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Gateway determination report – PP_2020_WOOLL_012_00 (PP-2020-4098)

Double Bay Bowling Club – 18 Kiaora Road, Double Bay

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal, March 2021.
Woollahra Local Planning Panel report, 19 November 2020.
Environmental Planning Committee report, 30 November 2020.
Council resolution, 14 December 2020.

1 Planning Proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Woollahra
PPA	Woollahra Municipal Council (Council)
NAME	Double Bay Bowling Club (0 homes, 0 jobs)
NUMBER	PP_2020_WOOLL_012_00 (PP-2020-4098)
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014
ADDRESS	18 Kiaora Road, Double Bay
DESCRIPTION	Lot 101 in DP 614016
RECEIVED	21/12/2020 (made adequate 4 March 2021)
FILE NO.	IRF21/1296
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

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

The primary objective of the planning proposal is to ensure Lot 101 in Deposited Plan (DP) 614016 (the site), currently occupied by the Double Bay Bowling Club, continues to be used for private recreation purposes. The site was previously owned by Woollahra Municipal Council (Council), it was sold to the Double Bay Bowling Club in 1948. The sale included a restrictive covenant placed on the land providing that it could only be used for recreational purposes in connection with a bowling club, except with the written consent of Council.

The subject planning proposal seeks to ensure the site continues to be used for private recreation purposes by amending the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to rezone the site from *Zone R3 Medium Density Residential* to *Zone RE2 Private Recreation*, and increase the minimum lot size applicable to the site from 700m² to 8,800m².

The planning proposal also proposes administrative amendments by updating the cadastre layer of relevant Woollahra LEP 2014 maps applicable to the site, ensuring its southern boundary is accurately located and correctly depicts its dimensions as per DP 614016.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Woollahra LEP 2014 as per the changes shown in **Table 3** below.

Table 3 Current and Proposed controls

Control	Current	Proposed
Zone	R3 Medium Density Residential	RE2 Private Recreation
Minimum lot size	700m ²	8,800m ²

The above requires corresponding amendment to the Land Zoning Map and Lot Size Map.

The planning proposal also entails administrative cadastre corrections to the land application, land zoning, lot size, height of buildings, floor space ratio, land reservation acquisition, acid sulfate soils and flood planning maps of the Woollahra LEP 2014 (as applicable to the site). This is because the southern boundary of the site (i.e. shared boundary with the adjoining property at 20 Kiaora Road) as shown on the mapping of the Woollahra LEP 2014 is not consistent with the alignment in the deposited plan.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. It is recommended however that minor amendments to the mapping in the planning proposal be made prior to public exhibition, as discussed in Section 1.5 below.

1.4 Site description and surrounding area

The planning proposal relates to 18 Kiaora Road, Double Bay, known as the Double Bay Bowling Club. It has an area of approximately 8,860m² and is legally described as Lot 101 in DP 614016. The site is flat and generally rectangular in shape, with its long axis orientated north-west to south-east. Vehicular access to the site is provided from Kiaora Road where it crosses an open stormwater drain that runs parallel to the site's south-western boundary. The site contains three bowling greens, a single storey club house building and scattered mature vegetation along its north-eastern boundary as seen in **Figure 1** below.



Figure 1 Subject site (boundary locations indicative only). Source: Nearmap, image date – 24.01.2021

The immediate locality surrounding the site is generally characterised by low density residential development, comprising mainly of single detached dwelling houses on small-scale allotments (ranging from 180m² to 420m²). The open stormwater drain, which runs parallel to the site's south-western boundary and Kiaora Road, discharges at a stormwater management system 150m directly south of the site adjacent to the 'Lough Playing Fields'. New South Head Road and the Double Bay local centre is located approximately 500m to the north-west of the site.

Figure 2 shows the site and its local context.



Figure 2 Site context (boundary locations indicative only). Source: Nearmap, image date – 24.01.2021

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the maps listed in **Table 4** below. The maps contained within the planning proposal are suitable for community consultation, subject to minor amendments as discussed further below.

Table 4 Maps to be amended

Map Name	Woollahra LEP 2014 Map sheets (identification numbers)
Land Application	8500_COM_LAP_001_030_20141205
Land Zoning	8500_COM_LZN_003_010_20141205
Lot Size	8500_COM_LSZ_003_010_20141205
Height of Buildings	8500_COM_HOB_003_010_20170922
Floor Space Ratio	8500_COM_FSR_003_010_20170922
Land Reservation Acquisition	8500_COM_LRA_003_010_20141205
Acid Sulfate Soils	8500_COM_ASS_003_010_20141205
Flood Planning	8500_COM_FLD_003_010_20141205

Figure 3 below shows an extract from Council’s planning proposal, which illustrates the southern boundary of the site as being incorrectly shown in the Woollahra LEP 2014 mapping. The correct southern boundary is generally perpendicular to the front and rear boundaries as per the deposited plan (left). However, the LEP mappings show that the southern boundary is set at an angle (right). The mapping error shown below is reflected across all the map sheets listed in **Table 4** above.



