

**WOOLLAHRA LOCAL ENVIRONMENTAL PLAN No. 27**

(AS AMENDED)

Published in the N.S.W. Government Gazette No. 8 of 15th January, 1988, and subsequently amended (see attached schedule of amendments).

**PART I****PRELIMINARY****Citation**

1. This plan may be cited as "Woollahra Local Environmental Plan No. 27".

**Aims, objectives, etc.**

2. The aims and objectives of this plan are set out in Schedule 1.

**Land to which plan applies**

3. (1) Subject to subclause (2), this plan applies to the land shown by distinctive colouring or edging or in some other distinctive manner on the map, being land deemed to be within the Municipality of Woollahra by virtue of section 15 of the Local Government Act 1919.

(2) This plan does not apply to the land to which the following plans apply:

Woollahra Local Environmental Plan No. 54.

**Relationship of other environmental planning instruments**

4. This plan—

(a) repeals Interim Development Orders Nos 12, 18, 19 20, 22, 24, 25, 28, 29 and 33—Municipality of Woollahra, and Woollahra Local Environmental Plans Nos 1, 3, 5, 7, 12, 13, 18 and 26; and

(b) amends the Woollahra Planning Scheme Ordinance in the manner set out in clause 5.

**Amendment of Woollahra Planning Scheme Ordinance**

5. The Woollahra Planning Scheme Ordinance is amended by inserting at the end of clause 5 (2) the following words:

Woollahra Local Environmental Plan No. 27

**Interpretation**

6. (1) In this plan, except in so far as the context or subject matter otherwise indicates or requires—

"appointed day" means the day on which this plan takes effect;

"conservation area" means an area—

(a) situated on land shown coloured yellow and edged black on Sheet 4 of the map; or

(b) identified as such in a development control plan;

"council" means the council of the Municipality of Woollahra;

"craftsman" means a person who possesses special knowledge or skill in some manual art or handicraft including, but without limiting the generality of the foregoing, an artist, sculptor or photographer;

"craftsman's studio" means a building or place used by a craftsman for the purpose of carrying on his or her craft, where—

(a) not more than 3 persons (including craftsman) are engaged or employed on the premises; and

(b) the carrying on of the craft does not interfere with the amenity of the neighbourhood by reason of noise, vibration or any other form of pollution;

"demolition", in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or part;

"density map" means sheet 2 of the map, as amended by the maps marked as follows:

Woollahra Local Environmental Plan No. 57 (Sheet 2)

Woollahra Local Environmental Plan No. 64 (Sheet 2)

Woollahra Local Environmental Plan No. 72 (Sheet 2)

Woollahra Local Environmental Plan No. 73 (Sheet 2);

Woollahra Local Environmental Plan No. 74 (Sheet 2)

"density zone" means land shown on the density map in some distinctive manner for the purpose of indicating land to which restrictions imposed by this plan on density apply;

"dwelling-house" means a building designed for use as a dwelling for a single family, together with such outbuildings as are ordinarily used with the dwelling-house, and containing not more than 1 dwelling and

includes a dwelling in a row of 2 or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings;

"floor space ratio", in relation to a building, means the ratio of the gross floor area of the building to the site area of the land on which the building is or is proposed to be erected;

"foreshore scenic protection area" means land shown on Sheet 1 of the map by black hatching and edged heavy black;

"harbour foreshore scenic protection area" means land shown on Sheet 1 of the map by black cross-hatching and edged heavy black;

"height map" means sheet 3 of the map, as amended by the maps marked as follows:

Woollahra Local Environmental Plan No. 57 (Sheet 3)

Woollahra Local Environmental Plan No. 64 (Sheet 3)

Woollahra Local Environmental Plan No. 73 (Sheet 3);

Woollahra Local Environmental Plan No. 74 (Sheet 3)

"height zone" means land identified on the height map in some distinctive manner for the purpose of indicating land to which restrictions imposed by this plan on height apply;

"item of the environmental heritage" means a building, place, work or relic of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance to the Municipality of Woollahra—

(a) located on land shown coloured orange on sheet 5 of the map; or

(b) specified in Schedule 2;

"nursing home" means a building, or buildings, with associated facilities providing accommodation and care for elderly people in need of nursing aid due to their age or for medical reasons, and which may also provide a temporary respite service for care-givers;

"recreation area" means—

(a) a children's playground;

(b) an area used for sporting activities or sporting facilities; or

(c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by—

(i) the council; or

(ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground;

"relic" means a deposit, object or material evidence relating to the settlement (including aboriginal habitation) prior to 1st January, 1900, of the area of the council;

"residential flat building" means a building containing 2 or more dwellings but does not include a row of 2 or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings;

"site area" means the area of land to which an application for consent under the Act relates, excluding any land upon which the development to which the application relates is not permitted by or under this plan, and excluding any long narrow corridor or accessway in the case of hatchet shaped or irregular allotments;

"the map" means the series of maps marked "Woollahra Local Environmental Plan No. 27", as amended by the maps marked as follows:

Woollahra Local Environmental Plan 43

Woollahra Local Environmental Plan No. 49

(Sheets 1 and 2).

Woollahra Local Environmental Plan No. 57 (Sheet 1)

Woollahra Local Environmental Plan No. 59.

Woollahra Local Environmental Plan No. 61.

Woollahra Local Environmental Plan No. 62.

Woollahra Local Environmental Plan No. 64 (Sheet 1)

Woollahra Local Environmental Plan No. 72 (Sheet 1)

Woollahra Local Environmental Plan No. 73 (Sheet 1).

Woollahra Local Environmental Plan No. 74

## (2) In this plan—

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose;
- (b) a reference to a map is a reference to a map deposited in the office of the council; and
- (c) a reference to land within a zone specified in clause 9 is a reference to land shown on the map in the manner indicated in that clause as the means of identifying land of the zone so specified.

