

DRAFT PLAN OF MANAGEMENT

Rose Bay War Memorial



January 2023

Acknowledgement of Country

Woollahra Council acknowledges the Gadigal and Birrabirragal people who are the traditional custodians of this land and pay respects to Elders both past and present and leaders emerging.

Draft plan of management for the Rose Bay War Memorial, Crown reserve categorised as area of cultural significance.

Adopted by Council XXXX

Version number	Date approved	Approved By	Next Review
03 Draft	XX XXXX 2022	Manager Open Space and Trees	December 2027

To be read in conjunction with the generic plan of management for Crown land reserves, 2021.

Document History and Version Control Table

Version number	Date approved	Approved By	Brief Description Of Amendments
01 Draft	21 June 2021	Manager Open Space and Trees	Initial draft for S & C committee review
02 Draft	05 July 2021	Manager Open Space and Trees	S & C committee amendments, see HPE 21/120815 & 21/131744, for DPE review
03 Draft	29 September 2022	Manager Open Space and Trees	<i>CLM Act</i> amendment regulation 2021 & DPE amendments, see HPE 22/65488

1. Preliminary

Title

This plan is known as the Woollahra Municipal Council Plan of Management for the Rose Bay War Memorial, 2023.

Authority

This plan is made under the Crown Land Management Act 2016.

Commencement

This plan commences XXX

Cancellation of Previous Plans

This plan cancels and supersedes previous plans in relation to the land to which this plan applies.

Contents

1. Preliminary	4	10. Appendix A	47
Contents	V	Lyne Park and Tingira Memorial Park Survey	
List of Tables	VI	Responses – User Profile	
List of Figures	VII		
Glossary of Terms	VIII	11. Appendix B	49
2. Executive Summary	1	Additional legislation, policies & guidelines	
3. Introduction	2	that inform this plan of management	
4. Process followed to prepare this plan	5		
5. Land to which this plan applies	7		
6. Context	12		
7. Legislative Requirements	17		
8. Use and development	26		
9. Management framework			
for Rose Bay War Memorial	34		

List of Tables

1. Legal description for the Rose Bay War Memorial
2. Crown land parcels at the Rose Bay War Memorial
3. Guidelines and core objectives for the land categories
4. Permissible short term use
5. Permissible long term use / purpose
6. Permissible development
7. Current and Future Permissible Use of the Rose Bay War Memorial

List of Figures

1. The cover of the State Strategic Plan
2. The cover of the Greener Places Guide
3. The cover of the NSW Public Spaces Charter
4. The Rose Bay War Memorial c. 1934 is a column / pillar style monument. The decorative cast iron gates were salvaged from a demolished house and installed in the 1960's.
5. Aerial photo of Rose Bay War Memorial
6. Rose Bay War Memorial map including land category
7. Location of the LGA within the greater Sydney context
8. Location of Crown land within the LGA
9. The cover of the Community Strategic Plan
10. Project online homepage
11. Advertising poster
12. The categorisation process
13. The Rose Bay War Memorial
14. ANZAC Day wreath
15. ANZAC Day Ceremony, 1996 at The Rose Bay War Memorial
16. Garden beds of *Rosmarinus officinalis* in front of the Rose Bay War Memorial
17. How often do you visit Lyne Park and / or Tingira Memorial Park?
18. When do you usually visit Lyne Park and / or Tingira Memorial Park?
19. How do you usually get to Lyne Park and / or Tingira Memorial Park?
20. What do you usually do at Lyne Park and / or Tingira Memorial Park?

Glossary of Terms

Word or phrase	Meaning
Actions	Practical, measurable and achievable activities that need to be done to implement the management strategies
Active transport	Walking or cycling for transport
Capital Works Program	The annual assignment of work activities to be completed by Council, it has set budgets assigned to develop individual projects by various groups within Council
Community Land	Land intended for public access and use. To prevent alienation, it cannot be sold, leased or licenced or have any other estate granted over it for more than 21 years.
CPTED	Crime prevention through environmental design
Crown Land or Reserve	Reserved or dedicated lands administered under the Crown Land Management Act, 2016
CSR	Customer Service Request, internal system to manage all service requests
Green Links	Pedestrian and cycleways interconnected by tree canopy for shade
Lease	Confers an exclusive right to possession or use of the land / facility on the lessee. It is a written legal document between Council and the lessee.
LEP	Local Environment Plan
LGA	Local Government Area
Licence	Confers a non-exclusive right to utilise the land / facility for a limited purpose and time.
Objective	The desired outcome of land use
Performance Measure	An example of how to assess if the objectives and targets have been met by undertaking the actions
Performance Target	A measureable outcome (of a completed action) of what a set objective is aiming to achieve. The action is undertaken, and the target is either achieved or not.

Glossary of Terms *cont'*

Word or phrase	Meaning
Recreation - Active	Recreation activities that require physical exertion but are unstructured, such as parkrun events, skateboarding, casual basketball and charity bike rides, also including structured, organised activities such as sports, that require physical exertion and/or skill, and may involve training and competition
Recreation - Passive	A range of unstructured activities and social interactions undertaken for enjoyment, relaxation, and mental health, with limited physical exertion. Passive recreation can be undertaken at all forms of open space and may include the use of playgrounds, reading, meditation and relaxing in nature
Values	Ideals and qualities of a space that are significant to the community
WSUD	Water sensitive urban design

2. Executive Summary

This document is a plan of management for the Rose Bay War Memorial, located within Lyne Park, Rose Bay.

The land covered by this plan was previously administered under the Lyne Park Plan of Management, 2003.

When adopted by Council, this plan of management will replace the 2003 Lyne Park document in relation to the land upon which the Rose Bay War Memorial stands.

This plan was developed by Council staff in consultation with the community and will be reviewed regularly to ensure that it remains current with legislative updates, changes in community needs and uses for public open space.

The management framework within this plan identifies strategies for the ongoing use of the Rose Bay War Memorial to achieve Council's vision, that:

“Woollahra will continue to be a great place to live, work and visit, where places and spaces are safe, clean and well-maintained. Our community will offer a unique mix of urban villages with a good range of shops, services and facilities.

We will make the most of the natural beauty, leafy streetscapes, open spaces, views and proximity to the water and the city. We will be a harmonious, engaged and connected community that looks out for each other.”

3. Introduction

3.1 What is a plan of management?

A plan of management (POM) is a land management tool. It provides forward planning and governance for the use of public “community” land under the *Local Government Act 1993* (LG Act).

Classification as “community” reflects the importance of the land to the community because of its use or special features. The ongoing management of community land is undertaken with community participation.

The *LG Act* requires that a plan of management for community land categorises the land as either natural area, park, sportsground, area of cultural significance, or general community use. Categories are assigned based on the way the land is used and provide the core land management objectives. In addition to categorisation, the plan of management must include objectives and performance targets with respect to the land, the means by which Council proposes to achieve those objectives and performance targets and how it measures its performance.

A plan of management provides information about the land, including how it is currently used and how it may be used and developed in the future. It may be structured as a generic plan and prepared for more than one parcel of land, or a specific plan for a single area of land.

3.2 The need for this plan of management

The *Crown Land Management Act 2016* (CLM Act) authorises local councils to manage the dedicated or reserved Crown land for which they are appointed the Crown land manager as if those reserves were public land under the *LG Act*. In practice, Crown land will now be managed as if it were community land.

When the *CLM Act* came into effect, most of the Crown reserves in Woollahra were covered, in varying degrees of detail, by 12 plans of management. These were written between 1996 and 2013. Several were generic and covered more than one site, such as the Foreshores plan, while some were site specific, such as the 2003 Lyne Park plan, which referenced the Rose Bay War Memorial.

While the *LG Act* allows generic plans to be prepared for many areas of community land, not all land can be included in a generic plan. Land that is categorised as being an area of cultural significance, by a Council resolution, must be covered by a specific plan of management that applies to that land only.

3.3 Aim of this plan of management

The aim of this document is to provide a specific plan of management for the Rose Bay War Memorial to comply with the *CLM Act* and the *LG Act*. It seeks to provide a clear land management framework that aligns with the State government’s vision for public open space, the values of the reserves and achieves Woollahra’s strategic objectives.

The State government’s vision for public open space as referenced throughout this plan is set out in the following key documents:



Figure 1. The cover of the State Strategic Plan



Figure 2. The cover of the Greener Places Guide



Figure 3. The cover of the NSW Public Spaces Charter

• State Strategic Plan – A Vision for Crown Land

Identifies 4 priorities for Crown land in NSW, they are to:

- enable jobs growth in regional and rural NSW
- expand green space, by linking Crown land reserves and other green spaces to form a 'green grid' across Greater Sydney, expand sustainable quality of life and climate change resilience
- strengthen and support evolving community connections
- work with Aboriginal communities to realise the potential of their land rights

These priorities, (with the exception of the first) have been imbedded in the performance targets of the management framework within this plan.

• Greener Places – An Urban Green Infrastructure Design Framework

Recognises the benefits of green infrastructure; open space for recreation, urban tree canopy and bushland and waterways and encourages the delivery of well-designed green infrastructure through the principles of:

- integration
- connectivity
- multifunctionality
- participation

This policy promotes the concept that green infrastructure is as crucial to a city as the grey infrastructure, such as roads and pipes. Crown land in Woollahra provides vital green infrastructure to the community. The management framework within this plan of management incorporates actions to deliver a more integrated, connected and multifunctional network of green infrastructure that encourages community stewardship of the land to achieve sustainable land use.

• NSW Public Spaces Charter

Quality public space, including open space is achieved through the application of the following 10 planning and design principles. The space should be / encourage:

- open and welcoming
- community focused
- culture and creativity
- local character and identity
- green and resilient
- healthy and active
- local business and economies
- safe and secure
- designed for people
- well managed

As the Crown land in Woollahra continues to transform, it must go beyond aesthetic appeal to be considered quality space and consider each of these principles equally.

3.4 Review of this plan of management

To ensure this plan of management remains relevant over time, the management framework should be reviewed, usually between 5 – 10 years from the date of adoption.

4. Process followed to prepare this plan

The process of preparing this plan of management involved the following tasks:

4.1 Researching the plan

- Review *Crown Land Management Act 2016* and *Local Government Act 1993* for requirements
- Review the schedule of Crown lands in the LGA on the Crown Land Manager Reserves Portal to identify the sites to include in this plan
- Review of existing WMC Plans of Management that reference these Crown land reserves
- Review of the WMC Community Strategic Plan, (CSP) Woollahra 2030 and other plans and policies, to ensure corporate consistency of strategic direction
- Project brief circulated to relevant WMC staff.

4.2 Site inspections

- Observation of existing site conditions.

4.3 Community consultation

- Thorough community engagement plan and strategies for the collection of values and management issues. (Due to COVID-19 this was disrupted, with face to face interaction cancelled due to social distancing.)

4.4 Preparing a draft plan of management

- Initial categorisation of Crown land reserves sent to the Department of Planning, Industry and Environment for approval. (Categories were assigned that most closely related to the purpose for which the land was dedicated or reserved, to cause no material harm and to reflect Council's intentions for future management of the land. WMC provided initial categorisation to the NSW Department of Planning, Industry and Environment on 21 October 2019. Categorisation approval was received on 27 February 2020.)
- Generic plan of management structure adapted for the majority of the reserves
- Specific plan of management structure adapted for sites of cultural significance and critical habitat for endangered species
- Incorporate elements from relevant documents, such as adopted master plans
- Survey results collated and fed into plan
- Native title manager advice acquired on the draft plans of management
- Report to Council to refer the draft plans to the NSW Minister for Planning, Industry and Environment

- Draft plans of management sent to the Department of Planning, Industry and Environment (DPE) for approval
- Amendments as required including those necessitated by the CLM Act regulation of 4 June 2021 and by the DPE review
- Amended plan reviewed again by DPE
- Obtain ministerial consent to adopt the plan under the *CLM Act*.

4.5 Council resolution and public exhibition

- Amended draft plans endorsed by Council for public exhibition
- Proceed with community engagement strategy, see HPE 21/168751 for details
- Notify stakeholders and community groups
- Place notices in *The Wentworth Courier*
- Place draft plans of management on display on the Council website and at the customer service centre at Redleaf for 28 day public exhibition, with a further 14 days for written submissions
- Provide a community information session and briefing sessions as requested.