Figure 3 Correct site cadastre as shown on the deposited plan on the left, and incorrect cadastre in the Woollahra LEP 2014 Land Application Map on the right (source: planning proposal)

All maps identified in **Table 4** are proposed to have their cadastre layers amended to accurately reflect alignment and dimensions of the southern boundary as per DP 614016. An example of the proposed mapping amendments is shown in **Figure 4** below.



Figure 4 Existing Woollahra LEP 2014 Land Application Map on the left, proposed Land Application Map on the right (source: planning proposal, overlay by DPIE)

Figure 5 and **6** below are extracts from the planning proposal illustrating the ‘current zoning’ and proposed zoning for the site (extracted from page 33 of the planning proposal, dated March 2021).

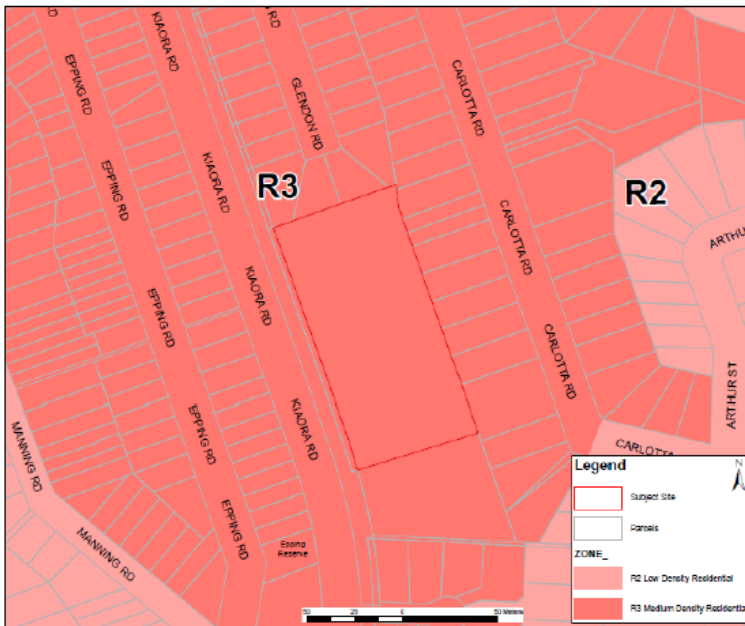


Figure 5 Extract of ‘current’ Land Zoning Map in the planning proposal (page 33).

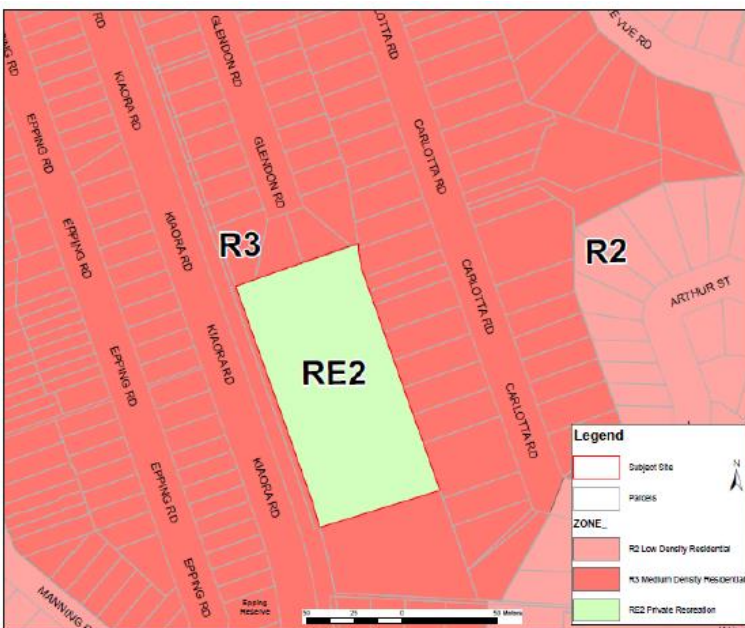


Figure 6 Extract of proposed Land Zoning Map in the planning proposal (page 33).

Figure 5 above does not accurately reflect the site’s southern boundary alignment as currently (and incorrectly) shown in the Woollahra LEP 2014. The current incorrect alignment of the southern boundary should have been shown in this map.

Figure 6 above reflects the proposed zoning along with the proposed cadastre adjustment. This map is considered to be appropriate for exhibition purposes.

Figure 7 below is an extract from the planning proposal showing the proposed cadastre amendments to the Land Zoning Map of the Woollahra LEP 2014. The ‘proposed’ Land Zoning Map on the right shows the cadastre adjustment with the alignment of the southern boundary corrected, however, it does not show the proposed RE2 zoning.



Figure 28: Extract of current Woollahra LEP Land Zoning Map (Sheet LZN_003) with incorrect boundary



Figure 29: Extract of proposed Woollahra LEP Land Zoning Map (Sheet LZN_003) with boundary rectified

Figure 7 Extract of mapping from the planning proposal illustrating required cadastre amendment to the Land Zoning Map (page 36 of the planning proposal)

The same mapping anomalies are contained in the Lot Size Maps within the planning proposal. Specifically, the extract of the 'existing' Lot Size Map does not show the incorrect alignment of the southern property boundary (refer to the map extract on the left in **Figure 8** below).