**Model Provisions**

7. The Environmental Planning and Assessment Model Provisions 1980 (except the definitions of "dwelling-house", "residential flat building" and "site area" in clause 4 (1) and clauses 7, 8, 9, 15, 16 and 33) are adopted for the purposes of this plan.

**Consent authority**

8. The council is the consent authority for the purposes of this plan.

**PART 2****GENERAL RESTRICTIONS ON THE DEVELOPMENT OF LAND****Zones indicated on the map**

9. For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone:

- Zone No. 2 (a) (Residential "A" Zone)—coloured light scarlet.
- Zone No. 2 (b) (Residential "B" Zone)—coloured light scarlet with dark red edging and lettered "2 (b)".
- Zone No. 2 (c) (Residential "C" Zone)—coloured light scarlet with dark red edging and lettered "2 (c)".
- Zone No. 3 (a) (Business General Zone)—coloured light blue.
- Zone No. 3 (b) (Business Special Zone)—coloured light blue with dark red edging and lettered "3 (b)".
- Zone No. 3 (b1) (Business Special (Restricted) Zone)—coloured light blue with dark red edging and lettered "3 (b1)".
- Zone No. 5 (a) (Special Uses Zone) coloured yellow.
- Zone No. 5 (c) (Artificial Roads Reservation—Proposed Road Widening)—broken red band between firm black lines or broken red band between black lines.
- Zone No. 6 (a) (Open Space—Existing Recreation Zone)—coloured dark green.
- Zone No. 6 (b) (Open Space—Private Recreation Zone)—coloured dark green with yellow edging.
- Zone No. 6 (c) (Local Open Space Reservation Zone)—coloured light green.
- Zone No. 6 (d) (Regional Open Space Reservation Zone)—coloured light green with red edging and lettered with a red "R".
- Zone No. 8 (National Parks and Nature Reserves)—uncoloured with dark green edging.

**Zone objectives and development control table**

10. (1) The objective of each zone is set out in the Table to this clause under the heading "Objective of the zone" appearing in the matter relating to the zone.

(2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which—

- (a) development may be carried out without development consent;
- (b) development may be carried out only with development consent; and
- (c) development is prohibited,

are specified under the headings "Without development consent", "Only with development consent" and "Prohibited", respectively, appearing in the matter relating to the zone.

(3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

**TABLE****ZONE No. 2 (a) (RESIDENTIAL "A" ZONE)****1. Objective of the zone**

The objective of this zone is to allow a wide range of single dwellings at densities related to the existing subdivision pattern and to encourage the redevelopment or rehabilitation of depreciated building stock as well as allowing for compatible non-residential development in particular buildings where existing non-residential uses occur within the zoning and to protect the sensitive environment of areas adjoining Sydney Harbour.

**2. Without development consent**

Dwelling-houses in a Foreshore Scenic Protection Area other than those within a Conservation Area.

**3. Only with development consent**

Child care centres; dwelling-houses (other than those referred to in item 2); home occupations carried on in residential flat buildings; hospitals; parks and gardens; professional consulting rooms; roads; utility installations (other than gas holders or generating works).

**4. Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

**ZONE No. 2 (b) (RESIDENTIAL "B" ZONE)****1. Objective of the zone**

The objective of this zone is to provide for areas of medium and high density residential development in appropriate locations to cater for new residential population.

**2. Without development consent**

Dwelling-houses in a Foreshore Scenic Protection Area other than those within a Conservation Area.

**3. Only with development consent**

Boarding-houses; child care centres; dwelling-houses (other than those referred to in Item 2); home industries; home occupations carried on in residential flat buildings; hospitals; parks and gardens; professional consulting rooms; residential flat buildings; roads; utility installations (other than gas holders or generating works).

**4. Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

**ZONE No. 2 (c) (RESIDENTIAL "C" ZONE)****1. Objective of the zone**

The objective of this zone is to provide appropriate areas for the establishment of mixed residential, retail and commercial development and allow the development of transitional zones between commercial, retail and residential areas in which residential uses are dominant.

**2. Without development consent**

Dwelling-houses (other than those within a conservation area).

**3. Only with development consent**

Boarding houses; child care centres; commercial premises attached to dwellings; community health services; dwelling-houses within a conservation area; dwellings attached to a building used for a purpose specified in this item; educational establishments; home industries; home occupations carried on in residential flat buildings; hospitals; parks and gardens; professional consulting rooms; public buildings; residential flat buildings; roads; shops with a floor area of less than 60 square metres; utility installations (other than gas holders or generating works); welfare and charitable services.

**4. Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

**ZONE No. 3 (a) (BUSINESS GENERAL ZONE)****1. Objective of the zone**

The objective of this zone is to focus and consolidate retail and commercial activities in accessible locations and to allow for a wide range of commercial development including mixed residential, commercial and retail developments.

**2. Without development consent**

Nil.

**3. Only with development consent**

Advertising structures; car parking; child care centres; clubs; commercial premises; community health services; dwellings attached to shops or commercial premises; educational establishments; home industries; home occupations carried on in residential flat buildings; hospitals; hotels; motels; motor showrooms; parks and gardens; places of assembly; places of public worship; public buildings; refreshment rooms; religious institutions; roads; shops; utility installations (other than gas holders or generating works); welfare and charitable services; veterinary services.

**4. Prohibited**

Any purpose other than a purpose included in Item 3.

**ZONE No. 3 (b) (BUSINESS SPECIAL ZONE)****1. Objective of the zone**

The objective of this zone is to establish a neighbourhood shopping centre zone which allows a less intensive form of mixed residential, commercial and retail development with less impact on the surrounding residential zones and in which commercial and retail facilities are the dominant use.

**2. Without development consent**

Nil.

