



IRF24/146

Gateway determination report – PP-2022-731 (RR-2023-20)

488 – 492 Old South Head Road and 30 Albemarle
Avenue, Rose Bay

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 | Reports and plans supporting the proposal.

Relevant reports and plans
A – Rezoning Review prepared by Ethos Urban on behalf of the proponent Fabcot Pty Ltd (Woolworths Property Group) (September 2023)
B – Planning Proposal Report prepared by Ethos Urban (Revised, December 2023)
C - Social and Economic Impact Assessment
D – Urban Design Study
E – Site-Specific Development Control Plan
F – Transport Assessment
G – Landscape Report
H – Flooding Assessment
I - Stakeholder Engagement Consultation Report
J – Survey Plan
K – Arboricultural Impact Appraisal
L – Noise Impact Assessment
M – Waste Management Plan
N – Remediation Action Plan

1 Planning proposal

1.1 Overview

Table 2 | Planning proposal details

LGA	Woollahra
PPA	Woollahra Municipal Council
NAME	Planning Proposal at 488-492 Old South Head Road and 30 Albemarle, Avenue Rose Bay
NUMBER	PP-2022-731 (RR-2023-20)
LEP TO BE AMENDED	Woollahra Local Environmental Plan (LEP) 2014
ADDRESS	488-492 Old South Head Road and 30 Albemarle, Avenue Rose Bay
DESCRIPTION	Lot 1 DP1009799 Lot 30 Section B DP4567
RECEIVED	12/12/2023
Estimated NO. DWELLINGS	14 dwellings in total (13 dwellings additional)
FILE NO.	EF23/12516 (IRF24/146)
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 objectives and intended outcomes of the planning proposal are to facilitate redevelopment of two sites for a four storey mixed use development containing a supermarket and 14 residential apartments.

Development Concept Scheme

The planning proposal is based on a concept development scheme prepared by the proponent (**Figure 1**) that features the following:

- A four-storey mixed commercial and residential building with basement parking.
- A Woolworths supermarket located on the ground floor and part of Level 1.
- 14 apartments comprising a mix of dwelling sizes located on Levels 1 – 3 (net increase of 13 dwellings).

- 3 basement levels with up to 70 supermarket, 19 residential, and 3 residential visitor parking spaces (including car wash bay), motorcycle, and bicycle spaces.
- A total gross floor area (GFA) of 4,145m² (equivalent to an FSR of 1.84:1), comprising 2,168m² supermarket floor space (FSR 0.96:1) and 1,978m² residential floor space (FSR 0.88:1).



Figure 1 | Architectural perspective of the concept development scheme (street view from corner of Old South Head Road and Albemarle Avenue) (Source: Urban Design Study).

1.3 Site description and surrounding area

The site is located at the corner of Old South Head Road and Albemarle Avenue and is known as 488 – 492 Old South Head Road and 30 Albemarle Avenue, Rose Bay (**Figure 2**). It has an area of approximately 2,257m² (based on survey plan), and comprises the following lots:

- Lot 1 DP 1009799 (488-492 Old South Head Road)
- Lot 30 Section B DP 4567 (30 Albemarle Avenue).

The site is occupied by a former Caltex service station and a single storey dwelling house at 30 Albemarle Avenue (**Figures 3 and 4**).

The service station site contains a fuel canopy, hardstand, signage, and a convenience store. Fuel tanks have been decommissioned and bowsers removed following closure in 2020. Site remediation works approved by Council (DA/502/2019) are expected to be undertaken by the proponent upon redevelopment of the site.

The portion of the site at 488-492 Old South Head Road is located within the Rose Bay South local centre and is zoned MU1 Mixed Use. The portion of the site at 30 Albemarle Avenue is zoned R2 Low Density Residential.

The area surrounding the site is characterised by a mix of commercial and residential developments. To the immediate north of the site is a three storey shop top housing development with mixed commercial and residential developments further north. South of the site is the opposite side of Albemarle Avenue which contains a single storey pharmacy on the corner and one and two storey residential dwellings further south. East of the site is the opposite side of Old South Head Road (within the Waverley Council LGA) which contains three storey residential flat buildings and two and three storey shop-top housing developments. West of the site is Albemarle Avenue which is characterised by one and two storey dwellings and the Rose Bay Public School approximately 130m to the west.

Located approximately 175m northeast of the site at 518A Old South Head Road is the Rose Bay Uniting Church and associated Wesley Hall buildings which are listed as local heritage items under the Woollahra LEP 2014.

The nearest public open space areas to the site are located approximately 400m to the northwest and east, being the Rose Bay Community Garden, playing fields/ovals, the Woollahra Golf Club and Sydney Croquet Club at the corner of Old South Head Road and O'Sullivan Road, and the Onslow Street Reserve at 46 Onslow Street, Rose Bay.

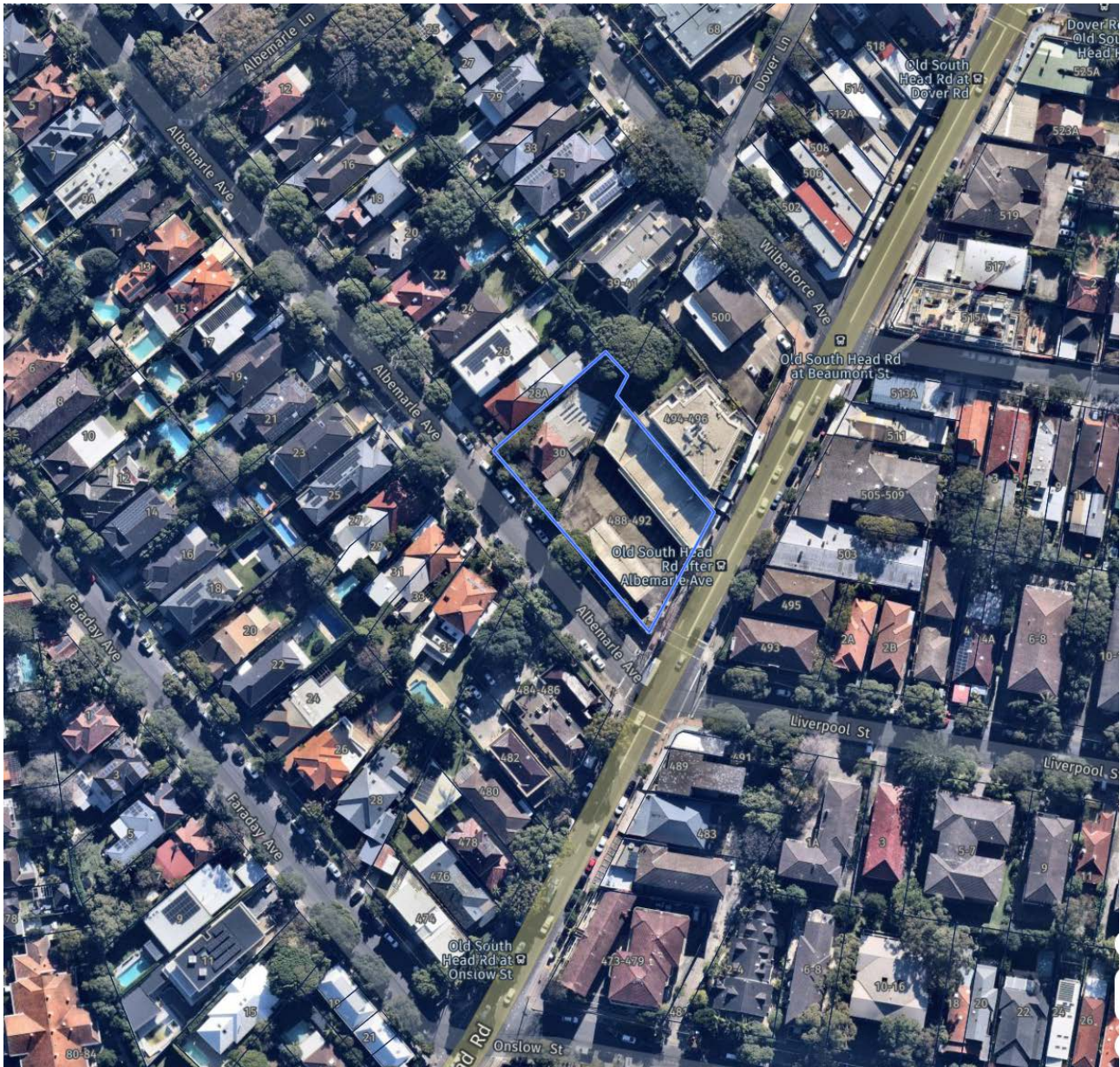


Figure 2 | The site outlined in blue (Source: Nearmap, June 2023)



