

Item No: D1
Subject: **PLANNING PROPOSAL - PADDINGTON FLOODPLAIN RISK MANAGEMENT STUDY AND PLAN 2019**
Author: Anne White, Acting Manager - Strategic Planning
Approver: Allan Coker, Director - Planning & Development
File No: 19/183347
Reason for Report: To seek the advice of the Woollahra Local Planning Panel in relation to the preparation of a planning proposal to amend the Flood Planning Map of Woollahra Local Environmental Plan 2014 based on the adopted Paddington Floodplain Risk Management Study and Plan 2019.

Recommendation:

THAT the Woollahra Local Planning Panel advises Council that it supports the planning proposal at **Annexure 1** to amend the Flood Planning Map of Woollahra Local Environmental Plan 2014 based on the adopted Paddington Floodplain Risk Management Study and Plan 2019.

1. Reason for report to the Woollahra Local Planning Panel (Woollahra LPP)

This report seeks the advice of the Woollahra LPP on the planning proposal to amend the Flood Planning Map of *Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014) based on the adopted Paddington Floodplain Risk Management Study and Plan 2019.

On 27 September 2018, the Minister for Planning issued a Local Planning Panel Direction – Planning Proposals:

1. A Council to whom this direction applies is required to refer all planning proposals to be prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - (a) the correction of an obvious error in a local environmental plan,
 - (b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
2. When a planning proposal is referred to the local planning panel, it must be accompanied by an assessment report prepared by council staff setting out recommendations, including whether or not the planning proposal should proceed.
3. A proposal is to be referred to the local planning panel before it is forwarded to the Minister of the Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979* (the Act).

In this case, the planning proposal is required to be referred to the local planning panel because the general manager has not made a determination in regard to items 1 (a), (b) or (c), above.

2. Background

On 9 September 2019 Council adopted the Paddington Floodplain Risk Management Study and Plan (FRMSP). One of the recommendations identified in the Paddington FRMSP is that Council's Flood Planning Maps are updated to take advantage of the updated flood information generated as part of the study (pg. 113, Paddington FRMSP).

Due to the size of the document, the adopted Paddington Floodplain Risk Management Study and Plan 2019 has not been attached to this report. A copy can be found at the following link:
https://www.woollahra.nsw.gov.au/environment/water_and_coast/our_projects/floodplain_management/paddington_catchment_area

On 28 October 2019 the *Environmental Planning Committee* considered a report on this matter and on 11 November 2019, Council resolved:

- A. *THAT a planning proposal be prepared to amend the Flood Planning Map of Woollahra Local Environmental Plan 2014 based on the adopted Paddington Floodplain Risk Management Study and Plan 2019.*
- B. *THAT the planning proposal be referred to the Woollahra Local Planning Panel for advice.*
- C. *THAT the advice of the Woollahra Local Planning Panel be reported to the Environmental Planning Committee.*

3. Woollahra Local Environmental Plan 2014 - Clause 6.3 Flood Planning

Flood planning is addressed in clause 6.3 *Flood Planning of Woollahra Local Environmental Plan 2014* (Woollahra LEP 2014), which states:

6.3 Flood planning

- (1) *The objectives of this clause are as follows—*
 - (a) *to minimise the flood risk to life and property associated with the use of land,*
 - (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
 - (c) *to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) *This clause applies to—*
 - (a) *land identified as "Flood planning area" on the [Flood Planning Map](#), and*
 - (b) *other land at or below the flood planning level.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*
 - (a) *is compatible with the flood hazard of the land, and*
 - (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
 - (c) *incorporates appropriate measures to manage risk to life from flood, and*
 - (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

- (4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*
- (5) *In this clause—*

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event, plus 0.5 metre freeboard.

Clause 6.3 *Flood Planning* is informed by the Flood Planning Maps. The Flood Planning Maps identify all the land within the Local Government Area (LGA) which is identified as *Flood planning area*. The current parcels identified as *Flood planning area* in the Paddington area are shown in **Figure 1**.

The flood planning map shows extensive areas of the lower region of the Rushcutters Bay catchment that fall within Council's flood planning area. However, no parcels of land south of Lawson Street, Harris Street, Sutherland Street and Glenmore Road are identified on the map.

The consultants who prepared the Paddington Floodplain Risk Management Study and Plan (in consultation with Council's Engineers) recommended a specific methodology to determine the parcels of land that are identified as flood control lots^[1]. The recommended methodology is based on identifying a property as a flood control lot if the flood planning area (which is equal to the 1% annual exceedance probability (AEP)^[2] flood) extends across more than 5% of the property.