**3. Only with development consent**

Advertising structures; boarding houses; car parking; child care centres; clubs (other than those registered under the registered Clubs Act 1976); commercial premises less than 250 square metres in floor area; community health services; dwellings attached to shops or commercial premises; educational establishments; home industries; home occupations carried on in residential flat buildings; parks and gardens; places of assembly; places of public worship; refreshment rooms; residential flat buildings; roads; shops less than 250 square metres in floor area; utility installations (other than gas holders or generating works); welfare and charitable services.

**4. Prohibited**

Any purpose other than a purpose included in Item 3.

**ZONE No. 3 (b1) (BUSINESS SPECIAL (RESTRICTED) ZONE)****1. Objective of the zone**

The objective of this zone is to provide a zoning which caters for the existing use of particular sites in Watsons Bay.

**2. Without development consent**

Nil.

**3. Only with development consent**

Dwelling-houses; car parking; hotels; refreshment rooms; utility installations (other than gas holders or generating works).

**4. Prohibited**

Any purpose other than a purpose included in Item 3.

**ZONE No. 5 (a) (SPECIAL USES ZONE)****1. Objective of the zone**

The objective of this zone is to maintain land for certain community facilities and services.

**2. Without development consent**

Nil.

**3. Only with development consent**

The particular purpose indicated by scarlet lettering on the map; purposes ordinarily incidental or ancillary to the particular purpose indicated by scarlet lettering on the map; parks, gardens and roads.

**4. Prohibited**

Any purpose other than a purpose included in Item 3.

**ZONE No. 5 (c) (SPECIAL USES—ARTERIAL ROADS RESERVATION—PROPOSED ROAD WIDENING)****1. Objective of the zone.**

The objective of this zone is to reserve land for the purpose of arterial, county or main roads and widening of arterial, county or main roads.

**2. Without development consent**

Arterial, county or main roads and the widening of existing arterial, county or main roads.

**3. Only with development consent**

Parks, gardens and roads (not specified in Item 2).

**4. Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

### ZONE No. 6 (a) (OPEN SPACE—EXISTING RECREATION ZONE)

#### 1. Objective of the zone

The objective of this zone is to identify areas where recreational facilities for the general use of the community are provided.

#### 2. Without development consent

Nil.

#### 3. Only with development consent

Drainage; public baths; recreation areas; roads; uses or buildings associated with those purposes which are under the care, control and management of the council; utility installations (other than gas holders or generating works).

#### 4. Prohibited

Any purpose other than a purpose included in Item 3.

### ZONE No. 6 (b) (OPEN SPACE—PRIVATE RECREATION ZONE)

#### 1. Objective of the zone

The objective of this zone is to identify areas where private recreation facilities are at present and may be developed in the future.

#### 2. Without development consent

Nil.

#### 3. Only with development consent

Golf courses; purposes ordinarily incidental to golf courses; recreation areas; roads.

#### 4. Prohibited

Any purpose other than a purpose included in Item 3.

### ZONE No. 6 (c) (LOCAL OPEN SPACE RESERVATION ZONE)

#### 1. Objective of the zone

The objective of this zone is to reserve land for local open space purposes.

#### 2. Without development consent

Nil.

#### 3. Only with development consent

Drainage drill grounds; public baths; recreation areas; roads; uses or buildings associated with those purposes and under the care, control and management of the council; utility installations (other than gas holders or generating works).

#### 4. Prohibited

Any purpose other than a purpose included in Item 3.

### ZONE No. 6 (d) (REGIONAL OPEN SPACE RESERVATION ZONE)

#### 1. Objective of the zone

The objective of this zone is to reserve land for the purpose of regional open space.

#### 2. Without development consent

Regional open space.

#### 3. Only with development consent

Gardens; parks; public reserves; utility installations (other than gas holders or generating works).

#### 4. Prohibited

Any purpose other than a purpose included in Item 2 or 3.

### ZONE No. 8 (NATIONAL PARKS AND NATURE RESERVES)

#### 1. Objective of the zone

The objective of this zone is to preserve and manage national parks and nature reserves for conservation and recreation purposes.

#### 2. Without development consent

Nil.

#### 3. Only with development consent

Any purpose authorised by the National Parks and Wildlife Act 1974.

#### 4. Prohibited

Any purpose other than a purpose included in Item 3.

### PART 3

#### SPECIAL PROVISIONS

#### Subdivision of land

11. A person may subdivide land to which the plan applies but only with the consent of the council.

#### Dwelling-houses—allotment sizes

12. (1) A person shall not erect a dwelling-house on an allotment of land in a density zone specified in Column 1 of the Table to this subclause unless the land has an area of not less than that set out opposite that density zone in Column 2 of that Table.

TABLE

Column 1 Density Zone	Column 2 Area
a45	675 square metres
a65	400 square metres
a125	232 square metres

(2) Subclause (1) does not operate to prohibit the erection of a dwelling-house on an allotment of land which was in existence as a separate allotment on the appointed day.

#### Residential flat buildings—allotment sizes

13. (1) A residential flat building comprising 2 dwellings shall not be erected on an allotment of land which has an area of less than 675 square metres.

(2) A residential flat building comprising more than 2 dwellings shall not be erected on an allotment of land which has an area of less than 930 square metres.

#### Floor space ratios of buildings

14. (1) A building (other than a dwelling-house) shall not be erected in a density zone specified in Column 1 of the Table to this clause if the floor space ratio would exceed the ratio shown opposite that density zone in Column 2 of that Table.

(2) A building shall not be erected on land within Zone No. 3 (b) or 3 (b1) if the floor space ratio would exceed the ratio indicated on the density map in respect of that land.

(3) A building shall not be erected on land within Zone No. 3 (a) or 2 (c) (other than a dwelling-house) if the floor space ratio would exceed the greater of the 2 floor space ratios indicated on the density map in respect of that land.

(4) If, on the density map, 2 floor space ratios are indicated for the same land—

- (a) in respect of buildings on land within Zone No. 2 (c), the floor space ratio of any part of the building used or intended for use for non-residential purposes shall not exceed the lesser of the 2 floor space ratios; and
- (b) in respect of buildings on land within Zone No. 3 (a), the floor space ratio of any part of the building used or intended for use for residential purposes shall not exceed the lesser of the 2 floor space ratios.

