

**Item No:** R7 Recommendation to Council  
**Subject:** **ADVICE OF THE WOOLLAHRA LOCAL PLANNING PANEL - PLANNING PROPOSAL - AMENDED PLANNING CONTROLS FOR RIDDELL STREET, BELLEVUE HILL**

**Author:** Lyle Tamlyn, Strategic Planner  
**Approvers:** Anne White, Manager - Strategic Planning  
Scott Pedder, Director - Planning & Place

**File No:** 22/54048  
**Purpose of the Report:** To provide Council with the advice of the Woollahra Local Planning Panel and obtain Council's approval to proceed with the planning proposal to amend the controls for 13-27 Riddell Street and 14-15 Buller Street under the Woollahra Local Environmental Plan 2014.

**Alignment to Delivery Program:** Strategy 4.1: Encourage and ensure high quality planning and urban design outcomes.

**Recommendation:**

- A. THAT Council note the advice provided by the Woollahra Local Planning Panel on 24 March 2022, supporting a planning proposal to amend the controls for 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill under the *Woollahra Local Environmental Plan 2014*.
- B. THAT the planning proposal, as contained in **Attachment 1** of the report to the Environmental Planning Committee of 4 April 2022, be forwarded to the Department of Planning and Environment with a request for:
- i. a Gateway determination to allow public exhibition
  - ii. it to be categorised as 'standard' as per the *Local Environmental Plan Making Guidelines 2021*
  - iii. no inclusion of savings or transitional provisions
- C. THAT Council request the Minister for Planning and Homes (or delegate) authorise Council as the local plan-making authority, to make the local environmental plan under section 3.36 of the *Environmental Planning and Assessment Act 1979*.

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**Executive Summary:**

The purpose of this report is to provide Council with the advice of the Woollahra Local Planning Panel (Woollahra LPP) in relation to the planning proposal to amend the planning controls for 13-27 Riddell Street and 14-15 Buller Street, Bellevue Hill.

**Discussion:**

Background

On 12 August 2019, in response to a Notice of Motion, Council resolved:

*THAT Council receives a report, as soon as practicable, in relation to amending its current Local Environmental Plan 2014 to rezone that part of Riddell Street, Bellevue Hill, 2023 (currently zoned R3 Medium Density Residential) back to an R2 Low Density Residential zone.*

In May 2021, Council engaged Studio GL to undertake a detailed design review of the Riddell Street area that is zoned R3 Medium Density Residential. Studio GL prepared a report titled *Planning and Urban Design Review: Riddell Street, Bellevue Hill (at Attachment 4)*. It outlined four different land zoning scenarios and examined the likely built form impacts of each. The study concluded that there was merit in rezoning 13-27 Riddell Street and 14-15 Buller Street from R3 Medium Density Residential to R2 Low Density Residential. After reviewing the study, Council staff agreed with this recommendation.

The above report was received by Council staff, who presented it to the Environmental Planning Committee (EPC) on 12 July 2021. On 26 July 2021, Council resolved the following:

- A. *THAT the planning and urban design review of the land use zoning of Riddell Street, Bellevue Hill prepared by consultants Studio GL and contained in Annexure 1 of the report to the Environmental Planning Committee of 12 July 2021 is received and noted.*
- B. *THAT a planning proposal is prepared to amend the Woollahra Local Environmental Plan 2014 to:*
  - i. *Rezone the following properties from R3 Medium Density Residential to R2 Low Density Residential: a. 13, 15, 17, 19, 21, 23, 25 and 27 Riddell Street, Bellevue Hill b. 14 and 15 Buller Street, Bellevue Hill.*
  - ii. *Amend Schedule 1 – Additional Permitted Uses to permit development for a residential flat building on the site at 21 & 23 Riddell Street, Bellevue Hill.*
- C. *THAT the planning proposal is referred to the Woollahra Local Planning Panel for advice.*
- D. *THAT the advice of the Woollahra Local Planning Panel is reported to a future Committee meeting of Council.*
- E. *THAT a draft development control plan is prepared to accompany the planning proposal amending Chapter B1 and Chapter B3 of the Woollahra Development Control Plan 2015 to:*
  - i. *Incorporate the land proposed to be rezoned R2 Low Density Residential into the Bellevue Hill North character precinct*
  - ii. *Insert an additional clause for front setbacks.*
- F. *THAT a further report be prepared to examine the possible rezoning from R3 to R2 of numbers 1-11 Riddell Street, Bellevue Hill.*