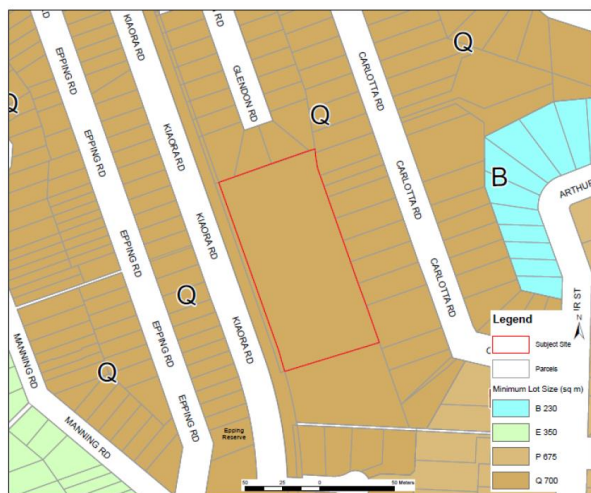


Figure 22: Extract of current Woollahra LEP 2014 Lot Size Map (Sheet LSZ_003) with subject site identified

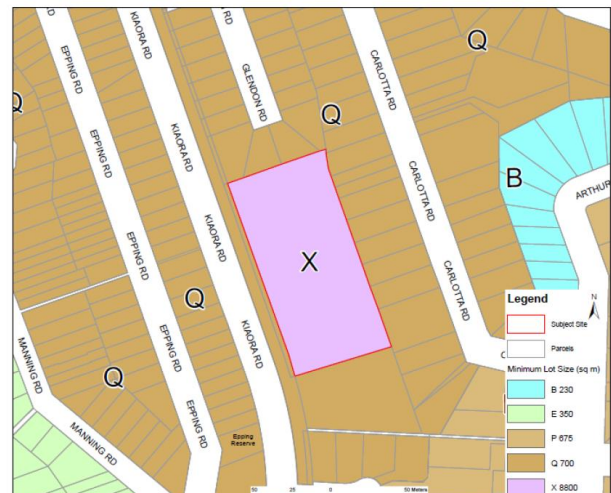


Figure 23: Extract of proposed Woollahra LEP 2014 Lot Size Map (Sheet LSZ_003) with subject site identified

Figure 8 Extract of existing and proposed Lot Size Maps in the planning proposal (page 34).

In explaining the proposed cadastre adjustment, the proposed Lot Size Map in the planning proposal does not show the intended 8,800m² lot size control. See the right hand image in **Figure 9** below.