This methodology is consistent with the NSW Floodplain Development Manual and is consistent with approaches adopted by other Sydney Metropolitan Councils to identify flood control lots.

This methodology was applied to the detailed overland flooding in the Study. As shown in **Figure 2**, an additional 837 properties in Paddington, Edgecliff and Woollahra are identified to be included in the flood planning area. The additional land parcels identified reflect the fact that overland flooding was not considered as part of previous flood studies across these areas.

Council staff recommend that the *Flood planning area* for the Woollahra LEP 2014 is updated for the Paddington area, consistent with the adopted *Paddington Floodplain Rise Management Study and Plan 2019*.

4. Panning proposal

A planning proposal has been prepared to amend the Flood Planning Map of Woollahra LEP 2014 based on the adopted Paddington Floodplain Risk Management Study and Plan 2019.

4.1. Planning proposal structure

The planning proposal has been prepared in accordance with section 3.33 of the Act and the two documents prepared by the NSW Department of Planning and Environment titled *A Guide to Preparing Planning Proposals* (December 2018) and *A Guide to Preparing Local Environmental Plans* (December 2018).

^[1] A flood control lot is a land parcel that would be subject to flood-related development controls

^[2] AEP (measured as a percentage) is a term used to describe flood size. It is a means of describing how likely a flood is to occur in a given year. For example, a 1% AEP flood is a flood that has a 1% chance of occurring, or being exceeded in any one year.



Figure 1: Parcels identified as Flood planning area in the Woollahra LEP 2014

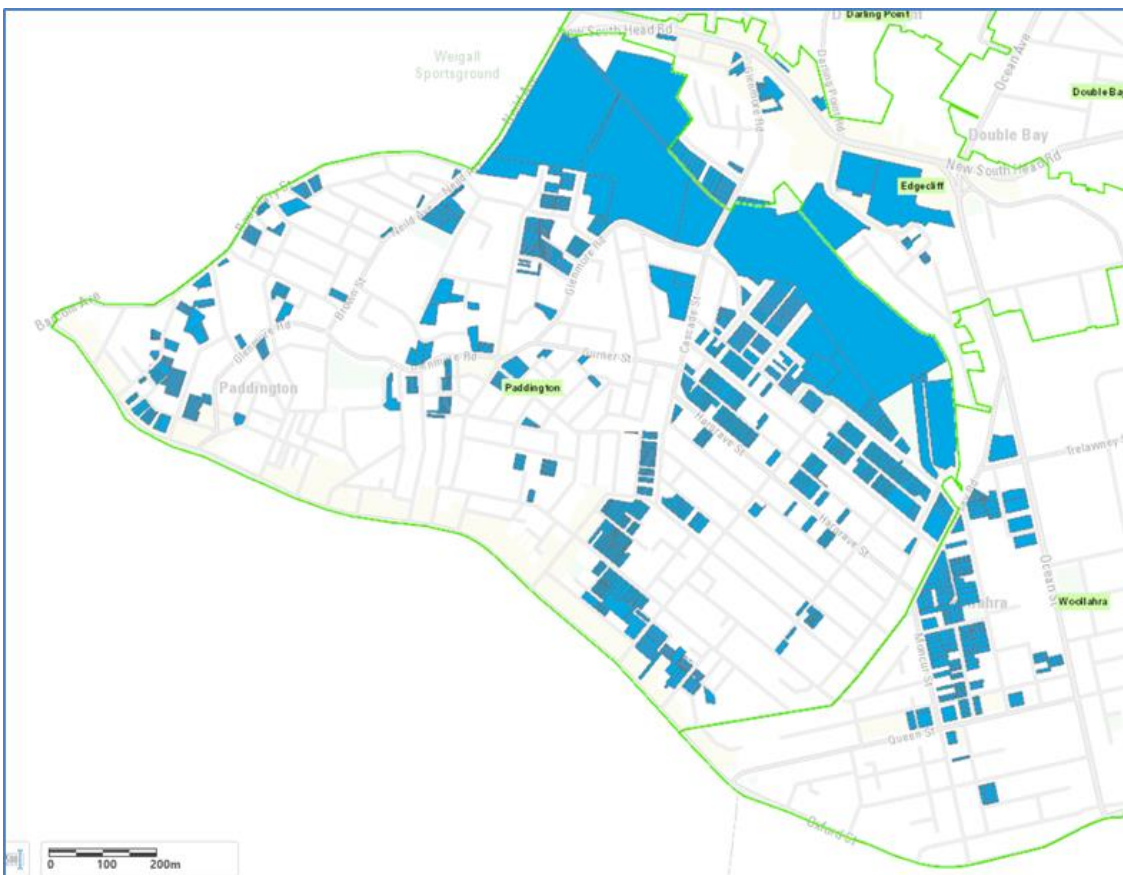


Figure 2: Parcels identified on the detailed overland flood mapping of the Paddington Floodplain Risk Management Study and Plan dated July 2019