A further report referred to in 'F' above, was prepared by Council staff and tabled at the EPC of 7 February 2022. Subsequently, on 28 February 2022, Council resolved:

- A. *THAT consistent with Council's resolution from 26 July 2021 to prepare a planning proposal to amend the Woollahra Local Environmental Plan 2014 to rezone 13 - 27 Riddell Street, Bellevue Hill and 14 & 15 Buller Street, Bellevue Hill from R3 Medium Density Residential to R2 Low Density Residential, the planning proposal also include the following amendments to the applicable development standards:*
  - i. *Delete the floor space ratio of 0.75:1*
  - ii. *Height of buildings: amend from 10.5m to 9.5m*
  - iii. *Minimum subdivision lot size: amend from 700sqm to 675sqm*
- B. *THAT Council note the advice in relation to the rezoning of 1-11 Riddell Street, Bellevue Hill from R3 Medium Density Residential to R2 Low Density Residential.*

#### Planning proposal overview

The planning proposal prepared for the Woollahra LPP applies to the following properties:

- 13 Riddell Street (Lot A in DP 300636);
- 15 Riddell Street (Lot 4 in DP 6028 & Lot B in DP 300636);
- 17 Riddell Street (Lot 2 in DP 220814);
- 19 Riddell Street (Lot 1 in DP 220814);
- 21 – 23 Riddell Street (Lot 2 in DP 6028 & Lot 1 in 658568);

- 25 Riddell Street (Lot 1 in DP 950091);
- 27 Riddell Street (Lot D in DP 984055);
- 14 Buller Street (Lot 1 in DP 726797); and
- 15 Buller Street (Lot 1 in DP 300636).

The subject properties are all zoned R3 Medium Density Residential under the Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) (see **Figure 1** below).

