

# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Monday 28 May 2012*

**Time:** *6.00pm*

## **Outline of Meeting Protocol & Procedure:**

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

## **Recommendation only to the Full Council (“R” Items)**

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
  - Town Planning Objectives; and
  - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Traffic Management and Planning (Policy) and Approvals.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

## **Delegated Authority (“D” Items)**

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

**Committee Membership:**

7 Councillors

**Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

24 May 2012

To: Her Worship The Mayor, Councillor Susan Wynne ex-officio  
Councillors Malcolm Young (Chair)  
Chris Howe  
Sean Carmichael  
Lucienne Edelman  
Nicola Grieve  
Ian Plater  
David Shoebridge

Dear Councillors

### **Urban Planning Committee Meeting – 28 May 2012**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Thornton Room (Committee Room), 536 New South Head Road, Double Bay, on Monday 28 May 2012 at 6.00pm.**

Gary James  
General Manager

# **Additional Information Relating to Committee Matters**

**Site Inspection**

**Other Matters**

## Meeting Agenda

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
1	Leave of Absence and Apologies	
2	Late Correspondence Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item	
3	Declarations of Interest	

### **Items to be Decided by this Committee using its Delegated Authority**

D1	Confirmation of Minutes of Meeting held on 14 May 2012	1
D2	Publishing of Development Application Plans on Council's Website – 6.G	2

### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	William Street Paddington – Planning Proposal Draft Amended to Standard Instrument (Local Environmental Plan) 2006 – 1064.G (Amend 63)	5
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**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 14 May 2012**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 14 May 2012 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

**Recommendation:**

That the Minutes of the Urban Planning Committee Meeting of 14 May 2012 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** D2 Delegated to Committee  
**Subject:** Publishing of Development Application Plans on Council's Website  
**Author:** Nabil Saleh - Manager Information Systems  
**File No:** 6.G  
**Reason for Report:** Urban Planning Committee meeting resolution

**Recommendation:**

- A. That the report regarding the publishing of Development Application plans on Council's website be received and noted.
- B. The Committee note that it is expected that plans for Development Applications on public exhibition will be available to the public on Council's website in August 2012.
- C. Note that further reports in respect of the implementation of the Electronic Document and Records Management System will be presented to the Corporate & Works Committee.

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**Background:**

At its meeting on 30 April 2012, the Urban Planning Committee resolved as follows:

*"That by 28 May 2012 the Committee receive a report from Council's Manager Information Systems on when plans for Development Applications on public exhibition can be made available to the public on Council's website"*

This report responds to the above resolution and in doing so provides the Urban Planning Committee with an update on progress towards Council's implementation of an Electronic Document and Records Management system.

**DA Plans Online:**

As previously advised to the Urban Planning Committee, the efficient publishing of Development Application (DA) plans online requires the use of an Electronic Document and Records Management System (EDRMS). The EDRMS is necessary in order to provide secure document services to Council's Authority Land Information System which is the main software database that manages the lifecycle of a development application.

The current Authority DA Tracking enquiry that is available on Council's website is the webpage that will provide access to the relevant DA plans for all DAs on public exhibition. This facility already exists in the Authority database Council operates but is currently non-functioning due to the absence of an EDRMS which would be the electronic repository for all DA documentation, including DA plans.

Whilst current DA documentation is already stored electronically in Authority, it is not possible at this time to isolate DA plans in Authority from other DA documentation and make the plans accessible on the website without making all documents existing in Authority in relation to the DA accessible. The EDRMS environment provides appropriate security controls that enable only the documents proposed for public exhibition to be selected from Authority and displayed in the DA Tracking Enquiry.

Since last reporting to the Urban Planning Committee on plans to implement an EDRMS, much work has been undertaken in preparation. Of most significance has been the completion of the upgrade to Council's Authority database to the latest Version (V6.3). This has provided the fundamental building blocks required for the introduction of an EDRMS that is fully integrated with our critical business processes such as the lifecycle of a development application. Since completion of the upgrade, further refinement of Authority's document enablement and integration processes have been undertaken and further consultation with staff in relation to various EDRMS requirements have been completed. Having completed these processes, we are now in a position to proceed with the procurement and implementation of an EDRMS, funding for which is provided in the 2011/12 budget. Details of our progress towards EDRMS implementation were provided to the Corporate & Works Committee on 21 May 2012 in consideration of the March Quarterly Review of the Delivery Program and Operational Plan.

