – Double Bay Centre
- Chapter D6 – Rose Bay Centre

On 12 April 2021, Council’s Environmental Planning Committee (EPC) considered a report on the proposed amendments to Woollahra DCP 2015 (see **Annexure 2**). Part C of the EPC’s recommendation requested that staff prepare late correspondence for the Council meeting of 26 April 2021 to identify further amendments in response to the issues raised at the meeting.

Subsequently, staff prepared late correspondence which identified further changes to the proposed controls of the *Draft Woollahra Development Control Plan 2015 (Amendment No. 17)* (Draft DCP) to more clearly identify what is required in relation to the location and design of fire hydrant and booster installations.

Subsequently, on 26 April 2021, Council resolved:

- A. *THAT the report on the review of planning provisions for hydraulic fire services such as fire hydrant and booster installations be received and noted.*
- B. *THAT Council resolve to exhibit Draft Woollahra Development Control Plan 2015 (Amendment No 17) as contained in the late correspondence to the Council meeting on 26 April 2021.*

## **2. Public exhibition**

The Draft DCP and supporting material were placed on public exhibition for 31 days from Wednesday 12 May 2021 to Friday 11 June 2021 (inclusive) (see **Annexure 1**). Public exhibition was consistent with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the *Environmental Planning and Assessment Regulation 2000* (the Regulation) and the *Woollahra Community Participation Plan 2019*.

Public exhibition included the following:

1. Five weekly notices in the *Wentworth Courier* providing details of the exhibition, appearing on 12 May, 19 May, 26 May, 2 June and 9 June 2021.
2. A public exhibition webpage for the Draft DCP and supporting material on Your Say Woollahra. This webpage was visited by 39 people during the exhibition period.
3. A notice on Council’s website in the Notifications section.
4. Display of the Draft DCP and supporting materials at the Customer Service counter of the Woollahra Council Chambers at Double Bay, available during normal business hours.

5. A notification letter or email was sent to the following stakeholders:
  - Darling Point Society
  - Double Bay Residents Association
  - HarbourView Neighbourhood Watch and Residents Group
  - Point Piper Residents Association
  - Queen Street and West Woollahra Association
  - Rose Bay Residents Association
  - The Paddington Society
  - The Watsons Bay Association
  - Vaucluse West Residents Association
  - Vaucluse Progress Association
  - Fire and Rescue New South Wales – Fire Safety Compliance Unit.

### 3. Submissions

No submissions were received during the public exhibition of the *Draft Woollahra Development Control Plan 2015 (Amendment No. 17)*.

### 4. Finalisation

The process for amending a DCP is set out in the EP&A Act 1979 and the Regulation. The Draft Woollahra Development Control Plan 2015 (Amendment No. 17) has been prepared and publicly exhibited in accordance with these requirements.

If Council resolves to proceed with the amendment and approves the Draft DCP, it will come into effect on the date that a notice of Council's decision is published on Council's website and in the *Wentworth Courier* (or on a later date specified in the notice).

As noted in the EPC report of 12 April 2021 (at **Annexure 2**), when the DCP amendment comes into effect, Council staff will amend the *Woollahra DA Guide* to reflect the DCP requirements for hydraulic fire services.

### 5. Conclusion

The *Draft Woollahra Development Control Plan 2015 (Amendment No. 17)* responds to an adopted Notice of Motion from 26 October 2020. It seeks to address the potential visual impacts of hydraulic fire services, such as fire hydrants and boosters. The proposed controls seek to ensure that at the design and development application stage, these systems are housed in a suitably designed cabinet or enclosure that is visually unobtrusive and suitably integrated with the development.

The Draft DCP was publicly exhibited from 12 May 2021 to 11 June 2021. No submissions were received during the public exhibition period. Staff are satisfied that the exhibited controls are appropriate, and no amendments are recommended.

It is recommended that Council resolves to adopt the Draft DCP as contained in **Annexure 1**.

### Annexures

1. Draft Woollahra Development Control Plan 2015 (Amendment No. 17) as exhibited [↓](#)



2. Environmental Planning Committee report - 12 April 2021 (annexures removed) [↓](#) 



## Draft Woollahra Development Control Plan 2015 (Amendment 17)

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Prepared Date:	29 April 2021 for public exhibition
Adopted:	TBC
Commenced:	TBC
Division/Department:	Strategic Planning
HPE CM Record Number:	21/79492

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## Draft Woollahra Development Control Plan 2015 (Amendment No 17)

### Part 1 Preliminary

#### 1.1 Background

On-site fire hydrant systems form part of a building's essential safety measures. This includes services such as fire hydrants, sprinkler systems and the fire brigade booster assembly which are typically required for residential flat buildings or commercial buildings three or more storeys, to provide an on-site supply water for firefighting.

These hydraulic fire systems need to be installed and located in accordance with *Australian Standard AS2419.1. 2005 Fire hydrant installations* to ensure that the fire brigades have access to high pressure water as quickly and efficiently as possible. These installations are generally located at or near the street frontage where access for firefighting is optimal, but where there is also greater potential to impact on streetscape amenity.

On 26 October 2020 Council adopted the following notice of motion (NOM):

*THAT Council:*

- A. *undertake a review of, and prepare a report to Council, on measures that can be taken in its planning instruments (including any amendment to its current Development Control Plan or Local Environmental Plan, amongst others) to ensure that:*
  1. *all development in the municipality properly and thoroughly considers all possible mechanisms to avoid having to install fire hydrant and/ or fire hydrant boosters, including investigation as to potential upgrade to existing water pipes and water pressure measures;*
  2. *any fire hydrant and/ or fire hydrant booster required in relation to development in the municipality is properly catered for onsite and is situated, as far as possible, away from the street and/ or public domain such that it is not visible from the street; and*
  3. *in the event that the objectives of (A) or (B) above cannot be met despite the best endeavours of developers of sites, that any fire hydrant and/or fire hydrant booster that is visible from the street be properly enclosed and hidden from public view*
- B. *consider and report to Council on what measures may (if any) be employed to retrospectively mandate that exposed and visible fire hydrants and/or fire hydrant boosters be enclosed from public view.*

The following background information accompanied the NOM on the meeting agenda:

*Council's current planning instruments are unclear and uncertain as to the installation of fire hydrant and fire hydrant boosters in developments that are occurring in the municipality.*

*This infrastructure seems to be increasingly required, especially in multi-unit developments to boost water pressure on site and is an increasing blight on the streetscape, as they are often installed at eye level by the footpath.*

*Some developments have enclosed this infrastructure, whilst other developments have not.*

This draft development control plan seeks to amend the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to update and strengthen the sections on site facilities by introducing objectives and controls to specifically address the visual impact of hydraulic fire services, such as fire hydrant and boosters.

## 1.2 Name of plan

This plan is the *Woollahra Development Control Plan 2015 (Amendment No 17)*.

## 1.3 Objectives of the plan

The objectives of the plan are to:

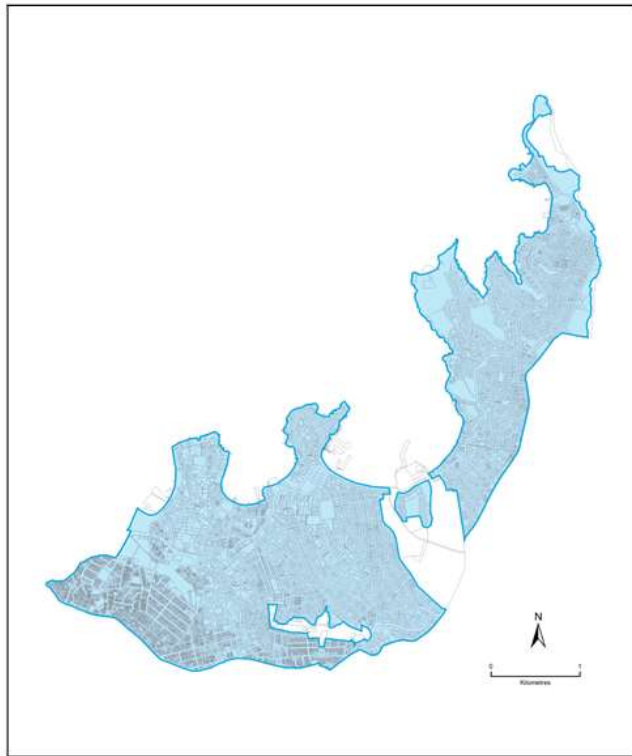
- a) Ensure essential site facilities are accessible, functional and unobtrusive.
- b) Ensure that hydraulic fire services are visually discreet and do not detract from the streetscape character.
- c) Require hydraulic fire services like fire hydrant and booster installations to be housed in a cabinet or enclosure that is thoughtfully integrated into the design of the development (including the building, fencing and landscaping).

## 1.4 Land to which this plan applies

This plan applies to land within the Woollahra local government area and identified on the map in **Figure 1** where the following chapters of the Woollahra DCP 2015 apply:

- Chapter B3 - General Development Controls
- Chapter C1 - Paddington Heritage Conservation Area
- Chapter C2 - Woollahra Heritage Conservation Area
- Chapter C3 - Watsons Bay Heritage Conservation Area
- Chapter D3 - General Controls for Neighbourhood and Mixed Use Centres
- Chapter D4 - Edgecliff Centre
- Chapter D5 - Double Bay Centre
- Chapter D6 - Rose Bay Centre





**Figure 1: Land to which this draft plan applies**

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

This plan has been prepared under Division 3.6 of the *Environmental Planning and Assessment Act 1979* and Part 3 of the *Environmental Planning and Assessment Regulation 2000*.

*Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) applies to the land to which this plan applies. In the event of an inconsistency between this plan and the Woollahra LEP 2014, the Woollahra LEP 2014 prevails.

**1.6 Approval and commencement of this plan**

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

**1.7 How this plan amends Woollahra DCP 2015**

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

## Part 2 Amendments to Woollahra Development Control Plan 2015

This plan amends Woollahra DCP 2015 in the following manner:

Insertions – identified in blue and underlined

Deletions – ~~identified in red and strikethrough~~

### Chapter A1 Introduction

#### 2.1 Amendments to clause A1.1.9 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 17 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
No 17	<u>Date approved – TBC</u> <u>Date commenced - TBC</u>	<u>Amend Chapter A1 by inserting additional savings and transitional provisions.</u> <u>Amend Part B Chapter B3; Part C Chapters C1, C2 and C3; Part D Chapter D3, D4, D5 and D6 to strengthen controls for fire hydrant systems to address streetscape character and amenity impacts.</u>

## Chapter B3 General Development Controls

### 2.3 Amendments to section B3.7.3 Site facilities

#### 2.3.1 Amend the introduction to include specific references to fire safety systems

Some site facilities including [fire safety systems](#), lift overruns, air-conditioning, mechanical ventilation, mail boxes, clothes drying areas and laundry facilities are essential or common features in contemporary residential development. Others such as radio aerials and satellite dishes are less frequently required.

The potential impacts of site facilities on the overall appearance of developments and the local streetscape must be considered. In particular, consideration must be given to the location, size and design of site facilities [including hydrant and booster installations and](#) mechanical plant equipment such as lift overruns, air-conditioning units and condensers, heating, ventilation, and other mechanical systems that maintain or support the operations of a building.

**Commented [DCP1]:** Amend the introduction by including reference to fire safety systems.

Specific reference is also made to fire hydrant and booster installations as these type of systems are generally required in residential flat buildings and other multi-unit buildings under the BCA and AS2419.1.

#### 2.3.2 Amend existing objective O11

O11 To ensure that site services are [accessible, functional and](#) do not have a negative impact on the streetscape.

**Commented [DCP2]:** This amendment recognises the need to address accessibility and functionality as well as impacts, and is based on existing objectives for site facilities in the Double Bay Centre and Rose Bay Centre chapters in the DCP.

#### 2.3.3 Amend existing control C12 and insert new control C13

C12 Site services [are suitably integrated with the development including](#) the landscape design and are not visually intrusive within the streetscape.

**C13 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be—**

- a) [enclosed with doors if located in the building façade, or](#)
- b) [housed in a cabinet or enclosure if located external to the building.](#)

[The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including fencing and landscaping.](#)

**Commented [DCP3]:** Amendment to C12 establishes a general control for site services that can be applied to a wide range of services.

Proposed new control C13 specifically addresses fire hydrant and booster installations. The control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

>

## Chapter C1 Paddington Heritage Conservation Area

### 2.4 Amendments to section C1.5.11 Satellite dishes, aerials, air-conditioning units and other site facilities

- 2.4.1 Amend the introduction by inserting a new paragraph to address other site facilities, including fire safety systems.

