

## Attachment 2

### Urban Planning Committee report and Council resolution

**Item No:** R1 Recommendation to Council  
**Subject:** **PLANNING PROPOSAL FOR 190-200 BOUNDARY STREET, PADDINGTON**  
**Author:** Jorge Alvarez, Senior Strategic Planner  
**Approvers:** Anne White, Acting Team Leader - Strategic Planning  
Chris Bluett, Manager - Strategic Planning  
Allan Coker, Director - Planning & Development  
**File No:** 17/21512  
**Reason for Report:** To report on a request for a planning proposal submitted to Council by St Vincent's Private Hospital for 190-200 Boundary Street, Paddington. To obtain Council's approval to prepare a planning proposal and forward it to the Greater Sydney Commission for a gateway determination.

**Recommendation:**

- A. That Council prepare a planning proposal which explains a proposed amendment to Woollahra LEP 2014, which will permit development for office premises on land at 190-200 Boundary Street, Paddington, but only if they are ancillary to and associated with St Vincent's Private Hospital.
- B. That the planning proposal described in point A above be forwarded to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- C. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

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**1. Summary**

In December 2016 a request for a planning proposal (contained in Annexure 1) was submitted to Council by St Vincent's Private Hospital (the applicant) for land at 190-200 Boundary Street, Paddington (the site). The request seeks to amend Schedule 1 of the *Woollahra Local Environmental Plan 2014* (WLEP 2014), to permit development for the purposes of office premises, but only if the activities proposed are ancillary to and associated with St Vincent's Private Hospital.

The site is zoned R2 Low Density Residential. Office premises are permitted in the zone, but only if there is a history of lawfully commenced non-residential use on the land, and Council is satisfied the use will not have any adverse impact. As there is no evidence of this type of history, the proposed amendment is required to permit this use. The amendment will apply only to this site.

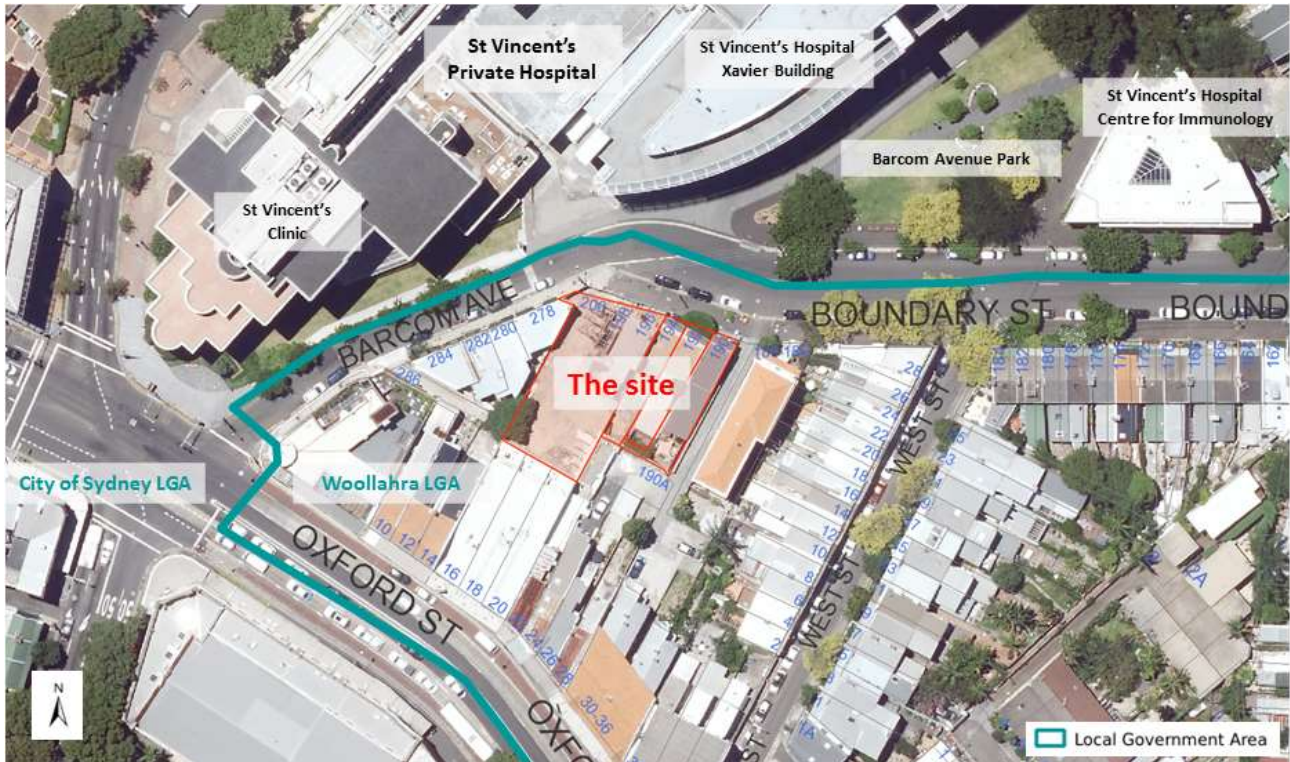
Overall, we support this request because it has strategic merit. We therefore seek a decision of the Council to:

