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Gateway determination report – PP-2021-6852

Enhanced provisions for earthworks and associated
groundwater dewatering

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning proposal – Enhanced provisions for earthworks and associated groundwater dewatering (November 2021)
Woollahra Local Planning Panel (Public Meeting) Agenda – 20 May 2021
Woollahra Environmental Planning Committee Agenda – 11 October 2021
Woollahra Municipal Council – Ordinary Council Meeting Minutes – 25 October 2021

1 Introduction

1.1 Overview

Table 2 Planning proposal details

LGA	Woollahra Municipal Council
PPA	Woollahra Municipal Council
NAME	Enhanced provisions for earthworks and associated groundwater dewatering
NUMBER	PP-2021-6852
LEP TO BE AMENDED	Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014)
ADDRESS	Whole of Woollahra Local Government Area
DESCRIPTION	Planning proposal to amend Woollahra LEP 2014 to enhance provisions for earthworks and associated groundwater dewatering
RECEIVED	12/11/2021
FILE NO.	IRF21/5015
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

The planning proposal seeks to amend the Woollahra Local Environmental Plan (LEP) 2014 to strengthen provisions for considering earthworks and associated groundwater dewatering in the development assessment process. The overall intent of the proposal is to mitigate risks and adverse impacts from groundwater drawdown associated with underground structures.

The planning proposal seeks to facilitate this change through an amendment to Clause 1.2 *Aims of Plan* and Clause 6.2 *Earthworks* of the Woollahra LEP.

1.2 Site description and surrounding area

The planning proposal applies to the entire Woollahra Local Government Area (LGA) (refer to section 4, pg.10 of the proposal).

It is noted however that the planning proposal is premised upon the recommendations of a consultant report that assesses the geotechnical and hydrogeological impacts of development in Double Bay. This report was prepared by GHD Pty Ltd on behalf of Council, which was in response to concerns raised by the community over structural damage and movements of buildings in Double Bay due to recent development activities involving groundwater dewatering in the area.

The consultant recommends amendments to Council's local planning instrument, development control plan (DCP) and development application (DA) guide, to mitigate risks and impacts from groundwater dewatering activities.

As the consultant study and technical analysis relate specifically to the Double Bay area, the Department recommends a Gateway condition to require further justifications for application of the proposed LEP amendment to the entire Woollahra LGA. Refer to further discussion below.

2 Proposal

2.1 Objectives of planning proposal

The planning proposal seeks to amend the Woollahra LEP 2014 (pg. 9) to:

- *Strengthen the existing objectives and controls relating to assessing and minimising the impacts of groundwater drawdown as a consequence of underground structures; and*
- *Minimise adverse hydrogeological impacts on surrounding properties and infrastructure, both during and after construction, through introducing additional requirements, measurements and controls.*

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

2.2 Explanation of provisions

The planning proposal seeks to amend the wording of Clause 1.2 *Aims of Plan* and Clause 6.2 *Earthworks* of the Woollahra LEP 2014, to ensure that 'groundwater dewatering' is considered in the assessment of all development with below ground works in the Woollahra LGA, in a similar manner to which it currently regulates development for 'earthworks'.

The proposal provides an indicative draft clause to explain the proposed amendments to the Woollahra LEP 2014 (pp. 10-11). The proposed changes are summarised below:

Amendment to Clause 1.2 *Aims of Plan*

- A revision to sub-clause (2)(m) to specify the need to minimise and manage impacts associated with excavation, including *'the potential impact of the change in the groundwater regime'*.

Amendment to Clause 6.2 *Earthworks*

- Sub-clause (1) – Expand the objective of the clause to address earthworks *'and associated groundwater dewatering'* to mitigate any detrimental impacts.
- Sub-clause (2) – To require development consent for earthworks *'and associated groundwater dewatering'*, except for exempt development, or ancillary development that is permitted without consent or to development for which consent has been given.
- Sub-clause (3) – To apply specific matters for consideration to groundwater dewatering associated with earthworks.
- Sub-clause (3)(d) – To require consideration of earthworks and associated groundwater dewatering on the amenity of the *'surrounding'* properties, instead of *'adjoining'*. The proposal states that the amendment is to address impacts which could extend over a considerable distance.
- New sub-clause (3)(g) – To include an additional requirement for the consideration of *'the effect of the development on the structural stability of the existing surrounding properties'*.