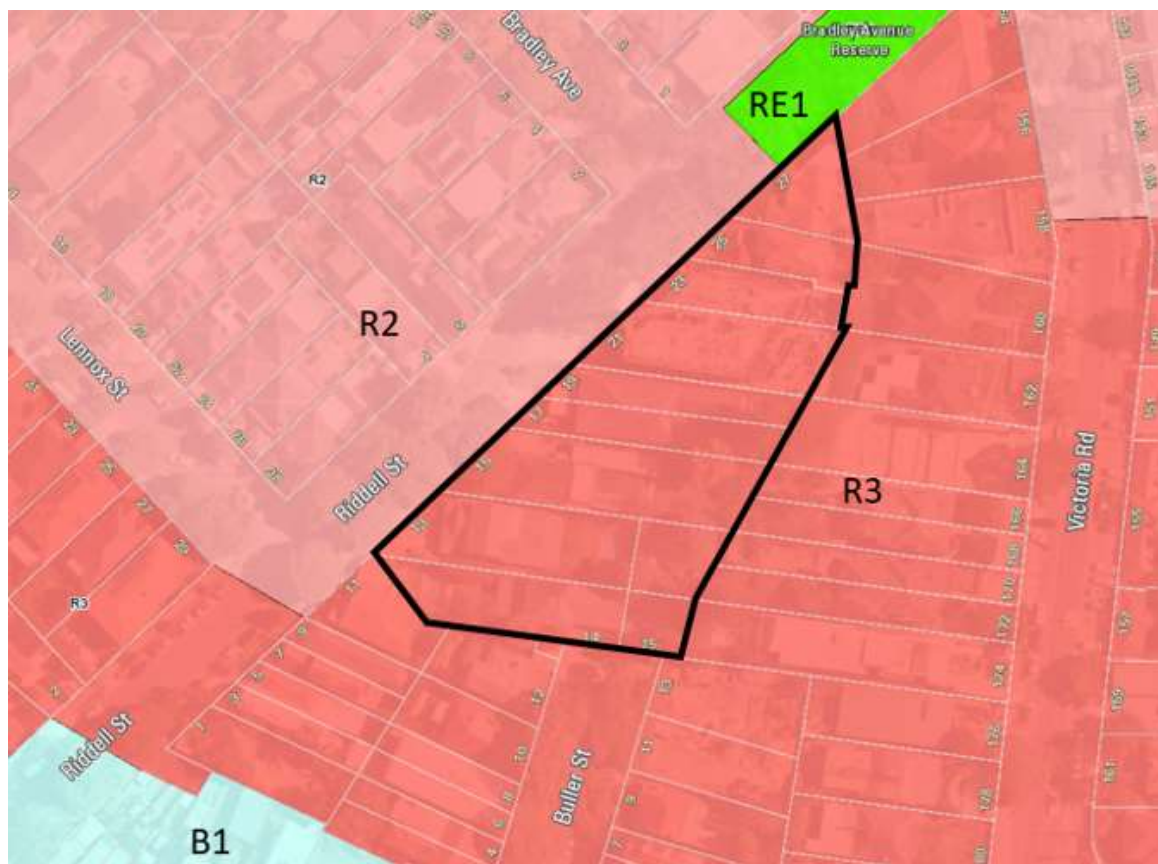
It is proposed to amend the Woollahra LEP 2014 to:

- Rezone the subject properties from R3 Medium Density Residential to R2 Low Density Residential;
- Amend *Schedule 1 – Additional Permitted Uses* to permit residential flat buildings on 21-23 Riddell Street;
- Delete the floor space ratio (FSR) standard applying to the subject properties;
- Amend the building height standard for the subject properties from 10.5m to 9.5m; and
- Amend the minimum lot size standard for the subject properties from 700sqm to 675sqm.

Current pictures of the streetscape are provided in **Figures 2 to 4**.

#### Objective of the planning proposal

The objective of the planning proposal is to ensure that future development on the subject properties is responsive to the constraints of each site, and is compatible with the desired future character of the Riddell Street area.



**Figure 1: Map of subject properties with current zoning overlay.**



***Figure 2: Riddell Street, looking north-east.***



***Figure 3: 15 Riddell Street, viewed from street.***



**Figure 4: Apartments under construction at 21-23 Riddell Street, viewed from street.**

#### Contents of the planning proposal

The planning proposal (at **Attachment 1**) has strategic and site-specific merit, and satisfies the requirements of section 3.33 of the Act as it includes:

- A statement of the objectives or intended outcome of the amendment to Woollahra LEP 2014;
- An explanation of the provisions that are to be included in the amendment to Woollahra LEP 2014;
- The justification for the objectives, outcomes and provisions and the process for their implementation; and
- Details of the community consultation that is to be undertaken.

#### Woollahra Local Planning Panel advice

This planning proposal was referred to the Woollahra LPP on 24 March 2022. The panel were supportive of the proposed LEP amendments and recommended that Council proceed. The Woollahra LPP's advice and their reasons are provided below.

#### *Resolved:*

*That the Woollahra Local Planning Panel advises Council to proceed with the planning proposal for 13-27 Riddell Street and 14-15 Buller Street to:*

- A. Rezone the properties from R3 Medium Density Residential to R2 Low Density Residential.*
- B. Amend Schedule 1 – Additional Permitted Uses to permit residential flat buildings on 21-23 Riddell Street;*
- C. Delete the floor space ratio development standard applying to the properties;*
- D. Amend the height of buildings development standard for the properties from 10.5m to 9.5m;*

- E. Amend the minimum subdivision lot size development standard for the properties from 700sqm to 675sqm; and
- F. Progress the planning proposal as a 'Standard' categorisation and that the LEP amendment not include a savings provision.

