



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Monday 23 March 2009*

**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).

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

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- 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 below:

## **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.

## **Committee Membership:**

7 Councillors

## **Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

19 March 2009

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio  
Councillors Toni Zeltzer (Chair)  
Sean Carmichael  
Lucienne Edelman (Deputy)  
Nicola Grieve  
Chris Howe  
David Shoebridge  
Malcolm Young

Dear Councillors

### **Urban Planning Committee Meeting – 23 March 2009**

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 **Committee Room, 536 New South Head Road, Double Bay, on Monday 23 March 2009 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	
3	Declarations of Interest	

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

D1	Confirmation of Minutes of Meeting held on 9 March 2009	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Overview of the Strategic Planning Working Party Meeting on Woollahra's New Principal LEP – 1067.G WP	2
R2	William Street Paddington – Expansion of Permissible Land Uses – 1064.G	14

**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 9 March 2009**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 9 March 2009 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 9 March 2009 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** R1 Recommendation to Council  
**Subject:** **Overview of the Strategic Planning Working Party Meetings on Woollahra's New Principal LEP**  
**Author:** Jacquelyne Jeffery - Team Leader Strategic Planning  
**File No:** 1067.G WP  
**Reason for Report:** To provide an overview of the Strategic Planning Working Party meetings held on the preparation of Woollahra's new Principal LEP.

### **Recommendation**

- A. THAT the overview of the four Strategic Planning Working Party meetings, held between 27 November 2008 and 26 February 2009, be received and noted.
- B. THAT progress on the preparation of Woollahra's new Principal LEP and its development through the Strategic Planning Working Party be received and noted.

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### **Background**

The Strategic Planning Working Party (SPWP), comprising 8 Councillors, though not a decision making body, provides key input and direction to major urban planning projects.

The preparation of Woollahra's new Principal local environmental plan (LEP) is one such project requiring the SPWP's involvement.

The new Principal LEP will replace the Woollahra LEP 1995 (WLEP 95), and will provide a comprehensive guide to development in the Woollahra Municipality over the 7-10 year life of the LEP. Hence, Councillors' interest, detailed knowledge and involvement in the preparation of the new LEP is vital.

### **Strategic Planning Working Party meetings**

Under the term of this current Council, the SPWP has met 4 times with Council's Strategic Planning and Urban Design staff, to discuss and inform the preparation of the new Principal LEP.

These meetings were held on—

- 27 November 2008
- 4 December 2008
- 12 February 2009
- 26 February 2009

Councillors' attendance and participation at each meeting has been strong. All Councillors, not just members of the SPWP, are invited and encouraged to attend. The attendance list is provided at Annexure 1.

An overview of each meeting to date, is provided in this report.

***SPWP meeting—27 November 2008***

**Purpose**

The SPWP meeting held on 27 November 2008 was the first with the newly elected Councillors.

The meeting provided Councillors with an introduction to the Strategic Planning section's key project—preparing Woollahra's new principal LEP, and identified that a series of SPWP meetings would be held during 2009 to inform the direction of work on the new LEP.

**Key agenda items**

- *Presentation on the Standard Instrument (Local Environmental Plans) Order 2006 (SI), which establishes the template for Council's new LEP*

Staff explained key operating principles for understanding the SI including the role of the—

- Standard zones, clauses and definitions;
  - Compulsory provisions: 'compulsory' clauses, 'compulsory (if applicable)' clauses, and 'optional' clauses;
  - Local provisions, including requirements for Department of Planning approval for any clause proposed by Council outside the scope of the SI; and
  - Standard Dictionary.
- *Discussion on key planning issues in Woollahra, including how the issues may or may not be accommodated under the SI framework*

Councillors were asked to identify their key planning issues. Issues identified included—height and floorspace ratio controls, zone boundary interface conflicts and building bulk, heritage and conservation, environmentally sustainable development, energy conservation, marinas, building envelopes and excavation.

Staff identified that some of these issues may be considered in preparing the new Principal LEP, while others are not LEP issues, but will be further considered in the review of Council's development control plans (DCPs).

Other planning related issues outside the scope of the LEP and DCP preparation framework were also raised by Councillors. These included matters such as enforcement of landscaping conditions and maintaining trees on public and private land.

- *Proposed SPWP meetings schedule*

Schedule of Strategic Planning Working Party meetings tabled. Identifies key consultation opportunities and the topics of discussion. Copy provided at Annexure 2.

**Outcomes**

- Build understanding of how the SI operates. In particular, the limitations of the SI for addressing matters currently included in the current WLEP 95.
- Identify range of key planning issues.

***SPWP meeting—4 December 2008***

**Purpose**

The SPWP meeting held on 4 December 2008 addressed the NSW Government's planning framework for growth and how it relates to Woollahra's new principal LEP. Particular focus was on the requirement for Woollahra to provide capacity within its LEP for 2,900 new dwellings.

**Key agenda items**

- *Presentation on the NSW Government Draft East Subregional Strategy*

Staff explained that the Draft East Subregional Strategy is a NSW Government initiative developed to implement its "2005 Metropolitan Strategy – City of Cities: A Plan for Sydney's Future". The Draft East Subregion comprises Botany Bay, Randwick, Waverley and Woollahra LGAs. The Draft Strategy establishes housing and employment targets for the subregion and also for each area. Council's LEPs must be used to demonstrate capacity to meet these targets.

The total target for the East Subregion is 20,000 new dwellings and 20,000 new jobs to 2031. Woollahra's share of the targets is—2,900 new dwellings and 300 new jobs. The zoning and density provisions in Woollahra's new Principal LEP must demonstrate capacity to meet 75% of these housing and employment targets (being 2,175 and 225 respectively).

To achieve the housing target, the Strategic Planning and Urban Design staff are reviewing current zones and densities to identify opportunities to increase residential yield in suitable locations. Staff recognise that this planning requirement may not be popularly accepted by the community, however, impressed that it is NSW Government direction that all councils must meet.

- *Presentation on existing housing capacity under the current WLEP 95 zoning framework*

Staff identified that not all land within Woollahra is currently developed to its highest and best yield, therefore there is some latent capacity within Woollahra's existing zoning framework. Notwithstanding, it is insufficient to meet the targets under the Draft East Subregional Strategy.

The type of options for increasing housing capacity under the new Principal LEP discussed included—

- Rezoning land from 2(a) to 2(b), particularly around the 'transition zone boundary areas';
- Increasing FSR and height controls in the business and neighbourhood centres and medium density residential zone;
- Increasing FSR and height controls at key transport nodes, specifically the Edgecliff centre and New South Head Road corridor between Edgecliff and Rushcutters Bay.
- Relaxing minimum frontage and site area standards for multi-unit development (as currently set out in clause 10B);
- Introducing minimum dwelling density controls.

Councillors stated that protection of heritage values and public recreation areas needs to be unequivocally considered when determining suitability for increased housing.

**Outcomes**

- Noted that the draft Woollahra Principal LEP must demonstrate capacity for 2,175 new dwellings and 225 new jobs.
- Acknowledgement that a suitable balance must be found between protecting character and providing for increased housing opportunities in the new Principal LEP. This balance would be best achieved if Councillors and staff work together to identify suitable opportunities.

**SPWP meeting 12 February 2009**

**Purpose**

The SPWP meeting held on 12 February 2009 addressed land use zones. In particular, the Residential, Special Use, Open Space zones, as well as unzoned land, in the WLEP 95 were considered; with a view to explaining how those zones are proposed to be translated into the new Principal LEP.

**Key agenda items**

- *What are land use zones?*

Land use zoning is a primary planning control. It defines the character and function of an area by establishing the zone objectives and range of land use types that are permitted or prohibited on land under the zone.

- *Translation process for developing the new Woollahra Principal LEP land use zones*

Staff explained that current zones and land uses in the WLEP 95 would be translated into the new Principal LEP using the SI zones and definitions. This translation process is based on nearest and best fit, but will inevitably result in some changes arising from SI mandated uses in certain zones, and differences in the definitions of land use terms between the WLEP 95 and SI.

- *Residential zones*

Residential 2(a) and 2(b) zones in the WLEP 95 will be ‘translated’ into the RE2 Low Density Residential Zone and RE3 Medium Density Residential Zone under the SI. Staff identified that it is not expected that this translation process will result in any significant changes in the land uses from the current situation.

- *Recreation zones*

The Open Space Zone in the WLEP 95 will be ‘translated’ into the R1 Public Recreation Zone and R2 Private Recreation Zone.

Staff identified that this translation process requires publicly owned open spaces to be distinguished from private open space areas. The current WLEP 95 does not make this distinction. However, it is not expected that this translation process will result in any significant changes in the land uses from the current situation.

Further to this, a review of all open space areas was undertaken to identify additional land to identify as public open space, and land that should no longer be zoned for open space purposes.

In determining requirements for zoning of open space land in the new Principal LEP, the following decision rules will be applied—

Category of Open Space	Decision Making Principles
1. Extensions of existing open spaces	Where open space site is greater than the zone suggests – extend the recreation zone accordingly
2. New Open Space Linkages	Rezone an existing parcel (such as a pathway or drainage easement) if publicly owned and provides a primary access to another open space
3. New Open Spaces	Propose a new open space, where a site meets the objectives of the zone

4. Proposed Removal of Open Space Zone	If a site no longer contributes to an open space zone, remove, and zone the parcel the adjoining predominant zone
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- *Open space reservations*

Regional and Local Open Space Reservations in the WLEP 95 have been reviewed to determine the suitability and likelihood for future acquisition, particularly considering the acquisition requirements in the SI, clause 5.1.

Staff identified that the Local Open Space Reservation land at Lady Martins Beach (Point Piper) requires further investigation as the digital production of the WLEP 95 map appears to identify land for local open space reservation that has been developed for swimming pools and other private structures.

- *Special Use zoned land*

Staff also explained that all land zoned 5 Special Use in the WLEP 95 must be reviewed as the Department of Planning has directed all councils that the SP2 Infrastructure Zone (i.e. the nearest equivalent zone under the SI) must only be applied in limited circumstances.

This is a significant departure from the current zoning practice; there are 23 types of special uses in the WLEP 95, which include social infrastructure type uses such as ‘church’, ‘fire station’, ‘hospital’ and ‘schools’ as well as utility infrastructure type uses such as ‘depot’, ‘lighthouse’, ‘railway’ and ‘stormwater channel’.

In determining the proposed zone for existing 5 Special Use zoned land in the new Principal LEP, the following decision rules will be applied—

Category of Special Use zoned land	Decision Making Principles
1. Infrastructure SEPP applies and allows development with consent on any land	Apply the predominant adjoining zone
2. Infrastructure SEPP applies and allows development with consent in prescribed zones	If the predominant adjoining land is a prescribed zone – apply that zone <i>or</i> If the predominant adjoining land is not a prescribed zone apply the SP2 Infrastructure zone
3. Infrastructure SEPP does NOT apply	Apply the predominant adjoining zone and permit the use in the zone
4. Exceptions	Apply Recreation zone due to significance of land and community use

- *Unzoned land*

All unzoned land, including roads, in the WLEP 95 must be reviewed. This is another direction from the Department of Planning. The Department identify that applying a zone to all land will facilitate a more efficient planning and development assessment framework.

In determining the proposed zone for existing 5 Special Use zoned land in the new Principal LEP, the following decision rules will be applied—

Category of Unzoned Land	Decision Making Principles
1. Roads	Apply the predominant adjoining zone – unless Classified Roads (SP2 Infrastructure)
2. Maritime Sites	If land falls above the water mark (and does not fall within the harbour) apply the appropriate adjoining zone
3. Laneways	Apply predominant adjoining zone – unless land provides a principal open space link
4. “Leftovers” i.e. unzoned anomalies	Apply predominant adjoining zone
5. Exceptions	Detailed review required determined on a case by case basis

### Outcomes

- Staff investigated—
  - Tenure of Woollahra Golf Club—land is proposed to be zoned RE1 Public Recreation in the draft Principal LEP.
  - Boundary line for the Local Open Space Reservation land at Lady Martins Beach (Point Piper) in the WLEP 95—Bounds for reserved area in the draft Principal LEP are to be in accord with the numerical dimensions shown on the WLEP 95 Land Use Map, Inset 5.
- Noted that the translation process between the WLEP 95 and the new Principal LEP will result in some inevitable changes arising from the rigidity of the SI; but generally—
  - for the Residential Zones, it will not result in significant land use changes from the current WLEP 95.
  - for the Recreation Zones, it will not result in significant land use changes from the current WLEP 95.
- Noted the decision making principles that will inform proposed rezonings of—
  - 5 Special Use zoned land;
  - 6 Open Space zoned land; and
  - Unzoned land.

A list of all rezonings arising from the application of these decision making principles will be presented to the SPWP and Council later in the year with other reports.

### *SPWP meeting 26 February 2009*

#### Purpose

The SPWP meeting held on 26 February 2009 provided an overview of business land use zones in the WLEP 95, and how those zones are proposed to be translated into the new Principal LEP.

The WLEP 95 contains 4 business zones—

- 3(a) General Business—applies to business centres at Double Bay, Edgecliff and Rose Bay
- 3(b1) Special Business—applies to certain land along the New South Head Road corridor between Edgecliff and Rushcutters Bay
- 3(b1) Restricted Special Business—applies to the Doyle’s and Watsons Bay Hotel precinct
- 3(c) Neighbourhood Business—applies to 17 other centres, including areas such as the Plumer Road shops, Vaucluse Shopping Village, and the Oxford Street retail street.

### Key agenda items

- *Translation of business zones*

Staff identified that the ‘translation’ of business zones into the SI business zones is not as easy as the translation process for the other zones. However, in broad terms, the translations are as follows—

- 3(a) General Business zone, WLEP 95 to be ‘translated’ into B2 Local Centres Zone
- 3(b) Special Business zone, WLEP 95 to be ‘translated’ into B4 Mixed Use Zone
- 3(b1) Special Restricted Business zone, WLEP 95 to be ‘translated’ into the SP3 Tourist Zone
- 3(c) Neighbourhood Business zone, WLEP 95 to be ‘translated’ into the B1 Neighbourhood Centres Zone

- *Hierarchy of business centres in Woollahra*

Land use surveys have been undertaken to better understand the centres, the way they function, and the suitability of the current zones—with a view to establishing a centres hierarchy and identifying opportunities for rezoning land. Following discussions with Councillors a new hierarchy of centres is proposed, and is the basis for further review.

Zone under the Standard Instrument	Centre
B2 Local Centre	<ul style="list-style-type: none"> <li>• Double Bay Centre</li> <li>• Edgecliff Centre</li> <li>• Rose Bay Centre</li> </ul>
B4 Mixed Use	<ul style="list-style-type: none"> <li>• Oxford Street, Paddington</li> <li>• Queen Street, Woollahra</li> <li>• New South Head Road, Edgecliff</li> <li>• Rose Bay North, Rose Bay</li> <li>• Rose Bay South, Rose Bay</li> </ul>
B1 Neighbourhood Centre	<ul style="list-style-type: none"> <li>• Military Road, Watsons Bay</li> <li>• Hopetoun Avenue, Vaucluse</li> <li>• South Head Roundabout, Vaucluse</li> <li>• Vaucluse Shopping Village, Vaucluse</li> <li>• New South Head and O’Sullivan Roads, Rose Bay West</li> <li>• Plumer Road, Rose Bay</li> <li>• Bellevue Road, Bellevue Hill</li> <li>• Streatfield &amp; Bellevue Roads, Bellevue Hill</li> <li>• Edgecliff Road &amp; Old South Head Roads, Woollahra (Proposed)</li> <li>• Edgecliff Road, Woollahra</li> <li>• Manning Road, Woollahra</li> <li>• Five Ways, Paddington</li> <li>• New South Head Road, Edgecliff</li> <li>• Boundary &amp; Glenview Roads, Paddington (Proposed)</li> </ul>
SP3 Tourist	<ul style="list-style-type: none"> <li>• Watsons Bay North</li> </ul>

- *B4 Mixed Use Zone*

Staff identified that the proposed application of the B4 Mixed Use Zone in the new Principal LEP represents the most significant change to the current business zoning regime and hierarchy.