The proposal acknowledges that the final wording will be subject to drafting by the Parliamentary Counsel's Office. The Department considers that the proposal should include a plain English explanation for the proposed amendment and an advisory note to clearly state that the draft clause is only indicative in nature. A Gateway condition is recommended to the above effect.

Recommended Gateway condition:

- Section 4 of the planning proposal is to be revised prior to exhibition to provide a plain English explanation of the proposed amendment to the Woollahra LEP, and to include an advisory clearly stating that the wordings for the amended clauses are indicative in nature, and will be subject to drafting by Parliamentary Counsel's Office should the proposal progress to finalisation.

2.3 Mapping

No mapping is required to be produced or amended as part of this planning proposal.

2.4 Background and Planning Proposal History

The following provides a summary of the key events relating to the proposal.

- At the **Ordinary Council meeting on 25 February 2019**, a Notice of Motion was considered regarding concerns raised by residents about cracking and structural movement of houses within Double Bay. Council resolved, among other things, that an expert report be commissioned to investigate the impacts or risks associated with excavation and dewatering on the integrity of buildings in the Double Bay area.
- In **August 2019** Council engaged engineering consultants GHD Pty Ltd to undertake an assessment of the geotechnical and hydrogeological impacts associated with development in the Double Bay area.
- On **12 April 2021** Council's Environmental Planning Committee (EPC) considered the *Double Bay Hydrogeological Geotechnical Impacts - Groundwater and Geotechnical Assessment Report* (GHD, June 2020), together with staff recommendations to modify and/or support the proposed amendments to the current planning controls.
- At the **Ordinary Council meeting on 26 April 2021**, a resolution was passed to prepare a planning proposal to amend the Woollahra LEP and a draft development control plan, among other things.
- On **20 May 2021** the Woollahra Local Planning Panel (LPP) resolved:

THAT the Woollahra Local Planning Panel advises Council to proceed with the planning proposal (at Annexure 1) to amend the Woollahra Local Environmental Plan 2014 to enhance the existing provisions related to earthworks and associated groundwater dewatering based on the recommendations provided by GHD Pty Ltd, subject to introducing a provision into Cl 6.2 Earthworks (part 3) in relation to the structural stability of surrounding properties.

The planning proposal was subsequently amended to accord with the advice of the LPP.

- On **11 October 2021**, Council's EPC considered a report on the advice of the LPP regarding the planning proposal.
- At the **Ordinary Council meeting on 25 October 2021**, a resolution was passed:

A. *THAT Council note the advice provided by the Woollahra Local Planning Panel on 20 May 2021 for the planning proposal to amend the Woollahra Local*

Environmental Plan 2014 to enhance the existing provisions related to earthworks and associated groundwater dewatering.

- B. *THAT the planning proposal, as contained in Annexure 1 of the report to the Environmental Planning Committee of 11 October 2021, 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 authorise Council as the local plan-making authority in relation to the planning proposal, to allow it to make the local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979.*
- D. *THAT Council approve the Draft Woollahra Development Control Plan 2015 (Amendment No. 18) as attached at Annexure 2 of the report to the Environmental Planning Committee meeting of 11 October 2021.*
- E. *THAT Council staff provide a further report on how we can limit excavation and dewatering in the most impacted zones in the Double Bay Floodplain (see the Double Bay Settlement area in Figure 1 of the planning proposal attached to the Environmental Planning committee of 11 October 2021) and Rose Bay Floodplain (for example limiting the volume of excavation).*

- The planning proposal was received by the Department on **12 November 2021** for Gateway determination. The proposal was considered adequate to proceed to assessment on 19 November 2021.
- The planning proposal states that amendments to Chapter E2 *Stormwater and Flood Risk Management* of the Woollahra Development Control Plan 2015 are being prepared concurrently by Council in support of the proposal, based upon the recommendations of the GHD report. It is noted however that this amendment (Woollahra DCP 2015 – Amendment 18) was endorsed by Council on 25 October 2021 and came into effect on 6 December 2021. A condition is recommended to require an update to the proposal in this regard.