Paddington's roofscape is an integral component of its overall significance. The introduction of unsympathetic and uncharacteristic elements such as satellite dishes, aerials and air-conditioning units and external condensers can have a detrimental impact on the aesthetic significance of individual buildings and on the area generally. The fixing of these structures on roofs and chimneys can also contribute to physical damage and possible loss of original fabric and detail.

The location and design of other site facilities such as fire safety systems, mail boxes, external storage facilities, clothes drying areas and laundry facilities can also have a detrimental impact on the appearance and character of the area and must be carefully considered.

Note: Solar energy systems such as photovoltaic electricity generating systems, solar hot water systems, or solar air heating systems are addressed in Chapter E6, Section 6.3 Solar energy systems.

**Commented [DCP4]:** Amend the introduction to include reference to a wide range of site facilities including fire safety systems. The proposed paragraph is based on an existing paragraph in the Woollahra HCA chapter of the DCP.

- 2.4.2 Amend existing objective O3

O3 To ensure that satellite dishes, air handling systems, external hot water heaters, air conditioning units, aerials, fire safety systems and other site facilities do not detrimentally impact on the character and significance of individual buildings and the streetscape.

**Commented [DCP5]:** Insert specific reference to "fire safety systems" to ensure that where any type of fire safety system is installed the potential impacts on amenity and heritage are considered.

- 2.4.3 After C7 insert new subtitles, new control C8 and renumber existing control C8 accordingly

#### Fire safety systems

**C8** Hydraulic fire services such as fire hydrants and booster installations must be concealed. These services are to be—

- a) enclosed with doors if located in the building façade, or
- b) housed in a cabinet or enclosure if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure must be visually unobtrusive and suitably integrated with the development, including fencing and landscaping.

**Commented [DCP6]:** The proposed control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

In precincts such as the Paddington HCA most development is for dwelling houses and therefore will not require fire services like fire hydrant and booster installations. The BCA establishes the fire safety requirements based on the class of the building.

#### Other Site facilities

**C89** Site facilities, including mail boxes, external storage facilities, clothes drying areas and laundry facilities, ~~should~~must be unobtrusively integrated into new development.

## Chapter C2 Woollahra Heritage Conservation Area

**2.5 Amendments to section C2.5.13 Site facilities and aerial devices**

2.5.1 Amend last paragraph of the introduction to include specific reference to fire safety systems.

The roofs of the Woollahra HCA are integral components of its character and heritage significance. The introduction of unsympathetic and uncharacteristic site facilities such as air-conditioning units and condensers, and aerial devices can have an adverse impact on the aesthetic significance of individual buildings and precincts and the area as a whole. Fixing these structures onto roofs and chimneys can also damage the original fabric and detail.

The location and design of other site facilities such as fire safety systems, mail boxes, external storage facilities, clothes drying areas and laundry facilities can also have a detrimental impact on the appearance and character of the area and must be carefully considered.

**Commented [DCP7]:** Amend the introduction to include reference to fire safety systems.

2.5.2 Amend existing objective O5

O5 To ensure that the essential site facilities are functional, ~~and~~ accessible ~~to all residents~~ and are easy to maintain.

**Commented [DCP8]:** Amend the objective to recognise that not all site facilities should be accessible to residents, such as fire hydrants and boosters.

2.5.3 Insert new control after C6 and renumber existing controls accordingly

C7 Hydraulic fire services such as fire hydrants and booster installations must be concealed. These services are to be—

- a) enclosed with doors if located in the building façade, or
- b) housed in a cabinet or enclosure if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure must be visually unobtrusive and suitably integrated with the development, including fencing and landscaping.

**Commented [DCP9]:**  
The proposed control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

In precincts such as the Woollahra HCA most development is for dwelling houses and therefore will not require fire services like fire hydrant and booster installations. The BCA establishes the fire safety requirements based on the class of the building.

## Chapter C3 Watsons Bay Heritage Conservation Area

### 2.6 Amendments to section C3.3.9 Site facilities and aerial devices

#### 2.6.1 Amend the introduction to include specific reference to fire safety systems

The roofscape of Watsons Bay is an integral component of its overall significance. The introduction of unsympathetic and uncharacteristic site facilities such as lift overruns, air-conditioning, mechanical ventilation, telecommunication facilities, satellite dishes, solar heating devices and aerials can have a detrimental impact on the aesthetic significance of individual buildings and on the conservation area generally. The fixing of these structures on roofs and chimneys can also contribute to physical damage and possible loss of original fabric and detail.

To protect visual amenity, in particular, consideration must be given to the location, size and design of site facilities including fire safety systems and mechanical plant equipment such as lift overruns, air-conditioning units and condensers, heating, ventilation, and other mechanical systems that maintain or support the operations of a building.

The location and design of other site facilities such as mail boxes, garbage storage areas, external storage facilities, clothes drying areas and laundry facilities can also have a detrimental impact upon the appearance and overall character of the area and must be carefully considered.

**Commented [DCP10]:** Amend the introduction to include reference to fire safety systems.

#### 2.6.2 Insert new control after C5

C6 Hydraulic fire services such as fire hydrants and booster installations must be concealed. These services are to be—

- a) enclosed with doors if located in the building façade, or
- b) housed in a cabinet or enclosure if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure must be visually unobtrusive and suitably integrated with the development, including fencing and landscaping.

**Commented [DCP11]:**  
The proposed control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

In precincts such as the Watsons Bay HCA most development is for dwelling houses and therefore will not require fire services like fire hydrant and booster installations. The BCA establishes the fire safety requirements based on the class of the building.

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

### 2.7 Amendments to section D3.10 Site facilities

#### 2.7.1 Amend the introduction to include specific references to fire safety systems

Site facilities include [fire safety systems](#), lift overruns, air-conditioning, mechanical ventilation, mail boxes, storage areas, garbage collection areas, clothes drying areas and laundry facilities, aerials and the like.

The potential impacts of site facilities on the overall appearance of developments and the local streetscape need to be considered. In particular, consideration must be given to the location, size and design of site facilities [that can be visually bulky, as is commonly the case with fire hydrant and boosters and including](#), mechanical plant equipment such as lift overruns, air-conditioning units and condensers, heating, ventilation, and other mechanical systems that maintain or support the operations of a building.

**Commented [DCP12]:** Amend the introduction by including reference to fire safety systems. Specific reference is also made to fire hydrant and booster installations as these type of systems are generally required in mixed use and strata titled commercial buildings under the BCA and AS2419.1.

#### 2.7.2 Insert new objective after O9

[O10 To ensure fire safety systems are accessible, functional and do not have a negative impact on the streetscape.](#)

**Commented [DCP13]:** This objective is similar to existing objectives for site facilities in the DCP chapters for Double Bay and Rose Bay Centres.

#### 2.7.3 Insert new control after C11

[C12 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be—](#)

- a) [enclosed with doors if located in the building façade, or](#)
- b) [housed in a cabinet or enclosure if located external to the building.](#)

[The location, design, colour and material of the doors, cabinet or enclosure are to be visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.](#)

**Commented [DCP14]:** The proposed control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

## Chapter D4 Chapter D4 Edgecliff Centre

### 2.8 Amendments to section D4.2.3 Objectives and controls

#### 2.8.1 Insert after O15 new objectives and renumber existing objectives accordingly

[O16 Ensure adequate provision of site facilities.](#)

[O17 Ensure site facilities are accessible, functional and unobtrusive.](#)

**Commented [DCP15]:** There are currently no objectives for site facilities in Chapter D4. The proposed objective is based on existing objectives for site facilities in the DCP chapters for Double Bay and Rose Bay Centres.

#### 2.8.2 Insert after C24 new controls and renumber existing controls accordingly

[C25 Site facilities are suitably integrated with the development and its landscaping to minimise visibility from the street.](#)

[C26 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be—](#)

- a) [enclosed with doors if located in the building façade, or](#)

**Commented [DCP16]:** There are currently no controls for site facilities in Chapter D4. The amendments include a general control for site facilities and a specific control for hydraulic fire services.

Proposed control C26 seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

b) housed in a cabinet or enclosure if located external to the building.  
The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.

## Chapter D5 Double Bay Centre

### 2.9 Amendments to section D5.6.8 Parking and servicing

2.9.1 Amend title name | \_\_\_\_\_

Parking and ~~servicing~~ site facilities

**Commented [DCP17]:** Amend the title to remove ambiguity about the term "servicing"

2.9.2 Amend the introduction to include specific reference to fire safety systems. | \_\_\_\_\_

Site facilities include loading areas, garbage areas, fire safety systems, mailboxes, external stores, laundries and clothes drying areas. Development should provide appropriate site facilities for retail, commercial and residential uses, and minimise impact on the streetscape.

**Commented [DCP18]:** Amend the introduction to include a reference to fire safety systems to help enhance consideration of these facilities.

2.9.3 Delete existing C3 and replace with new C3 | \_\_\_\_\_

~~C3 Fire hydrants and booster pumps must be integrated into the front of the building façade and enclosed with doors. The enclosure should be clearly identified in a colour that suitably contrasts the façade.~~

C3 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be—

a) enclosed with doors if located in the building façade, or

b) housed in a cabinet or enclosure if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.

**Commented [DCP19]:** The proposed control seeks to minimise impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.



## Chapter D6 Rose Bay Centre

### 2.10 Amendments to section D6.6.9 Site facilities

#### 2.10.1 Amend the introduction to include specific reference to fire safety systems.

Site facilities include loading areas, garbage areas, [fire safety systems](#), mail boxes, external stores, laundries and clothes drying areas. Development should provide appropriate site facilities for retail, commercial and residential uses, and minimise impact on the streetscape.

**Commented [DCP20]:** Amend the introduction to this section by including reference to fire safety systems to help enhance consideration of these facilities.

#### 2.10.2 Delete existing control C2 and replace with new C2

~~C2—Fire hydrants and booster pumps must be integrated into the front of the building façade and enclosed with doors. The enclosure should be clearly identified in a colour that suitably contrasts the façade.~~

**Commented [DCP21]:** Proposed control seeks to minimise visual impacts by requiring these services to be concealed (either behind doors or in a cabinet or enclosure) so the services cannot be seen from the public domain. The doors, cabinet or enclosure must also be located and designed to be visually inconspicuous.

C2 Hydraulic fire services such as fire hydrants and booster installations are concealed. These services are to be—

- a) enclosed with doors if located in the building façade, or
- b) housed in a cabinet or enclosure if located external to the building.

The location, design, colour and material of the doors, cabinet or enclosure are visually unobtrusive and suitably integrated with the development, including any fencing and landscaping.

Woollahra Municipal Council  
Environmental Planning Committee Agenda

12 April 2021

**Item No:** R2 Recommendation to Council  
**Subject:** **REVIEW OF PLANNING CONTROLS TO ADDRESS THE VISUAL IMPACTS OF FIRE HYDRANT AND BOOSTER INSTALLATIONS**  
**Author:** Jacquelyne Della Bosca, Executive Planner  
**Approvers:** Kelly McKellar, Team Leader Strategic Planning  
Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Development  
**File No:** 21/40991  
**Reason for Report:** To respond to a Notice of Motion adopted by Council on 26 October 2020 requesting a review of planning controls to address fire hydrants and boosters so that these installations are not visible in the streetscape. To obtain Council's approval to exhibit a draft development control plan to amend the Woollahra Development Control Plan 2015.

**Recommendation:**

- A. THAT the report on the review of planning provisions for hydraulic fire services such as fire hydrant and booster installations be received and noted.
- B. THAT Council resolve to exhibit *Draft Woollahra Development Control Plan 2015 (Amendment No 17)* as contained in **Annexure 1** of the report to the Environmental Planning Committee on 12 April 2021.