**Reasons:**

*The panel appreciated the comprehensive analysis of the proposed zoning changes as being appropriate and thoughtful for the future planning of Riddell Street and surrounding areas. The panel also noted that such planning proposals can take around a year for approval and encourage early engagement with the Department of Planning and Environment to facilitate approval.*

*The Panel also noted the quality and logical outcome of the Independent Planning and Urban Design Review completed by Studio GL and that the subsequent modest reduction in the total dwelling targets has been robustly justified against Ministerial Direction 6.1.*

*The Panel notes the zoning changes will promote retention of the existing substantial tree canopy.*

The planning proposal at **Attachment 1** has been amended to include this advice, with changes shown in yellow highlight.

Implementation of panel advice

As outlined above, the Woollahra LPP responded positively to the planning proposal, the independent review and the recommendations put forward by Council staff. In particular, they complimented the rigour of the supporting study prepared by Studio GL and the high level of detail that informed the preparation of the planning proposal. The panel also noted that the minor reduction in dwelling yield had been robustly justified against *Ministerial Direction 6.1 (Residential Zones)*, and that the planning proposal would help preserve the existing tree canopy cover in Riddell Street.

However, the members of the panel did recommend that:

- The planning proposal be progressed under a 'standard' categorisation; and
- The LEP amendment not include a savings provision.

- *Standard categorisation*

The DPE's *Local Environmental Plan Making Guideline 2021* requires planning proposals to be classed into one of four categories: basic, standard, complex or principal. Each category has an associated assessment timeframe and supporting information requirements. **Figure 5** below illustrates the relevant benchmark timeframes for each type of planning proposal.

Councils are required to identify the category when submitting a planning proposal for a Gateway determination, which the DPE confirms following their initial review. As this planning proposal is not complex and Council would like this matter expedited, the LPP recommended that a 'standard' categorisation would be the most appropriate. This is reflected in recommendation 'B' of this report.

- *Savings and transition provisions*

New or amended Environmental Planning Instruments (EPIs) (which includes LEPs) are often accompanied by savings or transitional provisions. A savings provision preserves a superseded legal rule in specific circumstances, while a transitional provision modifies the effect of new rules for a certain period of time. In the NSW planning system these are often used to ensure new EPI provisions do not affect development applications (DAs) that are under assessment when they come into force. For example, *State Environmental Planning Policy (Housing) 2021* contains savings and transitional provisions for DAs that have been lodged, but not yet determined before the commencement date.

Accordingly, the LPP recommended that such provisions would be inappropriate for a future LEP in the case of this planning proposal. They suggested that the proposed provisions should take effect without any savings or transitional provisions to ensure that future development does not detract from the low density character of Riddell Street. This advice has been reflected in recommendation 'B' of this report.

Stage	Maximum Benchmark Timeframes (working days)			
	Basic	Standard	Complex	Principal
<b>Stage 1 – Pre-lodgement</b>	30 days	50 days	60 days	20-30 days
<b>Stage 2 – Planning Proposal</b>	80 days	95 days	120 days	40 days
<b>Stage 3 - Gateway determination</b>	25 days	25 days	45 days	45 days
<b>Stage 4 – Post-Gateway</b>	20 days	50 days	70 days	160 days
<b>Stage 5 – Public Exhibition &amp; Assessment</b>	70 days	95 days	115 days	95 days
<b>Stage 6 - Finalisation</b>	25 days	55 days	70 days	80 days
<b>Sub-total (Department target)</b>	140 working days	225 working days	300 working days	380 working days
<b>Total (end to end)</b>	220 days	320 days	420 days	420 days

**Figure 5: Planning Proposal benchmark timeframes taken from the DPEs  
“Local Environmental Plan Making Guideline 2021”**

#### Site-specific development control plan

The study prepared by Studio GL also recommended changes to the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) to complement the revised Woollahra LEP 2014 provisions. It suggested amending:

- *Chapter B1* to incorporate the subject properties into the Bellevue Hill North residential precinct; and
- *Chapter B3* to insert a new front setback provision for the subject properties.