Recommended Gateway condition:

- Section 1.2 of the planning proposal is to be updated to reflect the status of the recent amendment to the Woollahra Development Control Plan 2015 regarding groundwater (hydrogeology) (amendment 18).

3 Need for the planning proposal

The planning proposal states that the “*proposed amendments are based on an extensive technical analysis prepared by GHD, which has demonstrated a need for greater emphasis on the consideration of groundwater dewatering as part of the development assessment process to mitigate the adverse impact of groundwater drawdown*” (pg.12). The geotechnical and hydrogeological analysis undertaken by GHD, including technical data and engineering modelling, relates specifically to the Double Bay study area.

The planning proposal further notes that “*Whilst the report prepared by GHD applied to the Double Bay area, it is recommended that the proposed amendments apply to the whole LGA. Potential groundwater dewatering should be considered for all development with below ground works given the topography and our location on Sydney Harbour foreshore*” (pg. 12). There is no further explanation of the need for an LGA wide provision due to the topographical and geological characteristics of areas outside Double Bay.

Clause 6.2 *Earthworks* is a model provision, which was incorporated into the Woollahra LEP 2014. The proposal states that the proposed amendments to Clause 6.2 are based on a similar provision

in the Hunters Hill Local Environmental Plan 2012; however, Council has not provided substantiated justification to support the proposed deviation from the model provision.

While the Department acknowledges Council's intent to ensure the potential impacts of groundwater drawdown are appropriately assessed and mitigated, the proposal in its current form does not provide sufficient details or evidence to demonstrate why the proposed provisions should apply broadly across the whole LGA, and that the deviation from the model provision is warranted. This is especially when the evidence base pertains to a particular location within the LGA with specific hydrogeological characteristics.

As such, a Gateway condition is recommended to require further justifications and explanation to support the proposed amendments.

A planning proposal is considered the best means to deliver the intended outcome, subject to further justifications. The proposal would:

- strengthen the existing objectives of the Woollahra LEP 2014 regarding the impacts of earthworks and associated groundwater dewatering; and
- complement the new provisions of the Woollahra DCP 2015 by providing a statutory mechanism in the assessment process, to help ensure that development activities involving excavation and groundwater dewatering in the Woollahra LGA do not have detrimental impacts on the environment, heritage and surrounding land.

Recommended Gateway condition:

- The planning proposal is to be revised prior to exhibition to provide further justification and explanation for applying the proposed amendment broadly across the whole LGA, noting that the hydrogeological and geotechnical impacts assessment informing the planning proposal relates specifically to the Double Bay area.

4 Strategic assessment

4.1 Regional Plan

The Greater Sydney Region Plan – *A Metropolis of Three Cities* (the Region Plan), released by the NSW Government in 2018, integrates land use, transport and infrastructure planning and sets a 40-year vision for Greater Sydney as a metropolis of three cities. The plan contains objectives, strategies and actions which provide the strategic direction to manage growth and change across Greater Sydney over the next 20 years.

The Department considers the planning proposal to be consistent with the Region Plan as it seeks to minimise adverse impacts from earthworks and associated groundwater dewatering on: environmental functions and processes, neighbouring uses, cultural or heritage items, and features of the surrounding land. Table 4 provides an assessment of the proposal against relevant aspects of the Region Plan.

Recommended Gateway condition:

The planning proposal has not commented on its consistency with Objective 13 *Environmental heritage is identified, conserved and enhanced* and Objective 25 *The coast and waterways are protected and healthier* of the Region Plan, which are relevant matters for consideration. As such, an administrative condition is recommended to require the planning proposal to be updated to address consistency with these Objectives prior to community consultation.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
<p><i>Objective 13: Environmental heritage is identified, conserved and enhanced</i></p>	<p>This objective seeks to identify, conserve and enhance environmental heritage. The Region Plan identifies the need for <i>“managing and monitoring the cumulative impact of development on the heritage values and character of places”</i> (pg. 77).</p> <p>The planning proposal is consistent with this objective as it seeks to strengthen existing controls to mitigate adverse impacts from earthworks and associated groundwater dewatering activities, including impacts on cultural or heritage items (refer to pg.10 the proposal).</p>
<p><i>Objective 25: The coast and waterways are protected and healthier</i></p>	<p>This objective recognises the importance of protecting the coast and waterways of Greater Sydney, which are important natural, economic, cultural, and recreational assets. The Region Plan states that <i>“The health of coastal and marine waterways and groundwater sources is interconnected with the health of catchments”</i> (pg. 148).</p> <p>The planning proposal applies to the Woollahra LGA, which is located within the Sydney Harbour Catchment. The proposal is consistent with this objective as it seeks to minimise and manage impacts associated with excavation and changes in the groundwater regime, and to ensure earthworks and dewatering activities would not detrimentally affect environmental functions and processes.</p>
<p><i>Objective 36: People and places adapt to climate change and future shocks and stresses</i></p>	<p>This objective highlights the importance of planning for resilience. The Region Plan identifies the management of <i>“damage to biodiversity and ecosystems, as well as natural systems that provide essential services such as clean air and clean drinking water”</i> among the key challenges for Greater Sydney (pg. 176).</p> <p>The planning proposal is consistent with this objective as it seeks to strengthen statutory planning provisions to mitigate detrimental impacts on environmental functions and processes, by requiring earthworks and associated groundwater dewatering to be considered as part of the development assessment process.</p>
<p><i>Objective 37: Exposure to natural and urban hazards is reduced</i></p>	<p>This objective focuses on reducing risks from natural and urban hazards. The Region Plan recognises the importance of effective land use planning and design in <i>“reduc[ing] exposure to natural and urban hazards and build[ing] resilience to shocks and stresses”</i> (pg. 178).</p> <p>The planning proposal is broadly consistent with this objective as it seeks to mitigate potential hazards by requiring consideration of groundwater dewatering in the development assessment process. This will help to mitigate potential shocks and stresses from geotechnical and/or hydrogeological changes occurring in the Woollahra LGA as a result of groundwater dewatering activities, such as structural damage to property, which have the potential to generate significant environmental, social and economic impacts.</p>

4.2 District Plan

The Woollahra LGA is located within the Eastern City District. The Eastern City District Plan, released by the Greater Sydney Commission in March 2018, sets out the planning priorities and actions for implementing the Greater Sydney Region Plan at the district level. The plan seeks to guide the growth of the district while improving its social, economic and environmental assets.

Council identifies the planning proposal to be broadly consistent with Planning Priority E20 *Adapting to the impacts of urban and natural hazards and climate change* and the supporting action (Action 75), which requires planning authorities to:

“Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards” (refer to pg. 13 of the proposal).

Council has not commented on the consistency of the proposal with Planning Priority E6 *Creating and renewing great places and respecting the District’s heritage* and E14 *Protecting and improving the health and environment of Sydney Harbour and the District’s waterways*. These planning priorities are relevant to the proposal and should be addressed.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The planning proposal is consistent with the relevant planning priorities and actions of the District Plan, as outlined in Table 5 below.

Recommended Gateway condition:

- Section 5 of the planning proposal is to be updated to address the consistency of the proposal with Planning Priority E6 and E14 of the Eastern City District Plan, prior to community consultation.