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**1. Background**

On 26 October 2020 Council adopted the following Notice of Motion (NOM):

*THAT Council:*

- A. *undertake a review of, and prepare a report to Council, on measures that can be taken in its planning instruments (including any amendment to its current Development Control Plan or Local Environmental Plan, amongst others) to ensure that:*
  1. *all development in the municipality properly and thoroughly considers all possible mechanisms to avoid having to install fire hydrant and/ or fire hydrant boosters, including investigation as to potential upgrade to existing water pipes and water pressure measures;*
  2. *any fire hydrant and/ or fire hydrant booster required in relation to development in the municipality is properly catered for onsite and is situated, as far as possible, away from the street and/ or public domain such that it is not visible from the street; and*
  3. *in the event that the objectives of (A) or (B) above cannot be met despite the best endeavours of developers of sites, that any fire hydrant and/ or fire hydrant booster that is visible from the street be properly enclosed and hidden from public view, and*
- B. *consider and report to Council on what measures may (if any) be employed to retrospectively mandate that exposed and visible fire hydrants and/ or fire hydrant boosters be enclosed from public view.*

The following background information accompanied the NOM on the meeting agenda:

*Council's current planning instruments are unclear and uncertain as to the installation of fire hydrant and fire hydrant boosters in developments that are occurring in the municipality.*

*This infrastructure seems to be increasingly required, especially in multi-unit developments to boost water pressure on site and is an increasing blight on the streetscape, as they are often installed at eye level by the footpath.*

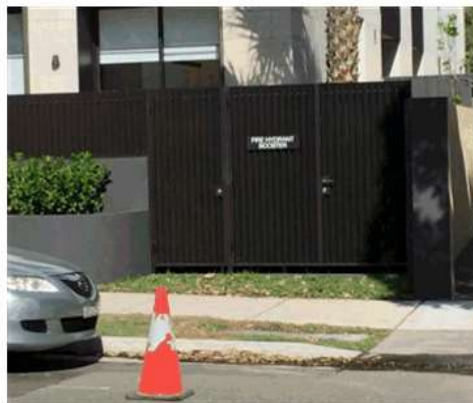
*Some developments have enclosed this infrastructure, whilst other developments have not.*



*New South Head Road, Rose Bay opposite  
"Embrace" sculpture and Lyne Park*



*Old South Head Road, Rose Bay*



*Newcastle St, Rose Bay*

## **2. Definition of Fire hydrant installations**

*Australian Standard AS2419.1. 2005 Fire hydrant installations (AS2419.1) defines a fire hydrant system as: an assembly of pipes and other component that is dedicated for firefighting to permit the fire brigade to access a controlled supply of water.*

On-site fire hydrant systems form part of a building's essential safety measures. This includes fire hydrants, sprinkler systems and the fire brigade booster assembly. These fire services are typically required for residential flat buildings or commercial buildings of three or more storeys to allow the fire brigade to access high pressure water as quickly and efficiently as possible.

### 3. Requirements of the National Construction Code and Australian Standards

The *National Construction Code 2019 Volume One, Building Code of Australia (BCA), E1.3 Fire hydrants* requires the installation of a fire hydrant system to serve a building having a total floor area greater than 500m<sup>2</sup> and where a fire brigade station is:

- No more than 50 km from the building as measured along roads; and
- Equipped with equipment capable of utilising a fire hydrant.

The BCA, *E1.5 Fire sprinkler systems*, also specifies that most buildings that are four-storeys or more in height need sprinkler systems.

Under the BCA, the installation of a fire hydrant system must be in accordance with *Australian Standard AS2419.1. 2005 Fire hydrant installations*. The AS2419.1 specifies when and how fire hydrant systems must be installed, maintained and serviced.

For example, Section 7 of AS2419.1 addresses fire brigade booster assemblies including when a booster assembly is required and where it should be located. The fire brigade booster assembly is defined in the AS2419.1 as “a connecting device enabling the fire brigade to pressurize or pump water into a fire hydrant system”. The booster may be for the fire hydrant and/or the sprinkler system. The booster is generally installed along the front property boundary to provide fast, efficient, and effective access to the fire brigade.

Staff have underlined for emphasis some of the locational requirements in AS2419.1 for booster assemblies that are particularly relevant to the matters raised in the NOM.

#### 7.2 When a booster assembly is required

*A fire brigade booster assembly shall be fitted to each fire hydrant system where—*

- internal fire hydrants are installed;*
- external on-site fire hydrants are installed more than 20 m from a fire brigade pumping appliance hardstand;*
- more than 6 external on-site above ground fire hydrants are installed;*
- a pumpset is installed;*
- on-site storage tanks are installed; or*
- more than one external on site fire hydrant is required to serve a building where the floor area of any fire compartment is greater than 2000 m<sup>2</sup>.*

#### 7.3 Location

*Fire brigade booster assemblies shall be located so that they meet the following requirements:*

- They are readily accessible to firefighters.*
- They are operable by fire brigade pumping appliances located within 8 m.*
- If within, or affixed to, the external wall of the building, the booster shall be—*
  - within sight of the main entrance to the building; and*
  - separated from the building by a construction with a fire resistance rating of not less than FRL 90/90/90 for a distance of not less than 2 m each side of and 3 m above the upper hose connections in the booster assembly*
- If remote from the building, the booster shall be—*
  - at the boundary of the site and be within sight of the main entrance of the building;*
  - adjacent to the principal vehicular access to the site; and*
  - located not less than 10 m from the external wall of any building served*
- The booster enclosure shall only contain firefighting pipework and equipment.*
- In a position not less than 10 m from any high voltage main electrical distribution equipment such as transformers and distribution boards, and from liquefied petroleum gas and other combustible storage.*

(g) In a position so that the booster assembly is not obstructed or obscured by obstacles, stored goods, vehicles, vegetation, etc.

C7.3 *The location of the fire brigade booster assembly should be chosen so as to afford maximum accessibility for and protection of firefighting personnel. It should ideally be located within sight of the main entrance of the building. Specific requirements for the booster location should be discussed with the relevant fire brigade.*

2.1.3 *Hardstand: A hardstand shall be provided where a fire brigade pumping appliance is required to be located adjacent to a tank, hydrant or booster in accordance with Section 3, 5 or 7.*

Having considered these requirements, the fire brigade booster assembly is usually located along the front property boundary and near the main entrance to the site where access is optimal, but where there is also the greater potential to impact on streetscape amenity. However, we note that AS2410.1 identifies that installations may be affixed to or recessed into the building façade, provided solutions for heat shield are suitably addressed. AS2419.1 (sections 3 and 7) also allows fire hydrants, fire hydrant boosters and sprinkler boosters to be housed in a cabinet.

#### 4. Current planning controls

The BCA and AS2419.1 provide the primary framework for specifying building fire safety requirements and there are only a few other instruments which address the location and/or design of fire hydrant and booster systems.

##### 4.1. State planning controls

State legislation and planning instruments that address fire hydrant and booster systems include:

- *Fire and Rescue NSW Act 1989 No 192 Section 32 Concealing fire hydrant*  
*It is an offence for a person to:*
  - (a) *wilfully cover up, enclose or conceal any fire hydrant so as to make it difficult to find, or*
  - (b) *obliterate or remove any mark, sign or letter used to indicate the position of or distinguish a fire hydrant.*
- *Environmental Planning and Assessment Regulation 2000 (the Regulation)*  
Part 9 sets out fire safety and matters concerning the BCA. This Part requires a fire safety schedule (which identifies all existing and proposed fire safety measures to be installed in the building as required by the BCA) is to be provided when issuing a construction certificate for proposed building work. A final fire safety certificate is then issued when the building work is completed to confirm that the fire safety measures have been installed and checked. The occupation certificate cannot be issued until the principal certifier has received the final fire safety certificate.  
  
Part 9, also establishes provisions for other matters including fire safety orders, fire safety statements (i.e. annual checks of the building's essential fire safety measures) and when fire sprinklers are required in residential aged care facilities.
- *SEPP (Exempt and Complying Development Codes) 2008 (Codes SEPP)*  
Part 8 Fire Safety Code specifies certain development as complying development.

- Subdivision 3 establishes standards for fixed on-site fire pump sets and the construction of enclosures related to a fire sprinkler system or other hydraulic fire safety system. Relevant to Council's NOM, it includes the following development standard:

8.5(b) *the wall of any pump house or any enclosure of a pump set must have an external wall finish that is the same colour palette as the existing premises so that the pump room or enclosure is in keeping with the existing premises.*

It is noted that *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and the accompanying *Apartment Design Guide* do not address fire hydrant systems.

#### 4.2. Local planning controls

- *Woollahra Local Environmental Plan 2014, clause 5.8 Conversion of fire alarms* is the only provision that addresses fire safety systems. However, it is not relevant to fire hydrant systems.
- *Woollahra Development Control Plan 2015 (Woollahra DCP 2015)* includes objectives and controls for site facilities and includes specific reference to hydrants and boosters in *Chapter B3 General Development Controls, Chapter D5 Double Bay Centre* and *Chapter D6 Rose Bay Centre*.

#### 5. Comparable controls from other Sydney Councils

As part of the review, staff reviewed other council DCPs. A summary of relevant provisions relating to hydraulic fire services such as hydrants and boosters is provided in **Table 1** below.

*Table 1: Controls for fire safety systems from other council DCPs*

Council	Extract of relevant provisions
Bayside	<p><b><i>Botany Bay Development Control Plan 2013</i></b>  <i>Part 4C - Apartment Buildings; Part 3L - Landscaping and Tree Management; Part 3L.2 General Requirements; Part 10 Landscaping Guidelines for Development Sites</i></p> <ul style="list-style-type: none"> <li>• Electrical kiosk, fire booster assembly or similar utilities will be in a location visible from the main entrance of the development, unable to be obstructed, and readily accessible to vehicles and service staff.</li> <li>• Fire booster assemblies are a minimum of 10m to an electrical kiosk, and housed in the external face of the building structure or in a built enclosure with screen doors. The enclosure is integrated with the architectural design of the development and compliant with AS2419.</li> <li>• Applicants are encouraged to provide landscaping that will not impede access to, and effective use of the utilities to reduce the visual impact of the utilities on the streetscape and public domain.</li> <li>• Fire booster valve assemblies should be housed in the external face of the building structure or otherwise screened from view from public domain such as located near side boundaries, behind boundary walls, within an enclosure or screened by landscaping.</li> </ul>
Inner West	<p><b><i>Marrickville Development Control Plan 2011</i></b>  <i>Section 2.21 Generic Provisions; Site facilities and waste management</i></p> <ul style="list-style-type: none"> <li>• Relevant authorities/service providers must be contacted at the early design stages to determine convenient locations for public utilities such as electricity substations, fire hydrants or gas and water meters.</li> </ul>

Council	Extract of relevant provisions
Ku-ring-gai	<p><b><i>Ku-ring-gai DCP 2020</i></b> <i>Part 23 General Building Design and Sustainability Section 23.6 Building services</i></p> <ul style="list-style-type: none"> <li>• Applicants must consult with service providers such as energy, electricity, gas, water, telephone and fire.</li> <li>• Services and structures required by providers are located in basements or concealed in the facade with appropriate access. Where not possible, the proposal must demonstrate an alternative method of minimising street impact, such as screening with landscape or built elements. Particular care should be taken in mixed use precincts to ensure substations and fire hydrants are not visible from the primary street and principal active street frontages.</li> </ul>
Lake Macquarie	<p><b><i>Lake Macquarie City Council Development Control Plan 2012</i></b> <i>Part 3 - Development within Residential Zones; 2.20 Utilities</i></p> <ul style="list-style-type: none"> <li>• To identify utility requirements and new infrastructure at an early stage of development.</li> <li>• To ensure utilities structures are integrated in the site planning and design of development.</li> <li>• To protect and improve the visual amenity of the primary street frontage.</li> <li>• Existing and additional utility infrastructure must be identified at site planning stage.</li> <li>• The location of existing and proposed electricity kiosk sub-stations, fire hydrants, along with clearance areas and access ways must be identified and shown on building and landscape plans.</li> </ul>
North Sydney	<p><b><i>North Sydney Development Control Plan 2013</i></b> <i>Table B-8.2: Minimum setback to street infrastructure and furniture: Essential services</i></p> <ul style="list-style-type: none"> <li>• Fire hydrants; hose reel cupboards; fire exit doors; fire equipment stores; substations; communication poles - setback: 900mm</li> </ul>
Waverley	<p><b><i>Waverley Development Control Plan 2012</i></b> <i>Part C - Residential Development; C3: Other Residential Development</i></p> <ul style="list-style-type: none"> <li>• Ensure that building services are integrated into the design of buildings. Building service elements include garbage rooms, mailboxes, fire hydrant boosters, electrical substations, downpipes, and plant rooms and satellite/communications structures.</li> </ul>

## 6. Consultation with key stakeholders

In reviewing the provisions in Woollahra DCP 2015, staff have considered the requirements of AS2419.1, other council DCPs and the matters raised in Council's NOM. We have received initial advice from Fire and Rescue NSW (FRNSW) and consulted internally with Council's Fire Safety Officer, Development Control staff and Heritage Officers.

Part of Council's NOM requested staff to consider the following:

- Mechanisms to avoid having to install fire hydrant and/or boosters, such as upgrades to existing water pipes and water pressure measures
- Require fire hydrants and boosters to be situated as far as possible away from the street and/ or public domain such that they are not visible from the street.