TABLE

Column 1	Column 2
Density Zone	Ratio
B125	0.625:1
B150	0.75:1
B175	0.875:1
B200	1.00:1

#### Height of buildings

15. (1) A building shall not be erected on land within a height zone to a height greater than the maximum height shown on the height map as applicable to land within that height zone.

(2) If, on a height map, 2 height limits are indicated as applying to the land within a height zone—

- (a) the height indicated by the colouring on the height map shall be the overall height limit for a building for the purpose of subclause (1); and-
- (b) no building or part of a building shall be erected on land within the zone to a height greater than the figure shown bracketed on the height map, above the highest part of the land (exclusive of any access corridor) or the crown of any road to which the land has direct frontage whichever is the higher.

#### Building lines

16. (1) The council may, by resolution, fix a building line (in this clause called a "foreshore building line") in respect of any land fronting Port Jackson.

(2) A foreshore building line shall, when fixed by the council, be marked upon a plan or clearly described in the resolution and the plan or resolution shall be available for inspection by the public, without charge, during the office hours of the council.

(3) Any line shown, as at the appointed day, on the map being—

- (a) a broken line with the words "Foreshore Building Line" marked in black letters;
- (b) a broken black line with the matter "F.S.B.L. 12 m" marked in red letters; or
- (c) a broken black line with the matter "F.S.B.L. 30 m" marked in red letters,

shall be deemed to be a foreshore building line fixed in pursuance of the provisions of this clause.

(4) The council may, by resolution, alter or abolish any foreshore building line if the levels, depth or other exceptional features of the site make it expedient to do so.

(5) Except in accordance with a development consent referred to in subclause (7), a building shall not be erected between a foreshore building line referred to in subclause (3) (b) and the mean high water mark of the waters of Port Jackson.

(6) In the case of a foreshore building line referred to in subclause (3) (c), a residential flat building shall not be erected between that building line and the mean high water mark of the waters of Port Jackson.

(7) The council may, after having made an assessment of the probable aesthetic appearance in relation to the foreshore of the proposed structure, consent to the erection of any of the following structures between a foreshore building line and the waters of Port Jackson.

- (a) baths (swimming pools) and ancillary buildings;
- (b) boat sheds;
- (c) wharves;
- (d) jetties;
- (e) structures or works below or at the surface of the ground.

#### Advertising structures

17. Notwithstanding the provisions of clause 10, development consent is not required for advertising structures in Zone No. 3 (a) or 3 (b) that are less than 2 square metres in area.

#### Conservation of items of the environmental heritage

18. (1) A person shall not, in respect of a building, place, work or relic that is an item of the environmental heritage—

- (a) demolish, renovate or extend the building or work;
- (b) damage or despoil the relic or any part of the relic;
- (c) excavate any land for the purpose of exposing or removing the relic;
- (d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place; or
- (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

#### Conservation area

19. A person shall not, in respect of a conservation area—

- (a) demolish, extend or change the outside of a building or work within that area, including changes to the outside of a building or work that involve the repair, painting, plastering or other decoration of the outside of the building or work;
- (b) damage or despoil a relic or part of a relic within that area;
- (c) excavate any land for the purpose of exposing or removing a relic within that area;
- (d) erect a building within that area; or
- (e) subdivide land within that area,

except with the consent of the council.

#### Conservation area—additional uses

20. (1) Notwithstanding the provisions of clause 10, a person may, with the consent of the council, use a building or any part of a building on land within a conservation area for any purpose specified in Schedule 3 or for the purpose of a craftsman's studio or professional consulting rooms.

(2) The council shall not grant its consent as referred to in subclause (1) to the use of a building or part of a building unless it is satisfied that—

- (a) the particular building or part of the building is not of a residential design and has a prior history of non-residential use, whether or not that use was interrupted; and
- (b) the external architecture of the building is in conformity, or could be brought into conformity, with the external architecture of other buildings in the vicinity or the building has architectural or historic merit of its own.

#### Development incentive relating to heritage items

21. (1) Nothing in this plan prevents the council from granting consent to—

- (a) the use for any purpose of a building within a conservation area or of the land on which that building is erected; or
- (b) the use for any purpose of a building that is an item of the environmental heritage or of the land on which that building is erected,

if the council is satisfied that—

- (c) the use would have little or no adverse effect on the amenity of the neighbourhood; and
- (d) conservation of the building depends upon the council granting consent as referred to in this subclause.

(2) The council, when considering an application to erect a building on land upon which there is a building which is an item of the environmental heritage, may exclude from its calculation of the gross floor area of the building erected on the land the gross floor area of a building that is an item of the environmental heritage—

- (a) for the purpose of determining the floor space ratio; and
- (b) for the purpose of determining the number of parking spaces to be provided on the site,

but only if the council is satisfied that the conservation of the building which is an item of the environmental heritage depends upon the council granting consent as referred to in this subclause.

#### Heritage Council to be given prior notice of demolition consent

22. (1) If a person makes a development application to demolish a building or work that is an item of the environmental heritage or is within a conservation area, the council shall not consent to that application until 28 days after the council has notified the Secretary of the Heritage Council of New South Wales of its intention to do so.

(2) Subclause (1) does not apply to or in respect of an application for consent to the partial demolition of a building or work that is an item of the environmental heritage or is within a conservation area if, in the opinion of the council, the partial demolition is of a minor nature and does not adversely affect the significance of the building, work or area as part of the environmental heritage of the Municipality of Woollahra.

#### Motels

23. A person shall not erect a motel on an allotment of land to which this plan applies unless the site has an area of not less than 1 850 square metres and the site cover of the building or buildings comprising the motel does not exceed—

- (a) in the case of a 1 story building, 40 per cent of the site area; or
- (b) in the case of a building of 2 or more storeys, 35 per cent of the site area.