Figure 3 | View of the site from Old South Head Road (Source: Planning Proposal, July 2023)



Figure 4 | View of the site from Albemarle Avenue (Source: Planning Proposal, July 2023)

1.4 Explanation of provisions

The planning proposal seeks amendments to the Woollahra Local Environmental Plan (LEP) 2014 to permit a mixed-use development containing a supermarket and residential dwellings as shown in the indicative development scheme shown in **Figure 1**.

The proposed LEP amendments are as follows:

Amend Schedule 1 - Additional permitted land uses

Under the current zoning in the Woollahra LEP, a mixed-use development is permitted on land at 488-492 Old South Head Road zoned MU1 Mixed Use but prohibited on land at 30 Albemarle Street zoned R2 Low Density Residential.

The planning proposal does not seek to change the residential zone of 30 Albemarle Avenue, but to use the *Schedule 1 Additional permitted uses* provision to permit retail premises as part of shop top housing. The additional non-residential uses will only apply if the land at 30 Albemarle Avenue is developed in conjunction with 488-492 Old South Head Road. In this way, the underlying R2 Low Density Residential zone will continue to apply to the site.

Amend Part 6 - Additional local provisions

The following additional local provisions are also proposed and only apply if the land at 30 Albemarle Avenue is developed in conjunction with 488-492 Old South Head Road:

Height of buildings

No changes are proposed to the maximum building height of 14.5m for the 488-492 Old South Head Road part of the site. The planning proposal seeks to amend the 9.5m height control for 30 Albemarle Avenue so that a continuous 14.5m maximum building height applies to the whole site. The two sites will be able to accommodate a 4 storey mixed use development.

The planning proposal proposes that the maximum 14.5m building height for 30 Albemarle Avenue be included in the *Part 6 Additional local provisions*, which apply only if the site is redeveloped with 488-492 Old South Head Road. The underlying 9.5m maximum building height for 30 Albemarle Avenue will otherwise remain unchanged.

Gross Floor Area

The planning proposal does not request amendments to the FSR controls. It seeks to use *Part 6 Additional local provisions* to increase the permitted maximum GFA to 3,720m² on 488-492 Old South Head Road and 480m² on 30 Albemarle Avenue, when both sites are developed together. The proposal equates to an additional 732m² GFA or maximum FSR of 1.84:1 across the two sites. Refer to **Table 3** for a comparison of existing vs proposed gross floor area controls.

Table 3 | Proposed vs existing FSR and GFA

Site	Existing maximum FSR/GFA	Proposed maximum FSR/GFA
30 Albemarle Avenue	0.5:1/348m ²	480m ² ¹
488-492 Old South Head Road	2:1/3,120m ²	3,720m ² ¹

¹ When both sites are developed together

Other proposed provisions

The planning proposal seeks to use *Part 6 Additional local provisions* to establish:

- Minimum building setbacks ranging from 9m to 13.5m to the western boundary of 30 Albemarle Avenue
- A minimum 8m wide deep soil zone and a publicly accessible area fronting Albemarle Avenue
- A requirement that a site-specific development control plan (DCP) is prepared prior to any development consent being granted for the site. The DCP is to include an urban character statement and provisions relating to key principles and controls to ensure the future built form delivers a high quality architectural outcome and exhibits design excellence. All matters will be required to be addressed at the detailed development application stage.

Voluntary Planning Agreement

The Proponent has made an indicative letter of offer to enter into a VPA with Council which includes, in addition to the payment of Section 7.11 development contributions, the provision of a ground level publicly accessible landscaped zone along the site's north-west boundary, which will essentially function as an urban pocket park. The pocket park is to be embellished and fully maintained by the proponent with an easement benefiting public access on title.

1.5 Mapping

The proposal does not seek to alter the existing Woollahra LEP maps.

1.6 Local planning panel (LPP) recommendation

On the 6 July 2023 the Woollahra LPP considered the proposal. The LPP's advice to Council was that:

- The Panel generally supports the planning proposal to proceed subject to the proponent amending the planning proposal to provide greater clarity and certainty to the outcomes of the proposed LEP changes.
- The Council:
 - seek further details in relation to the open space area between 28 Albemarle and the development site, and how it will be designed and managed; and
 - liaise with the applicant to identify opportunities to further set back the building at levels three and four from the property boundary of 28 Albemarle Avenue to create an improved interface with the low-density residential zone.
- That subject to the above, the LPP notes that the planning proposal should be amended by the proponent, in the following manner:
 - insert a new Schedule 1 Additional permitted uses; and
 - insert a new Part 6 Additional local provisions.

The LPP also recommended that the planning proposal:

- Be amended by the proponent to include a reference to discussions undertaken with Council staff regarding a Voluntary Planning Agreement (VPA) for the site.
- That Council should consider the potential for an Affordable Housing contribution to be made to Council.
- That the planning proposal and any draft VPA should be publicly exhibited concurrently.

1.7 Sydney Eastern City Planning Panel recommendation

On 1 November 2023, the Sydney Eastern City Planning Panel (the Planning Panel) undertook the rezoning review and recommended that the planning proposal should be submitted for a Gateway determination because it has demonstrated strategic and site-specific merit.

The Panel recommended the proposal be revised to replace the reference to open space zone in the proposed *Part 6 Additional local provisions* so that it reads:

“Implementation of a ground level, publicly accessible land adjacent the western boundary of 30 Albemarle Avenue providing for a 9m wide building separation zone and an 8m wide deep soil zone”.

1.8 Background

Date	Event
5 May 2022	Planning proposal PP-2022-731 was lodged with Woollahra Council (Council) by Ethos Urban on behalf of Fabcot Pty Ltd (Woolworths Property Group) (the proponent).
6 July 2023	The Woollahra LPP considered the proposal and advised Council to proceed to Gateway determination subject to amendments to provide greater clarity and certainty to the outcomes of the proposed changes to the Woollahra LEP.
31 July 2023	<p>In response to the advice of the WLPP, the proponent submitted a revised planning proposal (the rezoning review proposal) which included the following changes:</p> <ul style="list-style-type: none"> • reducing the building height to maximum 14.5m by deleting the lift and stair access to the roof level and relocating rooftop plant and equipment areas to the ground floor. • deleting three residential units on Level 3 to increase the setback to the northern boundary and to align with the neighbouring building. • increasing balcony setbacks on Levels 2 and 3 to minimise overhang to Old South Head Road and the corner of Albemarle Avenue. • reducing the awning size on the top floor to minimise the bulk and scale of the upper level. • increasing the setback to the glazing line to 12m for Level 2 and 13.5m for Level 3 by adding a landscape buffer to the western elevation.
7 August 2023	<p>The planning proposal was reported to Council's Environmental Planning Committee (EPC). Council officers recommended that Council endorse the planning proposal and forward it to the Department for Gateway determination. The EPC recommended that Council refuse the planning proposal for the following reasons:</p> <ul style="list-style-type: none"> • traffic. • lack of transition zone. • not in keeping with the streetscape. • need for protection of the R2 zone. • not in the public interest.