Staff advise that it is not appropriate for local planning controls to address these matters. A DCP must not seek to establish solutions for fire safety that are contrary to AS2419.1 and would not be acceptable to FRNSW. As discussed in Section 3 of this report, AS 2419.1 sets out requirements for the location of fire systems e.g. it requires the booster assembly to be located at the boundary of the site and within sight of the main building entrance.

FRNSW's stated position is to endorse the use of AS 2419.1 in the design and installation of fire hydrant systems. Concessions to use a street fire hydrant in lieu of providing an on-site fire hydrant will only be considered by FRNSW for an existing premises that is subject to a fire safety order under Division 9.3 of the *Environmental Planning and Assessment Act (EP&A Act) 1979*.

## 7. Proposed amendments to the Woollahra DCP 2015

Having regard to the above, staff recommend that Council's DCP controls are amended to address the potential visual impact of fire hydrant and booster assemblies by requiring that these installations are enclosed. This approach is consistent with AS2419.1 and generally acceptable to FRNSW. The proposed controls will apply to development in the Woollahra LGA when a hydraulic fire service such as a fire hydrant and booster is installed<sup>2</sup>. **Annexure 1** contains *Draft Woollahra DCP 2015 (Amendment No.17)* which contains the proposed amendments. Notes in the right hand margin identify the origin of the proposed changes. **Table 2** summarises the proposed DCP controls.

**Table 2: Draft controls for fire hydrant and booster installations**

Proposed DCP controls	Relevant DCP chapters
Hydraulic fire services such as fire hydrants and booster installations are housed in a cabinet or enclosure. The design, colour and material of the cabinet or enclosure is visually unobtrusive and suitably integrated with the development, including fencing and landscaping.	<p><b>Part B: General Residential</b></p> <ul style="list-style-type: none"> <li>B3 General Development Controls</li> </ul> <p><b>Part C: Heritage Conservation Areas</b></p> <ul style="list-style-type: none"> <li>C1 Paddington HCA,</li> <li>C2 Woollahra HCA</li> <li>C3 Watsons Bay HCA</li> </ul>
Hydraulic fire services like fire hydrants and booster installations are integrated into the front of the building façade and enclosed with doors. The enclosure is visually unobtrusive and suitably integrated with the development.	<p><b>Part D: Business Centres</b></p> <ul style="list-style-type: none"> <li>D3 General Controls for Neighbourhood and Mixed Use Centres</li> <li>D4 Edgecliff Centre</li> <li>D5 Double Bay Centre</li> <li>D6 Rose Bay Centre</li> </ul>

## 8. DA conditions of consent and the DA Guide

Should Council support the proposed DCP amendments, Council's standard DA conditions of consent and DA Guide will be amended to reflect the DCP requirements for hydraulic fire services such as fire hydrant and booster installation to be housed in a cabinet or enclosure that is suitably integrated with the development. This standard condition will be applied to all new residential flat buildings and commercial buildings, and other development where relevant.

Furthermore, Council's Fire Safety Officer advised that similar conditions could also be applied when Council issues fire safety orders requiring upgrades to existing buildings.

<sup>2</sup> This is typically multi-unit residential or commercial development of three or more storeys or having a total floor area greater than 500m<sup>2</sup> as prescribed in the BCA and AS2419.1.



## 9. Existing visible fire hydrants and/or fire hydrant boosters

Council's NOM requested that we consider measures to retrospectively mandate that exposed and visible fire hydrants or boosters be enclosed from public view. Section 4.17 of the EP&A Act 1979 requires that a condition of development consent may only be imposed where it is relevant to the subject development application (DA) or modification. This means that Council can only apply conditions to enclose existing fire hydrants and booster systems when a DA for an existing premises reasonably relates to the existing fire hydrants and boosters.

To encourage property owners to enclose existing fire hydrant and boosters, Council could consider providing financial support or other incentives through its placemaking initiatives. However, given current budget constraints this may be something that Council wants to investigate at a future date.

## 10. Next steps

If Council supports the proposed amendments to Woollahra DCP 2015, the next step is exhibit the draft DCP. The process for exhibiting a DCP is set out in the EP&A Act 1979, the *Environmental Planning and Assessment Regulation 2000*, and the *Woollahra Community Participation Plan 2019*.

The draft DCP must be publicly exhibited for a minimum of 28 days. Public notice will be given in the *Wentworth Courier* each week of the exhibition and on Council's website. We will also further consult with FRNSW. The outcome of the public exhibition will be reported to a future Committee meeting.

Amendments to Council's standard conditions of consent and the DA Guide do not require public exhibition, and can be made under instruction from Council's Director Planning and Development.

## 11. Conclusion

In response to Council's NOM adopted on 26 October 2020, staff have proposed amendments to the Woollahra DCP 2015 which seek to address the potential visual impacts of hydraulic fire services, such as fire hydrant and boosters. The proposed controls seek to ensure that at the design and DA stage, these systems are housed in a suitably designed cabinet or enclosure that is visually unobtrusive and suitably integrated with the development.

The proposed amendments are consistent with and complementary to AS2419.1 and seek to provide a reasonable and practical solution to minimising visual impacts while recognising that accessibility and functionality needs to be the priority for building fire safety services.

Staff recommend that Council resolve to exhibit the *Draft Woollahra Development Control Plan 2015 (Amendment No 17)* as contained in **Annexure 1**. Should Council endorse this approach, staff will update the standard DA conditions and the DA Guide.

## Annexures

1. Draft Woollahra Development Control Plan for Fire hydrant and boosters (Amendment No 17) [↓](#) 

**Item No:** R9 Recommendation to Council  
**Subject:** **PARKLET TRIAL**  
**Author:** Jin Young Kim, Economic Development Officer  
**Approver:** Matthew Gollan, Manager - Placemaking  
**File No:** 21/119259  
**Reason for Report:** To recommend that Council endorse the implementation of a 'parklet trial program' to support local businesses, improve streetscape vibrancy and activate public space in the Woollahra LGA.

**Recommendation:**

- A. THAT the report on the introduction of repurposed road space (parklets) for additional outdoor dining space in the Woollahra Local Government Area (LGA) be received and noted.
- B. THAT Council endorse the implementation of a 'parklet trial program' to support local businesses, improve streetscape vibrancy, create jobs and activate public space
- C. THAT Council endorse the issuing of twenty (20) permits enabling successful applicants to install and operate a parklet for a trial period of six (6) months.
- D. THAT Council approve the waiving of application and outdoor dining fees for approved parklets for a period of six (6) months.
- E. THAT Council endorse a public notification period of seven (7) days for parklet applications.
- F. THAT Council conduct a review of the parklet trial program following the completion of a 12 month application window.

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**Background**

This report is being tabled in response to a range of enquiries received from food and beverage businesses within the Woollahra LGA seeking to expand their existing outdoor dining space into kerbside parking spaces - commonly referred to as a 'parklet'.

Parklets have traditionally been viewed as a placemaking response to provide critical public open space in built up inner-city areas around the world. Kerbside car parking spaces are repurposed into public space 'pockets' provide seating, greenery, bike parking facilities, charging ports, and other communal elements. Additionally, due to the impacts of COVID-19 and associated social distancing requirements, parklets have taken on a new role and function as a major business support tool for local food and beverage businesses.

In response to these enquiries from local businesses, Council's Placemaking team have outlined a strategic approach as to how Council can facilitate, on a temporary trial basis, the introduction of parklets within the Woollahra LGA.

## **Contextual factors relating to Parklets**

The introduction of parklets into the Woollahra LGA would be strategically aligned to recent state-wide efforts to support outdoor dining and local businesses in their recovery from the impacts of Covid-19. In response to the global pandemic, there have been a suite of initiatives and legislative amendments introduced in an effort to streamline the way in which outdoor dining is assessed and determined across NSW including, but not limited to:

### *1) NSW Outdoor dining trial as exempt development*

The parklet trial program would seek to leverage DPIE's recent temporary amendments to the State *Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* to allow outdoor dining as exempt development for small bars and pubs across the state. Principally, this amendment was aimed at simplifying the process for councils to enable hospitality businesses to extend their seating to surrounding footways.

### *2) Extension of outdoor dining trial*

The trial will end on 31 October 2021, but the Department is set to make this policy change permanent in order to:

- Encourage experimentation and innovation, particular with multi-venue activations;
- Provide an easy rollover from temporary to permanent outdoor dining approvals so that successful activations can be extended or made permanent without further red tape;
- Introduce changes to better integrate outdoor dining at existing venues with one off street activations such as markets, festivals and community events.

### *3) Assessment of outdoor dining trial applications*

Under the DPIE's outdoor dining trial, applications are assessed against the following

- Section 125 of the *Roads Act* is required if a footway is to be used for restaurant purposes
- Section 126 of the *Roads Act* provides authority for council to approve structures on road
- Section 68 of the *Local Government Act* approval, Part E, Public roads:

The outdoor dining trial has provided an opportunity for councils to streamline the approval pathway for the operation of outdoor dining in their LGA. Woollahra Municipal Council recently participated in the trial and streamlined the approval process for Footway Dining and Display of Goods on Footway in February 2021 to help local businesses to recover from the impacts of the COVID-19 pandemic.

### *4) Parklet implementation across NSW Councils*

To date, multiple Councils in NSW have introduced trials and programs that have enabled eligible businesses to apply to extend their existing outdoor dining area beyond the footpath and into kerbside car parking spaces. Parklets vary in their materials, design, utility and permanency, but should all meet required pedestrian safety standards. City of Sydney Council, Randwick City Council and Waverley City Council, for example, have already assessed and delivered multiple parklets throughout their respective LGA's.

## Benefits of Parklets

Beyond their utility as a business support initiative, there are a range of benefits associated with the introduction of parklets to the Woollahra LGA. These include:

- ***Additional customer seating*** – The obvious advantage and main driver for business owned parklets is to increase their commercial footprint, and in more recent times, satisfy social distancing requirements.
- ***Visual point of interest*** – The temporary/ ephemeral nature of parklets mean that people are not necessarily used to seeing them in their neighbourhood. Interesting, authentic and temporary changes to a streetscape can create visual appeal and drive visitation.
- ***Streetscape greening*** - Additional planters of pot plants, a common feature of parklets, provide supplements to existing greenery, add visual appeal, and may even provide extra shading depending on the size the plants.
- ***Traffic calming***– whilst there is no documented evidence of the impact of parklets on vehicle /driving behaviour, the presence of pedestrians encourages drivers to take notice of the businesses / activity centre they area passing.
- ***Quantifying loss*** - Temporary reductions in the quantity of metered parking can provide information on revenue loss to council. It may also yield community feedback on how important/ not important that loss of parking is.
- ***Dwell/ linger time*** – Pleasant seating areas with the availability of power and wifi, can encourage pedestrians to stop and spend time in the space, and order food and beverages.
- ***Community Engagement*** - Parklets are very useful hubs or ‘pop-up kiosks’ for community engagement initiatives. Whilst engagement is arguably more suited to ‘public/ council-owned’ parklets, they can provide an excellent visual platform to engage the community on future projects or streetscape enhancements.
- ***Catalyst for long term change*** – Where parklets have showcased successful results in terms of business enhancement, improved streetscape, increased visitation, parklets can advocate or catalyse permanent streetscape re-design.
- ***Promotion of artists*** – Depending on the design and intended aesthetic, the external walls of parklets can be leveraged as a blank canvas to showcase local artists work or even to perform live art for the community.

## Parklet implementation approach

Whilst there is a need to develop a policy that will enable parklets to be successfully deployed in commercial centres in the long-term, there is also a need to promptly address recent enquiries from the Woollahra business community who need urgent support, particularly in light of the recent July 2021 Covid-19 lockdown. As such, it is proposed that Council facilitate the introduction of parklets into two separate phases:

### ***Phase 1 – Parklet trial program – 1 August 2021- 31 July 2022***

Council will offer successful applicants a six (6) month trial to install and operate a parklet. The trial will involve the following key steps:

- 1) Lodgement of an online application (within 12 month application window)
- 2) Assessment of applications with suitable sites.
- 3) Successful applicants to be referred to Traffic Committee for approval
- 4) Public notification for 7 days.
- 5) Amendment to outdoor dining approval to enable temporary extension of outdoor dining area.
- 6) Determination issued by Property & Projects
- 7) Notification of determination.
- 8) Applicant to enter into licence agreement with Council
- 9) Installation of parklet to occur within four (4) weeks of notification of approval.

Importantly, applications for the trial parklet program will not be assessed against any policy. The trial is intended to be a rapid response to supporting businesses and also as a means of testing, obtaining data, and measuring success. Each proposed site will be considered on a case-by-case basis.

The learnings from the trial program will inform an overarching policy to govern parklets within the Woollahra LGA. Learnings may influence future design requirements, refinement of user agreements, impact mitigation, and additional safety requirements.