4.6 Adopting the plan

- Review and evaluate public submissions
- Amend draft plans and incorporate feedback from the public exhibition
- Prepare final plans of management
- Report to Council to consider adoption
- Adoption of plans
- Additional ministerial consent only required if there are significant changes made to the draft plans
- Commence implementation of the plans



Figure 4. The Rose Bay War Memorial c. 1934 is a column / pillar style monument. The decorative cast iron gates are a later addition, they were salvaged from a demolished house and installed in the 1960's.

5. Land to which this plan applies

This plan of management applies to the **Rose Bay War Memorial** – New South Head Road, Rose Bay.

5.1 Description

This site is a separate dedication of Crown land within Lyne Park. It occupies the corner of New South Head Road at the main vehicular entrance to Lyne Park, Rose Bay.

This area of the park consists of a column / pillar style masonry and terracotta tile monument with bronze wreath, a small area of paving and formal garden beds.

The decorative cast iron gates, a later addition to the memorial, came from the house *Colebrook*, demolished in the 1960s for residential flat development.



Figure 5. Aerial photo of Rose Bay War Memorial

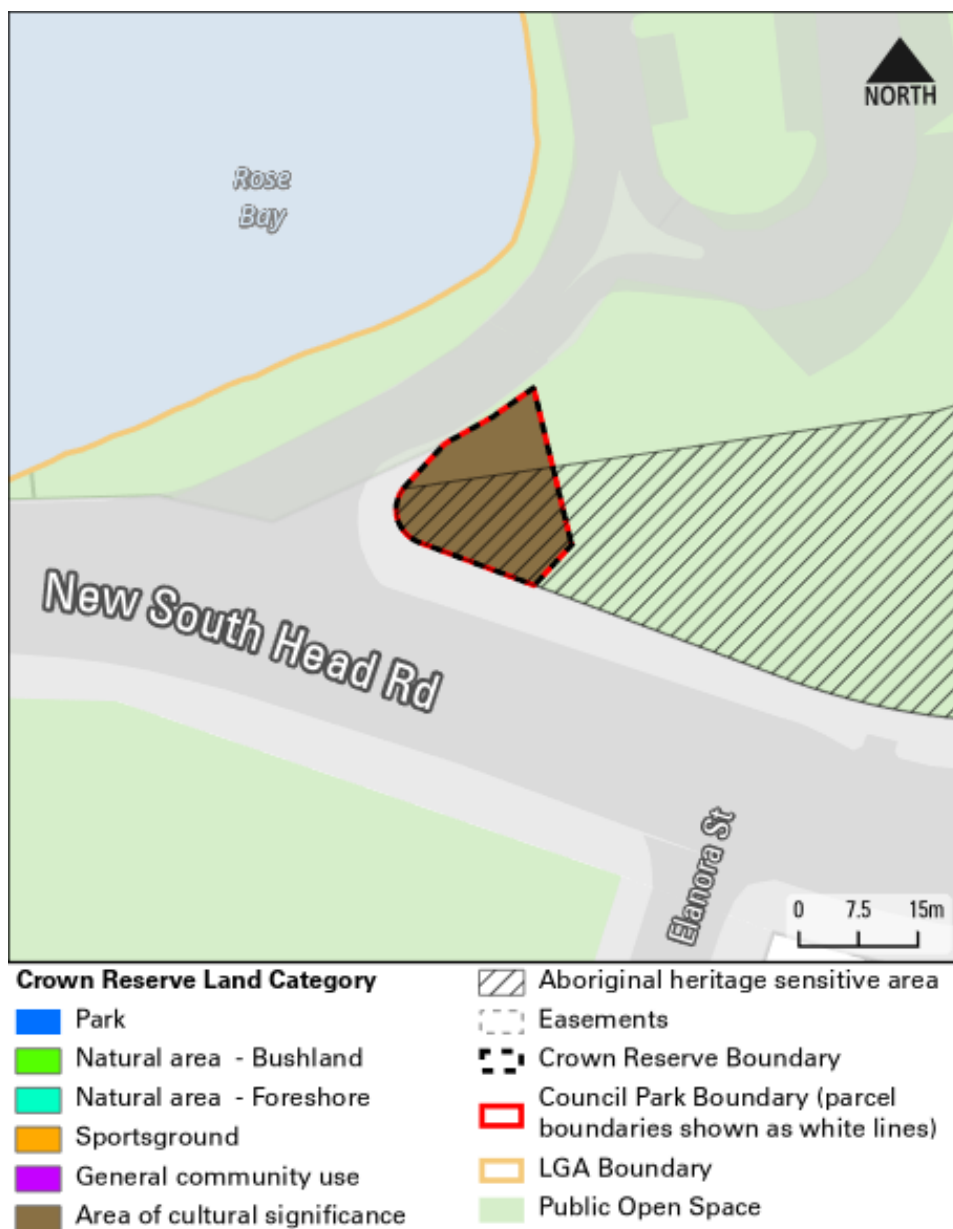


Table 1. Legal description for Rose Bay War Memorial

Location	550 New South Head Road, Rose Bay
Land area (m ²)	327m ²
Land owner	Crown
Crown reserve purpose	War Memorial
Land Zone in Woollahra LEP 2014	RE1 Public recreation
LG Act categorisation	Area of Cultural Significance
Legal description	D500326 Lot 7061 DP 1023378

Figure 6. Rose Bay War Memorial map including land category

5.2 Crown land to which this plan of management applies

This site is one parcel of dedicated Crown land. Dedicated Crown land is owned by the state of NSW and managed by Woollahra Municipal Council as Crown Land Manager under the *CLM Act*.

Table 2. Crown land parcels at Rose Bay War Memorial

Site	Reserve Name	Reserve / Dedication	Area
7	Rose Bay War Memorial (within Lyne Park)	D500326	327m ²

6. Context

6.1 Our LGA

The Woollahra local government area is located on a peninsula of land 5km to the east of the CBD of the City of Sydney. It covers 12km² of land and is home to nearly 59,000 people living in the suburbs of Bellevue Hill, Darling Point, Double Bay, Edgecliff, part of Paddington, Point Piper,



Figure 7. Location of the LGA within the greater Sydney context

part of Rose Bay, part of Vaucluse, Watsons Bay and Woollahra. The LGA neighbours the City of Sydney LGA to the west and the Waverley LGA to the east and south. A small area to the south is also bordered by the Randwick LGA.

6.2 Our Crown reserve portfolio

The Crown reserves of Woollahra represent almost

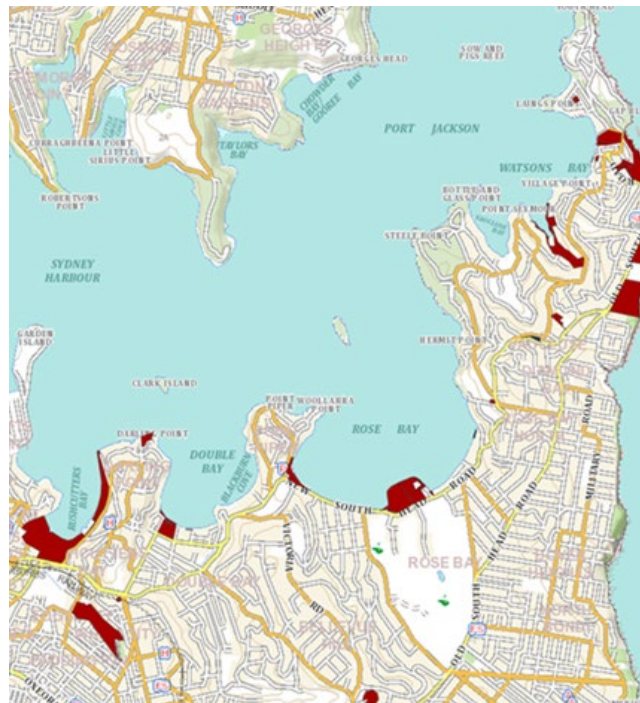


Figure 8. Location of Crown land within the LGA

one third of the total public open space of the LGA. They encompass remnant bushland, harbour foreshores, sportsgrounds and culturally significant features such as war memorials, mature ornamental trees and historic structures. They tell a composite story of the physical and cultural landscape of Woollahra, a place that has been described as a “complex palimpsest unequalled in NSW.”¹

In bringing together the relevant contextual information of these Crown reserves, well-informed and appropriate decisions can be made for their future use and management.

The WMC generic plan of management for Crown land reserves 2021 contains further contextual information about the Crown reserve portfolio, including a detailed physical and cultural landscape analysis.

¹ Jack, R. I. (1984) within the Hughes, Trueman, Ludlow *Heritage Study for the Municipality of Woollahra*. (See generic POM for full references)

6.3 Our community and council's corporate objectives

Our Community Strategic Plan (CSP) Woollahra 2030, sits above all other Council plans, strategies and policies in the hierarchy. Other documents, including this plan of management, must be consistent with Woollahra 2030.

The themes and goals of the CSP are:

Theme: Community wellbeing

Goal 1: A connected, harmonious, engaged community for all ages and abilities

Goal 2: A supported, enabled and resilient community

Goal 3: A creative and vibrant community

Theme: Quality places and spaces

Goal 4: Well-planned neighbourhoods

Goal 5: Liveable places

Goal 6: Getting around

Theme: A healthy environment

Goal 7: Protecting our environment

Goal 8: Sustainable use of resources

Theme: Local prosperity

Goal 9: Community focused economic development

Theme: Community leadership and participation

Goal 10: Working together

Goal 11: A well-managed Council

To achieve these goals, the CSP sets strategies to guide how we budget and plan for all our services, operations and projects. The Local Strategic Planning Statement (LSPS) is a key Council strategy, it sets out the planning priorities and vision to guide land use planning specifically and outlines what those priorities aim to achieve in the future. See appendix B for more information.



Figure 9. The cover of the Community Strategic Plan

The actions within a plan of management for community land are integrated into the strategic framework in order to be resourced and achieved.

The Crown land reserves values, gathered through project specific consultation, align with the themes of the CSP.

6.4 Our Crown land reserves values

Values are the qualities of a place that are significant, special or important. In recognising the values associated with community land, the objectives and performance targets are determined for its successful management.

Engaging with our community for this plan of management included gathering the values associated with the Crown land reserves through a comprehensive survey. Consultation unexpectedly coincided with the period of lockdown brought about by the COVID-19 pandemic. During this time, the importance of passive open space as a respite from the indoors was raised many times by our community.

Responses to the Crown reserves survey indicated that the following qualities, in order of significance are valued by our community:

- natural environment
- aesthetic quality
- health and well-being opportunities
- heritage and cultural opportunities
- recreational opportunities
- access
- social and community opportunities
- landscape quality

6.4.1 Natural environment value of the Rose Bay War Memorial

The natural elements of the memorial are the formal shrubs and groundcovers within the garden beds. The memorial visually borrows the character of the natural environment of its context; Lyne Park and the harbour foreshore.

6.4.2 Aesthetic value of the Rose Bay War Memorial

The Art Deco memorial and decorative gates provide aesthetic value to this busy corner of Lyne Park. Their shape, form and fabric are ornamental to the area.

6.4.3 Health and well-being value of the Rose Bay War Memorial

Commemoration is a formal response to honour the service given and lives lost in war. Through this cathartic process we remember and respectfully consider the events and people impacted by those events and appreciate the sacrifices they made to uphold our freedoms.

6.4.4 Heritage and cultural value of the Rose Bay War Memorial

The memorial is a listed heritage item on WLEP 2014. Across Australia there are many memorials, originally built to commemorate WW1, some including a roll of honour that lists the names of the war dead. These items of built heritage are thought provoking, as they remind us of the human sacrifice of war and the people and events that are part of our cultural tradition.

6.4.5 Recreational value of the Rose Bay War Memorial

Recreation may take many forms. The site allows for the simple acts of observation and reflection in a formal setting, a welcome passive recreation opportunity to the community.

6.4.6 Access value of the Rose Bay War Memorial

The memorial is located on a busy intersection and as it is open along most boundaries, pedestrian access through the site is available.

6.4.7 Social and community value of the Rose Bay War Memorial

The memorial is a destination at which to gather to commemorate our war dead, especially on ANZAC Day and Remembrance Day. Such gatherings bring our community together to pay respect, share memories and experiences and provide collective support.

6.4.8 Landscape value of the Rose Bay War Memorial

The memorial sits within the greater landscape of Lyne Park and the harbour foreshore, as a distinctive focal element. The surrounding mature trees provide some canopy cover to the memorial.