#### Hotels

24. A hotel shall not be erected on an allotment of land which has an area of less than 4 000 square metres.

#### Advertising of certain development applications

25. (1) If a development application is made for consent to carry out any development referred to in subclause (4), the council shall, before determining the application, forthwith—

- (a) give written notice of that development application to such persons as appear to it to own or occupy the land adjoining the land to which the application relates and, where practicable, to such persons as appear to it to own or occupy land the use and enjoyment of which, in the opinion of the council, may be detrimentally affected if that development is carried out;
- (b) cause notice to be exhibited on the land to which that development application relates; and
- (c) cause notice of that development application to be published in a newspaper circulating in the locality.

(2) Each notice referred to in subclause (1) shall contain a statement to the effect that the development application referred to in the notice and the documents accompanying the application and in the custody of the council may be inspected at the office of the Council, at any time during normal office hours, within a specified period of not less than 14 days after the notice of that development application is published in a newspaper in accordance with subclause (1) (c).

(3) After expiry of the period allowed by subclause (2), the council shall consider the development application having regard to any submissions lodged in response to any notice referred to in subclause (1).

(4) Pursuant to subclause (1), the following developments require advertising prior to determination by the council:

- (a) the demolition of a building or work within a conservation area;
- (b) the demolition of an item of the environmental heritage;
- (c) the use of a building or land referred to in clauses 20 or 21 for a purpose which, but for those clauses, would be prohibited under this plan;
- (d) the erection or use of a residential flat building for a purpose included in Item 3 of the matter relating to Zone No. 2 (a), 2 (b), 2 (c) or 3 (b) in the Table to clause 10 on land within Zone No. 2 (a), 2 (b), 2 (c) or 3 (b);
- (e) the erection or use of a building for any mixed residential and non-residential purposes included in Item 3 of the matter relating to Zone No. 2 (c), 3 (a) or 3 (b) in the Table to clause 10 on land within Zone No. 2 (c), 3 (a) or 3 (b);
- (f) the erection or use of a building or the carrying out of development on any land within Zone No. 3 (b1).

(5) Subclause (4) does not apply to or in respect of an application for consent to the partial demolition of a building or work that is an item of the environmental heritage or is within a conservation area where, in the opinion of the council, the partial demolition is of a minor nature and does not adversely affect the significance of the building, work or area as part of the environmental heritage of the Municipality of Woollahra.

#### Community use of certain facilities

26. A person may, with the consent of the council, use the facilities and sites of schools, colleges or other educational establishments for—

- (a) community uses;
- (b) commercial operation of both the facilities and sites; or
- (c) development for the purposes of community uses whether or not the development is ancillary to the use of those facilities and sites for the purposes of schools, colleges or other educational establishments.

#### Development on reserved land

27. (1) If it appears to the council that the purpose for which land within Zone No. 5 (c), 6 (c) or 6 (d) is reserved cannot be carried into effect within a reasonable time after the appointed day, the owner of the land may, with the consent of the council, carry out development on the land for any other purpose.

(2) The councils shall not grant consent as referred to in subclause (1) in relation to land within Zone No. 5 (c) without the concurrence of the Commissioner for Main Roads.

(3) The council shall not grant consent as referred to in subclause (1) in relation to land within Zone No. 6 (d) without the concurrence of the Director.

(4) In deciding whether to grant concurrence under subclause (2), the Commissioner for Main Roads shall take into consideration—

- (a) the effect which (in the opinion of the Commissioner for Main Roads) the carrying out of the development will have or is likely to have on—
  - (i) the future construction of any road and its proposed new alignment; and
  - (ii) traffic flow and traffic safety; and
- (b) the estimated cost of carrying out the development and the change likely to be caused by the development having been carried out on the value of the land situated between the existing and proposed new alignments.

(5) In deciding whether to grant concurrence under subclause (3), the Director shall take into consideration—

- (a) the effect of the proposed development on the costs of acquisition;
- (b) the imminence of acquisition; and
- (c) the costs associated with the reinstatement of the land for the purposes, if any, specified in Item 2 of the matter relating to the zone which is applicable to the land in the Table to clause 9.

#### County roads

28. (1) The council may, with the concurrence of the Commissioner for Main Roads, relocate or alter the route of any county road indicated on the map.

(2) In deciding whether to grant concurrence under subclause (1), the Commissioner for Main Roads shall take into consideration—

- (a) the effect of the proposed development on the costs of acquisition;
- (b) the imminence of acquisition; and
- (c) the costs associated with the reinstatement of the land for the purposes, if any, specified in Item 2 of the matter relating to the zone which is applicable to the land in the Table to clause 9.

#### Acquisition of land

29. (1) The owner of any land within Zone No. 5 (c), 6 (c) or 6 (d) may, by notice in writing, require—

- (a) if the land is within Zone No. 5 (c)—or 6 (d)—the corporation constituted by section 8 (1) of the Act; or
- (b) if the land is within Zone No. 6 (c)—the council,

to acquire that land.

(2) Upon receipt of such a notice, the Commissioner for Main Roads, the council or the corporation, as the case may be, shall acquire the land to which the notice relates.

#### Uncoloured land

30. (1) Notwithstanding clause 10, no development shall be carried out, without the consent of the council, on any land to which this plan applies shown uncoloured on the map.

(2) Before determining an application made to it pursuant to subclause (1), the council shall take into consideration the development standards and objectives applying to adjoining lands which are coloured on the map.

#### Preservation of trees

31. (1) If it appears to the council that it is expedient for the purpose of securing amenity or of preserving existing amenity, it may, for that purpose and by resolution, make an order (hereinafter referred to as a "tree preservation order") and may, by resolution, rescind or vary any such order.

(2) A tree preservation order may prohibit the ringbarking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in the order except with the consent of the council and any such consent may be given subject to such conditions as the council thinks fit.