### ***Phase 2 – Ongoing Parklet Implementation – August 1, 2022 and beyond***

Taking the data and learnings from the trial parklet period, Council will seek to:

- Develop a parklet policy – either standalone or part of a wider ‘local approvals policy’ for multiple public space uses.
- Embed an appropriate fee structure for future parklets based off existing outdoor dining fees.
- Investigate suitable locations for council led ‘public parklets’.
- Refine any internal working procedures relating to the assessment and determination of parklet applications.

It must be stated that all parklets proposed to be implemented within Woollahra LGA will be based upon a ‘user-pays’/ business-led model. Ultimately, the design, delivery, and installation of parklets and all associated assessment or notification costs will be covered by the applicant.

### **Proposed location and number of trial businesses**

The parklet trial program is not specific to a location. A ‘trial period’ will be granted to eligible businesses. Following the assessment and approval of one parklet proposal it is anticipated that there will be an increase in applicants. Conscious of availability of internal resources, the lack of an existing policy and internal working processes, it is recommended that the parklet trial program is capped at a maximum of twenty (20) businesses for the 12 month application window.

### **Applicant eligibility**

To be eligible for the parklet trial program, applicants must:

- be a cafe, restaurant, bar or cultural venue in the Woollahra LGA that serves food for eating at their premises and hold an outdoor dining permit.
- have an existing development consent to operate as a food premises or hold a liquor licence
- be proposing to install their parklet within road space that is next to or directly adjoining their businesses.

- hold have a current COVID-19 Safety Plan in place and electronic check-in facilities.

### **Parklet site suitability**

Council will not consider applications proposing parklets in unsuitable locations. Sites considered to be unsuitable for parklets include:

- Bus stop or bus zones
- Roads with speed limits of more than 50km/hr
- Clearways
- Parking for Australia Post, police, fire, ambulance or car share
- No stopping zones
- Bike lanes
- Disabled parking

Whilst there are no guarantees on approval, Council deems the following sites to be suitable for parklets;

- Timed parking, including metered parking
- Drop off & pick up 15 minute parking
- Loading zone
- Taxi zone
- No parking zone

It is foreseeable that there will be other parking spaces, not listed in this report, that may or may not be suitable for parklets. There is no one-size- fits-all approach for every street within our LGA. All applications are considered on a case-by-case basis due to the complexity of Woollahra LGA streets, and the specific context of an applicant's location, inherent parking restrictions and the neighbouring businesses and road environment.

### **Proposed assessment criteria and considerations**

Whilst there are no guarantees of approval, all applicants will be required to satisfy the following criteria:

- Their venue must be located within the Woollahra LGA.
- All applicants must hold an existing development consent to serve food for eating at the premises
- COVID-19 Safety Plan
- Road space for consideration to be adjacent to their business, not in front of another businesses
- Parklets must adhere to minimum clearance requirements for adjacent traffic lanes to be 3.0 metres with some exceptions, depending on designated bus route.
- Trading houses must be consistent with existing outdoor dining requirements:

*Cafes, unlicensed, licensed restaurants, pubs and small bars;*

- 7am to 10pm Sunday to Thursday
- 7am to 11pm on Friday and Saturday

Whilst there are no guarantees of approval, all applicants will be required to provide the following supporting documents as a part of their application:

- Site Plan/ Layout – including a to-scale plan of their parklet and a photographic plan that identifies location and dimensions.
- Parklet design – including design materials, photographic renders, indicative concept.
- Crash rating certification – showing that the parklet is suitable to the speed limit on the roadway and has Transport NSW accredited barriers (e.g. water filled barriers, concrete barriers).
- Proposed embellishment – this includes details of what activation elements they propose to house within the parklets. For e.g. planter boxes, heaters, etc.
- Parklet Management Plan – outlining the overall management of their parklet including cleaning, maintenance, and how they propose to address any amenity impacts for local residents.
- Public liability insurance for a minimum value of \$20 million for any single incident

## **Risks & Challenges**

### ***COVID-19***

It is difficult to forecast the severity or changing landscape of social distancing requirements and other associated regulations with the constantly changing environment. Therefore, parklets and their operation must be closely monitored and scaled as required in response to NSW state led requirements.

### ***Loss of parking***

The very nature of a parklet is that parking space is being repurposed into outdoor dining space or public open space. This will inevitably result in a loss of parking. For this reason, a trial based approach is recommended to monitor feedback from the community.

### ***Application assessment without an adopted policy***

Without an adopted policy or assessment guidelines in place, there is a risk that Council's decision making process in determining 'successful applicants' could come into question. However, it must be reiterated that the nature of a 'trial' period is that it is temporary and intended to test, measure and evaluate. By way of example, City of Sydney has issued 200 permits for parklets across their LGA without a dedicated parklet policy since December 2020. Their program has been so popular with the business and resident community that they have extended the program until June 2022.

## **Financial implications**

It is recommended that fees associated with outdoor dining within the parklets are waived during the six month trial period. All other costs associated with the approval, installation, maintenance, supply of parklet and reallocation of signage (if required) are to be covered by the applicant of the approved parklet.

For reference, Council's Footway Dining revenue in the past three years is shown below:

Financial year	Footway Dining
2019-2020	\$ 465,442
2018-2019	\$ 640,841
2017-2018	\$ 589,994

### Strategic alignment

- Woollahra Local Strategic Planning Statement – Planning Priority 8:

*'Collaborating to achieve great placemaking outcomes in our local centres which are hubs for jobs, shopping, dining, entertainment and community activities'*

- Woollahra 2030 for Local prosperity – Strategy 9.3 under 'Community focused economic development'

*'Maintain a high quality public domain to support and promote local business'*

### Consultation

Placemaking has commenced internal consultation and has received advice from Compliance, Engineering Services, Property & Project and Open Space & Trees.

Externally, Waverley City Council, City of Sydney, Parramatta City Council and Randwick City Council were all contacted for information and advice.

### Conclusion

The adverse economic impact of COVID-19 lasts longer than expected and small businesses in the LGA have been reaching out to Council for extra support. In simple terms, COVID-19 and associated social distancing requirements have dramatically reduced the amount of patrons/customers that hospitality businesses can typically accommodate. As has been widely publicised in the past year and backed by local spending data, this represents a major loss of income for local businesses within Woollahra LGA.

The trial parklet program is a simple temporary initiative that council can deploy to provide immediate support to local cafes, bars and restaurants. Further, the benefit of a trial program provides valuable insights and community feedback on how Council could make this temporary physical change permanent.

Through many different literatures and industry reports, the positive economic impacts of parklets have been demonstrated. Increased foot traffic (visitor economy) and business revenue is what this parklet initiative is designed to support in addition to public space activation. With the July 2021 Covid-19 NSW lockdown currently in place (at the time of writing this report), it is an appropriate time that Council introduce parklets in the Woollahra LGA.

### Annexures

Nil





**Item No:** R10 Recommendation to Council  
**Subject:** **SENIORS HOUSING IN THE WOOLLAHRA LGA - LOCATION, COMPARATIVE SALES AND JUSTIFICATIONS FOR EXEMPTION TO THE SENIORS HOUSING SEPP**  
**Authors:** Jacquelyne Della Bosca, Executive Planner  
Kelly McKellar, Team Leader Strategic Planning  
**Approvers:** Anne White, Manager - Strategic Planning  
Nick Economou, Acting Director Planning & Place  
**File No:** 21/89957  
**Reason for Report:** To respond to a NOM from 22 February 2021 seeking information about the location and sales prices of seniors housing in the Woollahra LGA and measures to exempt Woollahra LGA from providing housing under the Seniors Housing SEPP.  
To obtain Council's approval to request an exemption from the Seniors Housing SEPP.

**Recommendation:**

- A. THAT the report on seniors housing be received and noted.
- B. THAT Council requests an amendment to the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* so that its provisions will not apply to land zoned R2 Low Density Residential under the *Woollahra Local Environmental Plan 2014*.

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**1. Background**

On 22 February 2021, Council adopted the following Notice of Motion (NOM):

- A. *THAT Council, with supporting planning evidence, write to the Minister for Planning & Public Spaces including the Department of Planning, Industry and Environment seeking an exemption from the provision of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in the R2 Low Density Residential and R3 Zones in the Woollahra Local Government Area.*
- B. *THAT staff provide a report to Council as soon as reasonably practicable:*
  - i *Outlining the number of developments that have been approved in the Woollahra Local Government Area ("WLGA") under the SEPP Seniors since it was enacted and the location of these developments;*
  - ii *Outlining measures taken by any government agency to ensure compliance with the intent of the SEPP Seniors, including as to owners and occupiers of competed developments;*
  - iii *Outlining the average purchase price for each approved dwelling in such developments including an average price per square meter and comparing this to the average purchase price of other multi-unit dwellings in the WLGA; and*
  - iv *Detailing measures whereby the WLGA can amend its current Local Environmental Plan 2014 ("LEP") and/or other planning instruments to:*
    - a. *prevent new applications for development of housing for seniors or people with a disability ("Seniors Housing") under the SEPP Seniors on land in R2 Low Density Residential Zones and R3 Zones in the WLGA; and*

- b. *exclude the development of Seniors Housings under the SEPP Seniors on land in R2 Low Density Residential zones and R3 Zones in the WLGA.*
- c. *reference particularly to late correspondence as provided by local residents to the Council Meeting on the 22 February 2021.*

The following background information accompanied the NOM on the meeting agenda:

*The SEPP Seniors allows multi-unit development in all zones of the WLGA including the R2 Low Density Residential Zones.*

*These projects can be characterised as generally medium density, multi-unit housing complexes with limited landscaping and deep soil planting, which often contrasts with adjoining low-density urban areas.*

*The R3 Medium Density Residential zone is tailored to multi dwelling housing of this type and is more suited to this type of development. The R3 zone facilitates a denser urban form than the R2 zone and provides a transition between areas of single dwellings and areas of residential flats. Seniors Housing is more suited to development in the R3 zone and business zones (these business zones having more immediate access to services and transport).*

*A higher density development on land that is zoned for lower density has large impacts on the infrastructure and traffic movements in the WLGA as well as the urban tree canopy. It also overrides the strategic planning framework which the WLGA has been asked to implement with its housing strategy.*

*The SEPP Seniors provisions provide a mechanism to unilaterally increase the value of landholdings by effectively rezoning the use of those landholdings and is therefore extremely attractive to developers. An analysis of the benefit of retaining this development, given constraints on infrastructure, public transport and traffic flows in our WLGA as well as Council's desire to increase tree canopy, needs to be undertaken together with an analysis of whether this SEPP is delivering more affordable Seniors Housing.*

*The housing strategy of Local Government Areas has fundamentally changed since the SEPP Seniors was introduced in 2004. There is now a clearer hierarchy of strategic plans to guide future development across the Greater Sydney Region and the WLGA in particular. The SEPP Seniors was implemented prior to the requirement for Councils to prepare Local Strategic Planning Statements. There is now a greater recognition of the critical role that Councils must play in strategic planning for their local area, and therefore the application of this SEPP to all zones in the area must be questioned.*

*It is highly arguable that Council can deliver its housing needs, including appropriate Seniors Housing within the current boundary of its urban area without the application of the SEPP Seniors in R2 zones. It is also highly arguable that developments under the SEPP Seniors is not resulting in more affordable accommodation than that already delivered by multi-unit development in R3 and other zones identified for such type of development in the WLGA.*

*On 29 July 2020 the SEPP Seniors was excluded from 13 Local Government Areas by the State Environmental Planning Policy (Housing for Seniors or People with a Disability) Amendment (Metropolitan Rural Areas Exemption) 2020 following heavy lobbying from Hornsby and The Hills Local Government Areas. Reference <https://www.legislation.nsw.gov.au/view/pdf/asmade/epi2020-441>*

*The SEPP Seniors is now excluded in the following Local Government Areas:*

- *Blue Mountains*
- *Blacktown*
- *Camden*
- *Campbelltown*
- *Fairfield*
- *Hawkesbury*
- *The Hills*
- *Hornsby*
- *Liverpool*
- *Northern Beaches*
- *Penrith*
- *Sutherland*
- *Wollondilly*.