7. Legislative Requirements

This plan of management is prepared under the NSW *Crown Land Management Act 2016* (CLM Act) and the NSW *Local Government Act 1993* (LG Act).

Legislation will always take precedence over a plan of management.

7.1 Crown Land Management Act 2016

Plans of management for Crown land were previously adopted under the *Crown Lands Act 1989*. The new *CLM Act* s3.23 (6) requires appointed Crown land managers of dedicated or reserved Crown land to manage the land as if it were community land under the *LG Act* and therefore adopt a plan of management for that land.

Dedicated or reserved Crown land may only be used for:

- the purposes for which it is dedicated or reserved,
- any purpose incidental or ancillary to a purpose for which it is dedicated or reserved
- any purpose specified in a plan of management for the land, or
- any other purpose authorised by an Act

The objectives and principles of the *CLM Act* have informed the performance targets of this plan of management. The objectives of the *CLM Act* as listed in s1.3 are to:

- provide for the ownership, use and management of the Crown land of New South Wales, and
- provide clarity concerning the law applicable to Crown land, and
- require environmental, social, cultural heritage and economic considerations to be taken into account in decision-making about Crown land, and
- provide for the consistent, efficient, fair and transparent management of Crown land for the benefit of the people of New South Wales, and
- facilitate the use of Crown land by the Aboriginal people of New South Wales because of the spiritual, social, cultural and economic importance of land to Aboriginal people and, where appropriate, to enable the co-management of dedicated or reserved Crown land, and
- provide for the management of Crown land having regard to the principles of Crown land management.

The principles of Crown land management, as listed in s1.4 of the *CLM Act* are that:

- environmental protection principles be observed in relation to the management and administration of Crown land, and
- the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible, and
- public use and enjoyment of appropriate Crown land be encouraged, and
- where appropriate, multiple use of Crown land be encouraged, and
- where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- Crown land be occupied, used, sold, leased, licenced or otherwise dealt with in the best interests of the State consistent with the above principles

Further requirements of *CLM Act* include that:

- Council managers must give written notice of the land categories assigned to Crown land reserves to the minister as soon as practicable
- the nature and use of Crown land must not be changed while the adoption of a plan of management is pending
- existing tenures may continue for the term of the original grant

- current authorised uses are allowed and existing leases may be renewed (must be less than 21 years) if the renewal does not authorise any additional use for the land
- short-term licences are allowed for a range of prescribed purposes such as holding sports activities
- new leases may be granted (must be for less than 21 years) if there was a pre-existing lease prior to 1 July 2018 and the new lease does not authorise any additional use of the land
- public exhibition of the draft plan of management is required as described by the *LG Act*
- native title manager advice is required on a draft plan of management
- the *CLM Act* Regulation 2021 amended the *CLM Act* regulation 2018; Council is now exempt from public hearings in regards to altering the land categorisations assigned and must obtain Minister's consent to adopt the plan.

Council Crown land managers must ensure there is a compliant plan of management for all Crown land they manage as community land as soon as practicable. This is to ensure that Crown land is lawfully used and occupied.

7.1.1 Leases and licences over Crown land

Sections 2.19 and 2.20 of the *CLM Act* allow for secondary interests; leases, licences, permits, easements or a right of way to be granted over Crown land. However, there are restrictions as how public land can be used by one group or one person.

Before granting a secondary interest over Crown land, the *CLM Act* requires that the Crown land manager be satisfied under s2.19 (2) (a) & (b) that:

- the lease would be in the public interest and
- the lease or licence use would not be likely to cause material harm to the land

In order to establish whether a use will cause material harm, the following should be considered under the *CLM Act* s2.19 (3) (a – f):

- the proportion of the area of the land that may be affected by the secondary interest (i.e. the lease or licence)
- if the activities to be conducted under the secondary interest will be intermittent, the frequency and duration of the impacts of those activities
- the degree of permanence of likely harm and in particular whether that harm is irreversible
- the current condition of the land

- the geographical, environmental and social context of the land

A secondary interest may be granted for purposes not limited to public purposes.

7.1.2 Community engagement requirements

The *CLM Act* s3.35 requires that a Crown land manager undertake community engagement on a draft plan of management. The minimum requirements of that consultation are provided in the *LG Act* s38. These are that:

- draft plans must be made available for the community to comment on prior to being adopted by Council
- public exhibition must be for a period of at least 28 days
- the public be given at least a further 14 days to make a submission if they wish

Also, any amendments to a draft plan, including altering a category, must be publicly exhibited in the same way, until the Council can adopt the draft plan without further amendment.

7.1.3 Community and stakeholder engagement for this plan

The engagement strategy for this plan of management included seeking input from the community prior to preparing the draft plan. The objective was to gather the aspirations, concerns, needs and values of the community in order to set the overlying land management intentions.

Engagement activities for this plan of management were modified several times due to the COVID-19 pandemic. Ultimately, the following consultation was undertaken:

- an online homepage for this project was created on 12 November 2019 within Your Say Woollahra on Council's website to invite the community to register their interest, inform the community of progress, key dates and to collect comments in an online guest book, or via email at any time, it was available for the duration of the project
- a community survey was made available on the Your Say Woollahra platform from 29 November to 20 December 2019 for several of the smaller local parks (later also included in the larger survey)
- a community survey was made available on the Your Say Woollahra platform from 8 May to 21

August 2020, for all of the sites, to gather the values associated with the reserves, their use and management issues or concerns. Paper copies of the survey were also made available on request.

- over 170 stakeholders were individually notified via email of the project and survey opportunity, including those who had registered their interest, the community pre-school and playgroup, the local Aboriginal Land Council as well as other community groups and local schools
- "Zoom" style virtual meetings (due to social distancing requirements during the COVID-19 pandemic) as requested by two community groups
- at the completion of the survey, Council staff responded via email to many individual questions and issues that had been raised by the community within the survey
- the draft plan was put on public exhibit and public submissions were encouraged, all stakeholders were notified of the exhibition dates
- an information session was provided during the period of public exhibition to explain the draft plan to interested stakeholders

"Pop-ups" had been organised to provide a contextualised opportunity for the public to comment on any issues. These were postponed several times and eventually cancelled due to restrictions on public gatherings during the COVID-19 pandemic.

The project and survey opportunity were promoted using:

- notices in *The Wentworth Courier* on 20/11/19, 5/8/20 and 12/8/20
- advertising on Council's website homepage
- advertising and posts on Council's Facebook and Instagram

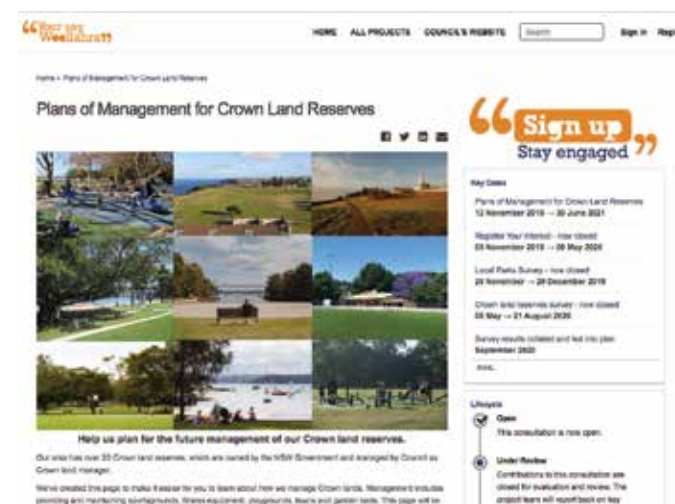


Figure 10. Project online homepage

- advertising on Council's Customer Service digital noticeboards
- advertising on Council's "Out and About" posters
- articles in the environment and Bushcare e-newsletters
- advertising posters in the Crown land reserves

for the plans of management and other work within Council. The whole survey report is available in appendix B.

Public exhibition - Yet to be undertaken as at 7/6/21

The survey was open for comment for 15 weeks from 8 May 2020 to 21 August 2020. (The original closing date of 31 July 2020 was extended). During this time, 384 individuals engaged with us through Your Say. This resulted in 1469 survey responses, an average of over 3 site surveys completed per individual through Your Say. An additional 96 surveys and/or submissions were received via post. Data from these was manually entered into Your Say to consolidate the results, excluding personal comments. This is a total of 1565 unique responses, a significant result containing valuable information



Figure 11. Advertising poster

7.1.4 Native title rights over Crown land

The *CLM Act* includes specific provisions to facilitate compliance with the Commonwealth *Native Title Act 1993* (NT Act). Native title is the legal recognition of the individual or communal rights and interests which Aboriginal people have in relation to land and waters, held continuously by them under their traditional laws and customs, since before colonisation. Native title rights are different to and separate from the statutory right of Aboriginal Land Councils to make claims for land under the *NSW Aboriginal Land Rights Act 1983*.

Part 8 of the *CLM Act* provides that council Crown land managers must manage Crown land in relation to native title to ensure the requirements of the *NT Act* are addressed. A qualified native title manager must be engaged to oversee and approve dealings that may affect native title to ensure they are valid under native title legislation.

Native title rights and interests must be assumed to exist on Crown land unless the land is excluded land. Part 8 of the *CLM Act* provides that native title manager advice is not required for dealings in relation to excluded land. Excluded land generally covers land for which there is sufficient evidence

to show that native title does not exist or has been wholly extinguished, or for which a 'clearance' has been given for an act to be validly carried out in relation to native title. Native title managers are not required to establish whether native title rights and interests have been extinguished in relation to Crown land. An approved determination of native title can only be made by the Federal Court, High Court or a recognised body.

Excluded land is defined in the *CLM Act* and includes land:

- where all native title rights and interests in relation to the land have been compulsorily acquired
- subject to an approved determination of native title that has determined that:
 - all native title rights and interests in relation to the land have been extinguished, or
 - there are no native title rights and interests in relation to the land
- where all native title rights and interests in relation to the land have been surrendered under a registered Indigenous land use agreement
- to which section 24FA protection under the *NT Act* applies
- for which a native title certificate is in effect.

All activities on Crown land must address the issue of native title. Advice must be obtained prior to issuing leases or licences and before a plan of management that authorises use of the land is submitted for approval.

Whilst a successful claim for native title will lead to official recognition of native title rights, those rights are considered to pre-date such recognition. Native title can therefore be relevant to activities carried out on the land even if no native title claim has been made or registered.

The native title process must be considered for each activity on the land and a native title assessment must be undertaken. Proposed activities must be validated under the future act procedures in Division 3 of the *NT Act* by Council's Native Title Manager. Under the *CLM Act*, Council Crown land managers will be liable for any acts they carry out on Crown land that may affect native title. Council Crown land managers will not be liable for any acts that preceded their management of land affected by native title. This liability will remain with the State.

CGM Planning, accredited Native Title Managers, were engaged to provide the required advice. A detailed (separate) report has been provided to Council to guide the use of this Crown land in relation to native title rights. The CGM Planning report does not form part of this plan of management, however it is available for viewing upon request to Council.

The written advice is that Council may, in good faith, endorse this draft plan of management, with the proposed uses, developments and tenures as valid future acts, as a draft for referral to the landowner.

7.2 Local Government Act 1993 & Local Gov. (General) Regulation 2021

The *CLM Act* requires appointed Crown land managers of dedicated or reserved Crown land to manage the land as if it were community land under the *LG Act*.

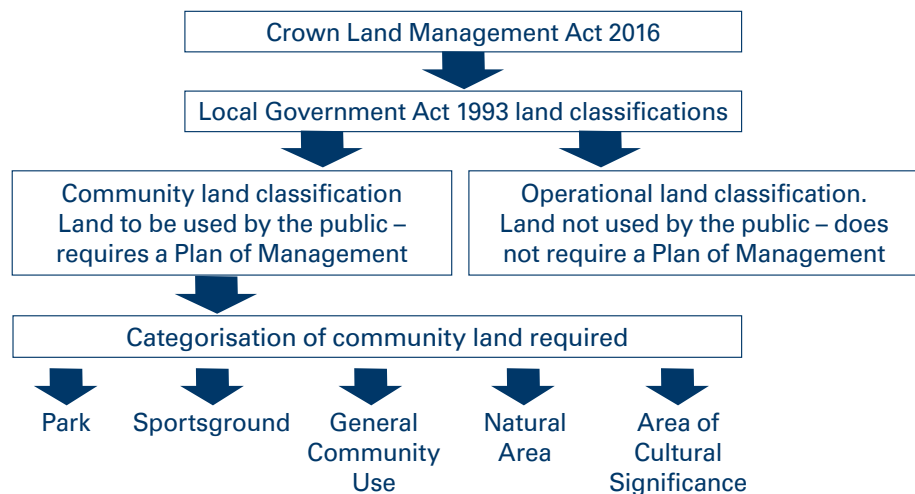


Figure 12. The categorisation process

7.2.1 Classification and categorisation of public land

Classification as community land reflects the importance of the land to the community.