(3) A tree preservation order may relate to any tree or trees or to any specified class, type or description of trees on land describe particularly or generally by reference to the Municipality of Woonahra or any divisions of that Municipality.

(4) The council shall forthwith upon the making of a tree preservation order cause notice of the making of the order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situated.

(5) A person who contravenes or causes or permits a contravention of a tree preservation order shall be guilty of an offence.

(6) In any proceedings under this clause it shall be sufficient defence if the defendant provides that the tree ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed was dying or dead or had become dangerous.

(7) The power conferred on the council in pursuance of this clause shall not apply to trees in a State forest or on land reserved as a timber reserve within the meaning of the Forestry Act 1916, or to trees required to be lopped in accordance with Regulation 38 or 39 of the Overhead Line Construction and Maintenance Regulations 1962.

(8) A tree preservation order made and in force in respect of the land to which this plan applies, immediately before the appointed day, shall be deemed to be a tree preservation order made in pursuance of this clause.

#### Suspension of covenants

32. (1) For the purposes of enabling development to be carried out in accordance with a consent granted under the Act, any agreement, covenant or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes, to the extent necessary to serve that purpose, shall not apply to the development.

(2) Pursuant to section 28 of the Act, before the making of this plan, the Governor approved of this clause.

### Development for certain additional purposes

33. (1) Nothing in this plan prevents a person, with the consent of the council, from carrying out development on or with respect to land referred to in Schedule 4 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.

(2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the council in respect of the development.

### Development at Macquarie Lighthouse, Vacluse

34. (1) This clause applies to Lots 1, 2, 3, 4, 5 and 6, D.P. 801240, being land known as the Macquarie Lighthouse site, Old South Head Road, Vacluse, as shown edged heavy black on the map marked "Woollahra Local Environmental Plan No. 59".

(2) The council shall not grant consent to an application to carry out development on land to which this plan applies unless it is in accordance with a Plan of Management for the land.

(3) The Plan of Management referred to in subclause (2) shall be endorsed by the council and the Heritage Council of New South Wales and shall address, at least, the following issues:

- (a) the conservation of the heritage significance of the site and the historic fabric;
- (b) management of the archaeological resources;
- (c) a maintenance programme for structures and landscaping;
- (d) appropriate uses;
- (e) landscaping, including the maintenance of existing vegetation, fencing, gates and garden walls;
- (f) public open space and public access.

### 9 Cooper Park Road, Bellevue Hill - Water Board requirements and density of dwellings.

35. (1) This clause applies to Lot 4, D.P. 221869, being land known as No. 9 Cooper Park Road, Bellevue Hill, as shown by distinctive colouring, edging, lettering and marking on the map marked "Woollahra Local Environmental Plan No. 64".

(2) The Council shall not grant consent to any subdivision of, or the carrying out of any development on, any land to which this clause applies unless:

- (a) arrangements have been made with the Sydney Water Board (which are satisfactory to that Board) for the provision of a water supply to the land and for the provision of a sewerage system for the removal or disposal of sewage from the land; or
- (b) the Board certifies that the carrying out of development in accordance with the consent will not require such arrangements.

(3) Not more than 27 dwellings shall be erected on the part of the land to which this clause applies that is within Zone No. 2(b).

(4) State Environmental Planning Policy No. 1 - Development Standards applies to subclause (3) in the same way as it applies to a development standard.

(5) The consent authority, in determining whether or not to grant consent as referred to in that policy, and the Director, in determining whether or not to grant concurrence as referred to in that policy, are to take into consideration the objectives of subclause (3) which are as follows:

- (a) to control traffic generation and noise associated therewith;
- (b) to enable adequate provision of private open space at ground level;
- (c) to allow a reasonable density of residential development on the site based on the permissible gross floor area;
- (d) to enable adequate provision of space for building setbacks from boundaries for the protection of the amenity, sunlight access and privacy of adjoining residential properties.

### Exempt and complying development

36. (1) Development of minimal environmental impact listed as exempt development in *Woollahra Development Control Plan - Exempt and Complying Development*, as approved by the Council on 10 April 2000 is exempt development, despite any other provision of this plan.

(2) Development listed as complying development in *Woollahra Development Control Plan - Exempt and Complying Development*, as approved by the Council on 10 April 2000 is complying development if:

- (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
- (b) it is not an existing use, as defined in section 106 of the Act.
- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Woollahra Development Control Plan - Exempt and Complying Development*, as approved by the Council on 10 April 2000.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Woollahra Development Control Plan - Exempt and Complying Development*, as approved by the Council on 10 April 2000, as in force when the certificate is issued.



SCHEDULE I

*Aims and Objectives*

*Physical environment*

(C1. 2)

The aims and objectives of this plan in relation to the physical environment of land are—

- (a) to foster the development of an environment which satisfies community needs and expectations while protecting the natural environment and to conserve items of the environmental heritage;
- (b) to zone land for residential development so as to reflect the requirements of State and Regional Policies while preserving the environmental quality of the Municipality;
- (c) to permit the development of land to which this plan applies as a comprehensively planned residential community providing recreational, commercial, retail and community facilities of a type appropriate to the size of the population to be accommodated;
- (d) to control or minimise the effect of future development upon natural features such as significant stands of trees, ridge lines or land within view of any waterways;
- (e) to provide for open space which will meet the requirements of the expected population and which will be developed in sympathy with the existing natural environment of the Municipality;
- (f) to zone land so as to create separate areas of residential and non-residential use in the interests of residential amenity a balanced distribution of services and employment, efficient traffic distribution and functional viability of non-residential activities;
- (g) to preserve and maintain the character of existing single dwelling areas as a desirable environment for family living;
- (h) to discourage development which would detract from the visual quality of the area as viewed from Sydney Harbour;
- (i) to consider the impact of development on the views of Sydney Harbour enjoyed by existing residents so long as this does not unduly restrict the ability of other property owners to realise a reasonable level of development on their land to which they would otherwise be entitled;
- (j) to zone land so as to prevent commercial and retail development encroaching on adjoining residential areas;
- (k) to confine high rise development to those locations where it is already established;
- (l) to create "buffer" areas of medium rise development between existing high rise and low rise developments;