- prepare a planning proposal; and
- forward the planning proposal to the Greater Sydney Commission (GSC) for a gateway determination. The determination will enable the planning proposal to be placed on public exhibition.

## 2. The site

### 2.1 Location and context

The site is located on the southern side of Barcom Avenue / Boundary Street, Paddington, as shown below in Figure 1. Barcom Avenue / Boundary Street forms part of the boundary between the Woollahra and City of Sydney local government areas (LGAs). In this report, the boundary between the LGAs is shown on the maps by a green line.



**Figure 1: Local area map**

Surrounding development consists of:

- North: St Vincent's Hospital precinct and Barcom Avenue Park are located on the opposite side of Barcom Avenue / Boundary Street.
- South: Commercial / retail shops orientated to Oxford Street. Oxford Street forms part of the boundary between Woollahra Council and the City of Sydney local government areas.
- East: A four storey residential flat building at 186 Boundary Street. This building is separated from the site by an access handle driveway approximately 2.9m wide. The driveway provides access from Boundary Street to the rear of No. 30-36 Oxford Street, and neighbouring properties on Oxford Street.
- West: Residential terrace houses on four separately owned lots at 278-284 Barcom Avenue.

The site is highly accessible by public transport. The site is approximately one minute walk from numerous bus services along Oxford Street connecting the Sydney CBD and various eastern suburbs locations, including Bondi Junction and Bondi Beach. The site is approximately five minutes walk to Taylor Square, where numerous bus services connect the Sydney CBD and various other eastern suburbs locations such as Randwick, the University of NSW, Coogee, Maroubra and beyond. The site is approximately fifteen minutes walk from the Sydney CBD, and also from Museum train station which connects to all locations in the City Rail network.

## 2.2 Site description

The site consists of four adjoining lots described below:

- 190 Boundary Street (Lot 3 DP 223679)
- 192 Boundary Street (Lot 2 DP 223679)
- 194 Boundary Street (Lot 1 DP 223679)
- 196 – 200 Boundary Street (Lot 3 DP 84504)

A cadastral map showing property information is included below as Figure 2. The site is highlighted in red.