Community land is that which must be kept for use by the general public. Following classification as community land, the *LG Act* s35 states that a plan of management must be prepared for it in consultation with the community in order to preserve the qualities of the land. The nature and use of community land must not change without an adopted plan of management. *LG Act* s44.

Under s36 (3) (a) of the *LG Act*, a land category must be applied to all community land. The category assigned needs to be most closely related to the purpose for which the land was dedicated or reserved,

to cause no material harm and to reflect Council's intentions for future management of the land.

The purpose for which this parcel of land may be used is war memorial.

7.2.2 Community land categories

Under the *LG Act* s36 (4), there are five possible categories of community land; park, sportsground, general community use, natural area and area of cultural significance. Natural areas are further categorised as either bushland, wetland, escarpment, watercourse or foreshore.

The core objectives and guidelines for assigning categories to community land are provided under the *LG Act* and have been used to categorise the Crown land in the LGA.

This parcel of land is categorised as an area of cultural significance, the guidelines and objectives for which are shown below:

Table 3. Guidelines and core objectives for the land categories

Category	Guidelines for categorisation from <i>Local Government (General) Regulation 2021</i>	Core objectives from <i>LG Act</i>
Area of cultural significance	<p>The land is an area of Aboriginal significance, because the land has either</p> <ul style="list-style-type: none"> a) been declared an Aboriginal place under section 84 of the National Parks and Wildlife Act 1974, or whether or not in an undisturbed state, is significant to Aboriginal people in terms of their traditional or contemporary cultures, or is of significance or interest because of Aboriginal associations, or displays physical evidence of Aboriginal occupation (for example, items or artefacts such as stone tools, weapons, engraving sites, sacred trees, sharpening grooves or other deposits, and objects or materials that relate to the settlement of the land or place), is associated with Aboriginal stories, or contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers, or b) an area of aesthetic significance, by virtue of having strong visual or sensory appeal or cohesion, or including a significant landmark, or having creative or technical qualities, such as architectural excellence, or c) an area of archaeological significance, because the area contains evidence of past human activity (for example, below-ground features such as building foundations, occupation deposits, features or artefacts or above-ground features such as buildings, works, industrial structures, and relics, whether intact or ruined), or any other deposit, object or material that relates to the settlement of the land, or 	<p>To retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance) for past, present or future generations by the active use of conservation methods.</p> <p>Those conservation methods may include any or all of the following methods:</p> <ul style="list-style-type: none"> a) the continuous protective care and maintenance of the physical material of the land (including any buildings erected on the land) or of the context and setting of the area of cultural significance, b) the restoration of the land, that is, the returning of the existing physical material of the land to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material, c) the reconstruction of the land, that is, the returning of the land as nearly as possible to a known earlier state, d) the adaptive reuse of the land, that is, the enhancement or reinforcement of the cultural significance of the land by the introduction of sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact), e) the preservation of the land, that is, the maintenance of the physical material of the land in its existing state and the retardation of deterioration of the land.

Category	Guidelines for categorisation from <i>Local Government (General) Regulation 2021</i>	Core objectives from <i>LG Act</i>
	<p>d) an area of historical significance, because of the importance of an association or position of the land in the evolving pattern of Australian cultural history, or</p> <p>e) an area of technical or research significance, because of the area's contribution to an understanding of Australia's cultural history or environment, or</p> <p>f) an area of social significance, because of the area's association with Aboriginal life after 1788 or the area's association with a contemporary community for social, spiritual or other reasons.</p>	

72.3 Leases and licences over community land

The *LG Act* allows Council, with certain restrictions and with public consultation, to enter into or create a range of leases, licences and other estates, in order to encourage the appropriate use of community land and / or buildings.

Typically, a lease is granted where exclusive use of a part of the land is required, while a licence allows for multiple, non-exclusive uses of an area. Several licences for different users can apply to the same area at the same time, provided there is no conflict of interest. Leased or licenced areas may be renewed or changed in the future and areas may be reconfigured to reflect changes in community needs.

The term “estate” is a technical, legal definition. An “estate” includes any “interest, charge, right, title, claim, demand, lien and encumbrance, whether at law or in equity.” The grant of easements is an example of an estate.

A lease, licence or permit on Crown land may impact native title rights and interests. Any lease, licence or permit issued on Crown land must be

issued in accordance with the future act provisions of the *NT Act* and in accordance with Part 8 of the *CLM Act* unless native title is extinguished. For Crown land which is not excluded land, this will require written advice from Council’s Native Title Manager that it complies with any applicable provisions of the native title legislation. The advice should also note that the land is not subject to a claim under the *Aboriginal Land Rights Act 1983*.

This plan of management expressly authorises existing leases and licence agreements until the end of their current term, and the issue of future leases, licences, permits or other estates over any parcel of land to which this document applies, provided that:

- the purpose is consistent with the reserve purpose of the land
- the purpose is consistent with the core objectives of the land category
- the purpose is consistent with the land zoning under WLEP 2014
- the purpose is consistent with the management objectives of this plan of management
- the issue of the lease, licence, permit or other estate will not materially harm the use of the land for any purposes for which it was dedicated or reserved

- the lease, licence, permit or other estate is for a permitted use or purpose listed in tables 8 and 9. The types of uses Council considers appropriate for each land category are identified in these tables
- the issue of the lease, licence, permit or other estate can be validated under the *NT Act*
- any proposed lease or licence of land that is subject to a claim under the *Aboriginal Land Rights Act 1983*, considers the claim accordingly
- tenders are called for leases or licences over 5 years, unless the lease or licence is to a non-profit organisation
- the lease or licence is for a period of less than 21 years
- public notice of the proposal is given, including on the land and to adjoining residents
- any sub-leases are only allowable for the same purpose as the original lease

Council will consider any submissions made about a lease proposal and refer a 5-21year lease proposal to the Minister for Local Government if there is an objection to it.

Council must not grant a lease or licence over community land for more than 21 years.

Each proposal will be reviewed specifically under s46, 46A, 47 & 47A-D of the *LG Act* to ensure that it meets these requirements.

Leased or licenced areas may be renewed or changed in the future and areas may be reconfigured to reflect changes in community needs.

Leases and licences existing at the time of preparation of this plan are listed with the site information.

7.2.4 Land of cultural significance

The *LG Act* s36D (2) requires that a specific plan of management be prepared for land declared to be of cultural significance. At the time of writing, there is only one area of Crown land declared by a resolution of council to be of cultural significance, the Rose Bay War Memorial. No work, unless for maintenance purposes, shall take place in this area until the specific plan of management has been prepared

The Double Bay War Memorial is located within Steyne Park, D500092. As it is not currently declared or listed as an item of cultural significance it does not require a specific plan of management.

8. Use and development

8.1 Community Input – Lyne Park and Tingira Memorial Park Use and Management Issues

This section provides a summary of the contributions made by our community through the Crown lands plan of management survey. Refer to the complete survey report in appendix BB of the generic plan of management for all responses. Questions 75, 76 and 77 of the Your Say survey refer specifically to Lyne Park and Tingira Memorial Park, to which 59, 53 and 38 responses were received respectively, although no questions were specifically about the War Memorial. 4 postal surveys were also received for Lyne Park and Tingira Memorial Park.

Most of the survey participants visited Lyne Park and or Tingira Memorial Park weekly, on weekends and arrived by car.

Use of this site by our community is mostly to:

- go for a walk
- appreciate the place, the environment, the space, the views
- use the facilities, e.g. kiosk, toilets

The key management issues here are:

- conflicts of use, including dogs
- site interpretation, planning and design to recognise the significant heritage values
- cleanliness

8.2 Current use overview

The Rose Bay War Memorial is maintained by Council to remain clean and tidy all year round, with special attention given in the lead up to ANZAC Day, 25th April and Remembrance Day, 11th November, when commemorative services are typically held at the memorial.

In January 2015, Council removed 5 x Italian Cypress (*Cupressus sempervirens*) and 2 x Umbrella Tree (*Schefflera actinophylla*) from the area behind the memorial structure, as they were found to be over crowding the memorial.

Following the removal of these trees, the Rose Bay RSL reported to Council that they had received several positive comments from the community. They reported that the memorial was now less obstructed and more easily visible. The current

maintenance strategy is to keep the area largely open and free from overcrowding and overhanging vegetation.

Current condition, issues and use of the land and structures at the Rose Bay War Memorial, an AREA OF CULTURAL SIGNIFICANCE

At the date of adoption of this plan, the garden areas of the Rose Bay War Memorial are in fair to good condition, they are maintained and manicured but in need of some repair. This is considered typical, general wear and tear in a heavily used park setting.

The monument itself and the ornamental gates are rated as being in a good condition, they are well maintained and require minor maintenance only.



Figure 13. The Rose Bay War Memorial



Figure 14. ANZAC Day wreath

A request has been made by the Rose Bay RSL sub-branch to steam or high pressure clean the memorial, the sandstone gate posts and ornamental gates. Such work on the memorial would need to be carefully undertaken to avoid damaging the gold leaf inscriptions.

Use of the Rose Bay War Memorial is aesthetic

and commemorative. Local memorials such as this provide a focal point for commemorative activities, including by the Rose Bay RSL sub-branch on ANZAC Day and Remembrance Day. These services are typically small to medium scale, low-impact events. They may involve activities such as placing wreaths and floral tributes at the memorial, a public address and instrumental piece, such as “The Last Post.”

8.2.1 Access

Level pedestrian access to the memorial is through the gates, from the adjacent paths or from across Lyne Park.

8.2.2 The Physical Landscape

The original foreshore of Rose Bay is probably close to the memorial site, approximately along New South Head Road. It was infilled during the reclamation works to create Lyne Park. Being reclaimed land, there is no remnant vegetation present or natural physical features. Marine deposits dredged from Rose Bay were used to create the existing landform. This has resulted in a sandy, fast draining soil and a largely level ground plane.

The large trees near the memorial provide morning shade to the area.

8.2.3 The Cultural Landscape – Aboriginal History and Heritage

Overview:

Rose Bay was originally a long, curved beach from end to end. All of the land seaward of that shoreline was reclaimed and built out in the early

twentieth century. Along the original beach, at the western end of Lyne Park, was the outlet of Rose Bay Creek, which drained the extensive dunes and swamps to the south. Behind Lyne Park in one of those dunes are the remains of an Aboriginal campsite consisting of thousands of stone tools perhaps dating back several thousand years. Burials have also been found in the dune, including of an Aboriginal woman who died in the early nineteenth century.² Aboriginal people continued to live around Rose Bay throughout the nineteenth century.³ They caught fish in the bay, trapped them in the creek and worked in the market gardens built on top of the former swamps.⁴ One of their camps was directly across the road from Tingira Reserve.⁵

Most of Lyne Park and Tingira Reserve is reclaimed land, but the southern edge of both reserves along New South Head Road probably includes the original foreshore of Rose Bay and have been identified as sensitive areas. Aboriginal people would have camped along the back of the beach at Rose Bay, and especially around the mouth of Rose Bay Creek. They also buried their dead in the dunes. Any remaining portions of the original foreshore could contain the remains of

former camps and burials from ancient times and into the nineteenth century.

Recommendations:

1. Any proposed activities within the sensitive areas should be subject to Aboriginal Heritage Impact Assessment.
2. For any proposed activities within the remainder of Gap Park, an unexpected finds protocol should be in place for any excavation works. See appendix B for more details.

8.2.4 The Cultural Landscape – European History and Heritage

Overview:

Lyne Park was reclaimed from the tidal flats of Rose Bay in 1902. It was named in honour of Sir William Lyne, Premier of New South Wales from 1899 to 1901. The dedication of the reserve for public recreation was gazetted August 2, 1905.

The reclamation works included building a sandstone block seawall to limit inward coastal erosion and a public baths. The section of seawall



Figure 15. ANZAC Day Ceremony, 1996 at The Rose Bay War Memorial. (Photo: Woollahra History and Heritage Society)

2. Donlon, Denise (2008). 'Forensic Anthropology in Australia: A Brief History and Review of Casework', M. Oxenham (ed.) *Forensic Approaches to Death, Disaster and Abuse*, Australian Academic Press, Bowen Hills, pp. 103-4; Jo McDonald Cultural Heritage Management Pty Ltd (2010). *Archaeological Subsurface Investigations at the Royal Sydney Golf Club, Rose Bay*, Report to Royal Sydney Golf Club.
3. Irish (2017), pp. 69-72.
4. Irish (2017), p. 66; West, Obed (1882). 'Old and New Sydney XIX. Our Harbour and Ocean Bays', *Sydney Morning Herald* 12/10/1882, p. 9; 'To the Editor of the Herald', *Sydney Morning Herald* 21/5/1864, p. 13.
5. Irish (2017), Figure 4.3 and 4.5.

around the park was completed in 1924. The seawall was extended the following year to the west of the park towards the Rose Bay Marina.

Following World War 1, local communities across the country sought to honour their war dead by constructing memorials. Memorials served as a place of contemplation where families and friends could mourn, as the majority of the war dead have no grave to visit on home soil. The dead were either buried overseas or have no known grave; their bodies having been lost during the war. A war memorial is a commemorative object intended to remind us of the people who served in and died as a result of war. War memorials may take many forms, but common to all of them is the intention that they remind us of those we have lost to war.

In the early 1930s, the Rose Bay War Memorial Committee operating in conjunction with the local Returned Sailors and Soldiers Imperial League and with the support of Woollahra Council, organised for plans to be drawn up for a memorial at Rose Bay. The memorial was designed by local architect Reginald Prevost in Art Deco style, who proposed that the memorial be built of brick with terracotta

facing at an estimated cost of £450.

Once Woollahra Council had approved the plans in January 1934, the Memorial Committee set about raising funds and finding a location for the memorial. The committee eventually settled on the southwest corner of Lyne Park. The site for the memorial was approved by Woollahra Council and in August 1934 it was re-dedicated from its former use as public recreation to its new use as a war memorial.

The completed memorial was unveiled and officially opened on 21 April 1935 by the Governor of NSW, Sir Alexander Hore-Ruthven.

The original inscription on the memorial reads:

*“Lest We Forget
1914 – 1918
To our fallen
be mindful of the men they were”*

WW1 was assumed to be the “war to end all wars”, and so there was no allocated space or forward planning for any future inscriptions on the memorial. Following WW2, the dates of that conflict “1939-

1945” were added. Additional inscriptions have been added since then, of the various locations in which Australian armed forces have served. These include “Korea”, “Vietnam”, “East Timor” and “Afghanistan”. To cover all past and potential conflicts, the Rose Bay RSL sub-branch suggested the most recent inscription, “PEACEKEEPERS & PEACEMAKERS”, to cover all areas and timelines where Australian troops have served our country.⁶ All of the inscriptions are in gold leaf.

Heritage Items

The Rose Bay War Memorial is listed on WLEP as item 329.

Potential Heritage Items

Nil.

Recommendations:

1. Continue to maintain the heritage item and facilitate the role of the site as a war memorial.
2. For proposed activities that may impact below ground and water, an unexpected finds protocol must be in place to guide excavations.

6. Date of document unknown, Mr Lee Stockley, President of the Rose Bay RSL sub-branch.



Figure 16. Garden beds of *Rosmarinus officinalis* in front of the Rose Bay War Memorial

See appendix B for more details.

8.2.5 Landscape Character

The built fabric of the Rose Bay War Memorial is representative of the Art Deco style. It is a sombre, commemorative structure. The area around the monument includes lineal garden beds of formal, hedged plants, including rosemary, (*Rosmarinus officinalis*). Rosemary has long symbolised remembrance. The formal landscape

treatment, including the hedged vegetation, visually sets the memorial apart from the surrounding parkland like character of Lyne Park.

The ornamental gates, while now considered part of the memorial, are in contrast to the style and materials of the actual war memorial structure.

While there are no significant trees within the boundary of the war memorial dedication, several significant trees listed in Lyne Park are immediately adjacent to the site, one of the Norfolk Island Pines (*Araucaria heterophylla*) along the entry road into Lyne Park is particularly close. This specimen has been under pruned in the past to allow for access around the memorial. Maintaining the form of the tree is important to retain the natural habit of this species within the landscape character of the park. Future tree works should ensure the habit remains balanced and aesthetically pleasing.

8.2.6 Relevant Documents

Crown land reserves generic plan of management, with particular reference to Lyne Park.

Woollahra Libraries, Local History Research File.

8.3 Future use and development

Permissible use and development of community land is prescribed and regulated by the relevant legislation, including the *LG Act* and the instruments of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

8.3.1 Environmental Planning & Assessment Act 1979

This Act ensures that the effects on the natural environment, along with social and economic factors, are taken into account by Council when granting approval for or undertaking works, developments or activities.

A statutory system of environmental and land use planning has been established through Local Environmental Plans (LEPs) and State Environmental Planning Policies (SEPPs) under the *EP&A Act*.

• The Woollahra Local Environment Plan (WLEP) 2014

The land described in this plan is zoned RE1 public recreation under WLEP 2014, and is subject to the permitted and prohibited land use and development of that zone, and any other relevant provisions.

The objectives for land zoned RE1 public recreation are to:

- enable land to be used for public open space or recreational purposes
- provide a range of recreational settings and activities and compatible land uses
- protect and enhance the natural environment for recreational purposes.

Amendments to WLEP 2014 shall take precedence over the provisions of this plan of management.

• SEPPs

SEPPs provide planning rules for specific environmental matters. They contain development controls to protect or manage certain environmental values. A proposed development may require assessment that investigates the potential impacts on the environment to ensure compliance with the Act. Such assessment may be a review of Environmental Factors (REF), a statement of Environmental Effects (SEE) or an Environmental Impact Assessment (EIS) for large proposals.

See appendix B for additional SEPPs to consider prior to the installation of any improvements on community land.

• SEPP (Infrastructure) 2007

This instrument supports greater flexibility in the location of infrastructure and service facilities such as roads, pathways, cycleways, outdoor recreation facilities and lighting. It permits certain infrastructure works to be carried out in one of the following ways:

- exempt development,
- complying development,
- development permitted without consent, or
- development permitted with development consent.

Development permitted without consent under SEPP (Infrastructure) 2007 does not require consent under Part 4 of the *EP&A Act*, but must still be subject to an environmental assessment under Part 5 of the *EP&A Act*.

This plan of management does not over-rule any existing legislation that also applies to the management of community land. Other pieces of legislation, plans, strategies and policies that should be considered in the management of the land in this plan of management have been included in appendix B. Additional Council plans, strategies and policies

adopted after the date of this plan, which have relevance to the planning, use and management of community land, will apply as though they were in force at the date of adoption of this plan of management.

8.3.2 Permissible use and development

This plan of management authorizes the following permissible use and development of the Rose Bay War Memorial.

The use and development of Crown land should be compatible with the reserve purpose and the assigned category. Use is often supported by appropriate ancillary development such as amenity blocks and playground equipment. The types of anticipated uses and associated development shown in the following tables are intended to provide a general guide rather than an exact meaning. For example a reference to active recreation includes many codes and if demand for one code increases, the land may need to be modified to facilitate it.

Use is subject to approval, and if required, it must be obtained in writing prior to commencement.

Approval is dependent on various factors including site conditions at any given time, and whether the use is in the public interest. Use must not result in physical damage to the land or the placement of any permanent structures. Use should not result in a significant adverse impact on adjoining residents and organisers are responsible for cleaning up the site and repairing any damage that may occur. Fees for short-term casual use will be charged in accordance with Council's adopted fees and charges at the time, including the payment of the applicable bond. Development permissibility is provided under legislation, including the *LG Act*, the *EP&A Act*, (and the *Heritage Act* and *National Parks & Wildlife Act* where relevant), and is subject to the relevant application and approval processes.

Table 4. Permissible short term use

Permissible short term use	Is approval required?
Casual passive recreation such as walking and viewing on designated paths	No
Ceremonies, including for religious reasons	Yes
Council events for appropriate commemoration	Yes
Community event including educational activities, clean up days	Yes
Dog walking on a leash, unless prohibited by a sign	No
Emergency services access	No
Filming, including with a drone	Yes
Fireworks	Yes
Group recreation for less than 20 people such as a picnic	No
Group recreation for more than 20 people such as a picnic	Yes
Photography, all	Yes
Public address, public entertainment event or public meeting	Yes
Temporary enclosures / structures	Yes
Singing, or playing a musical instrument for a fee or reward	Yes
Using a loudspeaker or sound amplifying device	Yes

Table 5. Permissible long term use / purpose

Permissible long term use / purpose	Type of agreement			Permissible at Rose Bay War Memorial
	Lease	Licence	Other estate	
Provision of goods, services, facilities or the carrying out of activities to the public, including as a commercial undertaking for public cultural welfare or development , examples include:				
<ul style="list-style-type: none">• military service display	No	Yes	No	Yes
<ul style="list-style-type: none">• dramatic productions	No	Yes	No	Yes
Provision of goods, services, facilities or the carrying out of activities to the public, including as a commercial undertaking for public social welfare or development , examples include:				
<ul style="list-style-type: none">• commemorative events	No	Yes	No	Yes
Provision of goods, services, facilities or the carrying out of activities to the public, including as a commercial undertaking for public intellectual welfare or development , examples include:				
<ul style="list-style-type: none">• educational sessions, public gatherings	No	Yes	No	Yes
Public utilities and works associated with or ancillary to public utilities, pipes, conduits under the surface of the ground for the connection of premises adjoining the land to a facility of the Council or other public utility provider, examples include:				
<ul style="list-style-type: none">• all utilities	No	No	Yes	Yes

Table 6. Permissible development

Permissible development	Permissible at Rose Bay War Memorial
Art installations , refer adopted policy	Yes
Environmental management works , i.e. works for the purpose of avoiding, reducing, minimising or managing the environmental effects of development (including effects on water, soil, air, biodiversity, traffic or amenity), and environmental protection works.	Yes
Information boards , and other information facilities including park entry booths and visitor information centres	Yes
Information and education facilities , i.e. a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like	Yes
Irrigation systems	Yes
Landscaping , including landscape structures or features	Yes
Lighting , ensure light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Australian Standard	Yes
Maintenance of landscaping and infrastructure including access roads	Yes
Outdoor furniture , e.g. seats, picnic tables, bins	Yes
Pathways , for pedestrian access, walking tracks, bridges, raised walking paths, boardwalks, ramps, stairways and handrails, gates, viewing platforms with an area not exceeding 100m ²	Yes

Note: Development consent is required for work on a heritage item other than that of a minor nature such as maintenance.

Table 7. Current and Future Permissible Use of Rose Bay War Memorial

Current Use					Future Use		
Category	Within category	Use	Lease / licence	Condition	Permissible use / purpose. Refer tables 4, 5 & 6.	Scale and intensity	Prohibited use
Area of cultural sugnificance	Land	Recreation Aesthetic	Nil	3	Passive, personal or small group reflection, groups of < 20 at all times, no permit required. War memorial. Uses that require a permit / short term casual licence include public meetings, temporary structures, using a loud speaker, all group activities of > 20 and for all filming, ceremonies, corporate activities or functions regardless of size. Future developments only as required for necessary utilities and / or suitable maintenance of the memorial only.	Small scale and low intensity only	Camping, dumping rubbish, fires, golf, unauthorised vehicles and any use prohibited under WLEP 2014. Dog exercise off leash. Commercial fitness activities near memorials.
	Buildings	Nil	Nil	Nil			
	Improvements Refer to Council’s built asset register for complete list, which itemises every structure on the land, including condition rating	War Memorial and associated garden beds and paving, ornamental gates	Nil	Av. 2			
Condition ratings for land and park assets as follows: 1. Excellent – no work required or as new condition, 2. Good – well maintained, minor maintenance only, 3. Average – maintained but in need of repair, 4. Poor – in need of major repair or renewal, 5. Very Poor – urgent renewal or upgrading required							
Condition ratings for buildings as follows: 1 – Good, 2 – Fair, 3 – Requires maintenance, 4 – Requires replacement.							
Special management requirements: WMC mapping shows Lyne Park as class 1 acid sulphate soils							
Currently budgeted capital works: Nil.							
Current Council resolution: Nil.							

9. Management framework for the Rose Bay War Memorial

Objectives 1 – 8 reflect the land management goals and values			
Objective – the desired outcome	Performance targets – what the objective is trying to do	Actions – how to achieve the target	Performance measures – how to assess whether the objectives and targets have been met
1	A		
Safe, clean, well-maintained, functional and varied	Ensure public safety is considered during the planning, design, construction, maintenance and use of each site	<ul style="list-style-type: none"> • Adhere to CPTED (crime prevention through environmental design) principles during planning and design documentation and during regular maintenance, including: <ul style="list-style-type: none"> ◦ passive surveillance ◦ good sight lines ◦ appropriate lighting • All installations to meet the Building Code of Australia (BCA) and Australian Standards (AS) • Respond promptly to reported hazards • Liaise with local police to identify and act on safety issues • Where appropriate, consider creative lighting design that improves visibility at night, a principle of the <i>NSW Public Spaces Charter</i> 	<p>Perception of user safety is increased, reduced CSRs</p> <p>Reduced incidents of reported vandalism</p> <p>Specifications to meet the BCA and AS</p> <p>CSR response targets met</p> <p>Strong relationship maintained with Eastern Suburbs Police Area Command</p> <p>Improved visibility at relevant sites</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
1	B		
	Ensure clean , litter free public land is well-maintained and available for use by the community	<ul style="list-style-type: none"> • Adhere to regular inspections, horticulture schedules, litter collections and cleaning schedules • Ensure events are planned with appropriate waste removal service levels provided • Incorporate appropriate landscape renewals into forward works programs as needed • Seek grant opportunities for upgrades and maintenance of the memorial structure when required • When necessary, steam or high pressure clean the memorial, avoid damage to the gold leaf inscriptions 	<p>Maintenance schedules fulfilled</p> <p>Sites are cleaner, increased community land stewardship</p> <p>Declining plant material is replaced as needed for a more aesthetically pleasing landscape</p> <p>Grant application completed, funds available</p> <p>Memorial is clean, inscriptions are easy to read</p>
	C		
	Ensure the facilities and experiences at each site meet community expectations , and are fit for purpose , (a strategy of <i>Greener Places</i>)	<ul style="list-style-type: none"> • Maintain the asset register of all built structures, repair and / or replace as necessary to ensure they are functional and fit for purpose • Adhere to horticulture maintenance schedules 	<p>Built asset register maintained</p> <p>Maintenance schedules fulfilled</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
1	D		
	Ensure a variety of opportunities are available and the landscape character of each site is preserved and that future design and use responds to the unique site conditions and identity (a strategy of <i>Greener Places</i> and a principle of the <i>NSW Public Spaces Charter</i>)	<ul style="list-style-type: none"> Ensure proposed installations are complementary to the landscape character 	Landscape character of each site maintained
	E		
	Where there is opportunity to improve layout, functionality, aesthetic appeal and site interpretation provide a landscape master plan	<ul style="list-style-type: none"> Prepare a detailed landscape master plan for Lyne Park (including the Rose Bay War Memorial) and Tingira Memorial Park that establishes a vision for Lyne Park, allows for an integrated approach to the ongoing recreational use of the area, maintains the unique landscape character, including the expansive views, improves habitat opportunities, pedestrian connectivity and access to foreshore, Green Links, provides appropriate materials selection, including a selected hardscape and softscape palette, meaningful wayfinding elements, develops the sense of place and interprets the significant cultural heritage values 	<p>Concept design process is undertaken and a master plan produced with the engagement of all stakeholders</p> <p>Unique site values and preferred spatial arrangement of all elements integrated into master plan</p> <p>Future capital works allocated to a cohesive, well documented plan, specified for their appropriateness within the landscape</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
2	A		
Accessible and inclusive	Provide universal access , wherever possible, to public land and any associated structures and facilities to ensure the sites are open and welcoming (a strategy of <i>Everyone Can Play</i> and a principle of the <i>NSW Public Spaces Charter</i>)	<ul style="list-style-type: none"> • Wherever possible strive to meet DDA requirements, including: <ul style="list-style-type: none"> ◦ accessible paths ◦ ramps ◦ handrails ◦ tactile surfaces ◦ braille signage ◦ inclusive playgrounds • Entry points clearly identified to provide a welcoming sense of arrival 	<p>DDA requirements built into design guidelines for community land improvements and DDA compliance progressively achieved on public open space where practical</p> <p>Entry points created / emphasised / upgraded where appropriate</p>
	C		
	Ensure fairness and equity of use for all public land	<ul style="list-style-type: none"> • Manage enquiries to use land equitably and issue approvals that comply with Council's policies • Permit use of the land through appropriate leases, licences and other estates in accordance to the provisions of the <i>LG Act</i> and the express authorisation of this POM 	<p>Applications to use community land are processed and approvals are issued as per policies</p> <p>Appropriate land use agreements are managed by Council</p>
3	A		
Well managed for public use	Ensure POMS are prepared and reviewed as required	<ul style="list-style-type: none"> • Compliant POM prepared by Council • Prioritise and select actions for inclusion in Council's annual DPOP and capital works programs • Review and update plans to reflect completed actions and to remain relevant 	<p>POM adopted as soon as practicable</p> <p>Capital works informed by POM</p> <p>POM reviewed to remain relevant</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
3	B		
	Ensure the land remains available for majority use by the public	<ul style="list-style-type: none"> • Manage appropriate use by private groups to meet public access requirements 	Majority of public open space remains available to the public
	C		
	Ensure land zoning is appropriate for public recreation	<ul style="list-style-type: none"> • Zone land appropriately under WLEP 2014 (and subsequent LEPs) to allow for public recreation 	No conflicts in permissible use / development
	D		
	Ensure planning and development controls across the LGA conserve the natural environment, aesthetic quality and heritage values on Crown land	<ul style="list-style-type: none"> • Identify and promote site specific natural environment, aesthetic and heritage values e.g. the built fabric of the memorial • Work collaboratively to update planning and development controls so that the controls are compatible with the natural environment, aesthetic and heritage values 	<p>Unique site values confirmed, site opportunities pursued</p> <p>Potential conflicts identified and reduced</p>
	E		
	Support appropriate use of land through leases, licences and other estates for the best interest of the community	<ul style="list-style-type: none"> • Manage typical use of the land through appropriate licences that do not limit public use of the land 	Appropriate use of land permitted through sound agreements

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
3	G		
	Encroachment on Crown land is reduced and the whole estate remains available for public use	<ul style="list-style-type: none"> Discourage the dumping of rubbish by means of education, signage, enforcement and penalties Discourage private planting by means of education, signage, enforcement and penalties, as the species may not be appropriate and may impact on maintenance requirements 	<p>Fewer reports of illegally dumped rubbish</p> <p>The plant palette remains appropriate at each site</p>
	H		
	Reduce conflicts of use, provide regulatory and, where appropriate, provide additional wayfinding signage to inform all user groups of what is prohibited use, so that all user groups are able to enjoy the land and facilities provided	<ul style="list-style-type: none"> Install informative regulatory signage at appropriate locations, clearly stating regulations Manage regulations by means of enforcement and penalties 	<p>Regulatory signage installed as appropriate</p> <p>Use of the land is more harmonious, fewer reported incidents of conflict</p>
4	A		
Natural environment conserved	Ensure environmental protection principles are observed (an objective of the <i>CLM Act</i>)	<ul style="list-style-type: none"> Use of land meets statutory responsibilities required by environmental legislation administered by the EPA 	No major incidents of environmental pollution are reported

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
4	B		
	<p>Ensure best environmental practice in use and maintenance of the land to build green and resilient public land, that enhances biodiversity, conserves natural resources and improves sustainability (an objective of the <i>CLM Act</i> and principles of the <i>NSW Public Spaces Charter</i>, the <i>Woollahra Environmental Sustainability Action Plan (ESAP)</i>, the <i>Woollahra Biodiversity Conservation Strategy</i> and the <i>Woollahra Climate Emergency Statement</i>)</p>	<ul style="list-style-type: none"> • Build climate change resilience and biodiversity conservation by actively seeking the best environmental outcomes while undertaking required maintenance • Improve sustainability by actively seeking the best environmental outcomes while undertaking required maintenance 	<p>Maintenance is completed with consideration of the natural environment</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
5	A		
Aesthetic and landscape quality remains high	Ensure public view corridors are retained wherever possible and minimise visual impact of development on land adjoining the Crown reserves	<ul style="list-style-type: none"> • Ensure planning and development controls are in place to maintain public views from and into the Rose Bay War Memorial wherever possible • Prune and remove vegetation if necessary to maintain public views and ensure all tree works are undertaken by a qualified arborist 	<p>Public access to iconic views are retained from within each site</p> <p>Desirable public views into and out of each site are retained</p>
	C		
	Aesthetic and landscape quality of all Crown land assets remain high	<ul style="list-style-type: none"> • Adhere to adopted horticulture maintenance schedules • Adhere to adopted built asset maintenance schedules • Review all horticulture maintenance schedules to ensure the aesthetic and landscape quality of all green infrastructure on Crown land, i.e. the open space for recreation, the urban tree canopy, bushland and waterways remains high 	<p>Schedules fulfilled</p> <p>Schedules fulfilled</p> <p>Schedules reviewed, improvements identified and resourced</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
6	A		
Heritage and cultural awareness	Investigate and assess environmental heritage and ensure land is used and managed to be consistent with heritage significance	<ul style="list-style-type: none"> • Manage environmental heritage in accordance with statutory obligations • Identify European history • Identify opportunities to enhance and celebrate environmental heritage, including interpretation, conservation works, art works and signage 	<p>Environmental heritage managed</p> <p>European history included in the POM</p> <p>Improved understanding and greater appreciation of environmental heritage</p> <p>No negative impacts of management practices on sites with natural and cultural significance</p> <p>Only sympathetic and compatible uses are permitted</p> <p>Heritage and landscape character retained for future generations</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
6	B		
	Investigate, assess and manage First Nations culture and history on Crown land (a principle of the <i>NSW Public Spaces Charter</i>)	<ul style="list-style-type: none"> Identify registered Aboriginal sites Investigate Aboriginal history Assess potential Aboriginal heritage and sensitive areas Manage Aboriginal heritage in accordance with the <i>National Parks & Wildlife Act 1974</i> Identify opportunities to enhance Aboriginal heritage, including interpretation, conservation works, art works and signage 	<p>Where appropriate, registered sites on Crown land noted</p> <p>Aboriginal history of the site is noted</p> <p>Where appropriate, areas of Aboriginal sensitivity are identified</p> <p>Recommendations arising from relevant heritage management documents are implemented</p> <p>Improved understanding of Aboriginal heritage</p> <p>No negative impacts of management practices on site with Aboriginal significance</p> <p>Only sympathetic and compatible uses are permitted</p>
	C		
	Enable the community to hold cultural events on Crown land (a principle of the <i>NSW Public Spaces Charter</i>)	<ul style="list-style-type: none"> Permit appropriate use of the land for events that bring positive community outcomes 	Event proposals approved where appropriate and positive feedback received
	D		
	Work with Aboriginal communities to realise the potential of their land rights (a priority of the <i>State Strategic plan for Crown land</i>)	<ul style="list-style-type: none"> Engage with the La Perouse Local Aboriginal Land Council as necessary in regards to the incomplete land claim at Lyne Park 	Improved relationship and understanding of local Aboriginal community in respect of their land rights

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
6	E		
	Ensure obligations under the <i>Native Title Act 1993</i> are met	<ul style="list-style-type: none"> Where it is proposed to construct or establish a public work on reserved or dedicated Crown land where native title is not extinguished, prior to approval, notify and give opportunity for comment to Aboriginal / Torres Strait Islander registered bodies, registered native title claimants and corporate bodies, in relation to the land or waters covered by the reservation or lease as required under the <i>Native Title Act 1993</i> On Crown land where native title rights have not been extinguished, encourage, and if required, remove barriers to access and use by Aboriginal people for cultural practices and to care for Country 	<p>Obligations fulfilled</p> <p>Native title rights to relevant land facilitated</p>
7	A		
Recreational opportunities	Ensure the unique opportunities of each site are enhanced for inclusive public recreation	<ul style="list-style-type: none"> Maintain the landscape character Prior to approvals being issued, refer to POM to ensure that permissible uses, including scale and intensity, are appropriately managed Advertise commemorative opportunities on Council's website, social media, at the libraries and community centre 	<p>Sense of place is strong</p> <p>Compliance with permissible uses is maintained</p> <p>Opportunities easy to find through Council sources</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
8	A		
Social and community opportunities	Crown land is used and managed to reflect the goals and themes of our community	<ul style="list-style-type: none"> • Cross reference the performance targets and actions of this POM with the CSP and other adopted Council policies for consistency and to ensure an integrated approach to Council planning, land use and management 	Internal collaboration implemented and integrated planning outcomes improved
	B		
	Public use and enjoyment of Crown land is encouraged, land use is community-focused and strengthens and supports evolving community connection and local business (principles of the <i>CLM Act</i> and the <i>NSW Public Spaces Charter</i> and priority of the <i>State Strategic Plan for Crown land</i>)	<ul style="list-style-type: none"> • Maintain the memorial to meet the needs of the community • Facilitate appropriate community use of the memorial, by issuing permits equitably and transparently to reflect the core objectives of the land, community need, and meet the requirements of the LG Act • Advertise commemorative opportunities on Council's website, social media, and at community facilities • Continue ongoing discussion with the La Perouse Aboriginal Land Council to build a stronger local relationship 	<p>Community satisfaction measured through feedback</p> <p>Secondary interests over the memorial approved where appropriate</p> <p>Opportunities easy to find through Council sources</p> <p>Cultural understanding grows and local land use requirements met on relevant land</p>

Objectives 1 – 8 reflect the land management goals and values

Objective	Performance targets	Actions	Performance measures
	C		
	Provide stronger avenues for community consultation , encourage stewardship of the land and community participation in decision making	<ul style="list-style-type: none"> • Improve community consultation and actively seek community feedback prior to installation of significant new capital works • Encourage greater community participation in community planting days, Bushcare, clean-up days 	<p>Wherever possible, improvements are consulted upon, developed, and implemented to the satisfaction of the majority of the community</p> <p>Community involvement is stronger, Council decisions are better understood and fewer complaints are received about decisions made about open space use and management</p> <p>Improved land stewardship</p>

Objective 15 reflects the management goals of each land category

15	A		
AREA OF CULTURAL SIGNIFICANCE category land meets the <i>LG Act</i> objectives	To retain and enhance the cultural significance of the area (namely its Aboriginal, aesthetic, archaeological, historical , technical or research or social significance) for past, present or future generations by the active use of conservation methods .	<ul style="list-style-type: none"> • Provide continuous protective care and maintenance of the physical material of the land, including the structures erected on the land • Reinforce the cultural significance of the land by, when necessary, introducing only sympathetic alterations or additions to allow compatible uses (that is, uses that involve no changes to the cultural significance of the physical material of the area, or uses that involve changes that are substantially reversible or changes that require a minimum impact) 	<p>The War Memorial remains in a well maintained condition</p> <p>Use, and any future modifications and / or development reflects the cultural significance of the War Memorial</p> <p>Community satisfaction with the appearance of the War Memorial remains high, as measured through feedback</p>

10. Appendix A

Lyne Park and Tingira Memorial Park Survey Responses – User Profile

(The following information includes the *Your Say* data plus any related postal data)

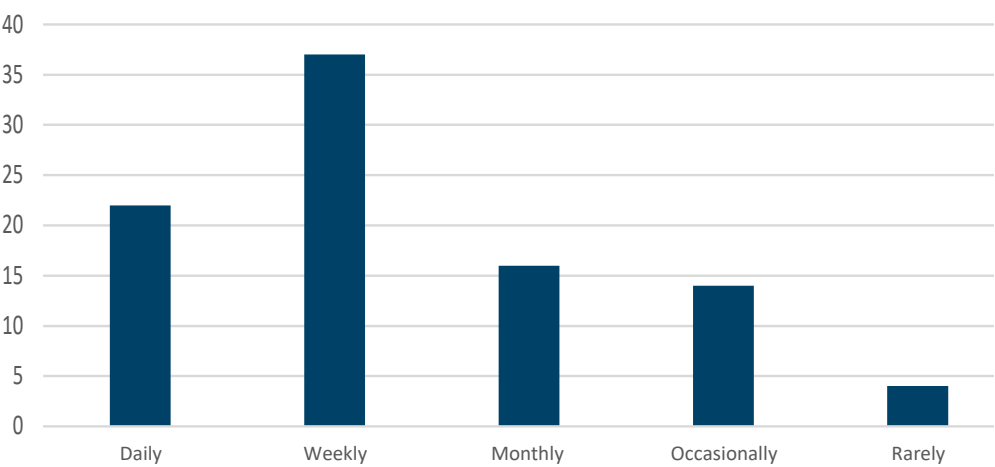


Figure 17. How often do you visit Lyne Park and/or Tingira Memorial Park?

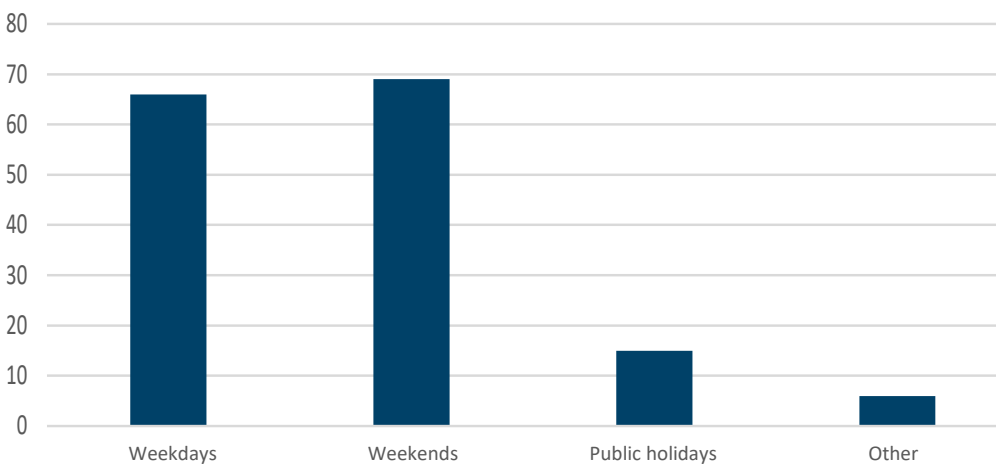


Figure 18. When do you usually visit Lyne Park and/or Tingira Memorial Park?

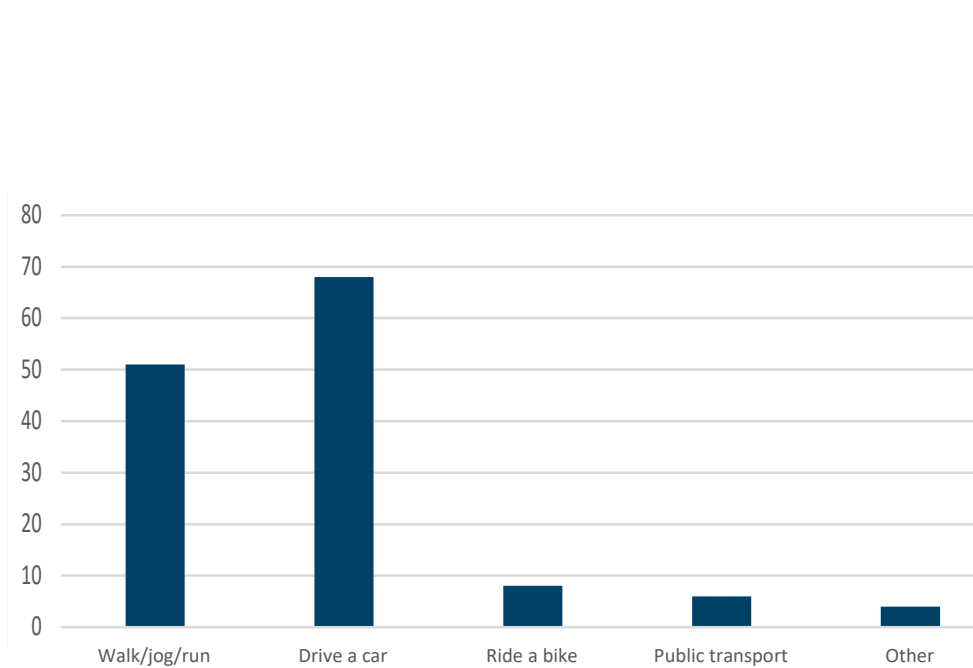


Figure 19. **How do you usually get to Lyne Park and/or Tingira Memorial Park?**

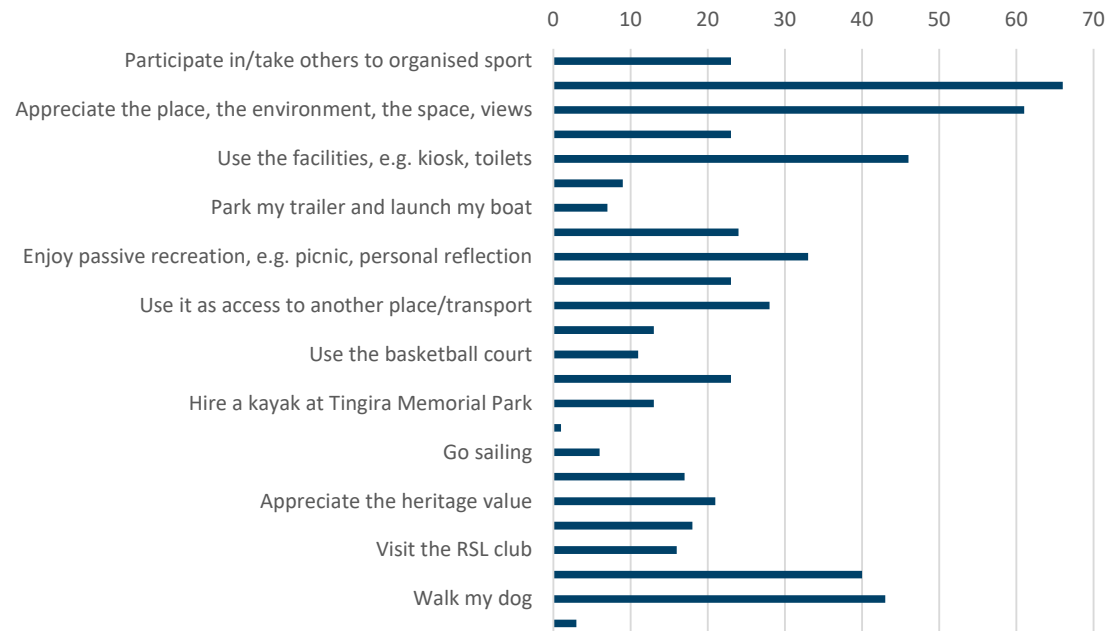


Figure 20. **What do you do at Lyne Park and/or Tingira Memorial Park?**

11. Appendix B – Additional legislation, policies & guidelines that inform this plan of management:

Commonwealth Legislation

Native Title Act 1993

Native title rights continue to exist and must be addressed on Crown land across Australia in cases where they have not been extinguished by subsequent government legislation or actions. Rights are confirmed by a successful claim in the Federal Court.

Dealings in Crown land that may affect (impair or extinguish) native title are referred to as future acts and these future acts must comply with the Act. The inchoate interests of Aboriginal people are to be considered where an undetermined land claim exists. Future acts may include the issuing of a lease or licence or the construction of a public work.

Council must obtain advice from a qualified native title manager as to the status of the land in regards to native title rights before a plan of management can be approved.

Environment Protection Biodiversity and Conservation Act 1999 (EPBC Act)

Provides a framework to protect and manage

species that are defined by the Act as having national environmental significance. National recovery plans are in place under this Act for two such species in Woollahra.

Disability Discrimination Act 1992 (DDA)

Provides protection for all Australians against discrimination based on defined disability, including access to public open space.

Telecommunications Act 1997

Allows for the installation of a limited range of facilities without seeking planning approval.

Work Health and Safety Act 2011

Provides a framework to secure the health and safety of workers and workplaces through the elimination of risks arising from work.

Australian Standards

While not legislation, standards set out technical specifications, procedures and guidelines that aim to ensure products, services, and systems are safe, consistent, and reliable.

NSW State Legislation

NSW Environmental Planning and Assessment Act 1979

- SEPP No 19 – Bushland in Urban Areas 1986
- SEPP No 64 – Advertising and Signage 2001
- SEPP (Coastal Management) 2018
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (State and Regional Development) 2011
- SEPP (State Significant Precincts) 2005
- SEPP (Vegetation in Non-Rural Areas) 2017
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Environmental Planning and Assessment Regulation 2000

The State government is currently developing a new SEPP for protection and management of our natural environment. The proposed SEPP will consolidate several existing instruments, including the following relevant to Crown land in Woollahra:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

NSW Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* replaced the *Threatened Species Conservation Act 1995*. Its purpose is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

Under this Act, Council has legislative responsibility to appropriately manage critically endangered species, endangered species and vulnerable species.

The listed species in the Crown reserves are Sunshine Wattle (*Acacia terminalis* subsp. *terminalis*) and Magenta Cherry (*Syzygium paniculatum*) and under the Federal EPBC Act, also the Netted Bottlebrush (*Callistemon linearifolius*). Three sites in the LGA contain areas of land that are affected, Parsley Bay Reserve, Trumper Park and Gap Park.

NSW National Parks and Wildlife Act 1974

Aboriginal cultural significance

In New South Wales, the *NSW National Parks & Wildlife Act 1974* (NPW Act) provides legal protection for both 'Aboriginal objects' and 'Aboriginal places' as defined in the Act. Aboriginal objects can include Aboriginal campsites in rockshelters and in the open, painted and engraved art, places of burial, scarred trees, and also artefacts of stone, bone or shell that were used by Aboriginal people in the past. The Woollahra Local Government Area contains many documented Aboriginal heritage sites, and it is likely that more undocumented sites also survive. Declared Aboriginal Places are places of special significance for Aboriginal culture in New South Wales that have been gazetted under the *NPW Act*. There are currently no registered 'Aboriginal places' within the Woollahra Local Government Area.

Under the *NPW Act* it is an offence to 'harm' Aboriginal objects either knowingly (s86 (1)) or unknowingly (s86 (2)), or to harm an Aboriginal Place (s86 (4)). *Harm* is defined in s5 (1) of the *NPW Act* to mean any act or omission that:

- (a) destroys, defaces or damages the object or place, or
 - (b) in relation to an object – moves the object from the land on which it had been situated, or
 - (c) is specified by the regulations, or
 - (d) causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c);
- but does not include any act or omission that:
- (e) desecrates the object or place, or
 - (f) is trivial or negligible, or
 - (g) is excluded from this definition by the regulations.

In general, harm can only knowingly be done to an Aboriginal object or Aboriginal place in accordance with the conditions of an approved Aboriginal Heritage Impact Permit under s.90 of the *NPW Act*.

There are some defences and exemptions to the offence of unknowing harm. The two main ones are:

1. That the activity was one of a number of 'low impact activities' in 'disturbed land' as defined in Clause 58 of the *National Parks and Wildlife*

Regulation 2019 (NPW Act s87(4)). These definitions are very precise, and include some land management activities such as common farm and track maintenance activities.

2. That a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object (*NPW Act s87 (2)*).

While it is unlikely, it should not be assumed that all common land management activities that do not involve excavation will be regarded as ‘low impact activities’ or will not result in harm to Aboriginal objects. It is prudent to assess all activities in light of the particular characteristics of the land being managed. For example, slashing grass or weeds could damage an Aboriginal scarred tree, and pulling out roots could disturb Aboriginal artefacts associated with a campsite in a rockshelter or on the open. In general, it is advisable to exercise some form of Due Diligence with any activity, unless it is explicitly permitted under the *National Parks and Wildlife Regulation 2019* and it will not harm a documented Aboriginal site (object).

Aboriginal heritage recommendations

The recommendations made in this report for each of the Crown Land areas are based on these legal protections for Aboriginal heritage. They also refer to ‘sensitive areas’ that have been identified in relation to Aboriginal heritage within some Crown Land areas in this report. These sensitive areas include the locations of documented Aboriginal sites (‘objects’ in the *NPW Act*), and areas in which currently undocumented Aboriginal sites may be found. Activities proposed in these areas will generally require some form of Aboriginal heritage assessment, while activities outside of these areas are all covered by an unexpected finds protocol. Recommendations have also been made about suitable locations for Aboriginal heritage and history interpretation. This can be summarised as follows:

1. Aboriginal heritage management plan required

This has been recommended in several cases where known sites occur within a Crown Land area, or where the area is known to have high Aboriginal cultural or historical significance. The plans will consider in detail the known and potential Aboriginal heritage sites within the Crown Land area and provide detailed guidelines as to which future

activities may require specific assessment. These would ideally be prepared in advance of any future activities, but in the interim, Aboriginal heritage impact assessment of each activity will provide adequate protection.

2. Aboriginal heritage impact assessment required

This applies to activities proposed in ‘sensitive areas’ in relation to Aboriginal heritage. Aboriginal heritage impact assessment is required to determine whether these activities may result in ‘harm’ to Aboriginal objects (both known and currently undocumented) and explore ways to avoid potential impacts. These assessments should be undertaken in accordance with the reporting requirements outlined in Council’s 2020 *Guide for preparing an Aboriginal heritage impact assessment*, which will also meet the reporting requirements of Heritage NSW for Due Diligence assessment.⁷ Where

⁷ The guide is an appendix to the Woollahra Municipal Council DA Guide, which can be found at www.woollahra.nsw.gov.au/building_and_development/submit_a_da/prepare_your_application. NOTE this guide is yet to be finalised; DECCW 2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (available at www.environment.nsw.gov.au/research-and-publications/publications-search/due-diligence-code-of-practice-for-the-protection-of-aboriginal-objects-in-new-south-wales).

impacts cannot be avoided, further investigations or heritage impact permits may be required.

3. Unexpected finds protocol required

In all other areas except those designated as sensitive, Aboriginal heritage may be present but is either unlikely to be visible or detectable through assessment, or is likely to be in a disturbed context. Therefore an unexpected finds protocol has been recommended for excavation works. This will ensure that Aboriginal objects are protected in the event of discovery during project works.

4. Aboriginal heritage interpretation recommended

Although not a legal requirement, greater public awareness of Aboriginal history and heritage can foster respect and better protection for Aboriginal heritage sites and other values. This has been recommended in areas known to have significant Aboriginal heritage or history.

Aboriginal Land Rights Act 1983

In NSW available Crown land may be returned to Aboriginal Land Councils following a successful land claim. Crown land that is not subject to a claim, is lawfully used or occupied or required

for an essential public purpose may be leased or licenced if permitted under the Act. Crown land that is subject to a claim cannot be leased or licenced without the consent of the Local Aboriginal Land Council. Land validly claimed is to be transferred to the Aboriginal Land Council in freehold.

Anti-Discrimination Act 1977

Promotes equality and provides protection from discrimination based on several factors including race, religion, sex and age.

Biosecurity Act 2015

Lists prohibited species, including plants and insects that may pose a biosecurity risk and must be controlled or eliminated.

Companion Animals Act 1998

This Act provides for owners responsibilities to have effective control of dogs and cats in public places. Councils must declare at least one off leash dog exercise area in their LGA. Dogs are prohibited within 10 metres of children's play areas, food preparation and consumption areas and areas of bushland.

Disability Inclusion Act 2014

Promotes the inclusion of people with disability into all areas of community life.

Acts administered by the Environmental Protection Authority:

- Contaminated Land Management Act 1997
- Dangerous Goods Act 2008
- Environmentally Hazardous Chemicals Act 1985
- Forestry Act 2012
- National Environment Protection Council 1995
- Ozone Protection Act 1989
- Pesticides Act 1999
- Protection of the Environment Operations Act 1997
- Radiation Control Act 1990
- Recreation Vehicles Act 1983
- Waste Avoidance & Resource Recovery Act 2007

Fisheries Management Act 1994

Necessitates the protection of foreshore vegetation.

Greater Sydney Commission Act 2015

Established the Greater Sydney Commission, with specific roles and responsibilities for planning for Greater Sydney. It aims to make Sydney more productive, sustainable and liveable.

Heritage Act 1977

Promotes and encourages the preservation of the State's heritage. It provides for the identification and registration of items of State heritage significance. Items are assessed against the Heritage Council's criteria related to an item's aesthetic, historic, scientific, and social values. It must meet only one of the criteria to satisfy that it is of such particular significance to the state of NSW that it should be listed.

An unexpected finds protocol must be in place to guide future excavation works on land and water. If unexpected archaeological features are discovered during excavation:

- Immediately cease all work at the location
- Notify Heritage NSW as soon as practicable

Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works

continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

Noxious Weeds Act 1993

Provides the regulatory framework for controlling weeds in NSW.

Pesticides Act 1999

Controls the use of pesticides in NSW.

Place Management Act 1998

Aims to protect and enhance the natural and cultural heritage of the foreshore area.

Protection of the Environment Operations Act 1997

Retail Lease Act 1994

Roads Act 1993

Smoke-free Environment Act 2000 & Regulation 2016 & Tobacco Legislation Amendment Bill 2012.

It is illegal to smoke tobacco within 10 metres of children's play equipment and or an area set aside for or being used by spectators to watch an organised sporting event at a sportsground or other recreational area, when an organised sporting event is being held there.

Waste Minimisation Act 1995

Aims to reduce the amount of waste produced across the state, including by encouraging recycling.

Water Management Act 2000

Aims to protect, enhance and restore water courses.

NSW State Policies:

Everyone Can Play

Sets out design considerations to improve physical access and comfort for child and adult play space users.

Sydney Green Grid

Is an integral part of the Greater Sydney Region and District Plans and aims to connect communities to the landscape by creating a network of high-quality green space, linking green infrastructure through enhanced transport routes, footpaths and cycleways.

Woollahra Municipal Council Plans, Strategies and Policies

The Local Strategic Planning Statement 2020

The Local Strategic Planning Statement 2020, was adopted by Council in March 2020. It sets out the local planning priorities and long-term 20-year vision to guide land use planning specifically and outlines what those priorities aim to achieve in the future. It is prepared under the *EP&A Act* and must be consistent with the CSP.

Planning priorities with relevance to the Crown land reserves include:

- protecting our waterways and water ecosystems
- conserving, enhancing and connecting our green spaces including bushland, tree canopy, gardens and parklands

- improving walkability and cycleway connections through Green Grid initiatives
- increasing tree canopy along streets and pathways
- improving access to public transport
- protecting and enhancing our scenic and cultural landscapes
- upgrading ageing park grey infrastructure
- building climate change resilience

Delivery Program and Operational Plan (DPOP)

The DPOP describes how Council will work with the community to achieve priorities and actions and meet community needs and expectations in a sustainable manner. The DPOP is reviewed, developed and publicly exhibited yearly.

Local Policies, Strategies, Guidelines

Aged and Disability Study 2016
Asset Management Strategy 2011-2021
Biodiversity Conservation Strategy 2015-2025
Community & Cultural Grants Policy (25/11/2013)
Community Cultural Relations Statement (7/8/2013)
Community Garden Policy (2011)
Community Safety and Crime Prevention Plan (2014)
Community Services Policy (2013)

Disability Inclusion Action Plan 2017
Double Bay Place Plan 2014
Double Bay Public Domain Lighting Strategy (2017)
Double Bay Public Domain Strategy (2016)
Environmental Sustainability Action Plan (2013-2025)
Operational Plan 2019 – 2020
Oxford Street, Paddington Placemaking Roadmap Report 2014
Playground Policy (11/3/2002)
Playground Strategy (11/3/2002)
Policy for the Sponsorship of Events & Activities (27/3/2006)
Public Art Policy (10/2009)
Queen Street Strategic Masterplan (2014)
Reconciliation Statement (12/2012)
Reconciliation Statement Action Plan 2012
Recreational Needs Assessment and Strategy (2006)
Register of Significant Trees – July 1991, Volume 4 of 4, Significant Trees in Public Parks
Risk Management Strategy
Rose Bay Public Domain Improvements Plan

Woollahra Municipal Council



536 New South Head Road,
Double Bay NSW 2028

woollahra.nsw.gov.au

T: 02 9391 7000

F: 02 9391 7044

E: records@woollahra.nsw.gov.au