Table 5 District Plan assessment

District Plan Priorities	Justification
Planning Priority E6: <i>Creating and renewing great places and respecting the District’s heritage</i>	<p>This planning priority includes a supporting action (Action 20) which seeks to:</p> <p><i>“Identify, conserve and enhance environmental heritage by: ...</i></p> <p><i>(c) managing and monitoring the cumulative impact of development on the heritage values and character of places.”</i></p> <p>The proposal is consistent with this priority.</p>
Planning Priority E14: <i>Protecting and improving the health and environment of Sydney Harbour and the District’s waterways</i>	<p>This planning priority seeks to protect and improve the health of the District’s waterways and Sydney Harbour Catchment.</p> <p>The planning proposal applies to the entire Woollahra LGA, which is located within the Sydney Harbour Catchment. The proposal is consistent with this planning priority as it seeks to strengthen planning provisions to minimise and manage potential impacts of groundwater dewatering on the surrounding natural and built environment.</p>
Planning Priority E20: <i>Adapting to the impacts of urban and natural hazards and climate change</i>	<p>This planning priority highlights the importance of effective planning in reducing exposure to natural and urban hazards and building resilience to shocks and stresses. The District Plan notes that <i>“Soil and groundwater contamination is another urban hazard which will require careful management as the District grows, and land uses change”</i> (pg.118 of the District Plan).</p> <p>The planning proposal is consistent with this planning priority. The proposed planning provisions will facilitate mitigation of potential shocks and stresses from groundwater dewatering activities in the Woollahra LGA.</p>

4.3 Local

Council states that the planning proposal is broadly consistent with the relevant local plans and endorsed strategies, as outlined in Table 6.

Table 6 Local strategic planning assessment

Local Strategies	Justification
Woollahra Local Strategic Planning Statement (LSPS) 2020	<p>The planning proposal is broadly consistent with the vision and planning priorities of the Woollahra LSPS 2020, in particular:</p> <ul style="list-style-type: none"> • Planning priority 13: <i>Improving the sustainability of our built environment, businesses, transport and lifestyles by using resources more efficiently and reducing emissions, pollution and waste generation.</i> <ul style="list-style-type: none"> ◦ Action 68: <i>Promote sustainable development outcomes including:</i> <p>(e) <i>requiring responsible and high quality construction that reflects best practice and is built to last.</i></p> • Planning priority 14: <i>Planning for resilience so we adapt and thrive despite urban and natural hazards, stressors and shocks including climate change.</i> (refer to pg.14 of the proposal) <p>The proposed amendments to the Woollahra LEP 2014 seek to reduce exposure to urban and environmental hazards by preventing negative impacts from earthworks and associated groundwater dewatering activities on: environmental functions and processes, neighbouring uses, cultural or heritage items, and features of the surrounding land.</p>
Woollahra 2030 – Our community, our place, our plan (Community Strategic Plan)	<p>The planning proposal is broadly consistent with the goals and strategies identified in Woollahra 2030, in particular:</p> <ul style="list-style-type: none"> • Goal 7: Protecting our environment <ul style="list-style-type: none"> ◦ Strategy 7.1: <i>Protect natural landscapes, systems and biodiversity.</i> ◦ Strategy 7.4: <i>Ensure that premises which have the potential to impact on human health and safety are operated in accordance with relevant standards and statutory requirements.</i> <p>The proposal is to strengthen the existing provisions of the Woollahra LEP 2014 and mitigate adverse impacts of groundwater dewatering, including potential impacts on environmental functions and processes. The proposal would contribute to the safety and sustainability of the built environment and encourage high quality construction.</p>

4.4 Section 9.1 Ministerial Directions

Schedule 2 of the planning proposal addresses compliance with the relevant Ministerial Directions. The planning proposal is considered consistent with all applicable section 9.1 Directions, including:

S9.1 Direction	Comments
Direction 2.1 Environment protection zones	The proposal does not reduce the existing environmental protection standards that apply to the Woollahra LGA. The proposal contains provisions to minimise adverse hydrogeological impacts associated with development on surrounding properties and infrastructure.
Direction 2.2 Coastal management	The proposal does not rezone land to enable increased development or more intensive uses on land within coastal areas.
Direction 2.3 Heritage conservation	The proposal does not affect existing heritage protection provisions in the Woollahra LEP 2014. The proposal contains provisions which would ensure consideration of 'groundwater dewatering' in the development assessment process. The provisions would facilitate appropriate mitigation of risks and adverse impacts on the natural and built heritage.
Direction 3.1 Residential zones	The proposal does not contain provisions that contradict or would hinder the application of this direction. The proposal seeks to require consideration of 'groundwater dewatering' for all developments with below ground works in the Woollahra LGA, as part of the assessment process. This will help to minimise any potential impacts of residential development on the environment.
Direction 4.3 Flooding	<p>Schedule 2 of the planning proposal identifies consistency with 'Direction 4.3 Flood Prone Land'. However, on 14 July 2021 a revised local planning direction regarding flooding (4.3 Flooding) was issued under section 9.1 of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>While the proposal does not contain provisions that contradict or would hinder the application of Direction 4.3 Flooding, the current proposal does not provide an assessment against this revised Direction. The Department considers that the planning proposal should be updated to include an assessment against the requirements of the Ministerial Direction 4.3 Flooding.</p>

Recommended Gateway condition:

- The planning proposal is to be updated prior to community consultation to include a revised assessment against the requirements of Ministerial Direction 4.3 Flooding.

4.5 State environmental planning policies (SEPPs)

Schedule 1 of the planning proposal indicates compliance with the relevant State Environmental Planning Policies (refer to pp.18-22 of the proposal).

The planning proposal is considered to be consistent with all relevant SEPPs.

The planning proposal will not undermine the effect of the existing provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 or the SEPP (Exempt and Complying Development Codes) 2008, as it seeks to mitigate risk and adverse impacts from groundwater dewatering by regulating development for dewatering in a similar manner to that for earthworks under the Woollahra LEP.

On 26 November 2021 the new State Environmental Planning Policy (Housing) 2021 (Housing SEPP) was finalised and released. The new Housing SEPP superseded five existing housing-related policies. While the proposal does not contradict or hinder the application of the new Housing SEPP, the current proposal included commentary on the repealed housing related SEPPs. The planning proposal should be revised to address the new Housing SEPP and remove reference to the repealed SEPPs.

Recommended Gateway condition:

- The planning proposal is to be updated prior to community consultation to remove reference to the repealed housing related SEPPs and include an assessment against the Housing SEPP 2021.

5 Site-specific assessment

The potential environmental, social and economic impacts have been addressed in Section 5.3 of the planning proposal.

5.1 Environmental

The proposal seeks to minimise the risk of hydrogeological impacts from groundwater dewatering on the local environment, surrounding properties, and infrastructure, during and after construction.

Council states that the proposal will not generate adverse impacts on critical habitat areas, threatened species, populations or ecological communities or their habitat. The proposal acknowledges that: *“Other environmental effects that might arise through the redevelopment of the sites would be identified through the development application process. Good design and conditions of consent will limit these effects”* (pg.15 of the proposal).

The Department concurs with Council’s views. The proposal aims to strengthen existing provisions in the LEP to regulate development for groundwater dewatering in a similar manner to that for earthworks. The proposal has the potential to result in positive environmental outcomes.

5.2 Social and economic

Council states that the proposal was initiated in response to community concerns around groundwater dewatering activities in Double Bay, and the negative impacts to surrounding properties (pg.15 of the proposal).

Council acknowledges that the proposal may have economic implications for future development applications, as a result of additional technical documents and design requirements, however states that *“the increased safety and reduced risk associated with dewatering are considered to provide better economic outcomes in the long term”* (pg. 15).

The Department agrees that given the intended outcomes of the proposal, it is unlikely to result in significant adverse social and economic impacts. As previously discussed in Section 4 of this report, the proposal will help to mitigate potential shocks and stresses from geotechnical and/or hydrogeological changes occurring in the Woollahra LGA as a result of groundwater dewatering, such as cracking and structural damage. The proposal would mitigate against potential adverse social, economic as well as environmental impacts from dewatering activities.

5.3 Infrastructure

The provision or funding of state infrastructure is not considered relevant to this planning proposal.

6 Consultation

6.1 Community

Council has proposed a community consultation period of a minimum of 28 days, with the public notification of exhibition to comprise a weekly notice in the local newspaper (for the duration of exhibition); a notice on council’s website; and notice to local community, resident and business groups.

Council states that a copy of the planning proposal and supporting material (including the GHD report) will be made publicly available on Council's website and at Woollahra Council Chambers customer service area during the exhibition period (pg.16 of the proposal).

The Department supports the consultation arrangement proposed by Council.