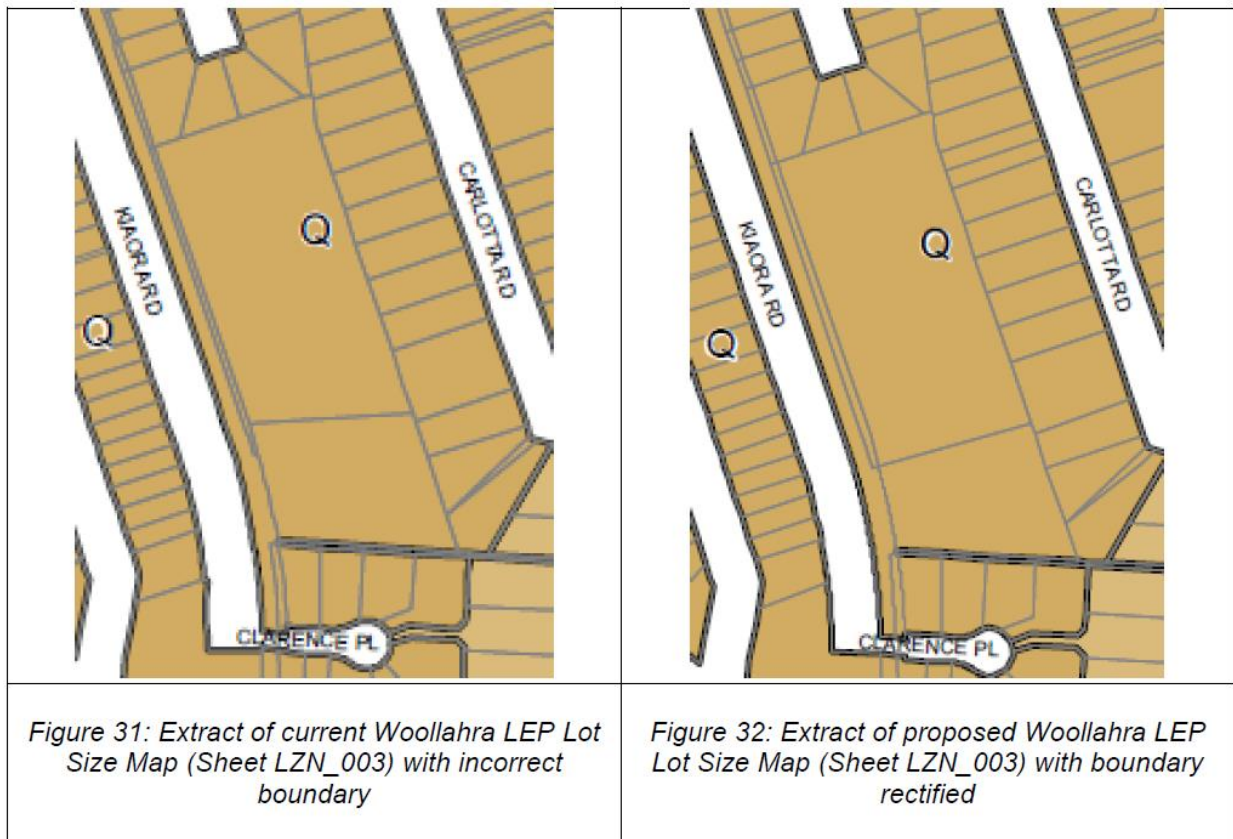


Figure 9 Extract of existing and proposed Lot Size Maps in the planning proposal (page 37).

Should the planning proposal be supported to proceed, conditions of any Gateway determination should require mapping within the planning proposal to be updated to correct mapping inconsistencies, being the existing and proposed land zoning and minimum lot size maps. These maps should be updated with accurate existing cadastre comparative to the proposed cadastre, zoning and minimum lot size amendments.

1.6 Background

The following is a summary of the historic use of the site and provides a background to Council's preparation of planning proposal:

- In 1940, Council purchased a parcel of land (which later became Lots 100 and 101 in DP 614016) from the Metropolitan Water, Sewerage and Drainage Board (Sydney Water). This purchase was based on Council's understanding that the land would be used only for recreational purpose.
- In 1942, Council leased the land (together with a proximate parcel of land comprising Lot 9 in DP 32788, 42 Glendon Road, which it had also purchased from a private individual) to the Double Bay Bowling Club Limited.
- In 1948, Council sold the whole of the lands to the Club, subject to the understanding that the grounds be used for recreational purposes. The sale included a restrictive covenant whereby the land could only be used for recreational purposes in connection with a bowling club, except with the written consent of Council.

- In 1975, the whole of the lands comprising the Club site were rezoned by *Interim Development Order No.15* to *Open Space Recreation (Private) 6(b)*.
- In 1980, *Interim Development Order No.15* was altered to allow part of the Club site (being Lot 100 in DP 614016) to be developed by the Club into a residential flat building to raise funds for the Club. The zoning of the remaining Club site was unchanged.
- In 1988, the remaining club site including Lot 101 in DP 614016 (subject site) was rezoned to *Residential 2(b)* under *Local Environmental Plan No. 27*.
- The site is currently zoned Residential R3 Medium Density Residential under the Woollahra LEP 2014.
- On 24 August 2020, Council resolved to prepare a planning proposal to rezone the site from R3 Medium Density Residential to RE2 Private Recreation ‘*in order to preserve land for private recreational use*’.
- The planning proposal was prepared and reported to the Woollahra Local Planning Panel (LPP) on 19 November 2020. The LPP advised to proceed with the planning proposal (see Section 3.4 in this report).
- On 30 November 2020, Council’s Environmental Planning Committee (EPC) considered a report on the advice of the WLPP. The EPC recommended that Council note the advice of the LPP that the planning proposal should proceed (see Section 3.5 in this report).
- On 14 December 2020, Council resolved:
 - ‘A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 19 November 2020 for the planning proposal for the Double Bay Bowling Club at 18 Kiaora Road, Double Bay (Lot 101 DP 614016).
 - B. THAT the planning proposal, as contained in Annexure 1 of the report to the Environmental Planning Committee on 30 November 2020, which seeks the following amendments to Woollahra LEP 2014:
 - Rezone the site from Zone R3 Medium Density Residential to Zone RE2 Private Recreation
 - Increase the minimum lot size for subdivision from 700m² to 8,800m²
 be forwarded to the Department of Planning, Industry and Environment requesting 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.’

A fully detailed background and links to relevant Council reports and resolutions can be found in Section 1 of the planning proposal (**Attachment A**).

- In pre-Gateway discussions with the Department, the cadastre boundary anomaly relating to the site’s southern boundary (as discussed above and shown in Section 1.5) was identified. Council subsequently updated the planning proposal to include this minor administrative amendment.

2 Need for the planning proposal

The planning proposal is not a result of an endorsed local strategic planning statement, strategic study or report. The proposal is however consistent with the relevant strategic planning framework applicable to the site. Preserving the site for recreational purposes ensures the community retains recreational land, this contributes to a more active and socially connected community in a locality, where land is at a premium and is already developed with limited land availability for such uses (as discussed in Section 3 below).

The need for the planning proposal arises from Council's objective to protect and retain the land for private recreation purposes, consistent with the current use of the site as a bowling club and the historic restrictive covenant in place on the site as discussed in Section 1.6 above. Rezoning the site from *Zone R3 Medium Density Residential* (the R3 zone) to *Zone RE2 Private Recreation* (the RE2 zone) and increasing the minimum lot size to 8,800m² (preventing smaller lot subdivision of the site) achieve the planning proposal's objective.

A bowling club is best defined as a *recreational facility (outdoor)* under the Woollahra LEP 2014, which is a prohibited land use in the R3 zone. As such, the use of the site as a bowling club would rely upon existing or continuing use rights to operate under its current zone. Rezoning the site to the RE2 zone, where a *recreational facility (outdoor)* is a permitted land use, removes the need for existing or continuing use rights to be relied upon and reflects the historic and current use of the site. The current use of the site is also inconsistent with the R3 zone objectives, which seek to provide for the medium density housing needs of the community.

The planning proposal is the best means of achieving Council's resolution and objectives for the site which are to preserve the land for private recreation purposes into the future. The site has been in use as a bowling club for over 75 years and is subject to a restrictive covenant requiring use of the land for recreational purposes in connection with a bowling club, except with the written consent of Council.

Council's other options for achieving the planning proposal's objectives would be:

- List *recreational facility (outdoor)* as an additional permitted use on the site under Schedule 1 of the Woollahra LEP 2014; or
- Maintain the status quo and retain the zoning of the site with the restrictive covenant in place.

In relation to each of these options:

- The intent of Schedule 1 is to allow additional land uses on specific land and should only be used in exceptional circumstances which are suitably justified. The use of the site would remain inconsistent with the R3 zone objectives. This option would also be inconsistent with section 9.1 Direction 6.3 Site Specific Provisions; and
- Retaining the R3 zoning and restrictive covenant does reflect Council's objectives to preserve the land for recreational purposes.

Finally, the proposed administrative amendments to correct a minor cadastre error across relevant Woollahra LEP 2014 mapping is acceptable and supported.

3 Strategic assessment

3.1 Regional Plan

The Greater Sydney Region Plan is the current overarching strategy for growing and shaping the Greater Sydney area. Released in 2018, it sets a vision up to the year 2056 and establishes a 20-year plan to manage growth and change for Greater Sydney. It is underpinned by the Eastern City District Plan which sets the 20-year vision for the Eastern City District (discussed in Section 3.2).

Table 5 provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Region Plan. The proposal is generally consistent with the Greater Sydney Region Plan.

Table 5 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 7 - Communities are healthy, resilient and socially connected	<p>Objective 7 seeks to promote health, wellbeing, resilience (adaptiveness) and social inclusiveness within communities. Social meeting places (such as a bowling club) assist in promoting community activity and connecting people within communities. This in turn can lead to the creation of social networks and build community resilience. Preserving the site's recreational use within the locality maintains the opportunity for participation in a local sporting club and related social activities. It will assist in promoting active lifestyles that will benefit local community members from a social, cultural and health perspective. Objective 7 provides that:</p> <p><i>'Being connected including physically, socially, economically, culturally and digitally is central to building healthy, resilient and diverse communities.'</i></p> <p>The proposal is consistent with Objective 7.</p>

3.2 District Plan

The site is within the Eastern City District. The Greater Sydney Commission released the Eastern City District Plan in March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets and contains the planning priorities and actions for implementing the Greater Sydney Region Plan at a district level.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity and sustainability in the plan.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. **Table 6** below includes an assessment of the planning proposal against relevant planning priorities and their actions.

Table 6 District Plan assessment

District Plan Priorities	Justification
Planning Priority E3 – Providing services and social infrastructure to meet people's changing needs	<p>Planning Priority E3 (PPE3) highlights the need for the Eastern City District to provide services and social infrastructure to accommodate population growth and demographic change. Facilities such as the Double Bay Bowling Club <i>'encourages people to be more physically and socially active, improves health outcomes and enhances the overall liveability of a neighbourhood or centre.'</i></p> <p>By preserving the ongoing use of the site for recreational purposes, the planning proposal is considered to be consistent with PPE3, including one of its actions (Action 8) which is to <i>'Deliver social infrastructure that reflects the needs of the community now and in the future.'</i></p>
Planning Priority E4 – Fostering healthy, creative, culturally rich and socially connected communities	<p>Planning Priority E4 (PPE4) places importance on social connections and physical activity as key aspects that contribute to creating healthy lifestyles in communities. By preserving the ongoing use of an accessible recreational facility such as the Double Bay Bowling Club, the proposal can facilitate social connections and physical activity in the locality and broader community.</p> <p>The planning proposal is considered to be consistent with PPE4, including one of its actions (Action 15) which is to <i>'Strengthen social connections within and between communities through better understanding of the nature of social networks and supporting infrastructure in local places.'</i></p>
Planning Priority E18 – Delivering high quality open space	<p>Whilst the site is not 'public' open space as Planning Priority E18 (PPE18) primarily focuses on, rezoning the site to the RE2 zone (private recreation) will ensure the use of the site for recreational purposes is maintained now and into the future in an area of the Eastern City District where there is limited available land to provide new or additional open space.</p> <p>Protecting active recreational space where people can also socialise (such as the site), within walking distance from the surrounding residential precinct is valuable to community wellbeing. To this end, the proposal is consistent with PPE18. The proposal is also generally consistent with subclause 'a.' of Action 67 of PPE18 which is to <i>'Maximise the use of existing open space and protect, enhance and expand public open space by providing opportunities to expand a network of diverse, accessible, high quality open spaces that respond to the needs and values of communities as populations grow.'</i></p>

3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in **Table 7** below:

Table 7 Local strategic planning assessment

Local Strategies	Justification
Woollahra Local Strategic Planning Statement	<p>The Woollahra Local Strategic Planning Statement (LSPS) sets out a 20-year land use vision and planning priorities for the future of the Woollahra LGA.</p> <p>The planning proposal is considered to be consistent with the LSPS, its vision and relevant planning priorities. By preserving the ongoing use of the site for recreational purposes into the future, the proposal is, in particular, consistent with Planning Priority 2:</p> <p><i>'Planning for a community supported by infrastructure that fosters health, creativity, cultural activities and social connections.'</i></p> <p>Within 'Our Vision' for Planning Priority 2, it states <i>'We have convenient access to high-quality infrastructure that supports our lifestyle, health and wellbeing and social connections.'</i> The proposal is consistent with this vision and Planning Priority 2.</p>
Woollahra 2030 – Our Community, Our Place, Our Plan	<p>Woollahra 2030 is Council's Community Strategic Plan (CSP), it was adopted by Council on 18 June 2018. The CSP has been prepared in consultation with the Woollahra community, it presents a long-term vision for Woollahra.</p> <p>In particular, under the CSP theme of 'community wellbeing', the proposal is consistent with Goal 1: <i>'A connected, harmonious and engaged community for all ages and abilities.'</i> Goal 1 states, <i>'Woollahra will be a community where people care for each other, have a sense of belonging and can contribute meaningfully to their local community and neighbourhood through participation in community life.'</i></p> <p>Under the CSP theme of 'quality places and spaces', the proposal is also consistent with Goal 5: <i>'Liveable Places'</i>. Goal 5 states, <i>'Woollahra will be a community with accessible, integrated and well maintained public places and open spaces. We will have clean and well maintained infrastructure and community facilities. It will be a safe and attractive place with high quality public and private facilities and amenities.'</i></p> <p>Rezoning the site to RE2 to reflect its current use and assure its future use for recreational purposes is consistent with the above goals of the CSP and the plan in general.</p>

3.4 Local Planning Panel (LPP) recommendation

The planning proposal was reported to the Woollahra LPP on 19 November 2020. The LPP advised that Council proceed with the planning proposal, resolving:

'THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal (at Annexure 1) for the Double Bay Bowling Club at 18 Kiaora Road, Double Bay (Lot 101 DP 614016) which seeks the following amendments to Woollahra Local Environmental Plan 2014:

- i. Rezone the site from Zone R3 Medium Density Residential to Zone RE2 Private Recreation, and*
- ii. Increase the minimum lot size from 700m² to 8,800m²*

3.5 Environmental Planning Committee

The Environmental Planning Committee (EPC) considers design and strategic planning issues that affect the Woollahra Municipality and its local environment. On 30 November 2020, Council's EPC considered a report on the advice of the LPP and made the following recommendation to Council:

‘Recommendation:

- A. *THAT Council note the advice provided by the Woollahra Local Planning Panel on 19 November 2020 for the planning proposal for the Double Bay Bowling Club at 18 Kiaora Road, Double Bay (Lot 101 DP 614016).*
- B. *THAT the planning proposal, as contained in Annexure 1 of the report to the Environmental Planning Committee on 30 November 2020, which seeks the following amendments to Woollahra LEP 2014:*
- *Rezone the site from Zone R3 Medium Density Residential to Zone RE2 Private Recreation*
 - *Increase the minimum lot size for subdivision from 700m² to 8,800m²*

be forwarded to the Department of Planning, Industry and Environment requesting 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.’*

3.6 Section 9.1 Ministerial Directions

The planning proposal’s consistency with relevant section 9.1 Directions is discussed below in **Table 8**.

Table 8 Section 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
Direction 2.6 – Remediation of Land	No	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. Direction 2.6 applies to the site, subclause (2) states the following:</p> <p><i>‘(2) This direction applies to:</i></p> <ul style="list-style-type: none"> <i>(a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997,</i> <i>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</i> <i>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</i> <ul style="list-style-type: none"> <i>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</i> <i>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).’</i> <p>The term ‘development’ and expression ‘carrying out of development’ are broadly defined under section 1.5 of the <i>Environmental Planning and Assessment Act 1979</i>, and include use of land. It is not necessary for any physical alterations to be done on the subject land for there to be considered a development, and may simply be a rezoning of the land as</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
		<p>proposed. The site is being used for recreational purposes, however there is incomplete historical knowledge on the use of the land prior to the 1940's, especially during the time when the land was under the ownership of the Metropolitan Water Board. As there is incomplete knowledge as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, the subject land meets the criteria of paragraph (2)(c)(i).</p> <p>Without certainty on land use history of the site and as the proposal relates to the rezoning of the site for recreational purposes, to satisfy subclauses (4) and (5) of Direction 2.6 a preliminary investigation of the land in accordance with the contaminated land planning guidelines will be required.</p> <p>In light of the above, consistency with Direction 2.6 remains unresolved. It is recommended that should any Gateway determination be issued that a condition be imposed requiring a preliminary investigation be completed prior to the finalisation of the planning proposal.</p> <p>A further condition is also recommended to require an update to the discussions regarding Ministerial Direction 2.6 and SEPP 55 Remediation of Land</p>
Direction 3.1 – Residential Zones	No	<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> • To encourage a variety and choice of housing types to provide for existing and future housing needs; • To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services; and • To minimise the impact of residential development on the environment and resource lands. <p>Direction 3.1 applies as the planning proposal seeks to rezone the site from the existing R3 Medium Density Residential to RE2 Private Recreation. The proposal is inconsistent with Direction 3.1 in that it removes the residential zoning from the site and increases the minimum lot size applicable to the site from 700m² to 8,800m². This in turn removes residential permissibility from the site and therefore does not encourage the provision of housing as the Direction requires.</p> <p>The planning proposal states</p> <ul style="list-style-type: none"> • The site has been in use for recreational purposes for over 75 years; • The restrictive covenant on the title of the land prevents the site from being used for residential purposes (or any other purpose) other than a bowling club without Council's consent. • The R3 zoning of the site is inconsistent with its current and historic use; and • The planning proposal relates to a single allotment which has no known history as being used for residential purposes.

Directions	Consistent	Reasons for Consistency or Inconsistency
		At the time of writing this report Council has not yet submitted a Local Housing Strategy to the Department for endorsement. It is unclear what
Direction 3.4 – Integrated Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve specified planning objectives relating to transportation integration. The Direction applies as the planning proposal will remove the residential zoning of the site.</p> <p>The proposal does not alter the current use of the site, which is located in a highly accessible and walkable area. The area is well serviced by public buses and is in close proximity to good and services (Double Bay local centre), and as such is suitable for recreation purposes.</p>
Direction 3.5 - Development Near Regulated Airports and Defence Airfields	Yes	<p>The objectives of this direction are to ensure the effective and safe operation of regulated airports and defence airfields and that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity. The Direction also seeks to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</p> <p>The proposal is consistent with this direction.</p>
Direction 4.1 – Acid Sulfate Soils	Yes	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. The site is mapped under the Woollahra LEP 2014 as containing part Class 3 and part Class 5 acid sulfate soils. The planning proposal does not seek to alter existing acid sulfate soils provisions within the Woollahra LEP 2014 nor does it propose an intensification of land uses on the site. The proposal is consistent with Direction 4.1.</p>
Direction 4.3 – Flood Prone Land	Yes	<p>The objectives of this direction are to ensure that development of flood prone land is consistent with the Government's flood prone land policy and floodplain development manual and to ensure that the provisions of an LEP for flood prone land are commensurate with flood hazard, and include consideration of the potential flood impacts both on and off the subject land. The site is mapped as a 'flood planning area' under the Woollahra LEP 2014. The proposal does not rezone the site to a Residential, Business, Industrial, Special Use or Special Purpose Zone and does not propose any provision which alter the current flood planning controls applicable to the site. The proposal is consistent with Direction 4.3.</p>
Direction 5.10 – Implementation of Regional Plans	Yes	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. As discussed previously in Section 3.1 and 3.2 of this report, the planning proposal is consistent with, and gives effect to the Greater Sydney Region Plan and the Eastern City District Plan. The proposal is consistent with Direction 5.10.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
Direction 6.1 – Approval and Referral Requirements	Yes	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. The proposal does not contain any provisions requiring concurrences, consultation or referrals and is not in contradiction to Direction 6.1.

3.7 State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

The proposal results in the reduction of residential zoned land within the Woollahra LGA, in turn reducing land available for *residential accommodation* uses. However, it does not contain any provisions that would hinder the broader operation of the housing-related SEPPs, such as:

- State Environmental Planning Policy No. 70 – Affordable Rental Housing (Revised Schemes); (SEPP 70);
- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP); and
- State Environmental Planning Policy (Housing for Seniors or People with a Disability).

As discussed above, a Gateway condition is recommended to require an update to the discussion regarding SEPP 55 Remediation of Land in the planning proposal

3.8 Clause 1.9A – Woollahra LEP 2014

As a restrictive covenant is imposed over the site by Council, the provisions of Woollahra LEP 2014 clause 1.9A(2)(a) apply as replicated below:

‘1.9A Suspension of covenants, agreements and instruments

(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

(2) This clause does not apply—

(a) to a covenant imposed by the Council or that the Council requires to be imposed, or

The planning proposal will not alter the operation of clause 1.9A in relation to the site.

Applying a zone that accurately reflects the current and future intended use of the site provides greater certainty to the landowner and the community about the type of development intended for the land and would contribute to a more efficient planning framework as well as development assessment process.

4 Site-specific assessment

4.1 Environmental

There are no significant or specific environmental impacts which would be likely to arise from the proposal.

The proposal would not alter the current use of the site or the character of the locality. The range of land uses which are permissible under the RE2 zone is significantly less than those permissible within the R3 zone. Any future development of the site would be subject to environmental assessment at the development application stage (except for exempt and complying development).