After extensive consultation with staff and thorough examination of EDRMS software applications used in public authorities in NSW, HP Trim has been selected as our preferred EDRMS solution. In making this selection, it was determined that HP Trim can achieve the required document management functionality for all Council business operations including the DA process and efficient publication of DA plans on Council's website. Critical to this selection process was the confirmation that HP Trim has integration modules already built for Authority and the DA Tracking enquiry. Further, Hewlett Packard has the largest market share in Local Government with its Trim EDRMS product. The following is a sample list of NSW Metropolitan and Regional Councils that currently use HP Trim:

- |               |                  |                 |               |
|---------------|------------------|-----------------|---------------|
| ▪ Bathurst    | ▪ Lake Macquarie | ▪ Port Stephens | ▪ Sydney City |
| ▪ Great Taree | ▪ Lane Cove      | ▪ Randwick      | ▪ Tamworth    |
| ▪ Hastings    | ▪ Lismore        | ▪ Rockdale      | ▪ Warringah   |
| ▪ Holroyd     | ▪ Liverpool      | ▪ Ryde          | ▪ Waverley    |
| ▪ Hornsby     | ▪ Manly          | ▪ Singleton     | ▪ Wollondilly |
| ▪ Hurstville  | ▪ Marrickville   | ▪ Shoalhaven    | ▪ Wollongong  |
| ▪ Kiama       | ▪ Parramatta     | ▪ Sutherland    | ▪ Wyong       |

It is also worth noting that having recently been to open tender for selection of an EDRMS, Blacktown City Council have also selected HP Trim as its preferred solution. Interestingly, Blacktown does not operate Authority so the HP Trim/Authority integration was not a factor in their selection process.

### **Implementation Timeframe:**

Further information is currently being prepared for presentation to the Corporate & Works Committee regarding a procurement strategy for HP Trim, noting that software licencing for the product is available on the NSW Government's "*Information Asset Management Systems (IAMS) Software Applications Contract 2602*". Market testing will be undertaken for professional services to assist with implementation. The Corporate & Works Committee will also be presented with a project timetable.



Whilst specific details in this regard are still to be finalised, the decision to proceed with the implementation of HP Trim as the preferred EDRMS solution for Council has enabled the publishing of the DA plans milestone of the EDRMS implementation project to be brought forward in order to fast track the delivery of the DA plans online in conjunction with the DA Tracking Enquiry. It is expected that this functionality, as requested by the Urban Planning Committee, will be available for testing in July 2012, with the facility to be made accessible to the public on Council's website by August. This is a partial implementation of the DA Tracking Enquiry functionality and it is anticipated that more DA related documents such as DA Consents will be made available online using the same enquiry.

The DA Plans will be published in Adobe PDF format. This is an industry standard format that provides the ability to expand (zoom in/out) and rotate the plan. To simplify the procedure for publishing the plans, instructions will be provided to applicants to submit the plans in a scalable PDF format.

The DA Tracking Enquiry will be accessible from Council's website using all computing devices that have an Internet browser. These include PCs, Laptops, smart phones and tablets such as iPhone, iPad, Samsung and other Android and Windows Mobile devices.

Whilst DA plans will be available online, Councillors will continue to receive A3 hard copies of the DA Plans with their Business Paper as is current practice.

Councillors will be provided with a demonstration of the HP Trim / Authority DA Tracking Enquiry, including the publishing of DA plans, as the implementation project progresses.

**Conclusion:**

Using Council's current DA Tracking Enquiry facility, DA Plans on public exhibition will be made available on Council's website in August 2012.