Date	Event
14 August 2023	<p>Council resolved as follows:</p> <p><i>A. THAT Council refuse the planning proposal for 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay for the following reasons:</i></p> <ol style="list-style-type: none"> <i>1. traffic and traffic congestion;</i> <i>2. congestion caused by the close proximity of the proposal to the local public school of more than 500 students and its drop off and pick up zone;</i> <i>3. insufficient transition area between the development and the R2 residential zone and no certainty that any proposed transition zone will be maintained with appropriate vegetation and trees in future;</i> <i>4. dominance in the streetscape and inconsistency with proximate R2 residential zone given the significant bulk and scale of the proposed development which intends to utilise the 30m frontage of the R2 residential block;</i> <i>5. need for protection of the very limited R2 zone in the Rose Bay area;</i> <i>6. lack of consideration for development of a proposal on a smaller footprint, being the footprint that currently exists and is zoned for that use;</i> <i>7. lack of consideration of the surrounding area which is well serviced by supermarkets and grocery stores; and</i> <i>8. not in the public interest as demonstrated by the petition tabled at this Council meeting, which demonstrates community concern with the size of the proposal.</i> <p><i>B. THAT should the applicant submit a Rezoning Review to the Department of Planning and Environment, that the community submissions (including the petition and any late correspondence) are submitted by staff as part of the Council documentation.</i></p>
6 September 2023	<p>The Department received a rezoning review request (RR-2023-20) from Ethos Urban, on behalf of the landowner Fabcot Pty Ltd (Woolworths Property Group). The request was accepted by the Department on 26 September 2023 after payment for the rezoning review was issued and the package considered adequate.</p>
1 November 2023	<p>The Sydney Eastern City Planning Panel (the Planning Panel) undertook the rezoning review and recommended that the planning proposal should be submitted for a Gateway determination and revised to change reference to an 'open space zone' to 'publicly accessible land'.</p>
1 November 2023	<p>Woollahra Municipal Council has previously refused the proposal. In accordance with Section 3.32(1) of the Environmental Planning and Assessment Act 1979, the Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the Planning Proposal Authority (PPA) for this planning proposal.</p>
14 November 2023	<p>Council acknowledged that the Planning Panel is the PPA for this planning proposal.</p>

Date	Event
21 November 2023	<p>Council officers submitted that the wording of the Panel's Record of Decision regarding the public open space was incorrect and inconsistent with the issue raised by staff. It was requested that the wording should be amended to read:</p> <p><i>Public open space – request requirement that the area is <u>not</u> publicly accessible, acting as a landscape buffer to adjoining low density residential.</i></p> <p>It was also requested that the Panel's recommendation, which retains the term <i>publicly accessible land</i> in the proposed <i>Part 6 Additional Local provisions</i> be amended via the Gateway determination conditions.</p>
12 December 2023	<p>The proponent submitted updated planning proposal documentation to align with relevant environmental planning instruments (Attachment A).</p>

2 Need for the planning proposal

The planning proposal is not the result of a study or strategy. However, the proposal has strategic merit having regard to the Region, District and Local strategic plans and policies.

A specific need has been identified for provision of a medium sized supermarket to address an under supply in the local area. This is identified in the proponent's Economic Impact Assessment and supported by Council's independent assessment. The planning proposal responds to this need by providing a two-level 'mid-size' supermarket with associated facilities on the site.

The scale and intensity of the development facilitated under the proposed LEP amendments is generally compatible with the existing and desired future character of the Rose Bay South local centre. The mechanisms adopted would provide certainty in the anticipated built form facilitated by the planning proposal, being a four storey mixed use development.

Further to this, the amendments to the LEP facilitate development under the planning proposal only if both sites at 488-492 Old South Head Road and 30 Albemarle Avenue, Rose Bay are included. The underlying development standards of the LEP remain unchanged if development does not occur in accordance with the planning proposal.

3 Strategic assessment

3.1 District Plan

The site is within the Eastern City District Plan. The Greater Cities Commission released the Eastern City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic, and environmental assets.

The District Plan identifies that the Eastern City will require 1.8 million sqm of additional retail floorspace over the next 20 years. Specifically, the District Plan recognises the importance of the growth of supermarket-based centres, with Rose Bay South and other local centres contributing to the delivery of additional retail floorspace.

The planning proposal is consistent with the priorities for liveability, productivity, and sustainability in the plan as outlined below.

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 following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4 | District Plan assessment

District Plan Objectives	Justification
Liveability	<p><i>E5 – Providing housing supply, choice, and affordability with access to jobs, services, and public transport.</i></p> <p>The proposal seeks to facilitate approximately 14 additional dwellings (there is currently one existing dwelling) and 75 jobs (post-construction) on the site, which is highly accessible being near bus and other local services. The site also has good access to open space areas being approximately 400m from a community garden, sporting oval/fields, golf club, croquet club, and a local reserve.</p> <p><i>E6 – Creating and renewing great places and local centres and respecting the District’s heritage.</i></p> <p>The proposal would contribute to the redevelopment of Rose Bay South centre by facilitating a new development with additional housing and employment opportunities.</p>
Productivity	<p><i>E10 – Delivering integrated land use and transport planning and a 30-minute city.</i></p> <p>The proposal seeks to increase supermarket floor space and provide additional housing in the Rose Bay South centre which will increase retail opportunities and housing supply and choice. Local employment opportunities will be enhanced through the operation of the supermarket.</p> <p>The location of the proposal within the Rose Bay South centre enhances walkability and access for existing and future residents, workers, and visitors. The location of retail uses on the ground floor increases the vitality and activation of the centre.</p>
Sustainability	<p><i>E19 – reducing carbon emissions and managing energy, water, and waste efficiently.</i></p> <p>The proposal will incorporate the principles of sustainability through the provision of deep soil and tree canopy, compliance with the relevant BASIX Energy scores and NABERS Energy ratings, and ongoing retail operations in accordance with the Woolworths Sustainability Plan 2025.</p>

3.2 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 the table below:

Table 5 | Local strategic planning assessment

Local Strategies	Justification
<p>Woollahra Local Strategic Planning Statement (LSPS) 2020</p>	<p>The proposal is located within the Rose Bay South centre which is identified as a local centre in the LSPS. The proposal is broadly consistent with the LSPS vision for the centre and is consistent with the following Planning Priorities:</p> <p><i>1: Planning for integrated land use and transport for a healthy, sustainable, connected community and a 30-minute city.</i></p> <p>The proposal would facilitate approximately 14 dwellings and 75 on-going jobs in an accessible location close to public transport and services. The proposal is located along a transport corridor with suitable access and facilities for deliveries, servicing, and local freight activities.</p> <p>The proposal would have access to several public open space and recreation areas approximately 400m to the northwest and east, including the Rose Bay Community Garden, playing fields/ovals, the Woollahra Golf Club, Sydney Croquet Club and the Onslow Street Reserve.</p> <p><i>4: Sustaining diverse housing choices in planned locations that enhance our lifestyles and fit in with our local character and scenic landscapes.</i></p> <p>The proposal would broaden housing choice in Rose Bay South by facilitating the provision of different sized dwellings. It supports the role of the centre with the provision of a supermarket.</p> <p><i>6: Placemaking supports and maintains the local character of our neighbourhoods and villages whilst creating great places for people.</i></p> <p>The proposal would facilitate retail supermarket use at ground and first floor levels that activate the public domain. The building height is consistent with the rest of the centre.</p> <p><i>7: Supporting access to a range of employment opportunities and partnerships.</i></p> <p>The proposal supports access to new employment opportunities by providing a new supermarket located close to public transport and existing residential neighbourhood.</p> <p><i>13: Improving the sustainability of our built environment, businesses, transport, and lifestyles by using resources more efficiently and reducing emissions, pollution, and waste generation.</i></p> <p>The proposal promotes walkability by being located close to existing residential uses, open space and recreation areas, and public transport with nearby bus services.</p>
<p>Woollahra 2030, Community Strategic Plan (CSP)</p>	<p>The CSP identifies the strategic direction and integrated planning framework for the Woollahra LGA. The planning proposal is broadly consistent with the following goals in the CSP:</p> <p><i>Goal 4: Well-planned neighbourhoods.</i></p> <p>The proposal will facilitate a mixed-use development providing additional commercial floor space and housing within a modern building that contributes to the regeneration</p>

Local Strategies	Justification
	<p>of the Rose Bay South centre. The proposal would enhance the urban form and function of the centre and contribute to increased local activity.</p> <p><i>Goal 5: Liveable places.</i></p> <p>The proposal promotes good urban design outcomes by promoting public and private open space areas, a retail use to activate the pedestrian environment, and encouraging public transport use.</p> <p><i>Goal 6: Getting around.</i></p> <p>The proposal would provide additional dwellings and employment on a site with good access to public transport.</p> <p><i>Goal 9: Community focussed economic development.</i></p> <p>The proposal seeks to provide additional commercial floor space that would support new employment opportunities by providing a supermarket that contributes to the revitalisation of the Rose Bay South centre.</p>
<p>Woollahra Local Housing Strategy (LHS)</p>	<p>The LHS articulates Council's policy for housing and sets a vision to facilitate high quality housing in suitable locations to meet changing community needs. The LHS identifies the need for 1,200 new dwellings to be provided within the LGA by 2036 and contains objectives and actions to support the outcomes of the LHS. The relevant objectives and actions of the LHS are discussed below.</p> <p><i>Objective 1: Sustain a diverse range of housing types and protect low density neighbourhoods and villages.</i></p> <p><i>Objective 2: Facilitate opportunities for housing growth in locations identified in the Woollahra Local Housing Strategy.</i></p> <p><i>Objective 3. Ensure housing conserves heritage, maintains local character, and achieves design excellence.</i></p> <p><i>Objective 4. Ensure that new housing contributes to tree canopy and to long-term sustainability outcomes.</i></p> <p>The proposal would deliver additional housing within Rose Bay South centre with good access to public transport which aligns with Council's vision to revitalise the centre. It would provide 14 apartments of different sizes within a 4 storey built form that responds to the local character. The provision of a supermarket would support the employment and business role of the centre.</p> <p>The proposal is informed by a concept scheme and draft site-specific DCP demonstrating the proposal can achieve good urban design and sustainability outcomes which includes open space areas with landscaping and tree canopy.</p>
<p>Rose Bay Place Plan 2023-2028 (Rose Bay Place Plan) (adopted on 26 June 2023)</p>	<p>The Rose Bay Place Plan is a strategic guide to place activation and economic development in Rose Bay. It establishes a vision for the Rose Bay suburb as an intimate, connected and thriving place that supports the needs of the community and businesses. The planning proposal is broadly consistent with the following elements of the Rose Bay Place Plan:</p> <p><i>Objective 2: It is a pleasure to move around – for everyone:</i></p> <ul style="list-style-type: none"> • <i>create walkable local village environments.</i> <p><i>Objective 4: Rose Bay is a great place to socialise and shop – day and night:</i></p> <ul style="list-style-type: none"> • <i>support the growth and development of a small-scale night-time economy in local and neighbourhood centres.</i>

Local Strategies	Justification
	<ul style="list-style-type: none"> • <i>create opportunities for diverse, vibrant, and resilient economies in local and neighbourhood centres.</i> <p>The proposal promotes walkability by being located close to existing residential uses, open space and recreation areas, public transport, and cafes, pharmacy, gym, and medical practice.</p> <p>The proposal will introduce a supermarket located on the ground and first floors of the corner site activating the Old South Head Road frontage, encouraging local resident interactions and activity, and supporting the local economy.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 | 9.1 Ministerial Directions assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Consistent	The proposal is consistent with the priorities and actions of the Eastern City District Plan, which give effect to the objectives and directions of the Region Plan. Refer to Section 3.1 of this report.
1.4 Site Specific Provisions	Inconsistent, minor significance	<p>This direction seeks to discourage unnecessarily restrictive site-specific planning controls.</p> <p>The proposal seeks to include several site-specific provisions including:</p> <ul style="list-style-type: none"> • additional permitted uses • development of both sites together • building height • gross floor area • setbacks • deep soil zones • publicly accessible area • site-specific DCP. <p>The planning proposal is accompanied by an Urban Design Report prepared by PBD Architects which provides a concept development scheme to demonstrate that the LEP amendments will facilitate the proposed development.</p> <p>The proposed site-specific provisions are supported, with the exception of building setbacks, deep soil zones, publicly accessible area, and a site-specific DCP, which are to be deleted via Gateway conditions.</p> <p>The inclusion of a local provision for a site-specific DCP is not necessary as a DCP can be prepared and finalised as part of the planning proposal process.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
		<p>Local provisions relating to building setbacks, deep soil zones and publicly accessible area are discussed further in this report under Section 4.1.1 Urban design and Section 4.3.1 Community Infrastructure.</p> <p>The Department considers that the remaining site-specific provisions, relating to height, FSR and developing both sites together, will manage bulk and scale and provide certainty about the scale of development across the site whilst ensuring a level of flexibility in relation to how the development will be delivered. It also provides opportunity to respond to the constraints and issues that arise at the DA stage.</p> <p>The Apartment Design Guide (ADG) will also apply to future development applications and will ensure an appropriate design outcome on the site.</p> <p>Whilst the proposal is inconsistent with this Direction, the inconsistency is considered to be of minor significance and had been addressed with Gateway conditions.</p>
4.1 Flooding	Consistent	<p>The objectives of this Direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual. It also seeks to ensure LEP provisions that apply to flood prone land are commensurate with flood behaviour and consider potential flood impacts on and off the land.</p> <p>The Flooding Assessment supporting the proposal assesses the proposal against Council's DCP and the Ministerial Direction. Flood levels are identified as ranging from:</p> <ul style="list-style-type: none"> • 12.94m AHD adjacent to the eastern corner to 12.41m AHD in the western corner of the site for the 1% AEP design storm event • 13.15m AHD adjacent to the eastern corner and 12.56m AHD in the western corner of the site in the PMF design storm event • 0.15m – 0.8m during the 1% AEP and 0.3m - 1.0m in the PMF in Old South Head Road and Albemarle Avenue. <p>The Flooding Assessment concludes that based on Council's flood study the proposal is not located in the floodway area. The site however is in a Flood Planning Area under the Woollahra LEP due to Old South Head Road and Albemarle Avenue being a high hazard floodway.</p> <p>The Flooding Assessment recommends that flood mitigation strategies are to be considered during the detailed design of the proposal to address:</p> <ul style="list-style-type: none"> • footpath levels for the road adjacent to the proposal which is within the floodway. • refuge for tenants and residential car spaces above the PMF event.

Directions	Consistent	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> processes which will limit the requirement for emergency management from government services. <p>Council staff concur with this approach as noted in the Staff Assessment report for the planning proposal.</p> <p>The Department is satisfied that the proposal is consistent with this direction and that flood matters can be further considered and suitably addressed at the development application stage.</p>
4.4 Remediation of Contaminated Land	Consistent	<p>This 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 authorities.</p> <p>The site is occupied by a former service station located on the corner of Old South Head Road and Albemarle Avenue. Service station activities are listed in Table 1 of the Contaminated Land Planning Guidelines and therefore this Direction is applicable to the proposal.</p> <p>A Remedial Action Plan (RAP) was prepared by ERM to support the planning proposal (Appendix N). The RAP identifies that the main contaminants of concern on the site are total recoverable hydrocarbons, lead, benzene, toluene, ethylbenzene, xylene, and naphthalene associated with the service station backfill sands, fuel lines, fill points, bowsers, and vent pipes.</p> <p>The conclusions of the RAP are that the site can be made suitable for the proposed residential land uses, subject to the remedial strategies and goals detailed in the RAP being implemented as part of any future development of the site. The work, once implemented, will make the site suitable for the supermarket and residential uses.</p> <p>It is noted that demolition of the service station and site remediation works were approved by Council under a development consent (DA/502/2019).</p> <p>The Department is satisfied that the proposal is consistent with this Direction and that the land can be remediated and made suitable for the proposed uses.</p>
4.5 Acid Sulfate Soils	Consistent	<p>The objective of the Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The planning proposal relates to land identified as being affected by Class 5 acid sulfate soils. The Department is satisfied that further consideration of this matter can be undertaken at the development application stage when soil testing can be undertaken and construction details including excavation levels will be known.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
5.1 Integrating Land Use and Transport	Consistent	<p>The objectives of this Direction are to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> • <i>improving access to housing, jobs, and services by walking, cycling and public transport, and</i> • <i>increasing the choice of available transport and reducing dependence on cars, and</i> • <i>reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> • <i>supporting the efficient and viable operation of public transport services, and</i> • <i>providing for the efficient movement of freight.</i> <p>The Direction applies as the proposal seeks to create local provisions to facilitate a mixed-use development.</p> <p>The Planning Proposal is consistent with the guidelines identified within this Direction in that it will:</p> <ul style="list-style-type: none"> • facilitate a mixed-use development on land with good access to public transport, being within walking distance to bus services. • create employment opportunities close to existing residential neighbourhoods increasing opportunities for workers to be locally sourced. • provide supermarket floorspace to reduce the need for residents to travel outside of the local area for their shopping needs. <p>The proposal is accompanied by a Traffic Assessment report which concludes that:</p> <ul style="list-style-type: none"> • the proposed vehicle access from Albemarle Avenue will significantly improve road and pedestrian safety compared to the former service station access from Old South Head Road. • the proposed turntable allows all trucks to enter and exit the site in a forward direction. • car and bicycle spaces will be in accordance with Council's DCP and the objectives of the Woollahra Integrated Transport Strategy and will meet customer needs, reduce parking on surrounding streets, and encourage customers to park onsite. • the proposal will generate fewer traffic movements compared to the previous service station use. • the intersection at Old South Head Road and Albemarle Avenue would retain its existing level of service.

Directions	Consistent	Reasons for Consistency or Inconsistency
		<ul style="list-style-type: none"> discussions with TfNSW have informed the planning proposal including appropriate access for service vehicles to/from Albemarle Avenue and Old South Head Road. <p>The Department is satisfied that the proposal is consistent with this Direction the proposal and traffic and parking impacts can be managed as part of a future DA.</p>
6.1 Residential Zones	Consistent	<p>This Direction seeks to encourage a variety of housing types, make efficient use of infrastructure and services and minimise the impact of residential development on the environment and resource lands.</p> <p>The planning proposal seeks to introduce the additional permitted uses to 30 Albemarle Avenue for 'retail premises' but only has part of 'shop top housing' and only in conjunction with the development of 488-492 Old South Head Road. The use is currently prohibited in the R2 zone.</p> <p>The proposed APU together with the increased built form controls, equating to an additional 732m² GFA across the sites, will ensure an appropriate mix of uses on the site and will not reduce the residential density of the land.</p> <p>The site has access to existing infrastructure and services which can be utilised in addition to the proponent paying section 7.11 and 7.12 development contributions.</p> <p>The Department is satisfied that the proposal is consistent with this Direction.</p>
7.1 Employment Zones	Consistent	<p>The objectives of this direction are to encourage employment growth in suitable locations, protect employment land in employment zones including the MU1 Mixed Use zone, and support the viability of identified centres.</p> <p>The proposal seeks to increase non-residential floor space on the site with the provision of a supermarket consistent with the MU1 Mixed Use zone of 488-492 Old South Head Road.</p> <p>The planning proposal is broadly consistent with the 'local centre' hierarchy envisaged in Woollahra's strategic planning frameworks and would address identified undersupply of supermarket floorspace in the area.</p> <p>The Department is satisfied that the proposal is consistent with this Direction.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 | Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
SEPP 65 Design Quality of Residential Apartment Development	<p>The SEPP aims to improve the design quality of residential apartment development.</p> <p>Clause 28 provides that a DA to which this SEPP applies requires the consent authority to consider the design quality principles and Apartment Design Guide (ADG) before the DA is determined.</p>	Yes	<p>The planning proposal is supported by an Urban Design Report (Attachment F) with information that addresses the ADG. In particular, the report has considered the building separation, solar access, natural ventilation, and open space and deep soil planting requirements of the ADG.</p> <p>Section 4 of the report below provides a more detailed assessment of the urban design and amenity aspects of the proposal. Further assessment against the ADG will also be undertaken at the development assessment stage.</p>
Transport and Infrastructure 2021	<p>The aims of this SEPP are to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities for certain development during the assessment process.</p>	Yes	<p>Clause 2.120 – <i>Impact of road noise or vibration on non-road development</i> of the SEPP requires that residential accommodation that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles cannot be approved unless the consent authority is satisfied that appropriate measures will be taken to ensure that the relevant noise levels are not exceeded:</p> <p>The provisions of Clause 2.120 apply to the proposal as the land has a frontage to Old South Head Road which has an annual average daily traffic volume of more than 20,000.</p> <p>Although the proposal does not seek approval for construction works, the impacts of road noise have been considered against the concept scheme.</p> <p>The application is supported by a Noise Impact Assessment that assesses potential noise impacts to the proposed residential uses associated with traffic noise intrusion from Old South Head Road.</p> <p>The Assessment concludes that the proposal can comply with the relevant noise criteria subject to recommended acoustic treatments being adopted in the design of the development, and that a full assessment of</p>