4.2 Social and Economic

The planning proposal is considered to result in the following positive social impacts within the locality:

- The quality of life for residents in the locality will not be reduced;
- Preservation of the site for recreational purposes and community use retains recreational land within the locality, which will contribute to creating a healthy, resilient and socially connected community. The proposal will ensure provision of community recreational space in a densely populated area; and
- In an area already highly developed and where land values are at a premium, the provision of land for recreational purposes offers a significant social benefit to the community and more broadly across the suburb.

Economic impacts associated with the proposal are considered to be neutral. The rezoning will result in the reduction of the range of land uses permitted on the site and residential accommodation will be prohibited and subdivision of the site restricted. However, as the use of the site is already restricted by Council's covenant (which only Council can vary) and it is the desire of Council for the site to only be used for recreational purposes, any perceived economic impact in this context of the site's ability to be developed (for instance, for residential purposes) is considered minor.

Overall, the planning proposal will result in maintaining a suitable spread of recreational land and services within the locality.

4.3 Infrastructure

As the site has been in use as a bowling club for over 75 years, it is serviced by existing essential services for recreational uses on the site (i.e. reticulated water, sewer, electricity and telecommunications). The site is highly accessible and in close proximity to public transport services.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days. The exhibition period proposed is considered appropriate, and forms a condition of the Gateway determination.

5.2 Agencies

Council has nominated the public agencies to be consulted about the planning proposal, the nominated agencies are appropriate. Consistent with the proposal, it is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- Sydney Water;
- Office of Sport; and
- Transport for NSW

6 Timeframe

Council proposes a six (6) month time frame to complete the LEP. The Department recommends a time frame of seven (7) months as a preliminary site investigation is required to be completed to support the proposal (see Section 3.6 of this report previously).

To ensure the LEP is completed in line with its commitment to reduce processing times, it is recommended that if the Gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates.

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

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making Authority.

The proposed rezoning reflects the current and intended future use of the site, and a restrictive covenant is already imposed on the land limiting its use to recreational purposes, the likely impacts of the proposal would be localised in nature.

Notwithstanding this, Council has not yet endorsed for exhibition a draft Local Housing Strategy which outlines how council will meet its short-, medium- and long-term housing needs of the LGA. As such, it is recommended not to grant Council delegation as the local plan making authority in this instance. This is to enable the Department to ensure that the proposal would not be inconsistent with the directions of an exhibited housing strategy at finalisation, and that the rezoning of the site would not adversely affect Council's ability to meet the housing needs of the community.

8 Assessment Summary

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

- It will give effect to the strategic planning framework of the Greater Sydney Region Plan and Eastern City District Plan and Council's local strategic plans;
- The administrative amendments will correct cadastre anomalies;
- The inconsistency with Ministerial Direction 3.1 is considered minor and suitably justified;
- Preservation of the site for recreational purposes aligns with the long-term use of the site as a bowling club and will ensure the provision of recreational land within the locality for future community use; and
- The proposal will not result in adverse environmental, social or economic impacts within the locality.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Correct the existing and proposed land zoning and minimum lot size maps to inform community consultation. The maps are to be updated to present the existing cadastre as compared to the proposed cadastre, as well as the proposed zoning and minimum lot size standard;
- Address Section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land, by providing a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines; and
- Provide an updated discussion regarding State Environmental Planning Policy 55 Remediation of Land, based on the findings of the preliminary site investigation.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 3.1 Residential Zones are justified; and

- Note that consistency with section 9.1 Direction 2.6 Remediation of Contaminated Land is unresolved and will require justification.

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

1. Prior to public exhibition the planning proposal is to be revised to:
 - i. Correct mapping to accurately reflect how the site is currently shown in the maps to the Woollahra LEP 2014. Specifically, all excerpts of existing Land Zoning and Lot Size Maps are to be updated to reflect the existing cadastre;
 - ii. Correct mapping to describe the proposed changes to the Woollahra LEP 2014. Specifically, all proposed Land Zoning and Lot Size Maps are to show the proposed zoning and lot size standard respectively;
 - iii. update part of the proposal regarding Ministerial Direction 2.6 and SEPP 55 Remediation of Land in the planning proposal to specify that a preliminary site investigation will be undertaken before finalisation
 2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
 3. Consultation is required with the following public authorities:
 - Sydney Water;
 - Office of Sport; and
 - Transport for NSW.
- Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 28 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
 5. Prior to the finalisation of the planning proposal:
 - i. Justify consistency with Section 9.1 Ministerial Direction 2.6 Remediation of Contaminated Land, by providing a preliminary site investigation carried out in accordance with the contaminated land planning guidelines For the purpose of this condition, contaminated land planning guidelines means guidelines under clause 3 of Schedule 6 to the *Environmental Planning and Assessment Act 1979*;
 6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and

(c) there are no outstanding written objections from public authorities.

7. The planning proposal must be exhibited not more than three (3) months from the date of the Gateway determination.
8. The planning proposal must be reported to council for a final recommendation not more than five (5) months from the date of the Gateway determination.
9. The timeframe for completing the LEP is to be **seven (7) months** from the date of the Gateway determination.



Simon Ip
Manager, Place and Infrastructure



17 June 2021

Laura Locke
Director, Eastern and South Districts

Assessment officer

Kendall Clydsdale
Planning Officer, Agile Planning and Programs

Attachment	Title
A	Planning proposal