



New South Wales

# Woollahra Local Environmental Plan 1995 (Amendment No 44)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (S03/01237/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

## 2004 No 88

Clause 1                      Woollahra Local Environmental Plan 1995 (Amendment No 44)

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# Woollahra Local Environmental Plan 1995 (Amendment No 44)

under the

Environmental Planning and Assessment Act 1979

## 1 Name of plan

This plan is *Woollahra Local Environmental Plan 1995 (Amendment No 44)*.

## 2 Aims of plan

The aims of this plan are:

- (a) to zone part of the land to which this plan applies that is not currently within a zone under *Woollahra Local Environmental Plan 1995* to Zone No 3 (a) (the General Business "A" Zone) under that plan, and
- (b) to rezone part of the land from Zone No 2 (b) (the Residential "B" Zone) and Zone No 5 (the Special Use Zone) to Zone No 3 (a) (the General Business "A" Zone) under *Woollahra Local Environmental Plan 1995*, and
- (c) to allow development for additional purposes on part of the land that is currently within Zone No 2 (b) (the Residential "B" Zone), and
- (d) to ensure that major development of the land is carried out having regard to the conditions and character of the whole of the land, and
- (e) to ensure that provision is made for certain public facilities on the land, and
- (f) to control the scale and density of development on the land, and
- (g) to provide environmental planning controls that will result in the management of any disturbance to acid sulfate soils on the land, and

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- (h) to introduce provisions under section 28 of the *Environmental Planning and Assessment Act 1979* that relate to the land and that will enable development to be carried out on the land notwithstanding the existence of covenants, agreements or similar instruments that apply to the land.

**3 Land to which plan applies**

This plan applies to land in Double Bay shown edged heavy black on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 44)—Site Map” deposited in the office of Woollahra Council.

**4 Amendment of Woollahra Local Environmental Plan 1995**

*Woollahra Local Environmental Plan 1995* is amended as set out in Schedule 1.

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Schedule 1 Amendments

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### Schedule 1 Amendments

(Clause 4)

#### [1] Clause 16A

Insert after clause 16:

##### **16A Suspension of certain agreements, covenants and similar instruments**

- (1) For the purpose of enabling the development specified in an item in Schedule 5 to be carried out in accordance with this plan or in accordance with a consent granted under the Act, the regulatory instruments specified opposite the development in that Schedule shall not apply to that development to the extent necessary to serve that purpose.
- (2) In accordance with section 28 (3) of the Act, the Governor approved subclause (1) and items 1, 2, 3 and 4 of Schedule 5 before the making of this clause.

#### [2] Clause 20 Provision of public car parking spaces on certain lands in Double Bay

Omit clause 20 (1) (d). Insert instead:

- (d) Land shown edged heavy black on the sheet marked “Woollahra Local Environmental Plan 1995 (Amendment No 44)—Site Map”.

#### [3] Clause 20 (4)

Omit the subclause. Insert instead:

- (4) Any development carried out on or under the land referred to in subclause (1) (d) that is the subject of a comprehensive development application referred to in clause 21E must include the provision of not less than 317 public car parking spaces.

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**[4] Clause 21E**

Insert after clause 21D:

**21E Development on certain land in Double Bay**

- (1) This clause applies to land shown edged heavy black on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 44)—Site Map”.
- (2) Land beyond the boundary shown on the map referred to in subclause (1) may be included within the site for the purpose of development such as:
  - (a) awnings, and
  - (b) signs, and
  - (c) projecting bay elements, and
  - (d) fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and
  - (e) public domain improvement works, and
  - (f) underground car parking.
- (3) The Council must not grant consent to a development application (other than a comprehensive development application or an application for development consent for subdivision) relating to land to which this clause applies unless there is in force a development consent for a comprehensive development application and the Council has taken that development consent into consideration.
- (4) A comprehensive development application required by this clause is a development application that makes development proposals for the whole of the land to which this clause applies.
- (5) The Council must not grant consent to a comprehensive development application unless it is satisfied that adequate provision has been made for:
  - (a) public car parking, and
  - (b) public toilets, and
  - (c) community facilities, and
  - (d) civic space.