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
			<p>recommended treatments can be undertaken during the detailed design stage.</p> <p>The Department is satisfied that the proposal can comply with the relevant noise criteria subject to appropriate acoustic treatment being integrated into the development.</p>
Resilience and Hazards 2021	The object of the applicable chapter is to provide for a State-wide planning approach to the remediation of land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	Yes	<p>Chapter 4 of this SEPP applies. The planning proposal does not relate to land that is within an investigation area under the Contaminated Land Management Act 1997.</p> <p>The site is occupied by a former service station located on the corner of Old South Head Road and Albemarle Avenue. Service station activities are listed in Table 1 of the Contaminated Land Planning Guidelines and therefore this SEPP is applicable to the proposal.</p> <p>A Remedial Action Plan (RAP) was prepared by ERM to support the planning proposal (Appendix N). The RAP concludes that the site can be made suitable for the proposed residential land uses, subject to remediation. The work, once implemented, will make the site suitable for the supermarket and residential uses.</p> <p>It is noted that demolition of the service station and site remediation works were approved by Council under a development consent (DA/502/2019).</p> <p>The Department is satisfied that the land can be remediated and made suitable for the proposed development.</p>
Biodiversity and Conservation 2021	This SEPP aims to protect the biodiversity values of trees and other vegetation, provide habitat for koalas, enhance the riverine environment of the River Murray and Hawkesbury-Nepean River system, preserve bushland within certain urban areas, prohibit canal estate development, provide healthy water catchments, and protect	Yes	<p>Chapter 2 of the SEPP aims to protect the biodiversity values of trees and vegetation and applies to land zoned B4 Mixed Use (or the MU1 Mixed Use) zone in the Woollahra LGA. Specific provisions apply to clearing of vegetation on development sites.</p> <p>An Arboricultural Impact Appraisal accompanies the proposal. It identifies four street trees located adjacent to the site's front boundary which are in good health and have streetscape contributory significance that should be retained. Four trees located within</p>

SEPPs	Requirement	Consistent	Reasons for Consistency or Inconsistency
	the Sydney Harbour Catchment area.		<p>the site are of low significance and can be removed.</p> <p>The Landscape Report accompany the proposal details the intended landscaping for the site, including the retention of the four significant street trees. Successful retention of the trees is dependent on effective tree protection measures being implemented during construction works. The report recommends tree protection measures for the trunk, branches, and ground area which are to be further considered as part of the development application process.</p> <p>The Department is satisfied that the proposal is consistent with and will not interfere with the operation of the SEPP.</p>
State Environmental Planning Policy (Sustainable Buildings) 2022 (1 October 2023)	The Sustainable Buildings SEPP encourages the design and construction of more sustainable buildings across NSW. It sets standards for residential and non-residential development and commences the process of measuring and reporting on the embodied emissions of construction materials.	Yes	<p>Although the proposal does not seek approval for construction works, sustainability measures have been identified for the concept scheme that will be further developed and validated through the design and delivery of the development.</p> <p>The Department is satisfied that the proposal is consistent with the SEPP.</p>

4 Site-specific assessment

4.1 Environmental

The site is not identified as an environmentally sensitive area or containing endangered ecological communities.

The potential environmental impacts associated with the proposal are discussed below.

4.1.1 Urban design

The proposal is supported by an Urban Design Report (**Attachment F**) that features a concept development scheme for a 4 storey building with ground and first floor supermarket and 14 residential apartments (**Figure 1**).

The scale of the development is generally consistent with the future character of the Rose Bay South local centre envisaged in the Woollahra Development Control Plan 2015, which identifies four storey mixed use development for the site and adjoining properties.

The proposal's built form, street alignment and continuous awnings also reflect the desired future character of the centre and integrate with surrounding developments.

The concept scheme provides appropriate activation of the ground floor with entry doors and windows of the supermarket located along Old South Head Road, and residential entry on Albemarle Avenue, reflecting the adjoining residential uses. Planting along the western boundary and residential balconies softens the façade and provides appropriate separation and screening to the Albemarle Avenue residential uses.

The Urban Design Report provides an assessment of the proposal against the provisions of the ADG relating to building separation, solar access, natural ventilation, and open space and deep soil planting which are detailed below.

Building separation

The proponent's Urban Design Report demonstrates that the proposal is capable of achieving the required separation distances consistent with the design criteria of the ADG.

As such, the site-specific provision requiring the implementation of a staggered setback adjacent the western boundary of 30 Albemarle Avenue and the proposed building is not considered necessary. The ADG will apply and be considered as part of a future development application, if the site is rezoned in accordance with this proposal.

Solar access

The proponent's Urban Design Report demonstrates the capability that 78.6% of apartments (11 apartments) would receive at least 2 hours of sunlight to living areas and balconies in mid-winter, approximately 21.4% (3 apartments) would receive no sun in mid-winter. This is consistent with the design criteria of the ADG.

The proposal will not result in significant detrimental shadow impacts to adjoining developments between 9am and 3pm in mid-winter with most overshadowing being over Old South Head Road and Albemarle Avenue (**Figure 5**).



Figure 5 | Envelope shadows of proposal between 9am and 3pm on 21 June (Source: Urban Design Study)

Natural ventilation

The design criteria of the ADG provides that at least 60% of apartments are naturally cross ventilated in the first nine storeys of a building. The concept scheme shows that approximately 64.3% of apartments (9 apartments) would be naturally cross-ventilated.

Open space and deep soil planting

The ADG provides that communal and public open space, with minimum area equal to 25% of the site area is to be provided for future residents. Deep soil zones of between 7% and 15% of the site area are also to be provided.

The concept scheme shows three communal open space areas located on the ground floor and Level 2 that equate to 30.7% of the site area. The deep soil zone within these areas is 15.8% of the site area consistent with the provisions of the ADG (**Figure 6**).

More than 50% of the principal usable part of the communal open space area receives direct sunlight for a minimum of 2 hours between 9am and 3pm in mid-winter consistent with the ADG.

Level 2 communal open space is accessible to residents, consistent with the ADG. The open space located on the ground floor comprises a publicly accessible area located at the front of the site adjoining 28A Albemarle Avenue. The remaining communal open space, and the largest in the proposal is a landscaped separation zone located between the western boundary and the future building. Although the Urban Design Report identifies this area as communal open space, access to this area by future building occupants is not resolved. Further consideration of the communal open space area would be given at the development application stage.

As the concept scheme demonstrates that the proposal is capable of achieving the required deep soil zones under the ADG, the site-specific provision requiring a deep soil separation zone is not considered necessary. The ADG will apply and be considered as part of a future development application.

The publicly accessible area is discussed further in this report below under **Section 4.3.1 Community Infrastructure**.

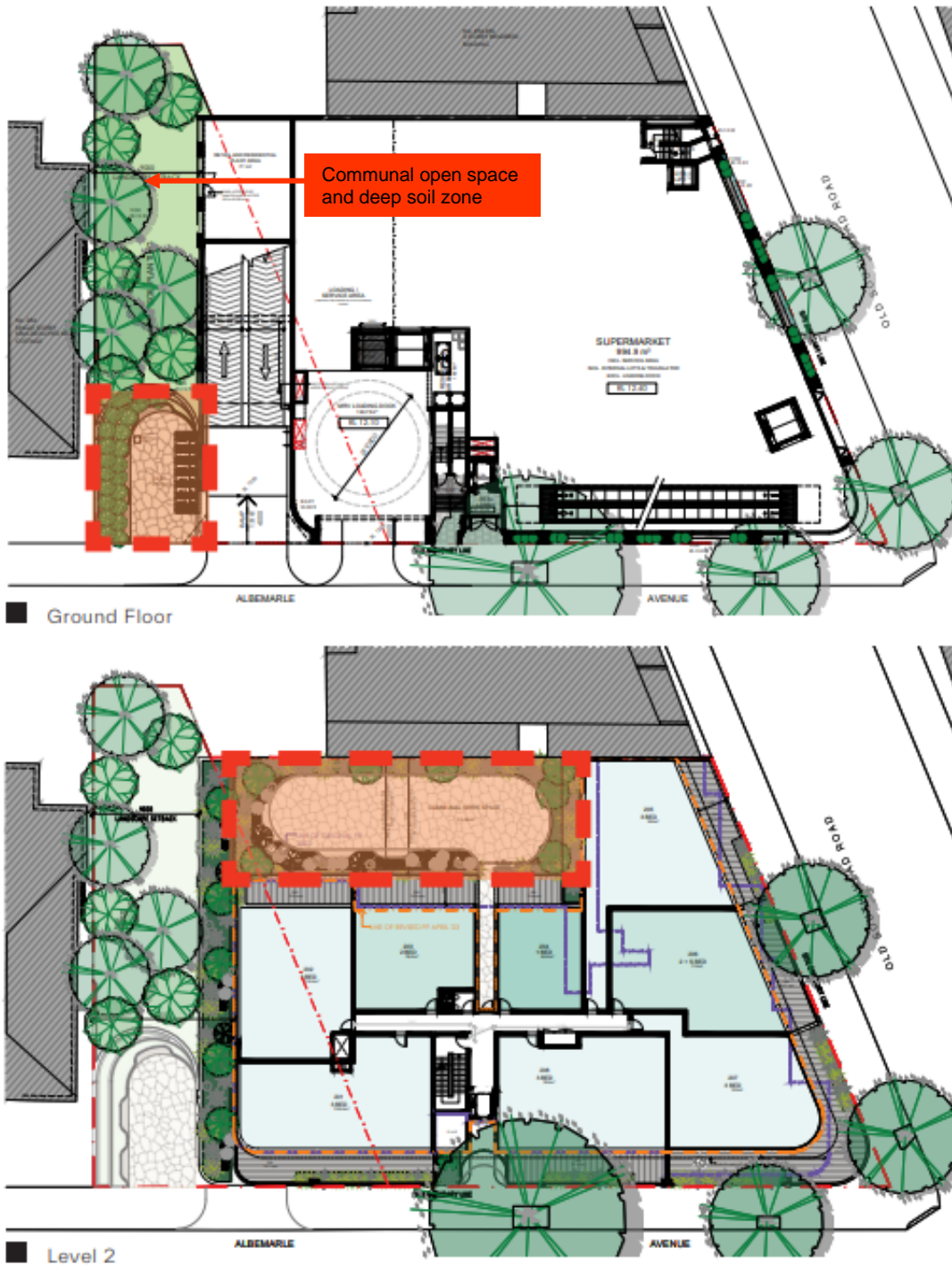


Figure 6 | Concept scheme with location of communal and public open space areas marked orange (Source: Planning Proposal)

4.1.2 Traffic and parking

The proposal is supported by a Traffic Assessment report which assesses the proposal's traffic and parking generation and implications on the local traffic network. The report concludes that the proposal:

- will generate fewer traffic movements compared to the previous service station use.
- vehicle access from Albemarle Avenue will significantly improve road and pedestrian safety compared to the former service station access from Old South Head Road.
- car and bicycle spaces will be provided in accordance with the Woollahra Development Control Plan 2015 and the objectives of the Woollahra Integrated Transport Strategy.
- the intersection at Old South Head Road and Albemarle Avenue would retain its existing level of service.
- discussions with TfNSW have informed the proposal including access for service vehicles.

The Department is satisfied that the proposal will not result in adverse traffic and parking impacts, with the detailed design being finalised at the development application stage.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 8 | Social and economic impact assessment

Social and Economic Impact	Assessment
Economic	<p>The proposal would provide additional supermarket floor space that would enhance the role of the Rose Bay South local centre as an intimate, connected and thriving place that supports the needs of the community and businesses. It would also deliver additional housing that creates demand for local services, improves activation and contributes to the vitality of the centre.</p> <p>The proposal would also create additional jobs during construction and at the operational phase of the development.</p>
Social	<p>The proposal would broaden housing choice and facilitate additional commercial activities that support the local community.</p>

4.2.1 Supermarket floor space

The proponent's Economic Impact Assessment has identified a specific need for supermarket floor space to address an under supply in the local area. This is supported by Council's independent economic assessment. The planning proposal responds to this need by providing a two-level mid-size supermarket of 2,168m² with associated facilities on the site.

In the Staff Assessment Report (June 2023) prepared for the planning proposal, Council officers note that the proposed provisions do not identify a maximum GFA for the supermarket to reflect the 2,168m² GFA shown in the concept scheme and the area the Traffic Assessment report is based on. They do not support a supermarket larger than the proposed 2,168m² as it would result in substantially more traffic movements.

Council staff recommend that the drafting of the *Schedule 1 Additional permitted uses* provision be amended to ensure that any retail uses are part of shop-top housing and do not result in a supermarket comprising the proposal's entire 4,200m² floor space.

The Sydney Eastern City Planning Panel noted Council’s request but did not recommend any changes to the drafting of the provision.

The Department acknowledges Council’s intent that a supermarket is provided in the future development that reflects the concept scheme that the Traffic Assessment report is based on. However, a supermarket is already permitted with consent in the E1 Local Centre zone without restriction and any future traffic impact can be assessed at the development application stage.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal.

Table 9 | Infrastructure assessment

Infrastructure	Assessment
Public and active transport	The site is well serviced by public transport being close to frequent bus services on Old South Head Road. The provision of approximately 14 additional dwellings is not considered to adversely affect the capacity of the existing public transport facilities. The site is also within walking distance of local services and open space.
Utilities	<p>The proposal is unlikely to require significant increase in local infrastructure. Augmentation to utility services may be required and can be addressed at the development application stage.</p> <p>To ensure infrastructure needs are adequately addressed, a Gateway condition is recommended to require consultation with Sydney Water and Ausgrid.</p>

4.3.1 Community infrastructure

At the Panel meeting Council staff raised concern that part of the proposed landscaped zone may be secluded and present opportunities for antisocial behaviour (**Figure 7**). It was requested that the drafting of the *Part 6 Additional local provisions* be amended to restrict the publicly accessible area to the Albemarle Avenue frontage only, with the remaining area being private open space for the future building.

In response, the Panel recommended that prior to the proposal being submitted for Gateway determination, the planning proposal be revised to remove the reference to the open space zone in the proposed *Part 6 Additional local provisions* so that it reads:

“Implementation of a ground level, publicly accessible land adjacent the western boundary of 30 Albemarle Avenue providing for a 9m wide building separation zone and an 8m wide deep soil zone”.

The proponent revised the planning proposal (7 December 2023) to remove references to publicly accessible land adjacent to the western boundary from the proposed *Part 6 Additional local provisions* as follows:

- 6) *Development consent must not be granted unless a building setback is provided within the site for the full length of Lot 30 Section B in DP4567 providing for—*
 - a) *a minimum setback width of 9m at the ground level as measured from the north-western side boundary to the building, including the following –*
 - i. *A substantial, unencumbered deep soil landscaped area within this zone with a minimum width of 8m,*

ii. A publicly accessible area fronting Albemarle Avenue.

On the 21 November 2023, Council officers wrote to the Department about the wording of the Panel's Record of Decision:

We have identified an error in the Record of Decision under 'key issues discussed' with Council staff where it states:

"Public open space – request requirement that the area is publicly accessible; acting as a landscape buffer to adjoining low density residential."

This is not correct and is inconsistent with the issue raised by staff. For our records, we require this error to be corrected. It should read:

"Public open space – request requirement that the area is not publicly accessible, acting as a landscape buffer to adjoining low density residential."

Furthermore, and contrary to the staff requested amendment, the Panel's recommendation has retained the use of the term publicly accessible land. Accordingly, we are requesting that this issue is resolved via the Gateway determination conditions.

For clarity, Council and the community have significant concerns over the public use of the setback area between 28A and 30 Albemarle Avenue. Accordingly, we recommended that having private access only to this area would protect the amenity of adjoining low residential dwellings and provide a buffer from the proposed mixed-use development.

