

Planning Proposal



Woollahra LEP 2014

Enhanced provisions for earthworks and associated groundwater dewatering

Version Date:	January 2022
Division/Department:	Planning and Place/Strategic Planning
Responsible Officer:	Anne White – Manager Strategic Planning
HPE CM Record Number:	22/14369

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Supporting information (separately attached)

1. GHD Hydrogeological Geotechnical Impacts (Double Bay)
2. GHD proposed modifications to the current planning provisions
3. Staff response to GHD recommendations

1. Introduction

1.1. Summary

This planning proposal seeks to amend Clause 1.2 *Aims of Plan* and Clause 6.2 *Earthworks* of the *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) to place a greater emphasis on the consideration of groundwater dewatering in the development assessment process.

The proposed amendments are the result of an extensive technical analysis undertaken by engineering consultants GHD Pty Ltd (GHD). These amendments will strengthen the existing objectives and place a greater emphasis on dewatering during the development process and mitigate risk during construction. Controls in the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) will support the amendment by providing detailed guidance on the technical requirements.

In preparing this planning proposal, we have contacted the Department of Planning, Industry and Environment (DPIE) for advice regarding the proposed amendment to *Clause 6.2 Earthworks* because it is a model local provision. Based on discussions with DPIE, and consideration of similar precedents in other LEPs, it is considered that the planning proposal is consistent with the intent of the model clause.

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and the guidelines prepared by the DPIE, including *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

1.2. Background

On 25 February 2019, Council considered a Notice of Motion relating to concerns raised by residents about cracking and structural movement in houses in Double Bay. Subsequently, on 25 February 2019 Council resolved:

THAT Council:

- A. *Staff meet with concerned Double Bay residents and outline the approval process that was undertaken in relation to the DA and dewatering of 4-8 Patterson Street, Double Bay and other sites that have been approved for dewatering in Double Bay.*
- B. *Follow up with the NSW Department of Primary Industry to ascertain the results of their enquiries into this issue.*
- C. *Obtain a report from an expert hydro-geologist (and/or appropriate expert) informing Council as to whether there is any short, medium or long-term impacts associated with excavation, subterranean building and dewatering in the Double Bay area on the structural and geological integrity of Double Bay residential and commercial buildings, with a view to informing any amendments required to existing planning controls.*

In response to Part C of Council's resolution, engineering consultants GHD were engaged in August 2019 to undertake an assessment of geotechnical and hydrogeological impacts associated with development in the Double Bay area.

The purpose of the study was to provide detailed requirements to assess and mitigate the adverse impacts of groundwater drawdown as a consequence of underground structures. It

included recommended amendments to the Woollahra LEP 2014, Woollahra DCP 2015, and the Development Application Guide (DA Guide).

On 12 April 2021, Council's Environmental Planning Committee (EPC) considered a report on the *Double Bay Hydrogeological Geotechnical Impacts - Groundwater and Geotechnical Assessment Report* (the Report) by GHD, including staff recommendations to modify and/or support the proposed amendments to the current planning controls. On 26 April 2021, Council resolved:

- A. *THAT a planning proposal be prepared to amend the Woollahra Local Environmental Plan 2014 consistent with the staff recommendations identified in Table 1 of Annexure 4 of the report to the Environmental Planning Committee meeting on 12 April 2021.*
- 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 a future meeting of the Environmental Planning Committee.*
- D. *THAT a draft development control plan is prepared and publicly exhibited to amend the Woollahra Development Control Plan 2015, consistent with the staff recommendations identified in Table 2 of Annexure 4 of the report to the Environmental Planning Committee meeting on 12 April 2021.*
- E. *THAT staff review the proposed controls in the draft development control plan to identify if these can be applied to Rose Bay and Bellevue Hill, and that this review is reported to a future meeting of the Environmental Planning Committee.*
- F. *THAT staff implement a condition of consent which ensures that, where relevant, the applicant has an appropriate current insurance policy to cover the reinstatement/repair of damages to surrounding properties as a result of the subject DA.*
- G. *THAT staff prepare a report which advises on mechanisms that can be utilised to prohibit excavation and dewatering in the most impacted zones in the Double Bay Floodplain (see the Double Bay Settlement zones in Figure 2 of the report to the Environmental Planning committee of 12 April 2021) including investigating:*
 - *Amending the Local Environmental Plan (LEP),*
 - *Amending the Development Control Plan (DCP), and*
 - *Rezoning.*

This planning proposal has been prepared in response to Parts A to C of Council's resolution from 26 April 2021.