Nabil Saleh  
Manager Information Systems

Stephen Dunshea  
Director Corporate Services

**Item No:** R1 Recommendation to Council

**Subject:** **William Street Paddington - Planning Proposal Draft Amendment to Standard Instrument (Local Environmental Plan) 2006**

**Author:** Chris Bluett - Manager Strategic Planning

**File No:** 1064.G (Amend 63)

**Reason for Report:** To respond to a decision of the Council made on 30 April 2012 regarding the timeframe for the William Street project in the Draft Delivery Program 2009 to 2013 and Operation Plan 2012/13.  
To inform Council of further discussions with the Department of Planning and Infrastructure regarding the William Street planning proposal.  
To inform Council of a proposed amendment to the *Standard Instrument (Local Environmental Plan) 2006* relating to subzones and a new environmental zone.  
To obtain Council's direction for further land use options for William Street.

**Recommendation:**

- A. That Council inform the Department of Planning and Infrastructure that:
- (i) it supports the proposed amendments to the *Standard Instrument (Local Environmental Plan) 2006* which will allow the use of subzones and introduce the new E5 Environmental Protection Zone, and
  - (ii) in regard to the proposed E5 Environmental Protection Zone, the Council suggests the Department expands the planning practice note to provide more guidelines on how councils can identify land to which the zone may be applied and to identify the type of supporting studies that may be required to justify the zone.
- B. That Council request the Department of Planning and Infrastructure to reconsider the William Street planning proposal as originally submitted in view of the proposed amendments to the Standard Instrument relating to subzones.
- C. That the Committee's recommendation proceeds to the Council meeting on 28 May 2012 as a matter of urgency so that a submission on the proposed amendments to the *Standard Instrument (Local Environmental Plan) 2006* can be made by the closure of the exhibition on 29 May 2012.

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**1. Background**

At its meeting on 30 April 2012 the Urban Planning Committee considered a report on the Draft Delivery Program 2009 to 2013 and Operational Plan 2012-2013. Under its delegations, the Committee resolved, in part:

- A. That the Actions proposed for inclusion in the Draft Delivery Program and Operational Plan, relevant to the Urban Planning Committee be included in the Draft Delivery Program 2009 to 2013 and Operational Plan 2012/13 subject to the following:

- 1) The completion date of the following Actions be amended to 31 July 2012 so that these Actions are completed before the current Council enters Caretaker mode and that appropriate resources be allocated to those Actions to allow them to be completed by the amended date:
  - i.
  - ii.
  - iii. Amend Paddington Heritage Conservation Area Development Control Plan and Woollahra Local Environmental Plan 1995 to include controls for William Street commercial uses.
  - iv.

On 14 May 2012 the Committee considered the William Street project as part of the Delivery Program 2009 to 2013 and Operational Plan 2011-2012 Quarterly Progress Report. At that meeting the Councillors noted our intention to report to the meeting on 28 May 2012 and requested options for the project.

This report has been prepared to provide a first stage response to the decision of 30 April 2012. It provides further information about discussions with the Department of Planning and Infrastructure and options for consideration.

This report also provides information on the recent release by the Department of proposed amendments to the *Standard Instrument (Local Environmental Plan) 2006* relating to subzones. The Standard Instrument is the template used for preparation of new principal LEPs.