- (m) to introduce height controls in all areas relating height to topography and for the protection of views to and from Sydney Harbour;
- (n) to relate population distribution in general to the capacity of the existing road network, the availability of parking, the provision of public open space, the capacity of existing utility networks, the level of service to public transport, and the proximity to the city centre, schools, shops, health services and community facilities;
- (o) to ensure that any localised increases in population are matched by an increase in the supply of public open space;
- (p) to control the subdivision of land consistently with residential density distribution provided for;
- (q) to ensure that any proposed development is of a high aesthetic quality;
- (r) to preserve existing public open space along the harbour foreshores, and to promote the dedication, acquisition, lease or occupation of additional usable areas so as to provide further public pedestrian access to and along the harbour foreshore in appropriate locations.

#### *Socio-economic factors*

The aims and objectives of this plan in relation to socio-economic factors are—

- (a) to improve the provision of existing social and community facilities on the basis of need and equitable distribution of services;
- (b) in commercial and retail centres, to ensure that the supply of floorspace is related to demand by the public;
- (c) to improve and consolidate established commercial and retail centres so as to ensure that they remain both visually attractive and commercially viable;
- (d) to provide for the detailed planning of commercial and retail areas by means of development control plans; and
- (e) to minimise, where possible, any adverse impact that new commercial and retail development would have upon established shops, businesses or commercial centres.

#### *Transportation system*

The aims and objectives of this plan in relation to transportation systems are—

- (a) to provide a safe and accessible communication network, including the adequate provision of roads, pedestrianways and cycleways, which maintain the visual attractiveness of the area to which this plan applies and minimises noise and air pollution;
- (b) to implement a rational and efficient distribution of vehicular traffic through the Municipality by establishing a road hierarchy and controlling traffic generating by development accordingly;
- (c) to improve the provision of car parking and reduce conflicts between resident and visitor demands for car parking in residential areas;
- (d) in commercial and retail areas, to require the provision of adequate car parking, pedestrian and vehicular access, loading facilities and vehicle servicing generally in all new developments and, where possible, obtain improvements to existing developments; and
- (e) to reserve the land for the improvement of traffic flow on major roads.

#### *Conservation*

The aims and objectives of this plan in relation to conservation are—

- (a) to ensure the retention of buildings identified as having architectural and historic importance;
- (b) to ensure that conservation of the urban and historical character of the area, particularly the scale and unity of architectural style;
- (c) to ensure that any new buildings or alterations and additions to the existing buildings are in scale and architectural harmony with other buildings in the immediate locality;

- (d) to control demolition in the interests of preservation of historic buildings, conservation of housing resources and public safety; and
- (e) to encourage the recycling (adaptive re-use) and restoration of existing non-residential buildings of architectural or historic value by allowing low intensity retail and commercial uses which would otherwise be contrary to that allowed in land use zone in which the buildings are located.

#### **SCHEDULE 2**

#### *Items of the Environmental Heritage*

(Cl. 6)

##### **1. Bellevue Hill**

Rona, 51 Fairfax Road

Tralee, corner Ginahgulla and Kambala Roads

Ginahgulla (Fairfax House), corner Ginahgulla and Victoria Roads

Former Raon Stables House, 2 Ginahgulla Road

House, 12 Ginahgulla Road

House including forecourt, 14 Ginahgulla Road

Caerleon, 15 Ginahgulla Road

House, 65 Kambala Road, corner Rupertswood Avenue

Cranbrook School Sports Pavillion (formerly Summer House of Cranbrook), New South Head Road

House and gardens, 1 Rose Bay Avenue

Silchester including gardens, 4 Tralee Road

House, 5 Tralee Road

Throlze, corner Victoria and New South Head Roads

Aspinall House within Scots College, Victoria Road

Cranbrook School (formerly Government House), Victoria Road, including 2 storey sandstone gatehouse, gates, gateposts and bollards, sandstone retaining wall and starway on west side of house

St Stephen's Anglican Church, Victoria Road

Villa D'Este, 1A Victoria Road

Cotway, 3A Victoria Road

Street House (formerly Leura), 24 Victoria Road

Barford, 58 Victoria Road

Goodsall, 125 Victoria Road

##### **2. Double Bay**

Elaine, 550 New South Head Road

Fairwater, including stables and grounds with foreshore but excluding the swimming pool, 560 New South Head Road.

##### **3. Point Piper**

Dunara, 10 Dunara Gardens

Santa Barbara, 7 Longworth Avenue

Franciscan Missionaries of Mary (Old Section only), 6 Wentworth Street

House, 21 Wentworth Street

House, 1 Wolseley Crescent

House, 44 Wunulla Road

##### **4. Rose Bay**

House, 26 Cranbrook Road

Fernleigh Castle (excluding outbuildings and fences), 5 Fernleigh Gardens

Clubhouse, Royal Sydney Golf Club, Kent Road

Roman Catholic Convent of the Sacred Heart, corner New South Head and Vacluse Roads

Police Station (formerly lodge of Woollahra House) (excluding 20th century additions to the north), corner New South Head Road and Wunulla Road.