*It is time for the WLGA to review the intent of this SEPP to see if it is being met and to determine the appropriate use for this SEPP in its zones, having regard to its overall housing strategy.*

## **2. SEPP (Housing for Seniors or People with a Disability) 2004**

Clause 2(1) of the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (Seniors Housing SEPP) establishes the following aims to encourage the provision of housing (including residential care facilities) that will:

- a) *increase the supply and diversity of residences that meet the needs of seniors (people aged 55 years or more) or people with a disability*
- b) *make efficient use of existing infrastructure and services, and*
- c) *be of good design.*

Clause 2(2) establishes that these aims will be achieved by:

- a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

The Seniors Housing SEPP applies to land zoned primarily for urban purposes, or land that adjoins land zoned primarily for urban purposes (where dwelling houses, residential flat buildings or hospitals are permitted). It also applies to some land zoned for special uses and existing registered club sites (cl 4).

For the purposes of the Seniors Housing SEPP, the following definitions apply:

*seniors*<sup>9</sup> means people aged 55 or over, people living at a facility where residential care under the meaning of the *Aged Care Act 1997* of the Commonwealth is provided, or people assessed as eligible to occupy aged housing.

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<sup>9</sup> As per cl8 of Seniors Housing SEPP

*seniors housing*<sup>10</sup> means residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability consisting of—

- residential care facility— where meals and cleaning services, and personal care or nursing care, or both, and appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care
- hostel—where meals, laundering, cleaning and other facilities are provided on a shared basis, and at least one staff member is available on site 24 hours a day to provide management services
- group of self-contained dwellings—where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis
- or a combination of these,
- but does not include a hospital. (cl 10-13)

In this report the term ‘seniors housing’ is used to address both housing for seniors and housing for people with a disability.

### **3. Where seniors housing is permitted in the Woollahra LGA**

Under the *Woollahra Local Environmental Plan LEP 2014* (Woollahra LEP 2014) seniors housing (including residential facilities and hostels) is permitted with consent on land zoned R3 Medium Density Residential and B4 Mixed Use.

However, as discussed in section 2 of this report, the aim of the Seniors Housing SEPP is to encourage seniors housing in areas where it might otherwise not be permissible. In the Woollahra local government area (LGA), the Seniors Housing SEPP permits with consent development for seniors housing on land zoned R2 Low Density Residential and SP3 Tourist<sup>11</sup>.

### **4. Location of existing and proposed seniors housing in the Woollahra LGA**

#### **4.1. Location of seniors housing**

Part B(i) of the NOM requested information about the number of developments approved in the Woollahra LGA under the Seniors Housing SEPP and the location of these developments.

The NSW Government has used state polices to support the supply of housing for older people and people with a disability since 1982. Between 1982 and 2021 (i.e. 39 years) there have been 13 approvals for seniors housing development in the Woollahra LGA (see **Annexure 1**).

In the last five years there has been an increase in the number of development applications (DAs) lodged under the Seniors Housing SEPP, with six DAs lodged since 2016. Of these:

- Five DAs (83%) are on land zoned R2 Low Density Residential
- Five DAs have been determined:
  - One was approved by Woollahra Local Planning Panel

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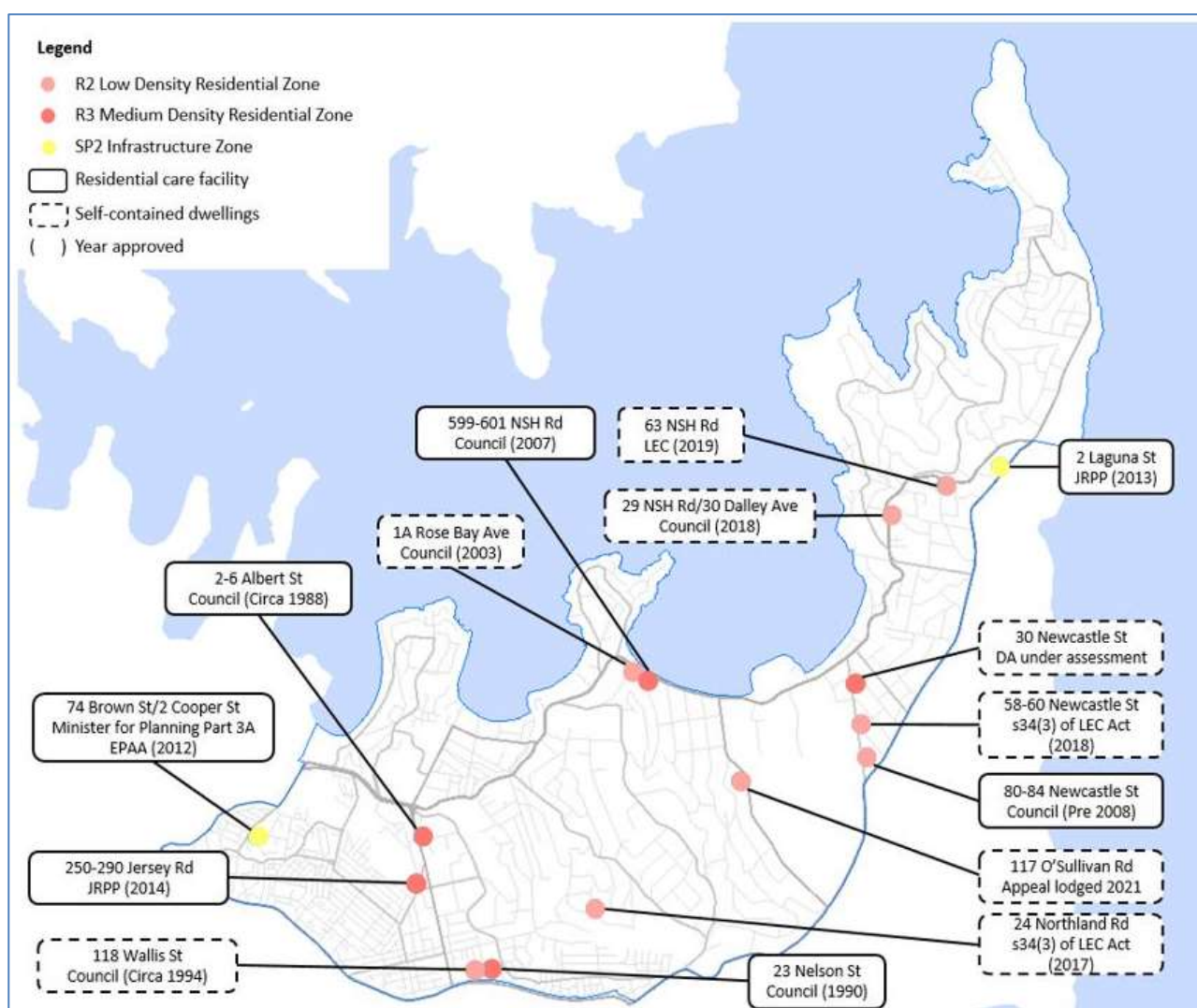
<sup>10</sup> As per cl10 of Seniors Housing SEPP

<sup>11</sup> Land zoned SP3 Tourist in Watsons Bay comprises the Watsons Bay Hotel, Doyles restaurant and a dwelling house. Seniors housing is permissible with consent under the Seniors Housing SEPP because ‘dwelling houses’ are permitted with consent in the SP3 zone under the Woollahra LEP 2014.

- Four (80%) were refused. However, three have since been approved on appeal and one has an appeal pending.
- One DA is currently under assessment.

All of those that have been approved comprise self-contained dwellings and have exceeded the maximum height in the Seniors Housing SEPP (8 metres). These were approved via an application under *Clause 4.6: Exceptions to development standards* to vary the development standard for height of buildings.

The location of all the seniors housing development in the Woollahra LGA is shown in **Figure 1** below. The map shows that there is seniors housing located throughout the LGA. However, in the last five years the seniors housing has been concentrated in Rose Bay and Vaucluse, and predominantly on R2 Low Density Residential zoned land. Further details about each seniors housing development, including dwelling numbers, is provided in **Annexure 1**.



**Figure 1: Location of seniors housing in the Woollahra LGA (including approval authority, year approved and accommodation type)**

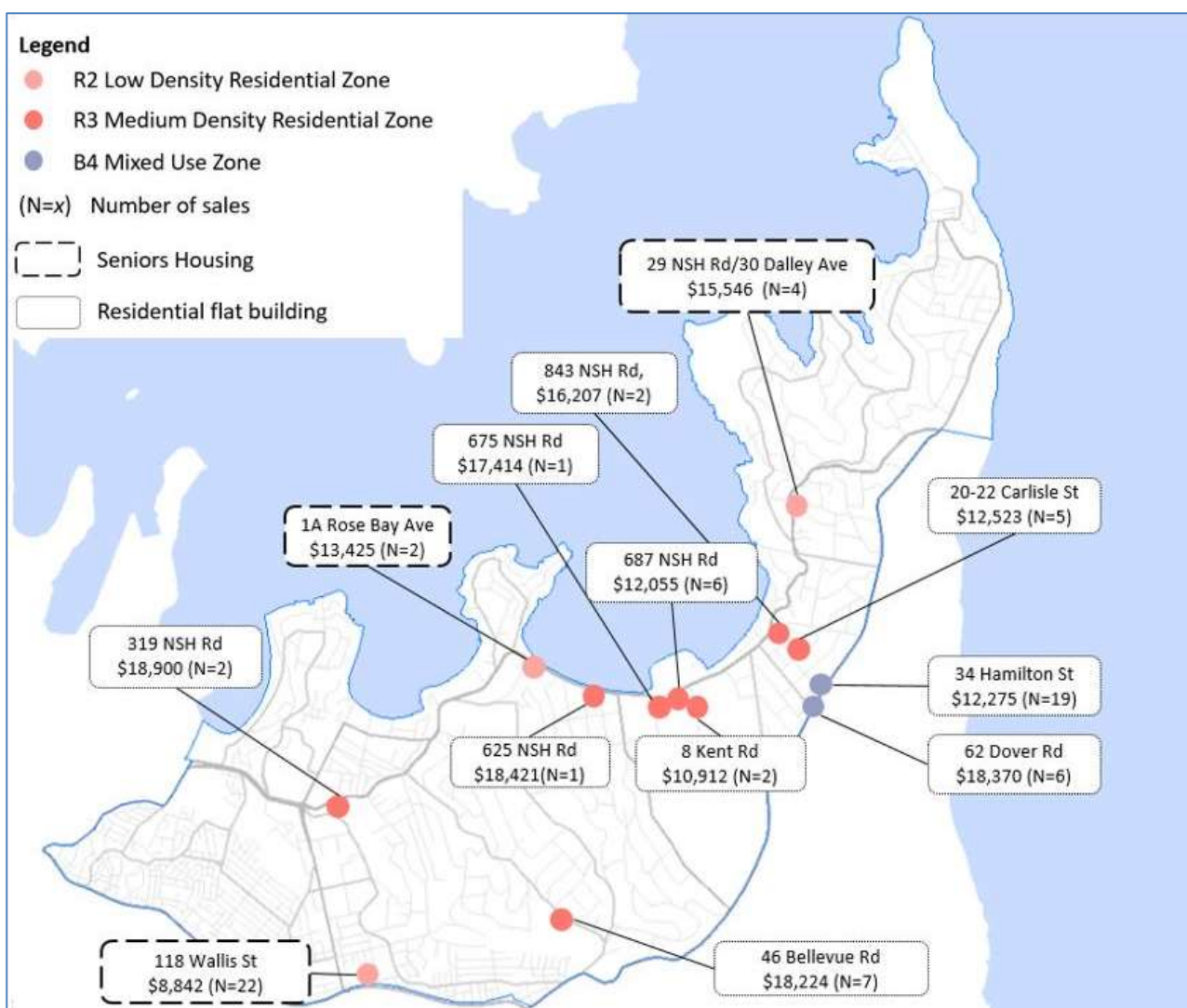
#### 4.2. Purchase price for seniors housing compared to other multi-unit dwellings

Part B(iii) of the NOM requested a comparison of the purchase price for dwellings in seniors housing development compared with the price of other multi-unit dwellings in the LGA.

Council staff have sourced data for sales in the last five years, predominantly from the Domain real estate website. This is consistent with the period in which there has been an increase in DAs for seniors housing.

For seniors housing development, the average sales price per sqm for 30 Dalley Avenue, Vaucluse (Nangara), 1A Rose Bay Avenue, and 118 Wallis St, Woollahra (Emanuel Gardens) is shown on the map in **Figure 2**. There is no publicly available sales data for 24 Northland Road, Bellevue Hill (Bentley) and 58-60 Newcastle Street, Rose Bay (The Stella) which have more recently been released to market.

Council staff have also contacted local real estate agents who have provided anecdotal evidence that sales of apartments restricted to 55 years and over is comparative with sales prices achieved by similarly appointed apartments in residential flat buildings (RFBs). **Figure 2** below also shows the average sales price per sqm for comparable RFB developments within the Woollahra LGA.