It is proposed that the B4 Mixed Use Zone will be applied to business centres that may be generally characterised as corridor or strip centres. For example—

- Oxford Street, between Barcom Avenue and Queen Street, is currently zoned 3(c) Neighbourhood Business, but functions as a boutique retail strip with a wide retail catchment area, and not a neighbourhood function. The B4 Mixed Use Zone therefore better reflects the nature of the centre compared to the B1 Neighbourhood Centre Zone.
- New South Head Road, between Edgecliff and Rushcutters Bay, is currently zoned in parts—3(a) General Business, 3(b) Special Business and 3(c) Neighbourhood Business. There are various non-conforming land uses in this area, including shops which are prohibited under the 3(b) zone. The proposed zoning of this corridor to the B4 Mixed Use Zone will provide clearer direction on the function of the corridor by rationalising the zoning pattern, as well as establishing a zone that more appropriately reflects the range of land uses that exist on the land.

- *Extent of the business zones*

The boundaries of all centres were also discussed. Staff advised that the extent of the business zone boundaries will be reviewed to ensure that the boundaries appropriately reflect actual land uses. For example, there are opportunities to extend—

- B2 Local Centre Zone to land at Nos. 422-424 and 479-481 New South Head Road, Double Bay, consistent with the zone proposed for all other business land in the Double Bay centre.
- B1 Neighbourhood Centre Zone to land at No. 77 New South Head Road, Vaucluse, following further investigation and consultation with Councillors.

- *Business uses on residential zoned land*

Staff also identified that there are numerous business uses on residential zoned land. These areas were investigated to determine suitability for rezoning to a business zone.

Such land was categorised into 3 groups—

- Groups of shops which collectively serve a neighbourhood function;
- Businesses and non residential/commercial buildings located in a conservation area, permitted by WLEP 1995 clause 30 “Additional uses within heritage conservation areas”; and
- Individual business premises which do not form part of a centre, but provide a service for the immediate neighbourhood.

The decision rule to be applied is—that those businesses identified as a ‘group of shops which collectively serve a neighbourhood function’ are to be rezoned from residential to the B1 Neighbourhood Centre Zone. Examples include the shops located at Boundary Street and Glenview Street, Paddington.

Further consideration will be given to those business premises operating under the provisions of WLEP 95, clause 30 (such as the properties in Queen Street, Woollahra) pending advice from the Department of Planning on whether clause 30 can be included in Woollahra’s new Principal LEP. If clause 30 cannot be included, certain land will be further considered to determine suitability for rezoning to a business zone.

### Outcomes

- Noted that the translation process between the WLEP 95 and the new Principal LEP will result in some inevitable changes arising from the rigidity of the SI; but generally—
  - For 3(a) and 3(c) zoned land, the type of permitted land uses will be similar to those currently permitted under the WLEP 95.
  - The key change proposed relates to land currently zoned 3(b) Special Business, located at New South Head Road, Edgecliff, which is proposed to be zoned B4 Mixed Use. The B4 Mixed Use zone will permit a greater range of retail uses, including shops and restaurants, which are currently prohibited in the 3(b) zone.
- Noted the decision making principles that will inform proposed rezonings of—
  - groups of shops which collectively serve a neighbourhood function to the B1 Neighbourhood Centre Zone.

A list of all rezonings arising from the application of this decision making principle will be presented to the SPWP and Council later in the year with other reports.

- Provide the SPWP with a history of consents for No. 77 New South Head Road, Vaucluse.
- Await advice from the Department of Planning on including WLEP 95, clause 30 “Additional uses within heritage conservation areas” in the new Principal LEP. If the Department do not support this clause—undertake a review of the affected business premises to determine suitability of applying a residential or business zone.

### Next meeting

The next SPWP meeting is scheduled for 26 March 2009. The meeting will address matters relating to height and floor space ratio. All Councillors are welcome and encouraged to attend.

### Conclusion

The SPWP meetings have provided an excellent forum for Councillors and Strategic Planning staff to discuss planning issues and inform the preparation of Woollahra’s new Principal LEP.

Staff recognise that some Councillors cannot attend the SPWP meetings because of work and other commitments, and also that the SPWP does not have decision making powers. To help keep all Councillors informed of the new LEP’s progress, the material distributed at the SPWP meetings is similarly provided to all other Councillors; furthermore, senior staff are available to give those Councillors an overview of the SPWP meetings.

It is anticipated that the draft Woollahra Principal LEP will be prepared by the second half of this year and reported to Council. Prior to the draft LEP being reported, Strategic Planning and Urban Design staff will also schedule Councillor briefings to further explain the provisions and detail changes proposed in the new draft LEP.

Allan Coker  
Director Planning and Development

Chris Bluett  
Manager Strategic Planning

Jacquelyne Jeffery  
Team Leader Strategic Planning

**Annexure**

1. Strategic Planning Working Party meetings—Attendance List
2. Schedule of Strategic Planning Working Party meetings to progress the new Principal LEP

**ANNEXURE 1:  
Strategic Planning Working Party meetings—Attendance List**

		<b>27 November 2008</b>	<b>4 December 2008</b>	<b>12 February 2009</b>	<b>26 February 2009</b>
<b>Strategic Planning Working Party Members</b>	The Mayor, Cr Petrie	Y	Y	Y	Y
	Cr Edelman	Y	Y	Y	
	Cr Grieve	Y	Y	Y	Y
	Cr Howe	Y	Y		Y
	Cr Shapiro		A	A	
	Cr Young	Y	Y		Y
	Cr Wynne	Y	Y	Y	
	Cr Zeltzer	Y	Y	A	Y
<b>All other Councillors</b>	Cr Carmichael			Y	Y
	Cr Boskovitz	A		Y	
	Cr Cavanagh				
	Cr Jarnason				
	Cr Medcraft				
	Cr Plater	Y	Y	Y	Y
	Cr Shoebridge	A			

Y = Attended

A = Apologies received

**ANNEXURE 2:**

**Schedule of Strategic Planning Working Party meetings to progress the new Principal LEP**

<b>Meeting date</b>	<b>Topic</b>
27 November	Introduction and Ideas
4 December	Housing and employment growth <ul style="list-style-type: none"><li>• NSW Govt's Subregional Strategy and housing targets</li><li>• How to accommodate growth in Woollahra while balancing local needs and local character?</li></ul>
12 and 18 February	Land use zones <ul style="list-style-type: none"><li>• Translating WLEP95 zones into the Standard Instrument</li><li>• Land proposed to be rezoned</li></ul>
26 March	Development Standards (Height and FSR) <ul style="list-style-type: none"><li>• Translating WLEP95 controls into the Standard Instrument</li><li>• Controls proposed for change</li></ul>
23 and 30 April	Local provisions For example: Building sustainability, Conservation, Heritage, Housing diversity and dwelling sizes, Minimum site area for RFBs
11 June	Initial Draft LEP <ul style="list-style-type: none"><li>• Presentation and discussion</li></ul>
3 July	Final Draft LEP <ul style="list-style-type: none"><li>• Presentation and discussion</li></ul>

**Item No:** R2 Recommendation to Council

**Subject:** **William Street Paddington- Expansion of Permissible Land Uses**

**Author:** Anne White – Senior Strategic Planner

**File No:** 1064.G

**Reason for Report:** To inform Council of advice received from the Department of Planning. To obtain Council's decision to informally exhibit the three options for William Street, in response to the advice provided by the Department of Planning.

### **Recommendation**

- A. That the advice from the Department of Planning in a letter dated 09 March 2009 be noted.
  - B. That the three planning options for the William Street precinct as set out in the Council's decision on 17 November 2008 be informally exhibited for public consultation in order to establish the Council's preferred option.
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### **Introduction**

The purpose of this report is to update Council on advice received from the Department of Planning (the Department). This report also seeks a decision regarding the informal exhibition for public consultation of the three planning options for William Street, Paddington.

Council made a decision at the meeting of 17 November 2008 to prepare three draft local environmental plans (LEP) for William Street. Each of these draft LEPs incorporates a slight variation for enabling the provision of additional land uses for the William Street properties and are as follows:

- Option 1** – the draft local environmental plan attached as annexure 7 to the report to the Urban Planning Committee on 3 November 2008 (see annexure 1). This plan applies to Nos. 12 to 42, Nos. 48-94, Nos. 3 to 43 and Nos. 45-63 William Street, Paddington. The additional uses are restricted to within the ground floor of the building. The upper floor may be used for associated storage and offices or residential purposes.
- Option 2** – the draft local environmental plan attached as annexure 8 to the report to the Urban Planning Committee on 3 November 2008 (see annexure 2). The plan applies only to Nos. 32, 34, 36, 40, 50, 52, 64, 70, 76, 78, 80, 84 and Nos. 3, 5, 9, 11, 15, 17, 19, 21, 23, 53, and 59 William Street, Paddington. These properties were identified by survey on 15 August 2008 as being occupied by a proposed additional permissible use nominated in the draft LEP attached as annexure 8. The ground and upper floor restrictions as set out in option 1 do not apply.

**Option 3** - the draft local environmental plan as annexure 8 to the report to the Urban Planning Committee on 3 November 2008 (see annexure 3). The plan applies only to Nos. 32, 34, 36, 40, 50, 52, 64, 70, 76, 78, 80, 84 and Nos. 3, 5, 9, 11, 15, 17, 19, 21, 23, 53, and 59 William Street, Paddington. These properties were identified by survey on 15 August 2008 as being occupied by a proposed additional permissible use nominated in the draft LEP attached as annexure 8. The upper floor may be used for associated storage and offices or residential purposes.

However, the Department have since provided formal advice that the preparation of three different draft LEPs is not an appropriate solution, and that Council should only proceed with the LEP process when a single preferred option is identified.

## Background

The proposed expansion of permissible land uses in William Street Paddington arises from the consideration of options to address the illegal commencement of retail uses within certain residential premises which are zoned Residential 2(a). These businesses have established a small, boutique-style retail enclave which focuses on clothing, jewellery and health and beauty shops. The Council formed a view that it would be reasonable to allow a limited range of retail uses in certain premises along William Street.

The Council's consideration of this matter corresponded with the preparation of the neighbourhood centres draft LEP and draft DCP. Consequently, the proposal to expand permissible uses in William Street was initially incorporated with Draft Woollahra LEP 1995 (Amendment No.60). However, the William Street provisions were later removed from Draft Woollahra LEP 1995 (Amendment No.60) and are being addressed through separate draft LEPs.

There has been a substantial amount of research and debate about the William Street properties, which is illustrated in the summary provided in the table below. Council's latest position on this matter was decided at the meeting of 17 November 2008, where it was resolved to prepare three draft local environmental plans (LEP) for William Street.

13 March 2006	Report to Urban Planning Committee on unauthorised uses in William Street and Elizabeth Streets Paddington.
27 March 2006	Decision of Council to prepare a draft LEP and amendment to the Paddington DCP for selected properties in William Street to allow nominated land uses.
11 May 2006	Submission of LEP information to the Department of Planning under section 54(4) of the <i>Environmental Planning and Assessment Act 1979</i> .
10 January 2007	Written authorisation from Director-General Department of Planning to exercise delegations under section 65 and 69 of the Act. This authorised certification by Council of a draft LEP for exhibition purposes.
25 January 2007	Letter to owners of properties in and adjoining William Street about Council's decision and inviting comments prior to exhibition of draft LEP.
12 March 2007	Report to Urban Planning Committee with submissions received from property owners, traders and interested parties.
26 March 2007	Decision of Council to note report on submissions.
11 May – 22 June 2007	Public exhibition of Draft Woollahra LEP 1995 (Amendment No.60) and Draft Neighbourhood Centres DCP.

8 October 2007	Report to Urban Planning Committee on submissions arising from public exhibition process.
29 October 2007	Decision of Council to submit exhibited Draft LEP to Department of Planning for Minister's approval and gazettal. Several changes were made to the Draft LEP, including addition of a clause delaying operation of provisions for William Street until an amendment to the Paddington DCP had commenced.
17 December 2007	Report to Urban Planning Committee on the outcome of consultation with the Department of Planning and Parliamentary Counsel about the intention to delay operation of the William Street provisions.
29 January 2008	Decision of Council to defer consideration to require the upper floor of the subject William Street premises to be used primarily for residential purposes.
11 February 2008	Report to Urban Planning Committee responding to decision of 29 January 2008.
25 February 2008	Decision of Council to: defer William Street provisions from Draft Woollahra LEP 1995 (Amendment No.60); include William Street provisions in a separate draft LEP with restriction that the upper floor of premises "may only be used for residential purposes."
26 May 2008	Report to Urban Planning Committee responding to Council's decision on 25 February 2008.
10 June 2008	Decision of Council to prepare two draft LEPs, one of which excludes the words "the upper floor may only be used for residential purposes."
25 August 2008	Report to Urban Planning Committee seeking clarification of Council's decision of 10 June 2008.
8 September 2008	Decision of Council –as above.
03 November 2008	Report to Urban Planning Committee seeking to amend the second of the two Options in line with Council's intent and prepare two draft LEPs (see annexure 4)
17 November 2008	Decision of Council to prepare three draft LEPs (accept the amended second option, but also to include a third option (see annexure 5)).

### **Advice from the Department of Planning**

The Council's decision of 17 November 2008 was informally raised with the Department as part of ongoing liaisons about current projects. The Department immediately expressed some concern about the Council's proposal to prepare three LEPs.

Accordingly, Council officers wrote to the Department on 19 February 2009 asking for the Department's formal advice on this matter. In particular, advice from the LEP Review Panel was requested in order to establish whether the submission of three draft LEPs would be supported.

The Department formally responded with a letter dated 09 March 2009 (annexure 6). This advice confirms that the Department does not support Council's resolution to prepare three separate LEPs as a means to provide the community with an opportunity to comment on Council's three planning options. The Department recommends that Council determines which of the three options it wishes to proceed with and then resolve to pursue the preferred option through the LEP process.

It was further advised that in order to establish the preferred option, the Council should proceed by informally exhibiting the three options for public consultation. This would provide the opportunity for the public to compare the options and express comment, prior to Council making an informed decision on which option to progress.

### **Identification of the preferred option**

As the Department's advice confirms that the LEP Review Panel will not consider three draft LEPs, Council is required to identify the preferred option to progress through the LEP process. The Department has recommended that this is best achieved by carrying out a period of informal public consultation. This has the advantage of providing an additional opportunity for all members of the community to respond on the three options whilst also providing transparency of decision making. Conversely, by proposing another consultation period the draft LEP is yet further delayed and there may be some public confusion with the process.

The alternative to an informal consultation process would be for the Council to identify the preferred draft LEP option. The documentation relating to this draft LEP can then be immediately provided to the Department and a formal LEP consultation period commenced.

However, due to the community interest in this matter, this process may generate a significant number of objections, which in turn may lead to a second consultation period which therefore delays the process even further.

Having considered the advantages and disadvantages of both of these two approaches, it is recommended that Council follows the advice provided by the Department.

It is proposed that the consultation process would be facilitated with a plain English approach. The documentation would be kept short and easy to understand, rather than utilising the legalistic terminology that is required as part of a formal LEP consultation process. Letters would be sent to the owner of each affected property inviting comment within a period of 28 days. A similar letter would be sent to the tenants of each affected property, and properties around William Street would also be contacted. An advertisement inviting comment would be placed in Council's notices section in the Wentworth Courier, and a similar notice would be placed on the Council's website.

Once this informal public consultation period has been completed, a summary of all the submissions received and a recommendation of the preferred option would be provided to Council, in order to resolve to prepare a single draft LEP.

### **Conclusion**

The Council has received formal advice from the Department of Planning that the Department does not support the Council's resolution on 17 November 2008 to prepare three draft local environmental plans to amend Woollahra LEP 1995. The Council is encouraged by the Department to identify which of the three options it wishes to proceed with for William Street and then resolve to pursue the preferred option through the LEP process. It is recommended that the Council follows the Department's advice, and informally exhibits the three options for public comment.

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**Annexures**

1. Option 1 - Draft local environmental plan to the Urban Planning Committee on 3 November 2008.
2. Option 2 - Draft local environmental plan to the Urban Planning Committee on 3 November 2008.
3. Option 3 - Draft local environmental plan to the Urban Planning Committee on 3 November 2008.
4. Report to Urban Planning Committee 03 November 2008
5. Council resolution to prepare draft LEP 17 November 2008
6. Letter from the Department of Planning, March 2009.

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