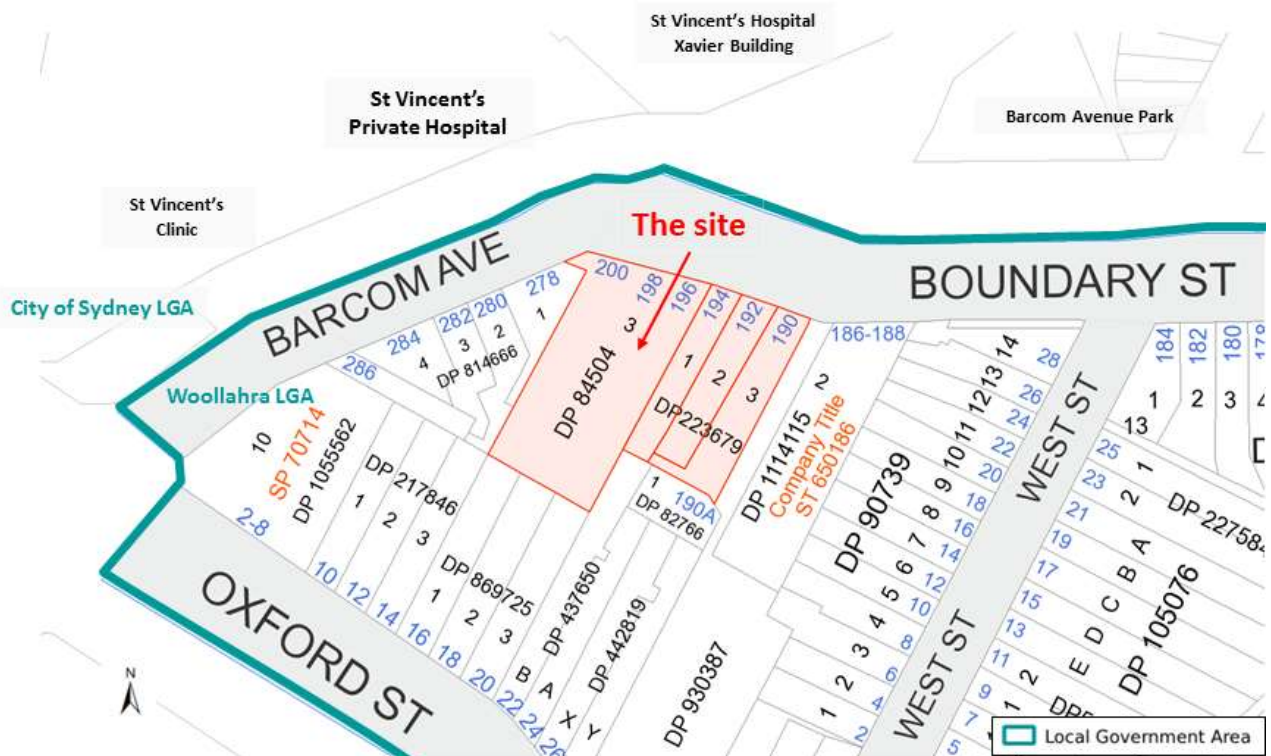


Figure 2: Cadastral map

The site has a total area of approximately 889m<sup>2</sup>. The site has a total frontage of approximately 34m to Barcom Avenue / Boundary Street, and a maximum depth of approximately 33.7m. The site slopes approximately 3m from the south west to the north east, and has a minimal amount of vegetation.

The site is currently developed with five terrace houses dating from the late Victorian / early Federation period. The terraces vary in size and height.

- 190-194 contains three single storey terraces. These terraces are currently used and inhabited for residential purposes.
- 196-200 contains two double storey terraces. These terraces are dilapidated and currently uninhabitable. A significant portion of the site is unbuilt on. This unbuilt portion adjoins the western and southern boundary.

Site photos of the existing development on the site are included as Figures 3 and 4.





*Figure 3: Existing single storey terraces at 190-194 Boundary Street (source SJB)*



*Figure 4: Existing dilapidated double storey terraces at 196-200 Boundary Street (source SJB)*

### 3. Planning controls

The planning controls that apply to the site that are relevant to this planning proposal are described below.

#### 3.1 Zoning

The site is zoned R2 Low Density Residential under the WLEP 2014. The zone generally permits development of low density residential uses, such as dwellings houses and dual occupancies, as well as other land uses that provide facilities or services to meet the day to day needs of residents, such as shops and child care centres. Office premises are permitted in the zone, but only if there is a history of lawfully commenced non-residential use on the land, and Council is satisfied the use will not have any adverse impact.

Adjacent land along Oxford Street is zoned B4 Mixed Use under the WLEP 2014. The zone generally permits development of a mixture of compatible uses such as business, office, retail and residential.

The hospital land to the north, across Barcom Avenue / Boundary Street is zoned SP2 Infrastructure (Health Services Facilities) under the *Sydney Local Environmental Plan 2012* (SLEP 2012). The zone permits development for the purposes of health services facilities, including any development that is ordinarily incidental or ancillary to development for that purpose.

Zoning for the site and surrounding land is shown below in Figure 5.

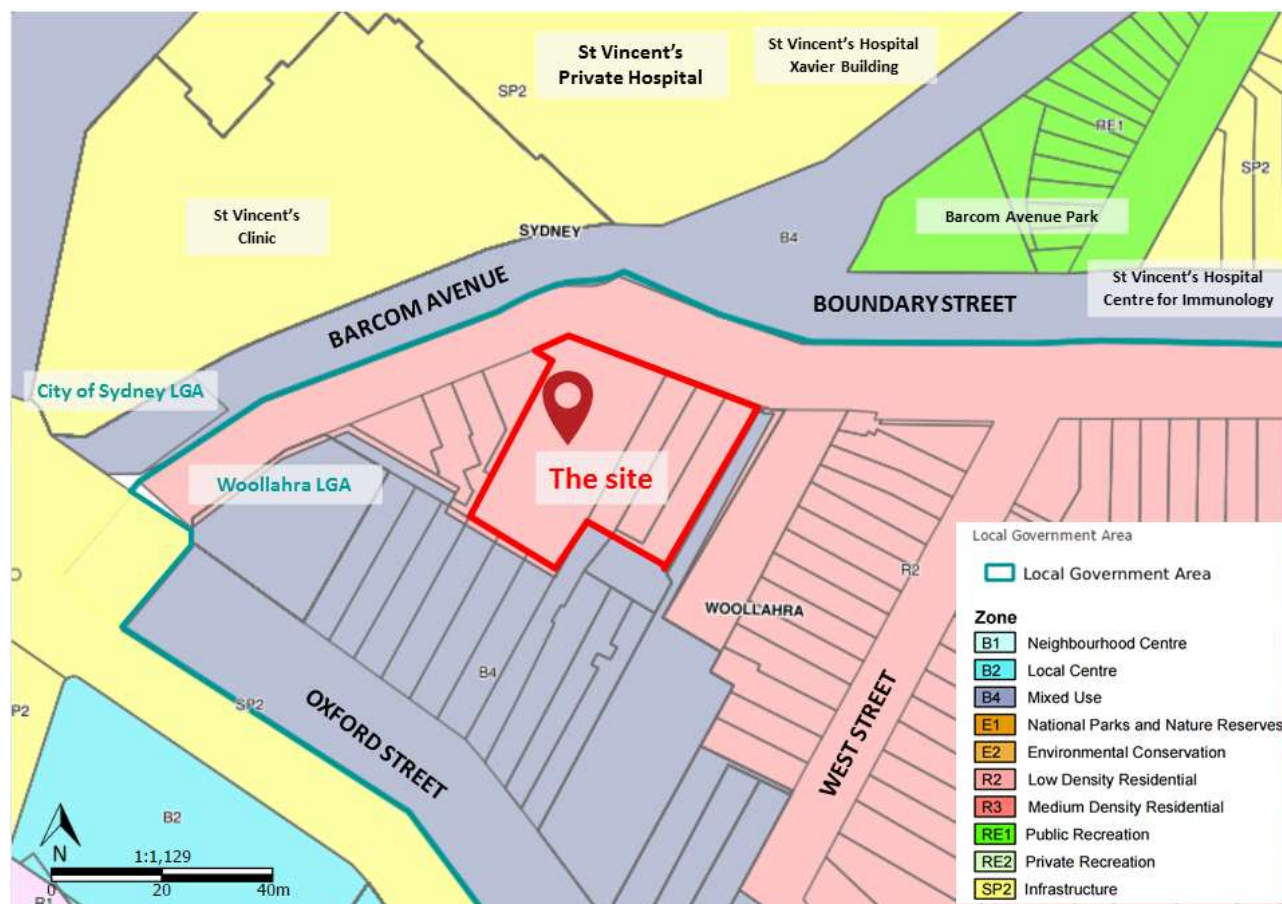


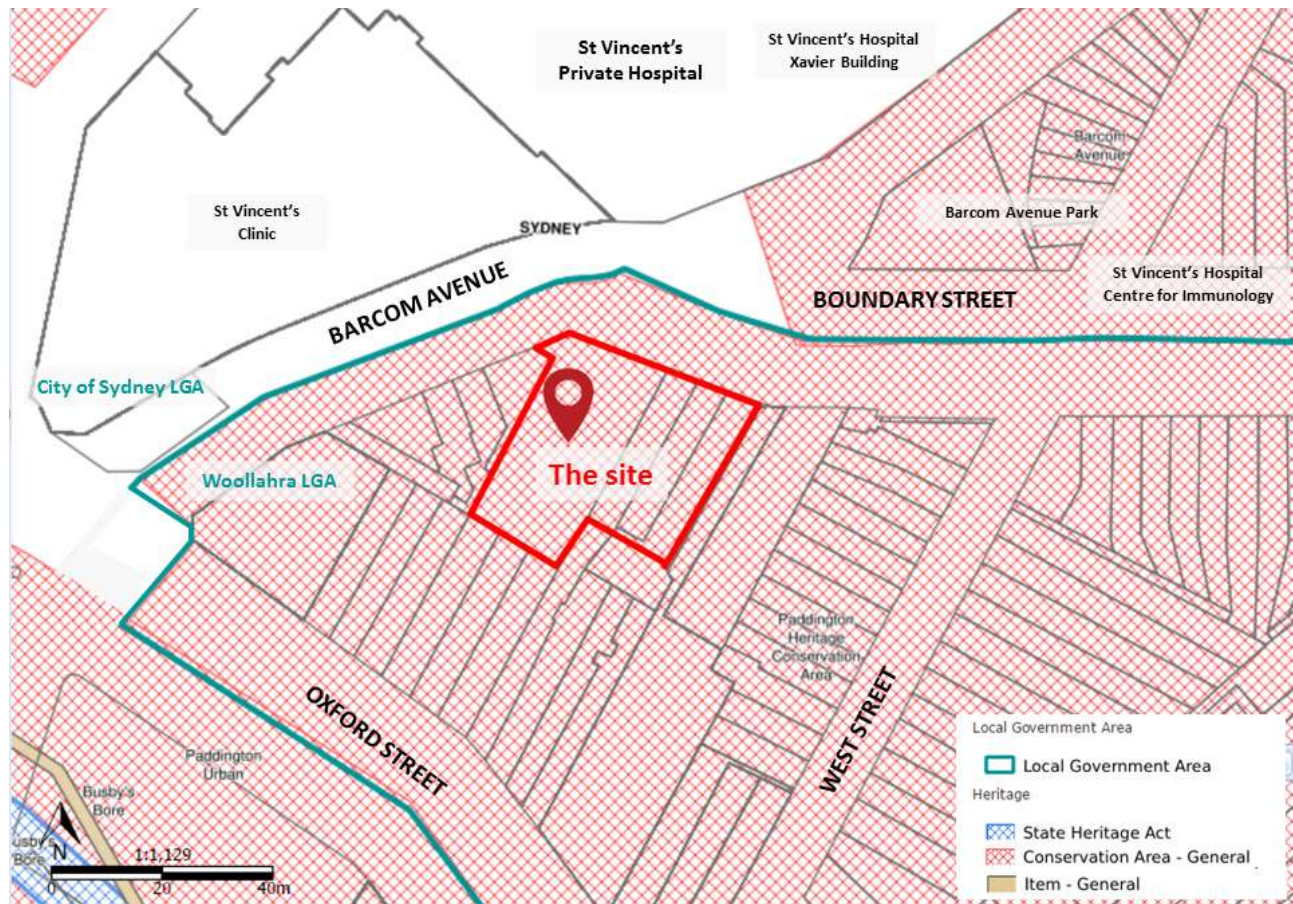
Figure 5: Existing WLEP 2014 land use zoning  
(source: Department of Planning & Environment - Planning Viewer)



### 3.2 Heritage

The site is located within the Paddington Heritage Conservation Area under the WLEP 2014. The buildings located on the site are contributory to the character of the area. There are no heritage items located within the vicinity of the site.

Heritage development controls for the site and surrounding land are as shown below in Figure 6.



**Figure 6: Existing WLEP 2014 heritage conservation**  
(source: Department of Planning & Environment - Planning Viewer)

### 3.3 Land reservation acquisition

At the junction of Barcom Avenue and Boundary Street, a small portion of the site (approximately 3m<sup>2</sup> in size) is shown on the Land Reservation Acquisition Map of WLEP 2014 as land to be acquired for the purpose of a classified road. The Roads and Maritime Services (RMS) are identified as the relevant authority to acquire the land (*clause 5.1 – Relevant acquisition authority*). Council must not grant consent on that portion of the site for any development other than for the purpose of a road (*clause 5.1A – Development on land intended to be acquired for public purposes*). This is a matter to be considered at the development application stage, and does not affect this request. However, we will consult with RMS as part of the public exhibition process.

### 3.4 Contamination

Information from Council's records identifies that 194-200 Boundary Street may have been used as a scrap yard in the past. This use is identified as an activity that may cause contamination under the provisions of both *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP 55), and *Woollahra Development Control Plan 2015* (WDCP 2015) – Chapter E4: Contaminated Land.

The provisions of both of these documents require Council to consider whether the land is contaminated and if so, whether the land is suitable in its current form, or after remediation, for all the purposes which will be permitted on the land as a result of a planning proposal. The onus is on the applicant to demonstrate to Council that the site is, or can be made, suitable for the proposed land use. However, the applicant has not provided any information regarding contamination.

Given the possibility of contamination on the site, we recommend that the applicant undertake contamination investigations consistent with the provisions of SEPP 55. The results of these investigations would be placed on public exhibition as supporting information to the planning proposal, should it progress through the gateway (see Part 6).

### 4. The planning proposal request

The objective of the planning proposal request is to permit development on the site for the purposes of office premises, but only if the activities proposed are ancillary to and associated with St Vincent's Private Hospital.

The site is zoned R2 Low Density Residential. Office premises are permitted in the zone, but only if there is a history of lawfully commenced non-residential use on the land, and Council is satisfied the use will not have any adverse impact. As there is no evidence of this type of history, the proposed amendment is required to permit this use. The amendment will apply only to this site.

#### 4.1 Proposed controls

The request seeks to amend Schedule 1 of the WLEP 2014. Schedule 1 identifies additional permitted uses on certain sites within the Woollahra LGA. An additional clause (Clause 15) is proposed as follows:

##### **15 Use of certain land at 190-200 Boundary Street, Paddington**

- (1) This clause applies to land at 190-200 Boundary Street, Paddington, being Lots 1, 2 and 3 in DP 223679 and Lot 3 in DP 84504.
- (2) Development for the purpose of a place of an office premise is permitted with development consent but only if the consent authority is satisfied that the activities proposed are ancillary to and associated with St Vincent's Private Hospital.

This is a simple and effective way of resolving the land use permissibility issue to achieve the objective of the planning proposal. The planning proposal does not seek to amend any other provision of the WLEP 2014.

#### 4.2 Design concept

An indicative design concept for the site was submitted by the applicant as part of the planning proposal request. The concept comprises:

- adaptive re-use of the terraces at 190-194 for offices; and
- demolition and redevelopment of the existing terraces at 196-200 for offices.



The applicant has stated in their request that the concept will not accommodate medical facilities, treatment rooms, clinical facilities or the like, so will not generate public use or access. Additionally, car parking will not increase as the functions to be accommodated are currently occurring in the existing hospital building and car parking is already provided in the hospital building. However, they also state that there is capacity to accommodate car parking onsite with any future development if it is deemed necessary.

We note the design concept, however, the detailed design of development is a matter to be considered at the development application stage, and does not affect this request.

## **5. Review of the request for a planning proposal**

Section 55 of the *Environmental Planning and Assessment Act 1979* (the Act) sets out what information a planning proposal is to include when submitted for a gateway determination. The Department of Planning and Environment (the Department) has prepared the document titled *A guide to preparing planning proposals* dated August 2016 (the guidelines) to help applicants meet the requirements of the Act. Council staff have reviewed the applicant's request and found that it was submitted in the form of a report which has regard to Section 55 of the Act and the guidelines.

If the request is supported by Council, the planning proposal documentation will be prepared with regard to Section 55 of the Act and the guidelines. The applicant's request will be submitted to the GSC as part of the planning proposal.

### **5.1 Strategic merit**

We have identified that the request has strategic merit and therefore we can provide in principle support. The strategic merit is justified by being consistent with the following strategies and concepts:

- NSW Government's document *A Plan for Growing Sydney* (2014) – Central subregion – Priorities for Strategic Centres (p.111). The request will support health-related land uses and infrastructure around St Vincent's Hospital.
- NSW Government's *Draft Central District Plan* (2016) – Liveability Priority 12: Support planning for health infrastructure (p.124). The request gives due consideration to the need to support the co-location of ancillary commercial uses to complement an existing health precinct.
- *WDCP 2015*, Chapter C1 Paddington Heritage Conservation Area. The request is consistent and sympathetic to the existing mix of development within the Paddington Heritage Conservation Area located within the vicinity of St Vincent's Hospital.
- Council's *Community Strategic Plan, Woollahra 2025 – our community our place our plan*, in particular Goal 4 Well planned neighbourhoods. The request will:
  - encourage and support sustainable development by providing employment opportunities within a highly accessible location for public transport, walking and cycling, and near existing housing.
  - maintain Paddington's mostly low rise (no amendment to the WLEP 2014 height control is proposed), mixed urban form, architecture and heritage.
- State Environmental Planning Policies (SEPPs). The request is consistent with the provision of all relevant SEPPs.

- The Minister for Planning’s relevant section 117 directions. The request is consistent with the following directions:
  - 2.3 Heritage conservation: The request will not prevent the conservation of any items, areas, objects and places of environmental heritage significance and indigenous heritage significance.
  - 3.1 Residential zones: The request will not prevent the site from being developed for residential uses.
  - 3.4 Integrated land use and transport: The request will provide the opportunity to deliver employment generating development in a transport accessible location.
  - 6.3 Site specific provisions: The request does not introduce unnecessarily restrictive site specific controls to the WLEP 2014.
- The request is not on land identified with any environmental constraints.
- The request will enable an economic benefit of providing the potential for additional employment in a location accessible to public transport and walking and cycling options.
- The request will support the functions of St Vincent’s Hospital which provides a sub-regional social benefit of specialist and general health care services.

This opinion is not intended to represent a position regarding the merits of a future development application for the site.

## **5.2 Site-specific merit**

As the site is located in the Paddington Heritage Conservation Area, the request was referred to Council’s Heritage Planner. Council’s Heritage Planner commented that the additional use request is sympathetic to the existing mix of development within the vicinity of St Vincent’s Hospital. No objection was raised to the request.

This opinion is not intended to represent a position regarding the merits of a future development application for the site.

## **6. Options for proceeding**

There are two options for responding to the request:

- prepare a planning proposal and submit it to the GSC, or
- notify the applicant that the request is not supported.

**Option 1:** Prepare a planning proposal and forward it to the GSC requesting a gateway for determination. This is our preferred approach.

Council will forward the planning proposal to the GSC requesting a gateway determination under section 58(2) of the Act. The GSC, or delegate, will then issue a gateway determination specifying whether the planning proposal is to proceed and, if so, in what circumstances. The gateway determination will confirm the information and consultation required before the planning proposal can be publicly exhibited.

To address the matters regarding contamination in the planning proposal we will ask the GSC to apply a condition to the gateway determination to facilitate the following:

- The applicant is to undertake site contamination investigations as outlined in clause 6 of SEPP 55.
- The findings of these investigations must be lodged with Council so that it can form part of the information placed on public exhibition.

Under section 59 of the Act, if a planning proposal is of local significance only Council can seek the delegation of the plan-making steps. This planning proposal is considered to have local significance only, and we would seek the delegation of the plan-making steps. This delegation will be to the position of General Manager, and sub-delegated to the position of Director Planning and Development, provided in Council's resolution of 29 November 2012. Delegation of a planning proposal removes duplication and streamlines the plan-making process.

**Option 2:** Notify the applicant that the request is not supported.

In the event that Council does not support the request or does not indicate its support within 90 days, the applicant can ask the Department for a pre-gateway review. Under this review mechanism, the Sydney Central Planning Panel will undertake an independent review of the planning proposal. This is not our recommended approach.

## 7. Next steps

If the Urban Planning Committee supports the recommendation and it is endorsed by Council, the planning proposal will be prepared and submitted to the GSC requesting a gateway determination under section 58(2) of the Act. The GSC, or delegate, will then issue a gateway determination specifying whether the planning proposal is to proceed and, if so, in what circumstances. The gateway determination will confirm the information and consultation required before the planning proposal can be publicly exhibited.

The public exhibition will be undertaken in accordance with the requirements of the Act and the *Environmental Planning and Assessment Regulation 2000*. The gateway determination will nominate the minimum required exhibition period. We recommend that the planning proposal is exhibited for a minimum of 28 days, should the gateway determination express a lesser period.

Public notification of the exhibition will comprise:

- a weekly notice in the local newspaper (the Wentworth Courier) for the duration of the exhibition period;
- a notice on Council's website;
- a letter to relevant public authorities;
- a letter to land owners in the vicinity of each site;
- a letter to local community groups including the Paddington Society and Paddington Business Partnership.

During the exhibition period the following material will be available on Council's website and in the customer service area at Woollahra Council:

- the planning proposal, in the form approved by the gateway determination;
- the gateway determination;
- the request for a planning proposal; and
- any other relevant reports or documents.



Submissions to the exhibition will be reported to the Urban Planning Committee for Council's further consideration.

## **8. Identification of income**

When a planning proposal is not initiated by Council, under section 11 of the *Environmental Planning and Assessment Regulation 2000* we can request payment of all costs and expenses incurred in relation to the planning proposal. The Delivery Program 2013-2017 and Operational Plan 2016/17 sets out the fees and charges for preparing a planning proposal. The applicant is responsible for all costs associated with the planning proposal as required by the adopted fees and charges. The applicant has paid the fee for stage 1 (up to gateway determination) of a major planning proposal.

## **9. Conclusion**

The planning proposal request seeks to amend Schedule 1 of the *Woollahra Local Environmental Plan 2014* (WLEP 2014), to permit development for the purposes of office premises, but only if the activities proposed are ancillary to and associated with St Vincent's Private Hospital.

The site is zoned R2 Low Density Residential. Office premises are permitted in the zone, but only if there is a history of lawfully commenced non-residential use on the land, and Council is satisfied the use will not have any adverse impact. As there is no evidence of this type of history, the proposed amendment is required to permit this use. The amendment will apply only to this site.

We support this request because it has strategic merit. We therefore recommend that Council:

- prepare a planning proposal; and
- forward the planning proposal to the GSC for a gateway determination. The determination will enable the planning proposal to be placed on public exhibition.

## **Annexures**

1. Request for a planning proposal [↓](#)

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## Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 27 February 2017 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **PLANNING PROPOSAL FOR 190-200 BOUNDARY STREET,  
PADDINGTON**  
**Author:** Jorge Alvarez, Senior Strategic Planner  
**Approvers:** Anne White, Acting Team Leader - Strategic Planning  
Chris Bluett, Manager - Strategic Planning  
Allan Coker, Director - Planning & Development  
**File No:** 17/21512  
**Reason for Report:** To report on a request for a planning proposal submitted to Council by St Vincent's Private Hospital for 190-200 Boundary Street, Paddington. To obtain Council's approval to prepare a planning proposal and forward it to the Greater Sydney Commission for a gateway determination.

**Motion moved by Councillor Robertson  
Seconded by Councillor Cavanagh**

That Council refuse the Planning Proposal at 190-200 Boundary Street, Paddington for the following reasons:

1. Detrimental impacts on the Paddington Heritage Conservation Area (including the loss of heritage built fabric).
2. The loss of R2 zoned land available for residential housing in the Paddington area.

**Amendment moved by Councillor O'Regan  
Seconded by Councillor Keulemans**

- A. That Council prepare a planning proposal which explains a proposed amendment to Woollahra LEP 2014, which will permit development for office premises on land at 190-200 Boundary Street, Paddington, but only if they are ancillary to and associated with St Vincent's Private Hospital.
- B. That the planning proposal described in point A above be forwarded to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- C. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

**The Amendment was put and carried.  
The Amendment became the Motion.  
The Motion was put and carried.**

**(O'Regan/Keulemans)****28/17 Resolved:**

- A. That Council prepare a planning proposal which explains a proposed amendment to Woollahra LEP 2014, which will permit development for office premises on land at 190-200 Boundary Street, Paddington, but only if they are ancillary to and associated with St Vincent's Private Hospital.
- B. That the planning proposal described in point A above be forwarded to the Greater Sydney Commission requesting a gateway determination to allow public exhibition.
- C. That when requesting a gateway determination for the planning proposal, the Council seek delegation of the plan-making steps under section 59 of the *Environmental Planning and Assessment Act 1979*.

*Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.*

***For the Motion***

Councillor Bennett  
Councillor Keulemans  
Councillor Levenston  
Councillor O'Regan  
Councillor Petrie  
Councillor Wynne

***Against the Motion***

Councillor Cavanagh  
Councillor Elsing  
Councillor Marano  
Councillor Robertson

**6/4**