6.2 Agencies

Council has not identified specific agencies to be consulted. Having regard to the intent and scope of the planning proposal, it is recommended the following agencies be consulted and given 21 days to comment:

- Water NSW
- Water Group of the NSW Department of Planning, Industry & Environment
- Environment, Energy and Science (EES) Group of the NSW Department of Planning, Industry & Environment

7 Timeframe

Council has proposed a 9-month time frame to complete the LEP from receipt of a Gateway determination.

The Department considers that an LEP completion date of 31 August 2022 would be adequate given the nature of the proposal.

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

8 Local plan-making authority

Council has requested to be the local plan-making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979* as the matter is of local significance.

As the planning proposal seeks to amend a model LEP provision, and that additional justification and explanation are required to support the proposed amendment, the Department recommends that Council not be authorised to be the local plan-making authority for this proposal.

9 Assessment summary

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

- The planning proposal is consistent with the relevant provisions of the Greater Sydney Region Plan, Eastern City District Plan, applicable State Environmental Planning Policies and section 9.1 Ministerial Directions, and local strategic plans.
- The proposal will facilitate the mitigation of risks and adverse impacts from groundwater drawdown on the environment, neighbouring uses, cultural and heritage items, and surrounding land.

As discussed in this report, the planning proposal should be revised prior to community consultation to:

- Include further justification and explanation for applying the proposed provisions across the Woollahra LGA;
- Make administrative changes in relevant parts of the planning proposal to:
 - Refer to the current status of the amendment to the Woollahra DCP 2015 regarding groundwater (hydrogeology) in Section 1.2 'Background';

- Include in Section 4 a plain English explanation for the proposed provisions and an advisory that the draft wordings for Clause 1.2 *Aims of Plan* and Clause 6.2 *Earthworks* are indicative only and will be subject to drafting by the Parliamentary Counsel's Office, should the proposal progress to finalisation;
- Address the consistency of the proposal with Objective 13 and 25 of the Greater Sydney Region Plan in Section 5 'Justification';
- Address the consistency of the proposal with Planning Priority E6 and E14 of the Eastern City District Plan in Section 5 'Justification';
- Address the new Housing SEPP 2021 and remove reference to repealed SEPPs in Schedule 1; and
- Address the consistency of the proposal with section 9.1 Ministerial Direction 4.3 Flooding in Schedule 2.

10 Recommendation

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

1. Prior to community consultation, the planning proposal is to be revised as follows:
 - a. Provide further justification and explanation for applying the proposed amendment to the Woollahra LEP 2014 across the whole Woollahra local government area, noting that the hydrogeological and geotechnical impacts assessment informing the planning proposal relates specifically to the Double Bay area;
 - b. In Section 4 'Explanation of provisions', provide a plain English explanation of the proposed amendment to Woollahra LEP 2014, and include an advisory clearly stating that the proposed wordings for the amended Clause 1.2 *Aims of Plan* and Clause 6.2 *Earthworks* of the LEP are indicative only, and that the future provision will be subject to drafting by the Parliamentary Counsel's Office should the proposal progress to finalisation;
 - c. Update Section 1.2 'Background' to reflect the current status of recent amendment to the Woollahra Development Control Plan 2015 regarding groundwater (hydrogeology) (amendment 18);
 - d. In Section 5 'Justification', address the consistency of the proposal with Objective 13 and 25 of the Greater Sydney Region Plan – *A Metropolis of Three Cities* (2018);
 - e. In Section 5 'Justification', address the consistency of the proposal with Planning Priority E6 and E14 of the Eastern City District Plan (2018);
 - f. In Schedule 1, address the new State Environmental Planning Policy (Housing) 2021 and removal reference to the repealed housing-related SEPPs; and
 - g. In Schedule 2, address the consistency of the proposal with section 9.1 Ministerial Direction 4.3 Flooding.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Water Group of the NSW Department of Planning, Industry & Environment
 - Water NSW

- Environment, Energy and Science (EES) Group of the NSW Department of Planning, Industry & Environment
4. The planning proposal must be placed on exhibition not more than 4 months from the date of the Gateway determination.
 5. The LEP is to be completed on or before 31 August 2022.
 6. Council is not authorised to be the local plan-making authority.



(Signature)

21 Dec 2021 (Date)

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