The first change was recommended as the revised controls would establish a desired future character that is similar to the lower density Bellevue Hill North precinct. The second change was suggested as many front yards in Riddell Street are triangular, and therefore make it difficult to apply current front setback controls.

In accordance with Council’s resolution dated 26 July 2021, staff will be prepare a draft DCP to incorporate these amendments. This draft DCP will be exhibited concurrently with the planning proposal, should it receive a Gateway determination.

### **Options:**

If Council decides to proceed, the planning proposal will be referred to the Department of Planning and Environment (DPE) for a Gateway determination. This will allow the planning proposal to be placed on public exhibition.

To streamline the plan-making process, the Minister can delegate some plan-making powers to Council for routine matters. In this case, staff recommend that Council requests authorisation to exercise the functions of the Minister to make an LEP under section 3.36 of the Act. Part C of the recommendations for this report references this request.

Alternatively, Council may decide to note the advice of the Woollahra LPP and not progress the planning proposal.

### **Community Engagement and / or Internal Consultation:**

If the planning proposal proceeds, public exhibition will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (the Act), the *Environmental Planning and Assessment Regulation 2021*, relevant guidelines and the Gateway determination issued by the DPE.

The Gateway determination will specify the minimum duration of the public exhibition period. This period is usually a minimum of 28 days. Public notification of the exhibition will comprise:

- A letter to every affected landowner;
- A letter to surrounding landowners
- A notice on Council's website;
- A notice on the NSW Planning Portal;
- A weekly advertisement in the Wentworth Courier for the duration of the exhibition period; and
- A letter or email to government stakeholders and local community groups.

### **Policy Implications:**

Should Council resolve to progress the planning proposal, and should it progress to finalisation, there will be policy implications as provisions for the subject properties will change under the Woollahra LEP 2014 and the Woollahra DCP 2015.

### **Financial Implications:**

NIL

### **Resourcing Implications:**

Staff resources will be associated with amending the planning proposal and managing the Gateway process if Council resolves to proceed. Staff will also be responsible for preparing and exhibiting a draft DCP.

### **Conclusion:**

The proposed amendments to planning controls applying to 13-27 Riddell Street and 14-5 Buller Street are supported by a detailed study prepared by Studio GL. On 24 March 2022, the Woollahra LPP agreed with the contents of the study and advised Council to progress the matter. They also advised that the planning proposal should be progressed under a 'standard' categorisation and be implemented without any savings or transitional provisions.



In addition, the Woollahra LPP:

- Noted the comprehensive analysis of the proposed zoning changes
- Encouraged early engagement with the DPE to facilitate approval.
- Noted the quality and logical outcome of the Independent Planning and Urban Design Review completed by Studio GL
- Noted the modest reduction in the total dwelling targets had been robustly justified against Ministerial Direction 6.1.
- Noted that the zoning changes will promote the retention of the existing substantial tree canopy.

Staff recommend that Council proceed with referring the planning proposal to the DPE and requesting a Gateway determination.

### **Attachments**

1. Planning Proposal - Riddell Street Planning Controls - March 2022 (marked-up and annexures removed)
2. Environmental Planning Committee Agenda - 12 July 2021 (annexures removed)
3. Environmental Planning Committee Agenda - 7 February 2022 (annexures removed)
4. Planning and Urban Design Review: Riddell Street, Bellevue Hill - Studio GL - July 2021