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- (6) The Council must not grant consent to a development application, including a comprehensive development application, relating to Lot 2, DP 82306, being land known as the Golden Sheaf Hotel site, unless, in considering the application, the Council has taken into account the recommendations of a current conservation plan and any amendments to it for the Golden Sheaf Hotel that has been approved by Council.
- (7) The Council is not obliged to comply with subclause (3) or (5) if it is satisfied that the proposed development is of a minor nature.
- (8) A building is not to be erected on land to which this clause applies if the total gross floor area of all buildings on the land to which this clause applies would exceed the gross floor area indicated for the land on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 44)—Density Map”. For the purpose of this subclause, gross floor area excludes:
  - (a) fin walls, sun control devices and any elements, projections or works outside the general line of the outer face of the external wall, and
  - (b) access in the form of lifts, escalators, travelators, ramps, stairs and the like from existing ground level to basement car park levels, and
  - (c) loading and unloading areas and access to those areas all of which are at or below ground level, and
  - (d) any garbage storage areas, plant rooms, mechanical ventilation, including ducting, that are below ground level, and
  - (e) roof and podium plant rooms, and
  - (f) electrical substation, generating rooms, switch rooms and other structures required in connection with the substation, and
  - (g) arcades, and
  - (h) colonnades, including associated columns, and
  - (i) pedestrian areas in the form of a winter garden contiguous with arcades, and
  - (j) balconies and verandahs, and
  - (k) unenclosed swimming pools, and

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- (1) the gross floor area of the original heritage building at 423–431 New South Head Road, Double Bay, known as the Golden Sheaf Hotel as approved on 23 April 1935.
- (9) Clauses 8, 10A and 10B do not apply in respect of the erection of a residential flat building on land to which this clause applies.
- (10) Clauses 8, 10A and 10B do not apply in respect of development for the purpose of dwellings in conjunction with development below the ground surface for the purpose of any one or more of the following:
- (a) car parking,
  - (b) a car parking station,
  - (c) non-residential uses associated with car parking and a car parking station,
  - (d) loading and unloading facilities associated with non-residential uses,
- all of which is located on the land shown by heavy black broken edging on the map marked “Woollahra Local Environmental Plan 1995 (Amendment No 44)—Land Use Map (whether or not within the same building).
- (11) Development referred to in subclause (10) is not mixed development for the purposes of this plan.
- (12) The Council must not grant consent to a development application involving works below the natural surface of the ground relating to land to which this clause applies unless it has considered the following:
- (a) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines* published by the Acid Sulfate Soils Management Advisory Committee, and
  - (b) the likelihood of the proposed development resulting in the discharge of acid water, and

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(c) any comments received from the Department of Infrastructure, Planning and Natural Resources within 21 days of the Council having sent that Department a copy of the development application and of the related acid sulfate soils management plan.

(13) The provisions of *State Environmental Planning Policy No 1—Development Standards* do not apply to subclause (8).

### [5] Schedule 1 Definitions

Insert in alphabetical order:

*civic space* means land that is used for public purposes such as a plaza, a square, footpaths, shared traffic and pedestrian zones, an arcade and a winter garden.

### [6] Schedule 1, definition of “density map”

Insert in appropriate order:

Woollahra Local Environmental Plan 1995 (Amendment No 44)—Density Map

### [7] Schedule 1, definition of “height map”

Insert in appropriate order:

Woollahra Local Environmental Plan 1995 (Amendment No 44)—Height Map

### [8] Schedule 1, definition of “land use map”

Insert in appropriate order:

Woollahra Local Environmental Plan 1995 (Amendment No 44)—Land Use Map



**[9] Schedule 5**

Insert after Schedule 4:

**Schedule 5 Suspension of certain agreements,  
covenants and similar instruments**

(Clause 16A)

| <b>Item</b> | <b>Development</b>   | <b>Regulatory instrument</b> | <b>Minister</b> |
|-------------|--|------------------------------|-----------------|
| 1           | Land comprised in Lot 3, DP 12264, known as No 1 Anderson Street, Double Bay—development which is permissible with or without consent within the zone in which the land is situated.   | Registered covenant B190524  | Not applicable  |
| 2           | Land comprised in Lot 18, DP 12264, known as No 2 Patterson Street, Double Bay—development which is permissible with or without consent within the zone in which the land is situated. | