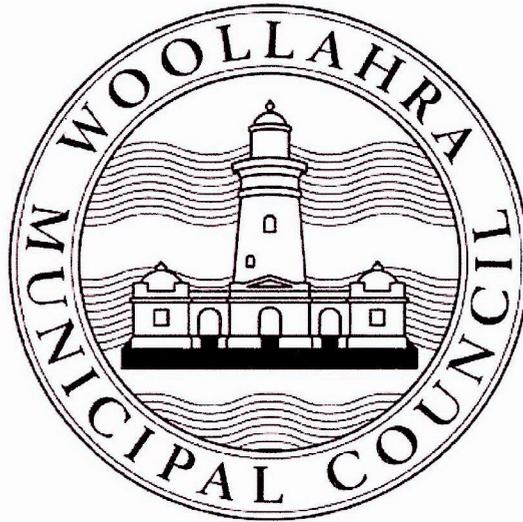


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PLANNING PROPOSAL

WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

(AMENDMENT 63 – WILLIAM STREET, PADDINGTON)

APRIL 2010

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Introduction

This planning proposal explains the intended effect of, and justification for, the proposed *Woollahra Local Environmental Plan 1995 (Am 63) – William Street, Paddington*. It has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the relevant Department of Planning Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

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 has formed a view that it would be reasonable to allow a limited range of retail uses in certain premises along William Street.

The purpose of this planning proposal is to retain the residential zone, but to permit a limited range of commercial uses in recognition of the street’s unique retail and built character.

Site identification

William Street, Paddington is located immediately north of Oxford Street.

The planning proposal applies to the properties at Nos. 12-42, 48-94, Nos 3-43 and Nos 45-63 William Street (see map below).



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



Figure 2: Land use plan of the William Street properties affected by the planning proposal (outlined in black)

Part 1 – Objectives or intended outcomes

The objectives or intended outcome of the planning proposal for William Street, Paddington are:

1. To recognise the boutique-style shopping strip that has emerged.
2. To enable a limited range of non residential uses.
3. To maintain the residential nature of the area by only allowing the non-residential use on the ground floor.
4. To maintain the small-scale nature of non-residential uses.

Part 2 – Explanation of provisions

The objectives or intended outcome of the planning proposal are to be achieved by maintaining the residential zone, but allowing a limited range of non-residential uses on the ground floor of the individual properties. This way the non-residential use will be maintained at a small, boutique scale, with the opportunity to provide residential accommodation above.

This will be achieved by firstly deleting clause 30 1(b) from Woollahra LEP 1995 and inserting instead:

- (b) *where the whole or part of the building was originally lawfully constructed with a non-residential design or was lawfully altered or adapted to a non-residential design, and*
- (c) *where the building or allotment is not one in respect of which consent has been granted to development described in Schedule 2 of this Plan as inserted by Woollahra Local Environmental Plan 1995 (Amendment No 63).*

It is then proposed to amend Schedule 2 – Development for certain additional purposes by adding the following:

Land known as Nos. 12-42, Nos. 48-94. Nos. 3-43 and Nos. 45-63 William Street, Paddington, as shown edged heavy black on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No.63) Site Map” deposited in the office of Woollahra Council – Ground Floor Non-Residential Development (defined as development within the ground floor of an existing building for the purpose of fashion shops, jewellery shops, health and beauty shops, florists and artist’s studios, not being development to which clause 30 applies and which may include the use of the upper floor for associated storage and offices or for residential purposes, and being development that does not involve the removal of any internal party wall, internal common wall, external common wall or dividing fence between attached terraces (whether or not the attached terraces are within or partly within the same allotment)).

The proposed LEP controls would be supported by more detailed controls in the Paddington Heritage Conservation Area DCP. The DCP will be revised to include specific objectives and controls for William Street, this can be found at **Annexure 2**.

Part 3 – Justification

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of a strategic study or report. Originally, 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 60). However, the William Street provisions were subsequently deferred from Draft Woollahra LEP 1995 (Amendment 60) and are being addressed through a separate draft LEP.

Over the last four years there has been a substantial amount of strategic research and debate about the William Street properties which is illustrated in the summary provided in the table below.