4.2. Objective

The objective of the planning proposal is to amend and update the Flood Planning Map of Woollahra LEP 2014, based on the adopted Paddington Floodplain Risk Management Study and Plan 2019. Updating the Flood Planning map will ensure that development on flood affected parcels in the Paddington area will be assessed against the provisions of clause 6.3 of the Woollahra LEP 2014.

4.3. Explanation of provisions

The planning proposal seeks to include an additional 837 properties in the Paddington area onto the Woollahra LEP 2014 Planning Map, the address of these properties is included in the planning proposal attached at **Annexure 1**.

4.4. Relationship to strategic planning framework

The planning proposal is consistent with the relevant objectives of *Greater Sydney Region Plan: A Metropolis of Three Cities* (2018) and the actions of the *Eastern City District Plan* (2018), (refer to section 6.2 of the planning proposal).

The planning proposal is consistent with the Council's Community Strategic Plan titled *Woollahra 2030 – our community, our place, our plan*. Notably, the planning proposal is aligned with Goal 5, 'Liveable Places' which is under the theme of 'Quality places and spaces'.

5.6. Reduce impacts of local flooding and improve floodplain risk management.

The planning proposal is also consistent with the *Draft Woollahra Local Strategic Planning Statement*, particularly with Planning Priority 14 under the theme of 'Sustainability':

Planning for urban resilience so we adapt and thrive despite urban and natural hazards, stressors and shocks.

This priority notes, "Development and infrastructure is strategically managed and designed for resilience. Development intensification is limited in areas most exposed to hazards such as flooding, extreme weather events, and climate change." (Woollahra Council, 2019).

The planning proposal is consistent with the *Standard Instrument – Principal Local Environmental Plan* and all other applicable State environmental planning policies (refer to **Schedule 1** of the planning proposal).

The planning proposal is consistent with applicable section 9.1 directions (refer to **Schedule 2** of the planning proposal).

4.5. Impacts of Planning Proposal

There are three (3) significant impacts associated with the inclusion of an additional 837 properties being identified as "Flood planning area" from the FRMSP, and subsequently on the Flood Planning Map of the Woollahra LEP 2014.

Firstly, all development applications (DAs) which are submitted for consent to carry out development on land identified as “Flood planning area” must be assessed against the provisions of clause 6.3 of the LEP. This will be undertaken on a case by case basis having regard to the nature and scope of proposed development. Where feasible, new habitable floor levels should be constructed at or above the 1% AEP flood level plus 0.5m freeboard (which is a factor of safety typically used in relation to the setting of floor levels). Alternatively, other flood control measures may be required.

Secondly, planning certificates issued under the provisions of s.10.7 of the *Environmental Planning and Assessment Act 1979* must identify whether or not development on the land, the subject of the certificate, is subject to flood related development controls¹.

Thirdly, minor development, such as fences cannot be carried out as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

5. Community consultation

The public exhibition of the planning proposal will be undertaken in accordance with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the gateway determination issued by the Department of Planning and Environment. The gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days, which is consistent with Council’s standard practice for the exhibition of a planning proposal and Council’s draft Community Participation Plan.

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 the affected land owners.
- Local community and business groups such as *The Paddington Society*.

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

- The planning proposal, in the form approved by the gateway determination.
- The gateway determination.
- Information relied upon by the planning proposal, such as relevant Council reports.

6. Conclusion

This report seeks the advice of the Woollahra LPP on a planning proposal to amend the Flood Planning Map of Woollahra LEP 2014 based on the adopted Paddington Floodplain Risk Management Study and Plan 2019. The planning proposal satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcomes.
- An explanation of the provisions that are to be included.

¹ Clause 7A of Schedule 4 of the *Environmental Planning Assessment Act Regulation 2000*

- The justification for the objectives, outcomes and provisions and the process for their implementation.
- Details of the community consultation that is to be undertaken.

Advice from the WLPP will be provided to Council.

Annexures

1. Planning Proposal - Paddington Floodplain Risk Management Study and Plan 2019 [↓](#) 
2. Agenda to the EPC meeting of 28 October 2019 - Paddington Floodplain Risk Management Study and Plan 2019 (Annexures removed) [↓](#) 