On 20 May 2021, the *Woollahra Local Planning Panel* (Woollahra LPP) considered a report on this planning proposal. At that meeting the Woollahra LPP provided the following advice:

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 amended consistent with the advice from the Woollahra LPP.

On 11 October 2021, Council's EPC considered a report on the advice of the Woollahra LPP. On 25 October 2021, Council resolved:

- 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).*

Council received a gateway determination for the planning proposal on 21 December 2021. Minor changes required in the gateway conditions have been included in this version of the dated dated January 2022 .

In response to Parts D and E of Council's resolution on 26 April 2021, Council staff also prepared amendments to the following chapters of the Woollahra DCP 2015:

- *Chapter A1: Introduction*
- *Chapter D5: Double Bay Centre*
- *Chapter E2: Stormwater and Flood Risk Management*

Following the approval of Council on 25 October 2021, the Woollahra DCP 2015 (Amendment 18) came into effect on 6 December 2021.

The DCP controls provide further technical guidance to support the proposed LEP content and minimise the impacts of groundwater drawdown as a consequence of underground structures.

2. Existing planning controls

Earthworks and excavation are currently addressed in *Clause 1.2 – Aims of Plan, Part (m)* and *Clause 6.2 – Earthworks* in the Woollahra LEP 2014.

However, the current provisions do not include a direct reference to the impact of groundwater drawdown on surrounding properties, during and after construction. The proposed amendments aim to increase the emphasis on impacts on groundwater dewatering in the development process and ensure risks are mitigated.

Extracts of the current provisions are provided below.

1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Woollahra in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*
 - (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
 - (a) *to ensure that growth occurs in a planned and co-ordinated way,*
 - (b) *to promote the management, development, conservation and economic use of property,*
 - (c) *to provide for an appropriate balance and distribution of land for commercial, retail, residential and tourist development and for recreation, open space, entertainment and community facilities,*
 - (d) *to provide greater population densities in and around centres that are well serviced by public transport,*
 - (e) *to facilitate opportunities, in suitable locations, for diversity in dwelling density and type,*
 - (f) *to conserve built and natural environmental heritage,*
 - (g) *to protect amenity and the natural environment,*
 - (h) *to minimise and manage stormwater and flooding impacts,*
 - (i) *to protect and promote public access to and along the foreshores,*
 - (j) *to promote a high standard of design in the private and public domain,*
 - (k) *to minimise and manage traffic and parking impacts,*
 - (l) *to ensure development achieves the desired future character of the area,*
 - (m) *to minimise excavation and manage impacts.*

6.2 Earthworks

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

3. Objective of planning proposal

The objective of the amendment to the Woollahra LEP 2014 is to place a greater emphasis on the consideration of groundwater dewatering in the development assessment process to mitigate risk and adverse impacts from groundwater drawdown.

This planning proposal will:

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

4. Explanation of provisions

The proposed wording for the amended Woollahra LEP 2014 clauses is provided below. It is acknowledged that this wording is indicative only, and will be subject to drafting by the Parliamentary Counsel's office should the proposal progress to finalisation.

Insertions - identified in blue and underlined

~~Deletions – identified in red and strikethrough~~

Proposed amendments to Cl. 1.2 Aims of Plan

(2)(m) to minimise excavation and manage impacts including the potential impact of the change in the groundwater regime.

Proposed amendments to Cl. 6.2 Earthworks

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

As outlined in draft Clause 6.2 above, it is proposed to integrate references to groundwater dewatering. This ensures that during the application assessment process, the relevant planning authority must turn its minds to the impacts of groundwater dewatering. In particular, its impact on the amenity and structural stability of surrounding properties.

These changes to Clause 6.2 will ensure any potential impacts are considered prior to a consent being issued. The proposed change to the overarching Cl. 1.2 Aims of Plan 2(m), will give greater weight to the consideration of the potential impact of the change in the groundwater regime and is consistent with the proposed amendments to Cl 6.2.