House, 629 New South Head Road  
 Kambala School (formerly Tivoli), 794 New South Head Road  
 Rose Bay Lodge, Salisbury Court, 1-7 Salisbury Road  
 Ficus Superba (Fig Tree), 80 Rawson Road, and 3 and 4 Fernleigh Gardens

#### 5. *Vaucluse*

House, 7 Boambillee Avenue  
 Wentworth Mausoleum Cemetery, Chapel Road (including surrounding stone and iron fence, grounds and trees)  
 House, 15 Fisher Avenue  
 Greenway, 24 Wentworth Road  
 House, 11A Gilliver Avenue  
 House, 25 Gilliver Avenue  
 House, corner Gilliver Avenue and Wentworth Road  
 House, 6 Graylind place  
 St Michaels Anglican Church, including entrance gateway (excluding hall and kindergarten), St Michaels Place  
 Parsley Bay footbridge  
 Greycliffe House, Neilsen Park, Vaucluse Road  
 The Hermitage, including grounds, trees and harbour front, gates and gatehouse, 22D Vaucluse Road  
 Strickland House (formerly Carrara) (including former coach house and stables, grounds, gardens and trees, Vaucluse Road)  
 Vaucluse (Wentworth) House, including stables, outbuildings, historical collection, gates, trees and parkland bounded by Wentworth Road and Olola Avenue, Wentworth Road  
 Shark Point Battery, Neilsen Park via private access road off Vaucluse Road (military fortifications, including gun emplacements, powder magazine and embrasures, store and barrack rooms)  
 Sydney Harbour National Park, the foreshores of Sydney Harbour and South Head—Botany and fortifications

#### 6. *Watsons Bay*

Hornby Lighthouse and 2 cottages group, Inner South Head, Sydney Harbour  
 Macquarie Lighthouse group, including Macquarie Lighthouse, stone wall at east end, cottage, excluding garage and army cottage, Old South Head Road  
 Artillery Barracks group, Camp Cove, including—  
 former guardhouse;  
 gun carriage sheds;  
 annex to former gun carriage shed;  
 former barracks;  
 former parade ground;  
 former married officers' quarters;  
 former officers' mess  
 Former fishermen's cottage group, including 1 Short Street, 13, 15, 17 and 19 Cole Street, 12, 14, 15, 16 and 17 Cliff Street;  
 Dunbar House (excluding additions at rear), 11 Clovelly Street  
 Signal Station, Old South Head Road  
 Former Marine Biology Station, 31 Pacific Street  
 RAN Chapel (St George the Martyr Church), at H.M.A.S. Watson  
 House, formerly an inn, 218 Old South Head Road  
 House, 272 Old South Head Road  
 House, 308 Old South Head Road  
 Tramway cutting, east of Gap Road  
 Watsons Bay Church group, Old South Head Road, including—  
 St Peter's Anglican Church, including adjacent bushland;  
 St. Mary's Our Lady Star of the Sea Roman Catholic Church, 341 Old South Head Road;  
 Scout Hall (formerly school), including open yard to the west, 335 Old South Head Road;  
 House (formerly school residence), including stone privy and front fence (excluding brick addition at rear), 333 Old South Head Road;

Milestone Obelisk marking end of Old South Head Road, Robertson Park near Robertson Place  
 Green Point or Laings Point Battery

#### 7. *Woollahra*

Terraces, 91-111 Adelaide Parade

#### SCHEDULE 3

##### *Uses in Conservation Area*

(Cl. 20)

Antique shops  
 Art galleries  
 Banks  
 Clothing and fabric stores  
 Employment agencies  
 Finance institutions  
 General stores  
 Insurance agencies  
 Legal and accounting services  
 Market and business consultancies  
 Museums  
 Professional offices  
 Public buildings  
 Real estate agencies  
 Shops not exceeding 30 square metres in floor area  
 Technical services  
 Travel agencies  
 Welfare and charitable services

#### SCHEDULE 4

##### *Development for Certain Additional Purposes*

(Cl. 33)

That part of Saber Lane, Bondi Junction, bounded by Newland Street, Edgecliff Road, Saber Street and No. 39 Vernon Street, Bondi Junction, as shown edged heavy black on the map marked "Woollahra Local Environmental Plan No. 53"—a convenience store, including the facilities for the sale of petroleum.

Land known as 331 Old South Head Road, Watsons Bay, comprised in D.P. 622595, Lots 1 and 2, as shown edged heavy black on Sheet 1 of the map marked "Woollahra Local Environmental Plan No. 61"—a nursing home.

Part of the land comprised in DP 320799, 51-55 O'Sullivan Road, Rose Bay, as shown edged heavy black on the map marked "Woollahra Local Environmental Plan No. 70"—a dry cleaning outlet

Land being Lot 4, D.P. 221869, and known as No. 9 Cooper Park Road, Bellevue Hill, as shown by distinctive colouring, edging, lettering and marking on the map marked "Woollahra Local Environmental Plan No. 64"—tennis courts to be used by a school.

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### SCHEDULES

(1656)

### SCHEDULE OF AMENDMENTS TO WOOLLAHRA LOCAL ENVIRONMENTAL PLAN No.27

Woollahra Local Environmental Plan No.27 was published in the N.S.W. Government Gazette No.8 of 15 January 1988 and has been amended by the Environmental Planning Instruments referred to below.

ENVIRONMENTAL PLANNING INSTRUMENT	DATE PUBLISHED IN THE GOVERNMENT GAZETTE
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Woollahra Local Environmental Plan No.43	21/10/88
Woollahra Local Environmental Plan No.49	9/12/88
Woollahra Local Environmental Plan No.53	23/06/89
Woollahra Local Environmental Plan No.52	25/08/89
Woollahra Local Environmental Plan No.54	19/01/90
Woollahra Local Environmental Plan No.57	23/03/90
Woollahra Local Environmental Plan No.59	22/03/91
Woollahra Local Environmental Plan No.61	30/08/91
Woollahra Local Environmental Plan No.62	10/01/92
Woollahra Local Environmental Plan No.64	31/12/92
Woollahra Local Environmental Plan No.70	1/05/92
Woollahra Local Environmental Plan No.72	30/07/93
Woollahra Local Environmental Plan No.73	14/01/94
Woollahra Local Environmental Plan No.74	29/7/94
Woollahra Local Environmental Plan 1995 (Am 20)	12/5/00