In summary, the planning proposal should not rely on the provision of publicly accessible land to facilitate a mixed-use development for the following reasons:

- *It undermines the amenity of the adjoining residential properties, particularly to 28A Albemarle Avenue which directly adjoin the development site;*
- *Council's Open Space and Recreation team have advised that the setback area between No. 28A and 30 Albemarle Avenue does not provide any public benefits due to its small size. Accordingly, it will not provide any meaningful active or passive recreational use for the community; and*
- *Mandating public access is pre-empting the details of a Voluntary Planning Agreement for the site. As stipulated in the proponent's Letter of Offer dated 13 July 2022, the proponent intends to offset monetary contributions through the provision of a publicly accessible area. However, this approach is not supported by Council staff.*

Council's intent is that no publicly accessible area is mandated for the proposal, and it does not intend to own or manage any portion of the site. Any public area provided to the Albemarle Avenue frontage, as shown in the concept scheme, is to be owned and managed by the future development. The area behind this is to be private open space for the occupants of the future building (**Figure 8**).

The draft site-specific DCP echoes the location of the publicly accessible area by requiring "...a publicly accessible open space area with public seating and bicycle racks fronting onto and accessible from Albemarle Avenue".

The Department considers that public access to the entire landscape zone adjoining the western boundary should not be mandated in the LEP. The provision of any publicly accessible open spaces on the site can be resolved at the development application stage when the provisions of the ADG and principles of crime prevention through environmental design (CPTED) are considered. This will ensure a level of flexibility in relation to how the development will be delivered and opportunity to respond to constraints and issues that arise at DA stage. As such, a condition is recommended to delete this requirement.

The provision of a publicly accessible area can also be reconsidered by the Panel as the planning proposal authority, post-exhibition.

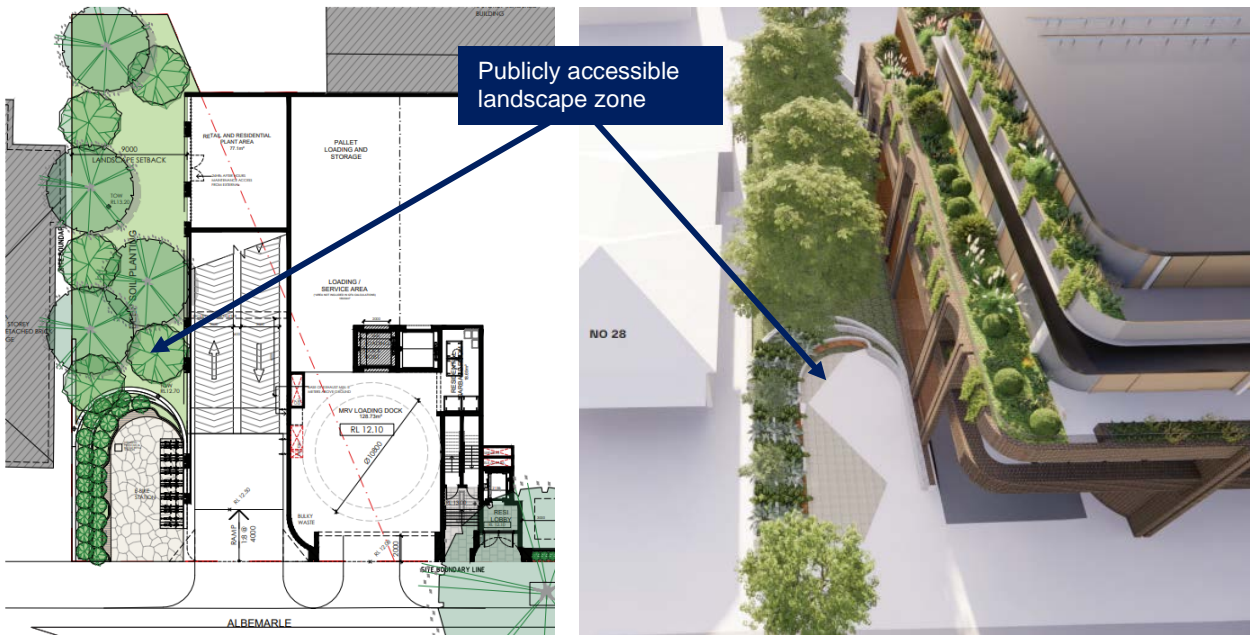


Figure 7 | Concept scheme showing location of publicly accessible landscaped zone (Source: Urban Design Study)



Figure 8 | Landscape zone with location of potential public area at the Albemarle Avenue frontage and private open space behind (Source: Urban Design Study)

5 Consultation

5.1 Community

The Panel proposes a community consultation period of 28 calendar days, which is equivalent to 20 working days.

Given the nature of the planning proposal, the proposed exhibition period is considered appropriate and forms a condition of the Gateway determination.

5.2 Agencies

The planning proposal does not specifically identify which agencies will be consulted.

Having regard to the nature and scope of the proposal, it is recommended the following agencies be consulted on the proposal and given 20 working days to comment:

- Transport for NSW
- Environment and Heritage Group (Department of Climate Change, Energy, the Environment and Water)
- State Emergency Service
- Ausgrid
- Sydney Water
- Waverley Council

6 Timeframe

The Department's Local Environmental Plan Making Guide provides a benchmark of 225 working days from Gateway determination to finalisation for 'standard' planning proposals. Based on this benchmark, the proposal is targeted for finalisation 11 months from the lodgement of the proposal for Gateway by the proponent.

The Department recommends a time frame of 8 months from Gateway to ensure it is completed in line with its commitment to reduce processing times. It is recommended the planning proposal is updated prior to consultation to reflect this timeframe.

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

7 Local plan-making authority

As the Sydney Eastern City Planning Panel is the planning proposal authority, the Department as delegate for the Minister is the local plan making authority for this planning proposal.

8 Assessment summary

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

- It demonstrates strategic merit as it is consistent with the objectives and directions of the Eastern City District Plan, Woollahra Local Strategic Planning Statement and Woollahra Local Housing Strategy.
- It would facilitate additional housing, commercial and employment opportunities on a site, which is accessible to public transport and services, and would complement Council's vision to revitalise the Rose Bay South local centre as an intimate, connected and thriving place that supports the needs of the community and businesses.

- It has site-specific merit as the future development is capable of achieving adequate urban design outcomes and would contribute to the regeneration of Rose Bay South centre.

It is noted that the scale of the proposed concept remains in keeping with the four storey desired future character envisaged under the Woollahra DCP 2015. The additional permitted use on 30 Albemarle Avenue provides for improvements in the distribution of bulk and scale and site access, while also allowing for a better transition between the R2 Low Density Residential and MU1 Mixed Use zones, irrespective of the proposed 732 m² additional GFA (21% increase) across the two sites.

Based on the assessment in this report, the proposal is to be amended prior to community and agency consultation to:

- Remove the local provisions relating to building setbacks, deep soil landscaped areas, a publicly accessible area, and a site specific DCP.

9 Recommendation

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

2. Prior to public exhibition, the planning proposal is to be amended to:
 - a) Remove the local provisions relating to building setbacks, deep soil landscaped areas and a publicly accessible area.
 - b) Remove the local provision requiring a site-specific DCP.
 - c) To update the planning proposal timeframes.
3. Consultation is required with the following public authorities:
 - Transport for NSW
 - Environment and Heritage Group (Department of Climate Change, Energy, the Environment and Water)
 - State Emergency Service
 - Ausgrid
 - Sydney Water
 - Waverley Council
4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
5. The timeframe for completing the LEP is to be 8 months from the date of the Gateway determination.



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9 February 2024

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