Clause 6.2 Earthworks is a model local provision under the Standard Instrument, which was incorporated into the Woollahra LEP 2014. The GHD report has recommended amending this model local provision. In preparing this planning proposal we discussed the proposed changes with representatives from the *Department of Planning, Industry and Environment* (DPIE) for advice regarding the extent of the amendments to *Clause 6.2 Earthworks* because it is model local provision. Based on discussions with DPIE and consideration of similar precedents in other LEPs, we are satisfied that the above proposal is not inconsistent with the intent of the model clause. An extract from the Hunters Hill LEP 2012 is provided below:

6.2 Earthworks

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

Regarding the use of the word 'surrounding', GHD notes that the potential impacts of dewatering may extend a considerable distance away from the development site and that this should be considered when designing developments. Accordingly, the planning proposal seeks to replace the word 'adjoining' with the word 'surrounding'.

On 20 May 2021, the Woollahra LPP advised staff to enhance Clause 6.2 by including a provision relating to the structural stability of surrounding properties. In response, an

additional provision (g) has been suggested to address structural stability. This will provide abundant clarity that the structural stability of the existing 'surrounding' properties must be considered.

Whilst the GHD report was originally prepared for the Double Bay area, the amended provisions are proposed to apply to the whole LGA. Currently, Double Bay is the only area subject to a detailed report of this nature. However, other areas of the LGA, such as Rose Bay and Watsons Bay also have a high water table. It is therefore best planning practice to elevate the consideration of potential impacts on groundwater for all of the municipality.

Should groundwater dewatering not be a relevant matter for consideration, the proposed amendments will not impose onerous requirements on applicants. Like many existing controls, additional information can be requested from applicants on a case by case and discretionary basis.

5. Justification

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 assessment process to mitigate impacts of groundwater drawdown.

The planning proposal has strategic merit and the key reasons to amend the Woollahra LEP 2014 are that the planning proposal:

- Will strengthen the existing objectives of the Woollahra LEP 2014 to emphasise mitigating risk and impacts from groundwater dewatering;
- Will work in conjunction with the (existing and proposed) provisions in Woollahra DCP 2015;
- Is consistent with the applicable section 9.1 directions;
- Is consistent with the relevant objectives of *A Metropolis of Three Cities* and the planning priorities of the *Eastern City District Plan*;
- Is consistent with the Standard Instrument and all other applicable State Environmental Planning Policies;
- Is consistent with the vision and planning priorities of the *Woollahra Local Strategic Planning Statement* (LSPS) 2020; and
- Is consistent with Council's Community Strategic Plan – *Woollahra 2030*.

The justifications for the proposed amendment to the Woollahra LEP 2014 are further discussed below in Parts 5.1 to 5.4.

5.1. Need for the 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 a result of a comprehensive analysis by GHD to assess the geotechnical and hydrogeological impacts associated with development in the Double Bay area. The proposed analysis, limits and control measures identified in the Report have been used to identify amendments to the Woollahra LEP 2014 and Woollahra DCP 2015.

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 the Sydney Harbour foreshore.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This planning proposal is the best means of strengthening the existing objectives of the Woollahra LEP 2014. The proposed amendment aims to mitigate the adverse impacts of groundwater drawdown, whilst preventing any significant change or inconsistencies to the intention of *Clause 6.2 Earthworks* as a model clause. The wording of the proposed

amendment to Clause 6.2 has been crafted based on the precedent of the Hunters Hill LEP 2012.

However, if the planning proposal was not supported, the alternative options would be to:

- Rely on the amendments to the Woollahra DCP 2015 without any amendment to the Woollahra LEP 2014. This is not the preferred approach as it would reduce the statutory weight in the assessment process.
- Amend the Woollahra LEP 2014 by introducing a separate clause relating to groundwater dewatering. However, this would be inconsistent with the model local provision under the *Standard Instrument (Local Environmental Plans) Order 2006*.

It is considered that this planning proposal is the most appropriate way of achieving the intended outcome.

5.2. 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 broadly consistent with the relevant objectives, priorities and actions of the *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the *Eastern City District Plan* (2018), as discussed below.

Greater Sydney Region Plan: A Metropolis of Three Cities

The planning proposal is broadly consistent with the directions and objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities*. Compliance with relevant objectives is summarised below:

- Objective 13 (*Environmental heritage is identified, conserved and enhanced*) – The proposed amendments to the Woollahra LEP 2015 will ensure issues associated with dewatering and the structural stability of neighbouring properties are considered at assessment stage. This will provide protection to heritage items and buildings in heritage conservation areas that are near construction sites.
- Objective 25 (*The coast and waterways are protected and healthier*) – The proposed changes will not affect the health of nearby waterways. Any dewatering applications will still be assessed by Water NSW as part of a development application.
- Objective 36 (*People and places adapt to climate change and future shocks and stresses*) and Objective 37 (*Exposure to natural and urban hazards is reduced*) - The planning proposal is the result of a comprehensive technical analysis and responds to concerns about cracking and structural movement. It aims to reduce urban and environmental hazards by placing a greater emphasis on the consideration of groundwater dewatering as part of the assessment process.

Eastern City District Plan

This planning proposal is broadly consistent with relevant planning priorities of the *Eastern City District Plan*, as outlined in **Table 1** below:

Table 1: Eastern City District Plan Compliance	
Planning Priority	Compliance
E6 <i>Creating and renewing great places and local centres, and respecting the District's heritage</i>	The planning proposal will help protect heritage items and buildings in heritage conservation areas, aligning with Action 20. Adherence to the amended Clause 6.2 will ensure buildings near construction sites are not affected by dewatering issues.
E14 <i>Protecting and improving the health and enjoyment of Sydney Harbour and the District's waterways</i>	The proposed changes will not affect the health of the Eastern District's waterways. Any dewatering processes will still be assessed by Water NSW.
E20 <i>Adapting to the impacts of urban and natural hazards and climate change</i>	<p>Action 75 requires consent authorities to “<i>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</i>”.</p> <p>The planning proposal will strengthen the existing provisions to ensure the risk associated with dewatering are minimised during and after construction.</p>

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 broadly consistent with the Woollahra LSPS 2020 and Council's Community Strategic Plan, *Woollahra 2030 – Our community, our place, our plan* (Woollahra 2030).

Woollahra LSPS 2020

The planning proposal is broadly consistent with the vision and planning priorities of the Woollahra LSPS 2020. The following priorities are of particular relevance to this planning proposal:

Planning Priority 13 Improving the sustainability of our built environment, businesses, transport and lifestyles by using resources more efficiently and reducing emissions, pollution and waste generation.

Action 68e. Requiring responsible and high quality construction that reflects best practice and is built to last.

Planning Priority 14 Planning for resilience so we adapt and thrive despite urban and natural hazards, stressors and shocks including climate change.

The amended provisions in Clauses 1.2 and 6.2 ensure that earthworks and associated groundwater dewatering do not result in any adverse impacts on the amenity and structural stability of surrounding properties. This will have the effect of minimising any urban and environmental hazards.

Woollahra 2030

The *Woollahra 2030* identifies the strategic direction and integrated planning framework for the Woollahra LGA.

The planning proposal is broadly consistent with the goals and strategies identified in *Woollahra 2030*, particularly Goal 7 of *Woollahra 2030* under the theme of 'A healthy environment':

Goal 7: Protecting our environment

Strategy 7.1 Protect natural landscapes, systems and biodiversity.

Strategy 7.4 Ensure that premises which have the potential to impact on human health and safety are operated in accordance with relevant standards and statutory requirements.

The planning proposal aims to strengthen the existing provisions of the Woollahra LEP 2014 and mitigate the adverse impacts of groundwater dewatering. This will improve the safety and sustainability of our built environment and encourage high quality construction.

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**).

5.3. 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. This planning proposal seeks to amend the wording of the existing provisions of *Clause 1.2 Aims of Plan* and *Clause 6.2 Earthworks* of the Woollahra LEP 2014. There will be no adverse impacts on critical habitat areas or threatened species, populations or ecological communities, or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The planning proposal will not reduce provisions in the Woollahra LEP 2014 for the protection of environmentally sensitive areas in the Woollahra LGA or affect the application of the *SREP (Sydney Harbour Catchment) 2005*. 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.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The planning proposal adequately addresses social and economic effects.

As discussed, in Part 7 below, the community will have the opportunity to provide their feedback on the planning proposal during public exhibition. The planning proposal has arisen from concerns raised by the community. In particular, that dewatering as a consequence of below ground structures can negatively impact on surrounding properties.

Addressing dewatering is already a requirement for development applications. The amendment will strengthen the existing provisions to ensure that environmental risk from constructing underground structures will be managed and mitigated in the development process. We acknowledged that this may have some economic implications on future development applications in relation to additional technical documents and design requirements. However, the increased safety and reduced risk associated with dewatering are considered to provide better economic outcomes in the long term.

5.4. State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not create any additional demand on public infrastructure.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

We have consulted with the DPIE to prevent any inconsistencies with the intention of the model clause for earthworks. Consultation with other State and Commonwealth public authorities will be undertaken in accordance with the conditions of the gateway determination.

6. Mapping

The planning proposal does not seek to amend any maps in the Woollahra LEP 2014.

7. Community consultation

The planning proposal will be publicly exhibited in accordance with the requirements of:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Woollahra Community Participation Plan 2019*
- *Local Environmental Plans – A Guide to preparing Local Environmental Plans (2018)*
- 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:

- 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 notice to local community, resident and business groups

During the public exhibition, the following material will be available on Council's website and in the customer service area at Woollahra Council Chambers, provided they are publically accessible:

- The planning proposal, in the form approved by the Gateway Determination
- A copy of the Gateway Determination
- Information relied upon by the planning proposal such as a copy of the *Double Bay Hydrogeological Geotechnical Impacts - Groundwater and Geotechnical Assessment Report* by GHD and the DPIE's '*A Guide to Preparing Local Environmental Plans*'
- A copy of the Woollahra LEP 2014.
- A copy of the Section 9.1 Directions.

8. Project timeline

Council request that the Minister for Planning and Public Spaces (or delegate) authorises Council to exercise the functions of the local plan making authority under section 3.36 of the *Environmental Planning and Assessment Act 1979*. Accordingly, the proposed timeline for completion is as follows:

Plan-making step	Estimated completion
Environmental Planning Committee recommends proceeding	12 April 2021
Council resolution to prepare planning proposal	26 April 2021
Liaison with DPIE	Ongoing
Woollahra Local Planning Panel (WLPP) provides advice	20 May 2021
Advice of WLPP to EPC	11 October 2021
Council resolution to proceed	25 October 2021
Gateway determination	December 2021
Completion of technical assessment	None anticipated
Government agency consultation	As required by Gateway Determination
Public exhibition period	February 2022
Submissions assessment	April 2022
Council assessment of planning proposal post exhibition	May 2022
Council decision to make the LEP amendment	June 2022
Council to liaise with Parliamentary Counsel to prepare LEP amendment	July 2022
Forwarding of LEP amendment to Greater Sydney Commission and Department of Planning and Environment for notification	August 2022
Notification of the approved LEP	September 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 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 47 – Moore Park Showground	Not applicable
SEPP No 50 – Canal Estate Development	Applicable Consistent. The proposal does not include a canal estate.
SEPP (Housing) 2021	Applicable Consistent. The planning proposal does not contain a provision which is contrary to the operation of this policy.
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.
SEPP (Aboriginal Land) 2019	Not applicable. No land within the Woollahra LGA is identified on the Land Application Map of the SEPP.

State environmental planning policy	Comment on consistency
SEPP (Activation Precincts) 2020	Not applicable. No land within the Woollahra LGA is identified as an Activation Precinct.
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. However, it is noted that development under this SEPP is required to address the development standard and any conditions of consent relating to earthworks, drainage, retaining walls associated with any surface water or ground water.
SEPP (Gosford City Centre) 2018	Not applicable.
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) 2021	Not applicable. Woollahra Council is not listed in Schedule 1.
SEPP (Koala Habitat Protection) 2020	Not applicable. Woollahra Council is not listed in Schedule 1 of the SEPP 2021.

State environmental planning policy	Comment on consistency
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 in 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 sites 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.
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.

State environmental planning policy	Comment on consistency
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

Sydney Regional Environmental Plans – now deemed State Environmental Planning Policies	Comment on consistency
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	Applicable. Consistent. The planning proposal seeks to strengthen provisions to mitigate risk and adverse impacts from dewatering. This is broadly consistent with the planning principles of this SREP.

Schedule 2 – Consistency with section 9.1 directions

Planning proposal – Consistency with section 9.1 directions		
Direction		Applicable/comment
1	Employment and resources	
1.1	Business and industrial zones	Applicable Consistent. The planning proposal does not contain a provision, which is contrary to the objective of this direction. The planning proposal does not seek to rezone business or industrial land or reduce permissible floor space in these zones.
1.2-1.5	Directions 1.2-1.5	Not applicable. These directions are not relevant to the Sydney metropolitan area.
2	Environment and heritage	
2.1	Environment protection zones	Applicable Consistent. The planning proposal will not reduce provision in the Woollahra LEP 2014 for the protection of environmentally sensitive areas in the Woollahra LGA or affect the application of the SREP (Sydney Harbour Catchment) 2005. The planning proposal is broadly consistent with the direction.
2.2	Coastal management	Applicable Consistent. The planning proposal does not propose the rezoning of any land and will therefore not result in increased development or more intensive land-use on land within a coastal area.
2.3	Heritage conservation	Applicable Consistent. The planning proposal will not reduce provision in the Woollahra LEP 2014 for heritage conservation in the Woollahra LGA or the Sydney Harbour Catchment Area.
2.4	Recreation vehicle areas	Not applicable. The planning proposal 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.

Planning proposal – Consistency with section 9.1 directions		
Direction		Applicable/comment
2.6	Remediation of contaminated land	Applicable Consistent. The planning proposal does not rezone or permit a change of use of the land in the Woollahra LGA. The planning proposal does not contain a provision which is contrary to the objective of this direction.
3	Housing, infrastructure and urban development	
3.1	Residential zones	Applicable Consistent. The planning proposal seeks to provide a greater emphasis on the consideration of groundwater dewatering as part of the development assessment process. The planning proposal will not impact on the type and scale of residential development in the residential zones, and does not contain provisions to reduce the permissible residential density of land.
3.2	Caravan parks and manufactured home estates	Not applicable. The planning proposal does not affect caravan parks and manufactured home estates.
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 aims, objectives and principles of: <ul style="list-style-type: none"> • <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and;</i> • <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i>
3.5	Development near regulated airports and defence airfields	Applicable Consistent. The planning proposal does not change the zone, permissible uses of development standards such as Height of Buildings for any land in the Woollahra LGA. The planning proposal does not contain a provision which is contrary to this direction.
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	Note applicable. The planning proposal does not apply to land in the Byron Shire Council.

Planning proposal – Consistency with section 9.1 directions		
Direction		Applicable/comment
4	Hazard and risk	
4.1	Acid sulfate soils	Applicable Consistent. The existing acid sulfate soils provisions in the Woollahra LEP 2014 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	Flooding	Applicable Consistent. The planning proposal is consistent with the: <ul style="list-style-type: none"> • <i>NSW Flood Prone Land Policy</i>, • <i>Principles of the Floodplain Development Manual 2005</i>, and • <i>Considering flooding in land use planning guideline 2021</i>. The planning proposal will not rezone flood liable land or affect the application of controls that ensure that development on flood liable land will not result in risk to life or damage to property.
4.4	Planning for bushfire protection	Not applicable. The planning proposal does not apply to land mapped as bushfire prone land.
5	Regional planning	
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	Applicable Consistent. The planning proposal is consistent with the relevant objectives in the <i>Greater Sydney Region Plan: A Metropolis of Three Cities</i> (2018) and the relevant priorities and actions of the <i>Eastern City District Plan</i> (2018) as discussed in Section 5.2 of this report.
5.11	Development of Aboriginal Land Council land	Not applicable. There is no land in the Woollahra LGA identified on the Land Application Map of SEPP (Aboriginal Land) 2019.
6	Local plan making	
6.1	Approval and referral requirements	Applicable Consistent. The planning proposal does not contain a provision which is contrary to this direction.

Planning proposal – Consistency with section 9.1 directions		
Direction		Applicable/comment
6.2	Reserving land for public purposes	Applicable Consistent. The planning proposal does not amend reservations of land for public purposes.
6.3	Site specific provisions	Applicable Consistent. The planning proposal does not apply to a specific site or a particular development.
7	Metropolitan planning	
7.1	Implementation of <i>A Plan for Greater Sydney</i>	Revoked 9 November 2020.
7.2 – 7.13	Directions 7.2 – 7.13	Not applicable. These strategies do not apply to the Woollahra LGA.