**Figure 2: Property sales average price per sqm based on sales figures 2016-2021**

Based on the sales data and anecdotal evidence, it is apparent that the Seniors Housing SEPP is not producing “more” affordable housing. In some cases it is producing luxury apartments which achieve sales prices that are the same or more than RFBs in the R3 Medium Density Residential Zone. However, there is no requirement under the Seniors Housing SEPP that dwellings delivered in seniors housing are to be affordable.

Notwithstanding, the Seniors Housing SEPP does make provision for “affordable places” under *Ch3: Part 6 cl45 Development for vertical villages*, where a minimum of 10% of the accommodation must be affordable housing. Applications under this Part trigger bonus floor space provisions, where the affordable housing is owned and managed by an organisation providing community housing. It is noted that these provisions are relevant to the DA for 30 Newcastle Street, Rose Bay (DA271/2020) which is under assessment at the time of preparing this report.

## **5. Ensuring compliance with restrictions on development approved as seniors housing**

Part B(ii) of the NOM requested that we outline measures taken by State Government to ensure compliance with the intent of the Seniors Housing SEPP regarding occupation restrictions.

The Seniors Housing SEPP places the following restrictions and requirements on seniors housing development:

- **Restrictions on occupancy**

Clause 18 of the Seniors Housing SEPP restricts the occupation of dwellings approved under the SEPP to seniors, people with a disability, people who live with them or staff employed to assist in the administration of and provision of services.

To restrict the occupancy of the development, it requires that a condition is imposed on the consent and that a covenant is registered on the property title, pursuant to section 88E of the *Conveyancing Act 1919*.

- **Requirements relating to affordable places and on-site support services**

Similarly, conditions of consent and a covenant on the property title are required to ensure that development which has benefited from FSR allowances under cl45, provides on-site support services and affordable housing for the lifetime of the development.

Additionally, the affordable housing accommodation must be nominated on the construction certificate plans and must be owned and managed by an organisation providing community housing that is registered with the Office of Community Housing of the Department of Housing.

In relation to compliance, Council is responsible for ensuring development complies with the conditions of consent. This includes ensuring compliance with the occupation restrictions that apply to development approved under the Seniors Housing SEPP.

Council generally relies on advice from members of the public about potential breaches of the occupancy restrictions on the consent. Action would be undertaken consistent with Council’s *Enforcement Policy 2007*, and would typically initially involve contacting the land owner and the strata manager to discuss if there has been a breach. Further action may be taken where there is evidence of continued non-compliance. As of 24 June 2021, there were no recorded complaints about potential breaches of occupancy restrictions for seniors housing.



## **6. Potential to seek exclusions from the Seniors Housing SEPP**

Part B(iv) of the NOM requested that we identify measures to amend the Woollahra LEP 2014 and/or other planning instruments to:

- *prevent new applications for development of seniors housing under the SEPP on land in R2 Low Density Residential Zones and R3 Zones and*
- *exclude the development of Seniors Housings under the SEPP Seniors on land in R2 Low Density Residential zones and R3 Zones in the WLGA.*

In relation to this part of the NOM, it is important to note that the intent of the Seniors Housing SEPP is to set aside local controls to encourage new development and provide increased housing opportunities for seniors and people with disabilities.

The Department of Planning, Industry and Environment (DPIE) has not given any LGA a broad exemption to this SEPP as sought by Council in the NOM. Further, the DPIE has provided feedback to Randwick Council that it will not support an exemption to the Seniors Housing SEPP as proposed in Randwick Council's local housing strategy.

Notwithstanding the above, in recent years the Seniors Housing SEPP has been amended so that it does not apply to certain land within some LGAs. These exclusions are:

- under clause 4A the Seniors Housing SEPP does not apply to heritage conservation areas in Greater Sydney Region (until July 2022), excluding the North Sydney LGA.
- under clause 4B the Seniors Housing SEPP does not apply to land identified on the metropolitan rural areas exclusion zone map in certain metropolitan rural areas in the Greater Sydney Region.

Having regard to the above, the potential for exemption to the Seniors Housing SEPP is discussed below. Council staff anticipate that an exemption in the R3 Medium Density Residential zone is highly unlikely to be supported by DPIE.

However, to support a request to DPIE for an exemption from the Seniors Housing SEPP for land zoned R2 Low Density Residential, Council staff have identified the following

### **6.1. Justification to remove the Seniors Housing SEPP from R2 zoned land**

#### **(i) Housing diversity**

The Seniors Housing SEPP is not increasing the 'diversity of residences that meet the needs of seniors or people with a disability' in the Woollahra LGA.

In the last five years, all new dwellings approved under the Seniors Housing SEPP have been self-contained dwellings (i.e. RFBs) which do not contain any accommodation for people with care needs, on-site services, or any 'affordable places'.

Real estate agents have reported that in general, most apartment development in the LGA is popular with downsizers and seniors. In effect, the Seniors Housing SEPP is being used as a loophole mechanism to develop RFBs in land zoned R2 Low Density Residential.

#### **(ii) Access to infrastructure and services**

The Seniors Housing SEPP is not delivering new dwellings which make an efficient use of existing infrastructure and services within the Woollahra LGA.

Section 26 of the Seniors Housing SEPP permits RFBs in the R2 Low Density Residential Zone on sites within 400m of public transport. Council staff contend that locating seniors housing in land zoned R2 Low Density Residential is not an efficient use of infrastructure and services. Section 26 also does not take into account the topography of land of the surrounding area.

Whilst the recent DAs may have met the provisions under clause 26, they have a strong reliance on car travel. All DAs in the last five years have basement parking and generally provide at least two parking spaces per dwelling.

Additionally, being able to connect with the community is important to the health and well-being of people ageing in place. Activities such as being able to walk to a local centre or go to a nearby café with a visitor is a simple way people can feel more connected. These types of activities are not convenient for seniors housing located in R2 Low Density Residential Zone.

The R3 Medium Density Residential and B4 Mixed Use zones where land is in close proximity to retail, community, and recreational services is more suitable for seniors housing and provides a more efficient use of existing infrastructure and services.

**(iii) Good design**

Development under the Seniors Housing SEPP is not producing seniors housing that is of “good design”. In Woollahra LGA the Seniors Housing SEPP is producing three storey RFBs over basement parking. This is predominantly occurring in the R2 Low Density Residential zone where the zone objective in the Woollahra LEP 2014 is “*To provide for the housing needs of the community within a low density residential environment.*”

The DAs lodged generally do not comply with the height and storey controls in clause 40 of the Seniors Housing SEPP and rely on clause 4.6 requests to vary the development standards. There is a perception that seniors housing development is already being granted a concession by allowing an RFB in the R2 Low Density Residential zone, and no further non compliances should be permitted. The use of clause 4.6 variations in these cases, diminishes community confidence in the planning system and creates uncertainty about the built form that can be achieved on the site.

Certainty and confidence in the planning controls is further eroded when DAs are refused by the Woollahra LPP but are approved on appeal. In the last five years, four of the refused five DAs (80%) for seniors housing were refused. However, on appeal four out of five refused DAs were then approved on appeal (and one has an appeal pending).

**(iv) The strategic planning framework**

The Seniors Housing SEPP is undermining Council’s strategic plans, including the local planning objectives in the Woollahra LEP 2014, and the *Draft Woollahra Local Housing Strategy 2021* which was reported to Council on 5 July 2021.

In the last five years 83% of DAs for seniors housing have been in the R2 Low Density Residential zone. The primary zone objectives in the Woollahra LEP 2014 is “*To provide for the housing needs of the community within a low density residential environment.*”

The development of RFBs under the Seniors Housing SEPP in the R2 Low Density Residential zone is creating density in areas we haven't planned for, undermining the planning controls and local character provisions which have been developed in consultation with our community. It is noted that the *Woollahra Local Strategic Planning Statement 2020* reaffirmed these local planning provisions and found them to be consistent with the Greater Sydney Region Plan and Eastern City District Plan.

Furthermore, the recent approvals for seniors housing have been clustered in specific areas. The cumulative impact of seniors housing on the low density character and existing local infrastructure is not suitably considered within the context of the Senior Housing SEPP. The Seniors Housing SEPP should require cumulative impact studies, including impacts on local character.

**(v) Impacts on housing affordability for families in the R2 Low Density Residential Zone**

The Seniors Housing SEPP has the potential to skew land values in the R2 Low Density Rental zone and disadvantage families seeking low density housing types such as dwelling houses:

The Seniors Housing SEPP is being used to produce upmarket self-contained dwellings in the R2 Low Density Residential zone. For example, apartment sales in a recent approval under the Seniors Housing SEPP sold for \$5.6M - \$13M. This is typical of the type of seniors housing that developers are seeking to build in Woollahra's R2 Low Density Residential zones, particularly in the last five years.

Currently, the Seniors Housing SEPP is likely delivering windfall profits to developers who purchased land based in the R2 Low Density Residential zone which does not permit RFBs under the Woollahra LEP 2014. Should this trend continue, it will provide an unfair advantage to the developers and inflate the cost of R2 Low Density Residential zoned land. This reduces opportunities for lower density housing types for families as the greater sales yields can be achieved by developing using the Seniors Housing SEPP.

If developers are achieving concessions under the Seniors Housing SEPP there should be a public benefit such as requiring dwellings to be affordable and of universal design.

**(vi) Woollahra is on track to meet its housing targets**

The *Draft Local Housing Strategy 2021* identifies that Woollahra Council is on track to meet housing supply targets and we do not need to rely on the SEPP to provide for increased housing. However, development under the Seniors Housing SEPP is delivering apartments in our R2 Low Density zones, which are not contributing to housing diversity. RFB development is already taken place in and around our centres on land zoned R3 Medium Density Residential, B2 Local Centre, and B4 Mixed Use.

There is a steady pipeline of new apartments being delivered in and around our local centres. Advice from realtors is that these are popular with downsizers and older residents. Accordingly, there is no need for the Seniors Housing SEPP to providing additional dwellings in unplanned areas.

**6.2. R3 zoned land and seniors housing**

Council's NOM requested that staff seek an exemption from the Seniors Housing SEPP for land zoned R3 Medium Density Residential across the Woollahra LGA. However, the supporting evidence for an exemption in the R3 Medium Density Residential zone is not as strong and is less compelling for the following reasons:

**(i) Seniors housing and similar developments are permissible under Woollahra LEP 2014**

Seniors housing is currently permissible in the R3 Medium Density Residential zone under the Woollahra LEP 2014. Should Council seek an exemption to the Seniors Housing SEPP, Council would need to amend the Woollahra LEP 2014 to prohibit seniors housing in the R3 Medium Density Residential zone. However, it would be difficult to justify this amendment given that the zone objectives include:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

Consistent with the zone objectives, land uses similar to seniors housing are permitted with consent in the R3 Medium Density Residential zone under the Woollahra LEP 2014, including RFBs, hostels, and multi dwelling housing.

**(ii) Limited number of DAs for seniors housing in the zone**

In the last five years there has only been one DA for a new seniors housing development in the R3 Medium Density Residential zone. That DA is still under assessment as at 30 June 2021.

**(iii) Housing diversity under the Woollahra LEP 2014**

Excluding seniors housing from the R3 Medium Density Residential zone would lead to this use only being permissible in the SP3 Tourist zone (under the SEPP) and the B4 Mixed Use zone (under the Woollahra LEP 2014).

This may be seen by the DPIE as too limiting and it could be reasonably argued that seniors housing is more compatible with the objectives of the R3 zone compared to the SP3 Tourist zone where the SP3 Tourist zone objectives include:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

Additionally, with regard to ensuring housing diversity, Council staff are concerned that seeking an exemption for the R3 Medium Density zone may inadvertently undermine the request for the R2 Low Density Residential zone.

## **7. NSW Government review of the Seniors Housing SEPP**

DPIE is currently reviewing the Seniors Housing SEPP within the context of the proposed new Housing Diversity SEPP which will consolidate the Seniors Housing SEPP with the Affordable Rental Housing SEPP and SEPP No 70 – Affordable Housing (Revised Schemes). An explanation of intended effect (EIE) for the proposed Housing Diversity SEPP was exhibited from July to September 2020, to which Council made a submission.

The EIE proposes a number of changes in regards to the Senior Housing SEPP. These include:

- updating definitions, including the definition of height, to be consistent with the Standard Instrument LEP.
- allowing development standards currently in the Seniors Housing SEPP to be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%
- amending the ‘location and access to facilities’ provisions so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility requirements.

Having regard to the issues raised in this report, the changes proposed under the new Housing Diversity SEPP are not expected to address Council's key concerns with the Seniors SEPP.

The Draft Housing Diversity SEPP is expected to be released in the coming months. Council staff will prepare a further submission to the DPIE when the draft is on exhibition identifying Council's key concerns.

Council staff will also include matters raised in the *Draft Woollahra Local Housing Strategy 2021* which includes:

- exempting Woollahra Council from provisions which allow RFBs to be constructed on sites within 400 metres of a public bus stop, where those sites are isolated and have limited accessibility.
- requiring that seniors housing is affordable and is of universal design
- raising the minimum age for seniors housing
- making the moratorium permanent which excludes the Seniors Housing SEPP from HCAs<sup>12</sup>
- clarifying that development standards in a local environmental plan prevail to the extent of any inconsistency with the Seniors Housing SEPP.

## **8. Recommendation and next steps**

Based on an analysis of the seniors housing DAs in the Woollahra LGA, Council staff recommend that Council seek an exemption from the Seniors Housing SEPP from the R2 Low Density Residential Zone.

Notwithstanding the terms of the NOM, Council staff do not recommend seeking an exemption from the R3 Medium Density Residential zone for the reasons discussed in Section 6.2 of this report. The case is less compelling, highly unlikely to be supported, and could undermine our argument to exempt the Seniors Housing SEPP from the R2 Low Density Residential Zone.

Should Council resolve to seek an exemption, Council staff will write to the Minister for Planning and Public Spaces, relying on the justification discussed in this report formally requesting an exemption from the seniors housing provisions under the Seniors Housing SEPP.

Council staff will also continue to pursue other mechanisms for reform of the seniors housing provisions, including making submissions to the Draft Housing Diversity SEPP and through the refinement and future implementation of the *Draft Woollahra Local Housing Strategy 2021*.

## **9. Conclusion**

There is growing community concern about recent DAs under the Seniors Housing SEPP. Council has requested that we investigate and write to the NSW Government seeking an exemption from the seniors housing provisions.

Over the last five years, the Seniors Housing SEPP has delivered luxury self-contained apartments on land zoned R2 Low Density Residential. These developments consist of three storey RFBs with basement parking which are inconsistent with the R2 Low Density Residential character.

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<sup>12</sup> The Mayor recently wrote to the DPIE requesting a further 12 month extension to the moratorium to exclude the SEPP from HCAs, and an extension until July 2022 was made. This extension will allow Council to finalise the Draft Housing Strategy and put forward the view that planning for heritage and HCAs is a local matter and beyond the scope of the Seniors Housing SEPP.

The Seniors Housing SEPP is not producing a diversity of accommodation that meet the needs of seniors or people with a disability, nor is it producing affordable dwellings.

Council's records show that under the Woollahra LEP 2014 there is a steady supply of RFB development in our other zones. These RFBs are helping Council to meet housing supply targets and is popular with downsizers and people seeking to age in place.

The Seniors Housing SEPP is undermining Council's land use planning and strategic plans, creating community uncertainty, eroding confidence in the planning system, and impacting on the character and feasibility for diverse housing for families in our R2 Low Density Residential areas.

Based on the analysis of the seniors housing DAs in the Woollahra LGA, Council staff recommend that Council seeks an exemption from the Seniors Housing SEPP in relation to the R2 Low Density Residential Zone. Council staff do not recommend seeking an exemption in the R3 Medium Density Residential Zone.

### **Annexures**

1. Summary of Seniors Housing in Woollahra LGA [↓](#) 

## Summary of Seniors Housing in Woollahra LGA

The *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (the SEPP) defines residential care facility and self-contained dwellings as follows:

- **residential care facility** is residential accommodation for seniors or people with a disability that includes—
  - (a) meals and cleaning services, and
  - (b) personal care or nursing care, or both, and
  - (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

*Note— The Aged Care Act 1997 of the Commonwealth requires residential care facilities to which that Act applies to meet certain requirements.*
- **self-contained dwelling** is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

Seniors Housing in Zone R2				
Year approved	Address	Accommodation type and building storeys	Approving Authority / mechanism <i>(original consent doesn't include modifications under s4.55 EPAA)</i>	Average price per sqm based on sales in last 5 years
As at 30 June on appeal	117 O'Sullivan Road BELLEVUE HILL	Propose: <ul style="list-style-type: none"> <li>• 10 self-contained dwellings</li> <li>• Part 2-4 storeys and basement parking</li> </ul>	DA416/2020 appeal to be determined: <ul style="list-style-type: none"> <li>• s34 conciliation conference</li> <li>• WLPP Refusal 1 April 2021</li> </ul>	-
2019	63 New South Head Road VAUCLUSE	<ul style="list-style-type: none"> <li>• 7 self-contained dwellings</li> <li>• 3 storeys and basement parking</li> </ul>	DA404/2017: <ul style="list-style-type: none"> <li>• Approved LEC 26 March 2019</li> <li>• WLPP Refusal 12 April 2018</li> </ul>	-
2018	58-60 Newcastle Street ROSE BAY  "The Stella" <a href="https://www.stellarosebay.com.au/">https://www.stellarosebay.com.au/</a>	<ul style="list-style-type: none"> <li>• 11 self-contained dwellings</li> <li>• 3 storeys and basement parking</li> </ul>	DA 649/2017: <ul style="list-style-type: none"> <li>• Section 34 agreement under LEC Act, 20 November 2018</li> <li>• WLPP Refusal 17 May 2018</li> </ul>	Sales figures not publicly available

<b>Seniors Housing in Zone R2</b>				
<b>Year approved</b>	<b>Address</b>	<b>Accommodation type and building storeys</b>	<b>Approving Authority / mechanism</b> <i>(original consent doesn't include modifications under s4.55 EPAA)</i>	<b>Average price per sqm based on sales in last 5 years</b>
	29 New South Head Road /30 Dalley Ave VAUCLUSE  "Nangara" <a href="https://www.domain.com.au/building-profile/30-dalley-avenue-vaucluse-nsw-2030">https://www.domain.com.au/building-profile/30-dalley-avenue-vaucluse-nsw-2030</a>	<ul style="list-style-type: none"> <li>• 4 self-contained dwellings</li> <li>• 3 storeys and basement parking</li> </ul>	DA402/2017: <ul style="list-style-type: none"> <li>• WLPP approved 12 April 2018</li> </ul>	\$15,546/m <sup>2</sup> (based on sales for 4 dwellings)
2017	24 Northland Road BELLEVUE HILL  "Bentley" <a href="https://www.patonjamieson.com.au/bentley">https://www.patonjamieson.com.au/bentley</a>	<ul style="list-style-type: none"> <li>• 4 self-contained dwellings</li> <li>• 3 storeys and basement parking</li> </ul>	DA 354/2016: <ul style="list-style-type: none"> <li>• Section 34 agreement under LEC Act, 24 March 2017</li> <li>• AAP Refusal 20 January 2017</li> </ul>	Sales figures not publicly available
Pre 2008	80-84 Newcastle Street ROSE BAY  "Regis Manor" <a href="https://www.regis.com.au/residence/regis-rose-bay/">https://www.regis.com.au/residence/regis-rose-bay/</a>	<ul style="list-style-type: none"> <li>• Residential care facility (hotel-style services for 66 residents in single rooms, double rooms and suites)</li> <li>• 2 storey</li> </ul>	<ul style="list-style-type: none"> <li>• Assumed Council (unable to access records)</li> </ul>	N/A  (Fee: Refundable accomm deposit (RAD), and/or daily accomm payment (DAP))
2003	1A Rose Bay Avenue ROSE BAY	<ul style="list-style-type: none"> <li>• 11 self-contained dwellings</li> <li>• 4 storeys and basement parking</li> </ul>	<ul style="list-style-type: none"> <li>• Approved DCC 28 January 2003</li> </ul>	\$13,425/m <sup>2</sup> (based on 2 sales)
Circa 1994	118 Wallis Street WOOLLAHRA ,  "Emanuel Gardens"	<ul style="list-style-type: none"> <li>• 29 self-contained dwellings</li> <li>• 3-4 storeys and basement parking</li> </ul>	<ul style="list-style-type: none"> <li>• Assumed Council (unable to access records)</li> </ul>	\$8842/m <sup>2</sup> (based on 22 sales)
Total: 8 (incl 1 on appeal)				



<b>Seniors Housing in Zone R3</b>				
<b>Year approved</b>	<b>Address</b>	<b>Accommodation type and building storeys</b>	<b>Approving Authority/ mechanism</b>	<b>Average price per sqm based on sales in last 5 years</b>
As at 30 June DA not yet determined	30 Newcastle Street ROSE BAY	Proposed: <ul style="list-style-type: none"> <li>• 10 self-contained dwellings, incl. 1 affordable dwelling</li> <li>• 3 storeys and basement parking</li> </ul>	DA271/2020: <ul style="list-style-type: none"> <li>• currently being assessment (as at 1 July 2021)</li> </ul>	-
2014	250-290 Jersey Road WOOLLAHRA  “Anglicare Goodwin Village” <a href="https://www.anglicare.org.au/what-we-offer/retirement-living/villages-locations/woollahra/">https://www.anglicare.org.au/what-we-offer/retirement-living/villages-locations/woollahra/</a>	<ul style="list-style-type: none"> <li>• Residential care facility (comprises 158 dwellings in retirement village setting)</li> <li>• Multi storey buildings</li> </ul>	DA 72/2014: <ul style="list-style-type: none"> <li>• Sydney East Joint Regional Planning Panel approved 28 May 2014</li> <li>• Multiple s4.55 to consolidate apartments into larger apartments</li> <li>• Original DA approved by Council in 1969</li> </ul>	N/A  (Fee: RAD and/or DAP)
2007	599-601 New South Head Road ROSE BAY	<ul style="list-style-type: none"> <li>• Residential care facility (comprises 80 beds)</li> <li>• 4 storeys</li> </ul>	DA 554/2006: <ul style="list-style-type: none"> <li>• DCC approved 21 May 2007</li> </ul>	N/A  (Fee: RAD and/or DAP)
1990	23 Nelson Street WOOLLAHRA  “Woollahra Manor” by Montefiore Aged Care <a href="https://montefiore.org.au/residential-care/our-locations/woollahra-manor/">https://montefiore.org.au/residential-care/our-locations/woollahra-manor/</a>	<ul style="list-style-type: none"> <li>• Residential care facility (37 single/deluxe rooms and 13 suites)</li> <li>• 3 storeys</li> </ul>	<ul style="list-style-type: none"> <li>• Assumed Council (unable to access records)</li> </ul>	N/A  (Fee: RAD and/or DAP)
Circa 1988	2-6 Albert Street EDGECLIFF  “Albert Court” by St Vincent’s Care Services <a href="https://www.svcs.org.au/locations/new-south-wales/edgecliff">https://www.svcs.org.au/locations/new-south-wales/edgecliff</a>	<ul style="list-style-type: none"> <li>• Residential care facility (37 rooms comprising one and two bedroom units)</li> <li>• 2 storeys and basement parking</li> </ul>	<ul style="list-style-type: none"> <li>• Assumed Council (unable to access records)</li> </ul>	N/A  (Fee: RAD and/or DAP)
Total: 5 (incl 1 currently being assessed)				

<b>Seniors Housing in Other Zones</b>				
<b>Year approved</b>	<b>Address</b>	<b>Accommodation type and building storeys</b>	<b>Approving Authority/ mechanism</b>	<b>Average price per sqm based on sales in last 5 years</b>
2013	2 Laguna Street VAUCLUSE  “Mark Moran, Vaucluse” <a href="https://www.agedcareguide.com.au/mark-moran-vaucluse">https://www.agedcareguide.com.au/mark-moran-vaucluse</a>	<ul style="list-style-type: none"> <li>Residential care facility in retirement village setting (comprising 227 bed residential care facility, 14 self-contained dwellings)</li> <li>Multi-storey buildings</li> </ul>	DA384/2012: <ul style="list-style-type: none"> <li>Sydney East Joint Regional Planning Panel approved 20 February 2013</li> </ul>	N/A  (Fee: RAD and/or DAP)
2012	74 Brown Street/2 Cooper Street, PADDINGTON  “The Terraces” by Presbyterian Aged Care <a href="https://pacnsw.org.au/locations/paddington/">https://pacnsw.org.au/locations/paddington/</a>	<ul style="list-style-type: none"> <li>Residential care facility in retirement village setting (comprising 100 bed residential care facility and 79 self-contained dwellings)</li> <li>Multi-storey buildings</li> </ul>	MP10_0016 <ul style="list-style-type: none"> <li>Minister for Planning – Major Projects Part 3A approved 2 May 2012</li> </ul>	N/A  (Fee: RAD and/or DAP)
Total: 2				



**Political Donations: Matters to be considered by Councillors at Council and/or Committee Meetings**