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 Woollahra LEP 1995 (Amendment No.60) 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 to prepare two draft LEPs, with the first option including the words “the upper floor may only be used for residential purpose”. Option 1 referring to all properties, and option 2 applying to specified properties.
8 September 2008	Decision of Council - as above recommendation to UPC. In addition, Council resolved to add florists and artists studios to the limited range of retail uses permissible.
3 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
17 November 2008	Decision of Council to prepare three draft LEPs (accept the amended second option, but also to include a third option).
23 March 2009	Report to Urban Planning Committee to note the advice from the Department of Planning, and to informally exhibit for public consultation, the three planning options for William Street.
6 April 2009	Decision of Council – as above recommendation to UPC. In addition, this consultation included notification letters to all properties within an approximate range of 200 metres of William Street properties.
20 May 2009 – 17 June 2009	Public exhibition of the three planning options for William Street.
27 July 2009	Report to Urban Planning Committee to note the 168 submissions received from property owners, traders, local residents and other interested parties, and to prepare a draft LEP for William Street (incorporating Option 1).
10 August 2009	Decision of Council - as above recommendation to UPC. In addition, Council requested a further report on the potential to include controls that prevent amalgamation of lots thereby retaining the close grained nature of the street.
8 February 2010	Report to Urban Planning Committee to prepare a draft LEP for William Street as per the LEP presented 27 July 2009. In addition, controls were proposed to restrict the gross floor area of the uses to 70m ² , to prevent certain internal works, and to clarify the relationship to clause 30 of Woollahra LEP 1995.
22 February 2010	Decision of Council to defer this matter, for legal advice to be obtained as to the effect of the prohibition of clause 4 of the LEP, and whether it would operate as a prohibition or a development standard.
8 March 2010	Report to Urban Planning Committee to prepare a draft LEP for William Street, allowing a nominated list of non-residential uses for specific properties. The additional use provisions are expressed as a definition.
22 March 2010	Decision of Council – as above recommendation to UPC with a minor change to the definition of Ground Floor Non-residential Development.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal is the best way of achieving the intended outcomes. As identified in response to question 1 above, the LEP has been the result of four years strategic research and debate. This included an informal public exhibition period in May/June 2009 of three planning options for the street.

Council is satisfied that this proposal is the most appropriate means to achieve the objectives and intended outcomes.

3. Is there a net community benefit?

The planning proposal is considered to be a benefit to the community as it will provide certainty in the implementation of the Woollahra LEP 1995, whilst also permitting a limited range of non-residential uses.

Section B – Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is consistent with the objectives and actions contained in the Sydney Metropolitan Strategy and the draft East Subregional Strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the draft Woollahra Council Community Strategic Plan 2025, which includes the key challenge to:

“Enhance and revitalise the village atmosphere of our shopping areas, providing convenient and easy access to a range of shops and facilities.”

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is considered to be consistent with applicable State Environmental Planning Policies (refer **Annexure 1**).

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with all applicable s.117 directions (refer **Annexure 1**).

Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proposal does not apply to land that has been identified as containing critical habitats or threatened species, populations or ecological communities, or their habitats.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal will not result in any additional environmental effects to those considered during the process of making the draft LEP.

10. How has the planning proposal adequately addressed any social and economic effects?

Social

A positive social effect is expected as the planning proposal will provide owners and occupiers with certainty about the permissible uses in William Street, Paddington.

Economic

The planning proposal will provide the opportunity for owners along William Street to establish a non-residential use on the ground floor of the property. If owners take up this opportunity, this will have the affect of enhancing the vitality and vibrancy of the area.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not result in any additional demand for public infrastructure.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

To be completed following consultation with the State and Commonwealth public authorities that may be identified in the gateway determination.

Part 4 – Community consultation

It is proposed that the planning proposal will be exhibited in accordance with the requirements of section 57 of the EP&A Act and/ or any other requirements as determined by the gateway process under section 56 of the EP&A Act.

This is considered a 'low impact planning proposal' requiring an exhibition period of 14 days. However, due to the significant community interest in this matter, the notification period will be extended for a period of 28 days. Public notification of the exhibition will include a notice in the local newspaper and a notice on Council's website.

In addition, a notification letter inviting submissions will be mailed to all of the property owners along William Street, and another letter will be hand delivered to the occupiers of the properties along William Street. A further notification letter will be mailed to owners of properties within 500m of William Street.

During the exhibition period, the planning proposal, gateway determination and other relevant documentation (including the information brochure) will be available on Council's website and hard copies will be available at Council's Customer Service Centre.

**Annexure 1:
Assessment of Planning Proposal Consistency with State Environmental
Planning Policies & Section 117 Directions**

Part A

		Applicable	Consistent
SEPP 1	Development Standards	4	4
SEPP 4	Development Without Consent	4	4
SEPP 6	Number of Storeys in a Building	8	
SEPP 14	Coastal Wetlands	8	
SEPP 19	Bushland in Urban Areas	8	
SEPP 21	Caravan Parks	8	
SEPP 22	Shops and Commercial Premises	4	4
SEPP 30	Intensive Agriculture	8	
SEPP 32	Urban Consolidation (Redevelopment of Urban Land)	8	
SEPP 33	Hazardous and Offensive Development	8	
SEPP 44	Koala Habitat Protection	8	
SEPP 53	Metropolitan Residential Development	8	
SEPP 55	Remediation of Land	8	
SEPP 60	Exempt and Complying Development	4	4
SEPP 62	Sustainable Aquaculture	8	
SEPP 64	Advertising and Signage	8	
SEPP 65	Design Quality of Residential Flat Development	8	
SEPP 70	Affordable Housing (Revised Schemes)	8	
SEPP 71	Coastal Protection	8	
SEPP	(Housing for Seniors or People with a Disability) 2004	8	
SEPP	(Building Sustainability Index: Basix) 2004	8	
SEPP	(Major Development) 2005	8	
SEPP	(Mining, Petroleum Production and Extractive Industries) 2007	8	
SEPP	Temporary Structures 2007	8	
SEPP	Infrastructure 2007	8	
SEPP	Affordable Rental Housing 2009	4	4
SEPP	Exempt and Complying Development Codes 2008	4	4
SEPP	Rural Lands	8	

Part B

Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	8	
1.2 Rural Zones	8	
1.3 Mining, Petroleum Production and Extractive Industries	8	
1.4 Oyster Aquaculture	8	
1.5 Rural Lands	8	
2. Environment and Heritage		
2.1 Environment Protection Zones	8	
2.2 Coastal Protection	8	
2.3 Heritage Conservation	4	4
2.4 Recreation Vehicle Areas	8	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	4	4
3.2 Caravan Parks and Manufactured Home Estates	8	
3.3 Home Occupations	8	
3.4 Integrating Land Use and Transport	8	
3.5 Development Near Licensed aerodromes	8	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	8	
4.2 Mine Subsidence and Unstable Land	8	
4.3 Flood Prone Land	8	
4.4 Planning for Bushfire Protection	8	
5. Regional Planning		
5.1 Implementation of Regional Strategies	8	
5.2 Sydney Drinking Water Catchments	8	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	8	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	8	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	8	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	8	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	8	
5.8 Second Sydney Airport: Badgerys Creek	8	
6. Local Plan Making		
6.1 Approval and Referral Requirements	4	4
6.2 Reserving Land for Public Purposes	8	
6.3 Site Specific Provisions	4	4
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Strategy	8	

Annexure 2: Draft DCP controls to be inserted into the Paddington Heritage Conservation Area Development Control Plan (2008)

4.6 William Street, Paddington

Land to which this clause applies

This clause applies to land known as Nos. 12 to 42, Nos. 48 to 94, Nos. 3 to 43 and Nos. 45 to 63 William Street, Paddington.

Historical overview

The properties in William Street were part of a 100 acre grant, promised in 1823 to a partnership of emancipists for the purpose of establishing a distillery. When the partnership, made up of James Underwood, Frances Ewan Forbes and Robert Cooper dissolved, James Underwood acquired the major part of this land and in 1839, subdivided part of his holdings as Underwood's Paddington Estate. This was the first recorded use of the name 'Paddington' for the area. Many of the streets within the estate were named to commemorate Underwood's family members, including William Street, which was formed at this time and named in honour of James Underwood's two year old son. The allotments were generously sized and marketed as suitable for rural industries. However, much of the estate was purchased speculatively.

By the second half of the nineteenth century, the parcels had been further subdivided into terrace sized allotments and the rows of terrace houses were constructed during this period. The properties at the top end of William Street, near South Head Road, now Oxford Street, were used as small business premises from this time. These businesses included grocers, laundries, and fruiterers. A number of properties further along William Street have also been used for retail purposes since the late nineteenth century.

By the 1930s, there were more premises being used for small business, including fish shops, hairdressers, grocers, a boot repairer, laundry, chemist, pastry shop and a fruiterer. During the 1980s and 90s, William Street became a popular location for small fashion specialty shops, as well as a chocolatier, florist, hairdressers and beauty therapists.

Street character

The character of William Street is formed by the mix of modest Victorian residential terrace houses, corner shops, traditional shopfronts and hotels. The street is narrow and falls from Oxford Street. It makes a unique connection of mixed residential and small, discrete fashion boutiques, between the intense retail strip of Oxford Street and the residential terrace houses of Paddington.

The rows of terraces are generally modest, two storey, traditional Victorian residential terraces, developed speculatively during the mid-nineteenth century. The facade treatment and consistency of detailing are very important contributors to the streetscape character and visual interest of William Street. As William Street was developed primarily as a residential street, there are no awnings along the street. The terrace houses generally have one or two vertically proportioned double hung sash windows and a mid-Victorian styled front door on the ground floor, with blade walls featuring a blind arch between each terrace house. The first floor generally consists of a verandah with a traditional Victorian iron balustrade accessed via a single pair of French doors. Some of the terrace houses have been

converted on the ground floor to a traditional shop front, with a glazed front façade and splayed entry to a recessed front door.

Notes relating to additional provisions

The conservation and development provisions contained in Part 4 of this plan apply to development in William Street in addition to the provisions of this clause. Where there is an inconsistency between the provisions of this clause and those in other clauses, the provisions of this clause will apply to the extent of the inconsistency unless otherwise specified in this clause.

Particular provisions in Part 4 that apply include:

- 4.1.1 – Principal building form and street front zone of significant buildings
- 4.2.3 – Windows, doors, shutters and security
- 4.2.4 – Verandahs and balconies
- 4.2.8 – Materials, finishes and details
- 4.2.9 – Exterior colours
- 4.2.10 – Advertising signs on buildings
- 4.3.7 – Commercial retail and industrial buildings

Land use controls governing the type of permissible non-residential uses in William Street are contained in clause 17, clause 30 and Schedule 2 of Woollahra LEP 1995.

Objectives

- O1 To retain and enhance the existing character of mixed residential and predominantly low-key non-residential uses.
- O2 To minimise the impact of non-residential uses on residential amenity and the heritage significance of the street and adjoining area.
- O3 To ensure that premises originally designed and built for residential purposes retain a distinctive residential character.
- O4 To provide consistency of façade treatment for building types in the street.
- O5 To encourage reinstatement of original significant detailing and elements.
- O6 To conserve traditional shopfronts.

Controls

Character

- C1 Terrace houses must retain their traditional residential appearance.
- C2 Traditional architectural elements, including sash windows, inward-opening timber panelled front doors, balcony doors and balustrades and palisade fences must be retained.

Advertising and display of goods

- C3 Signs on a terrace house, used for a lawfully approved non-residential use are confined to:
- a single sign with maximum dimensions of 700mm high by 450mm wide mounted adjacent to the front door, and
 - a single flush mounted sign or painted sign within the ground floor verandah blind arch.
- C4 Signs for originally designed and constructed shops, other non-residential buildings and premises that have been lawfully altered or adapted to a non-residential design are to comply with the provisions of clause 4.2.10 (Advertising signs on buildings).
- C5 Display of goods and all business operations are confined to within the building. In the case of terrace houses, verandahs and balconies are deemed to be external to the building.

Security

- C6 An outward opening security door in front of the ground floor traditionally panelled front door is permitted. The design must comply with clause 4.2.3 (Windows, doors, shutters and security).