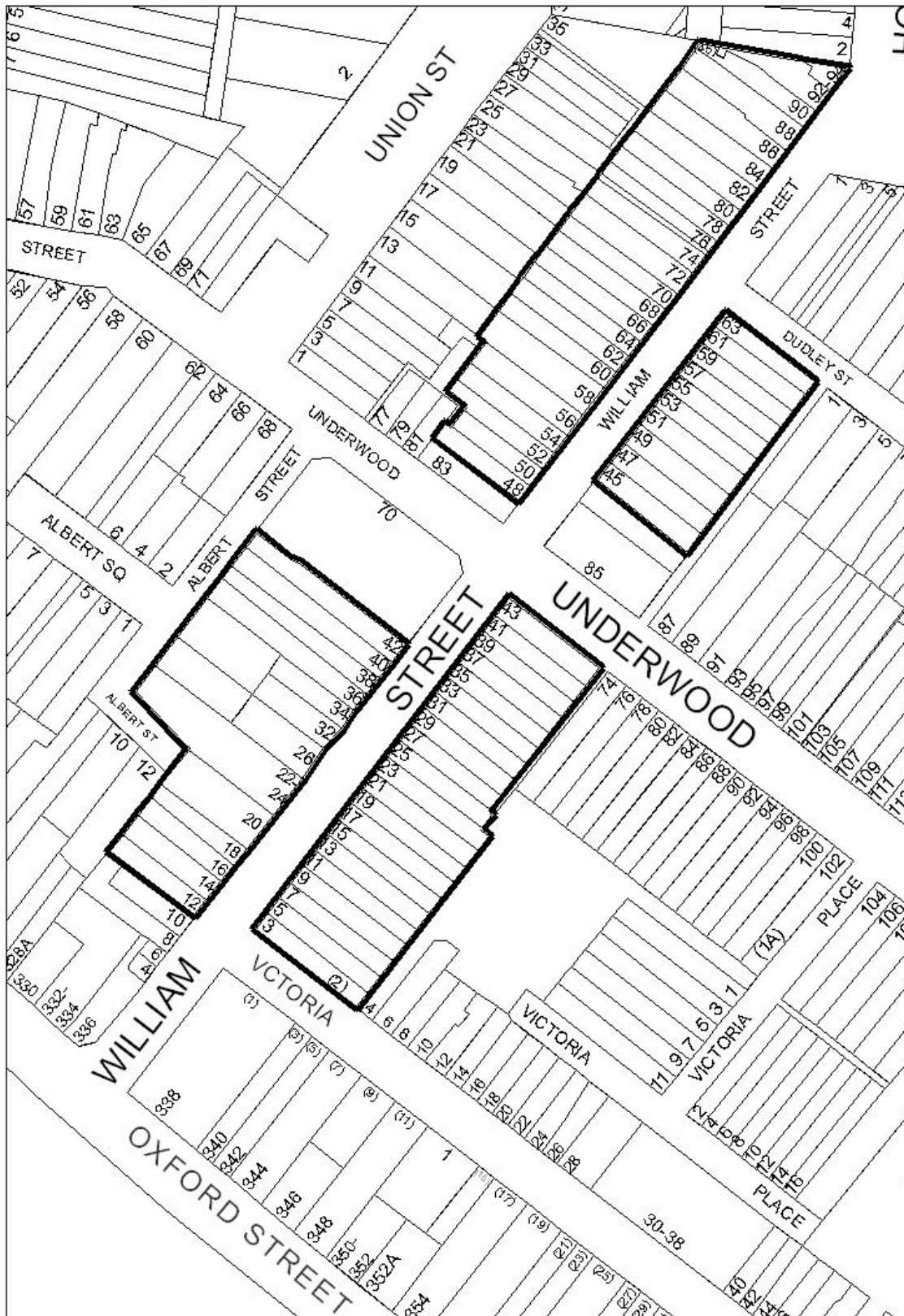
The last report on the William Street planning proposal, which is attached as **annexure 1**, was presented to the Urban Planning Committee on 13 February 2012. The report provided a background to the project and included information about the decision by the Deputy Director-General Plan Making and Urban Renewal on the Council's planning proposal. It also summarised discussions with staff from the Department of Planning and Infrastructure's regional office and mentioned work being carried out by the Department's Local Planning Panel on the use of sub-zones.

## **2. The planning proposal**

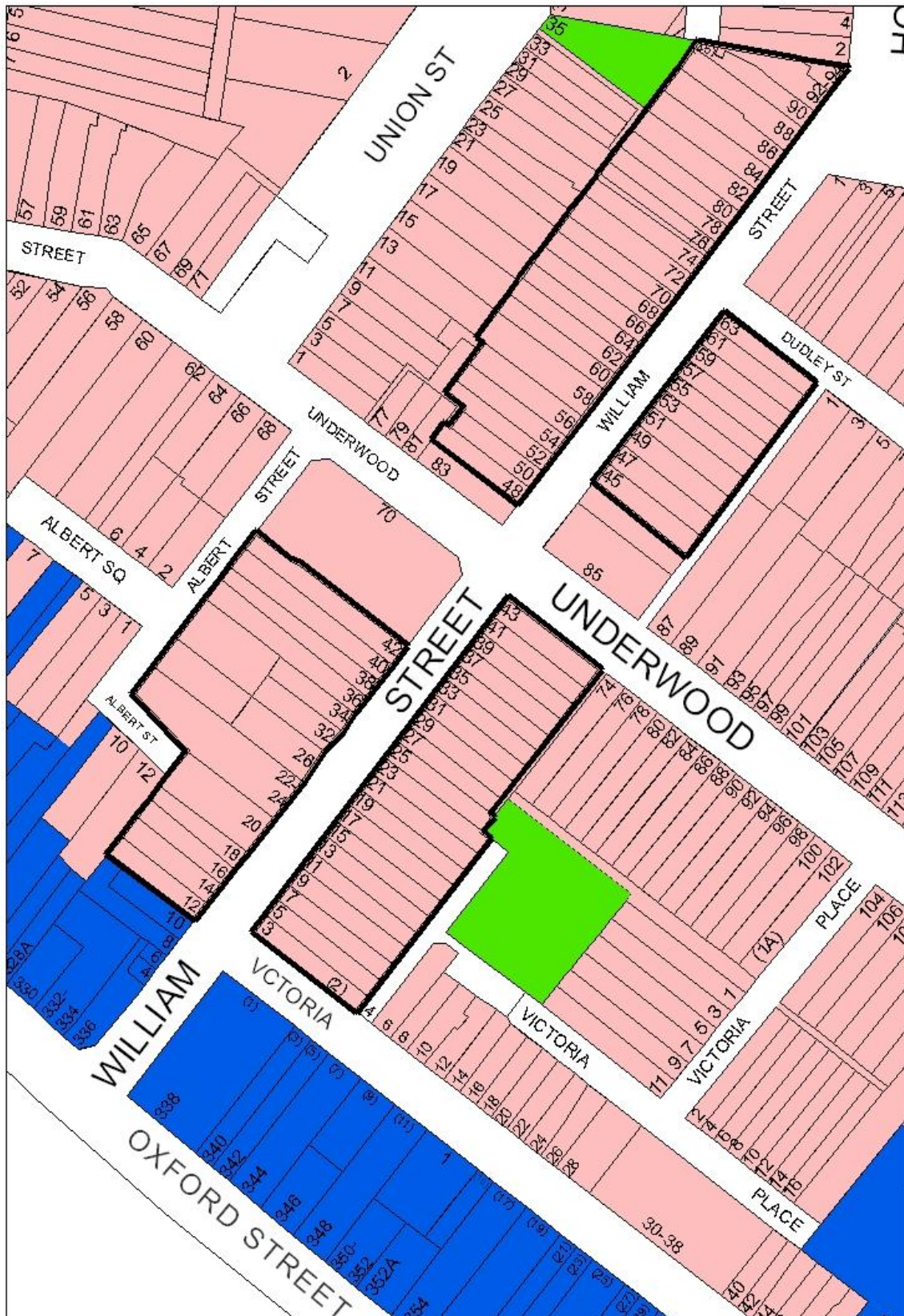
The planning proposal for William Street is a preliminary step in the preparation of an amendment to Woollahra LEP 1995. The main features of the planning proposal as submitted to the Department are:

- (i) It applies to land known as Nos. 12 to 42, Nos. 48-94, Nos. 3 to 43 and Nos. 45-63 William Street, Paddington (refer to map 1).
- (ii) It seeks to amend Woollahra LEP 1995 by:
  - allowing with consent on the ground floor of a building on the land referred to in (i), the additional uses of fashion shops, shoe shops, jewellery shops, health and beauty shops, florists and artists' studios,
  - allowing the upper floor of these buildings to be used for associated storage and offices or residential purposes,
  - prohibiting development that involves the removal of internal party walls, internal common walls, external common walls and dividing fences between attached terrace buildings.
- (iii) It retains the Residential 2(a) zone applying to the land referred to in (i) (refer to map 2).

- (iv) It seeks to allow the operation of clause 30 of Woollahra LEP 1995 only to those properties which are purpose-built non-residential premises. Clause 30 allows a broad range of retail and commercial land uses in buildings which have a non-residential design.



**Map 1: Cadastre plan of the William Street properties affected by the planning proposal (outlined in black)**



**Map 2: Current land use plan of the William Street properties affected by the planning proposal (outlined in black)**  
**Neighbourhood 3(c) zone coloured blue**  
**Residential 2(a) zone coloured pink**  
**Open Space zone coloured green**

### 3. Recent discussions with the Department

On 29 March 2012 we had our quarterly meeting with members of the Department's regional office. Our meeting included discussion on options for achieving Council's intentions for William Street. The Department suggested:

Council consider other options such as listing permitted uses in the land use table, or using a carefully worded 'heads of consideration' clause. Another alternative would be to keep William Street as a residential zone with additional uses specified in Schedule 1.<sup>1</sup>

The Department confirmed its opinion that "limiting land uses to specific retail uses such as a shoe shop would have created a subzone in William Street, contrary to the SI [Standard Instrument]"<sup>2</sup> However, our discussion also noted the issue of subzones was being considered by the Department's Local Planning Panel.

### 4. Local Planning Panel and subzones

The Department's Local Planning Panel was established to consider improvements to the Standard Instrument. The Panel has met on seven occasions and has discussed a range of matters including the issue of subzones and the operation of Schedule 1 – Additional permitted uses.

There has been confusion about the meaning of the term subzone which, in our view, is evident from comments and decisions emanating from the Department. For instance, the Gateway determination for the planning proposal required the removal of the five retail uses and replacement with the term shop. As noted in our previous report to the Urban Planning Committee, this amendment would result in a larger range of additional permissible uses which could also be considered to be a subzone. Suggestions mentioned by the Department's Regional Office at our recent meeting also seem to us to represent the use of a subzone.

The need to establish a clear definition for the term subzone was identified by the Local Planning Panel at its earliest meetings. Consequently, the Department prepared background information about subzones for consideration by the Panel.

Following review of the information by the Panel, recommendations were sent to the Director-General. A proposed policy change has been endorsed for public comment (see below).

### 5. Proposed amendment to the Standard Instrument

On 15 May 2012 the Department released a policy statement regarding draft amendments to the Standard Instrument (**annexure 2**). The policy statement was accompanied by a media release (**annexure 3**) and draft planning practice note (**annexure 4**). The draft amendments deal with subzones and a new Standard Instrument zone, E5 Environmental Protection. The amendments respond to concerns raised by councils over time, but particularly as part of the 2011 Council Survey carried out by the Local Planning Panel. Public exhibition of the draft amendments closes on 31 May 2012.

Included within the policy statement is the following description for a subzone.

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<sup>1</sup> Department of Planning and Infrastructure, minutes of Quarterly Meeting 29 March 2012, p.3

<sup>2</sup> Department of Planning and Infrastructure, minutes of Quarterly Meeting 29 March 2012, p.3

A subzone is an area within a zone where different land uses are permissible or prohibited compared to the rest of the zone.

Subzones would be allowed as a local clause within a council's principal LEP. The clause can be combined with a map which identifies an area or individual properties.

The proposed policy change is most welcome and does appear to provide a solution to the William Street planning proposal. It may also resolve the ongoing issue we have in trying to retain the clause 30 additional use provisions within the new Principal LEP.

The proposed new E5 Environmental Protection zone is also supported. We consider the zone may be applied to certain public lands within the Municipality. Details will be provided to a future meeting of the Strategic Planning Working Party.

We suggest the Department expands the planning practice note to provide more guidelines on how councils can identify land to which the zone may be applied. It would also be helpful to know the type of supporting studies that may be required to justify the zone.

## **6. Options**

### **6.1 Request a reconsideration of the planning proposal**

In light of the proposed Standard Instrument change, we consider it is reasonable to ask the Department to review its previous comments about the planning proposal and clause 30. Accordingly, we consider the Council should not withdraw the planning proposal or consider any changes to it until further comments are received from the Department. However, if the Department is still of a view that the planning proposal in its original form is unacceptable, the Council will need to consider a number of other options, which are set out below.

The options relate only to those properties in William Street which:

- (i) do not have the benefit of clause 30 of Woollahra LEP 1995,
- (ii) are not within the Neighbourhood 3(c) zone, or
- (iii) are not within (i) or (ii) and do not have a consent to operate as non-residential use.

### **6.2 Do nothing**

This option involves:

- withdrawing the planning proposal,
- retaining the residential zone,
- retaining the Council's position on the limited range of acceptable land uses,
- not taking steps to close current unlawful land uses,
- carrying out enforcement steps where unlawful changes to heritage fabric occurs or where uses become environmentally offensive.

#### ***Advantages***

- Tenants and property owners may not be faced with enforcement action about current unlawful land uses.

#### ***Disadvantages***

- Development consents cannot be issued for unlawful uses.
- Without a legal land use framework, there is no certainty for property owners and the local community about uses that can occur on the properties.

- Without a consent, there is no certainty for tenants about the intensity of uses which may be carried out on the properties (this relates to matters such as hours of operation, servicing and noise).
- There is no legal framework to assess and allow a change of use – at most, a de facto assessment process would need to operate.
- Enforcement of unlawful uses which have become environmentally offensive is complicated due to the absence of development consent and conditions which may regulate uses.
- There is uncertainty about dealing with applications to carry out alterations and additions linked to unlawful uses.
- Absence of a development consent and conditions of consent means there is no measure of approved intensity for the use. Without these benchmarks, subjective views on impact may arise leading to requests to close businesses.
- A confused message is sent to business and residential communities about land use regulation. This may lead to the establishment of further unauthorized uses in other parts of Paddington and the Municipality.
- Council is not effectively discharging its role as a planning authority.

### 6.3 Accept the Gateway determination

The Gateway determination required the planning proposal to be amended by:

- removing the five retail uses and replacing them with “shop” as a permissible land use,
- allowing the provisions of clause 30 to continue to apply to the land covered by the planning proposal.

“Shop” is defined in Woollahra LEP 1995 as:

Shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but does not include a building or place elsewhere specifically defined in this Schedule, or a building or place used for a purpose elsewhere specifically defined in this Schedule.

Under this definition, a shop would not include uses such as a restaurant or café because those uses are defined elsewhere in the Schedule.

In translating the Woollahra LEP 1995 into the Principal LEP, the definitions used in the Standard Instrument are adopted. In the Standard Instrument, a shop is a type of retail premises. Shop and retail premises are defined as:

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

**Note.** Shops are a type of *retail premises*—see the definition of that term in this Dictionary.

*retail premises* means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) bulky goods premises,
- (b) cellar door premises,
- (c) food and drink premises,



- (d) garden centres,
  - (e) hardware and building supplies,
  - (f) kiosks,
  - (g) landscaping material supplies,
  - (h) markets,
  - (i) plant nurseries,
  - (j) roadside stalls,
  - (k) rural supplies,
  - (l) shops,
  - (m) timber yards,
  - (n) vehicle sales or hire premises,
- but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note.** Retail premises are a type of *commercial premises*—see the definition of that term in this Dictionary.

The inclusion of shop as a type of retail premises is relevant in terms of how *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) operates to allow a change of use.

Under the General Exempt Development Code within the Codes SEPP the change of use of one type of retail premises to another type of retail premises may occur as exempt development subject to certain criteria (**annexure 5**). Some of the criteria are:

- the current use must be a lawful use,
- the new use must be a permissible in the land use zone,
- the new use must not be a food and drink premises,<sup>3</sup>
- the new use must not involve building alterations, other than alterations that are exempt development under the Policy,
- the new use must not result in an increase in the gross floor area of any building within which it is carried out,
- the new use must not cause the contravention of any existing condition of a development consent that applies to the premises relating to hours of operation, car parking, vehicular movement, traffic generation, landscaping or waste management.

The General Commercial and Industrial Code within the Codes SEPP allows as complying development the change of use of one type of commercial premises to another type of commercial premises (**annexure 6**). Because a retail premises is a type of commercial premises, the change of use of a retail premises to another retail premises may be carried out as complying development.

### ***Advantages***

- Property owners and tenants are given a very broad choice of permissible retail land uses.
- Property owners and tenants may change a use through exempt or complying development provisions of the Codes SEPP.
- Residential zone is retained.

### ***Disadvantages***

- Not within the Council's proposed planning intentions for William Street.

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<sup>3</sup> food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) takeaway food and drink premises
- (c) a pub

- Council unable to regulate the intensity of new uses which occur through the exempt and complying development provisions of the Codes SEPP other than where breaches occur to the very limited criteria set by the Codes SEPP.
- No opportunity for community to comment on changes of use where exempt or complying development provisions are used.

#### **6.4 Rezone properties**

This option involves:

- withdrawing the planning proposal,
- submitting a new planning proposal seeking to rezone the properties covered by the original planning proposal from Residential 2(a) to a business zone, probably the Business Neighbourhood 3(c) zone,
- including a 'heads of consideration' clause in the LEP which contains criteria used to assist with assessing the impact and acceptability of uses (DoPI suggestion),

The Business Neighbourhood 3(c) zone allows many non-residential uses including cafes, commercial premises, community facilities, medical centres, shops and restaurants. Mixed development comprising residential and non-residential uses is also permissible. However, dwelling houses are prohibited which means that all current dwelling houses would become non-conforming uses thereby creating existing use rights.

The Business Neighbourhood 3(c) land use zone will be converted to the B4 Mixed Use in the Council's Principal LEP. Within the B4 Mixed Use zone the following uses are mandated through the Standard Instrument:

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Seniors housing; Shop top housing.

In the Standard Instrument commercial premises comprise business premises, office premises and retail premises. The latter uses include bulky goods premises, food and drink premises (including restaurants and cafes), garden centres and shops. Shop top housing is permissible. Dwelling houses may be added as a local use.

#### ***Advantages***

- Property owners and tenants are given a very broad choice of permissible retail land uses.
- Property owners and tenants may change a use through exempt or complying development provisions of the Codes SEPP.

#### ***Disadvantages***

- Not within the Council's proposed planning intentions for William Street.
- Council unable to regulate the intensity of new uses which occur through the exempt and complying development provisions of the Codes SEPP other than where breaches occur to the very limited criteria set by the Codes SEPP.
- No opportunity for community to comment on changes of use where exempt or complying development provisions are used.

## **7. Conclusion**

Proposed changes to the Standard Instrument relating to the use of subzones have the potential to influence the Department's views on the Council's planning proposal for William Street. Therefore, our preferred option at this stage is to request a reconsideration of the original planning proposal. If the Department is not prepared to allow the proposal, the Council will need to turn its mind to alternative planning options for William Street which we have outlined in section 6 of this report.

We consider the Council should support the proposed changes to the Standard Instrument because they are positive and will provide an element of flexibility for LEPs.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

## **Annexure**

1. Report to Urban Planning Committee 13 February 2012.
2. Department of Planning and Infrastructure, Policy Statement, Draft Amendments to the Standard Instrument 2012.
3. Department of Planning and Infrastructure media release 16 May 2012.
4. Department of Planning and Infrastructure Draft LEP Practice Note, Zone E5 Environmental Protection.
5. Codes SEPP, General Exempt Development Code, Subdivision 10A Change of use of premises.
6. Codes SEPP, General Commercial and Industrial Code, Subdivision 2 Change of use of premises.

**POLITICAL DONATIONS DECISION MAKING FLOWCHART  
FOR THE INFORMATION OF COUNCILLORS**

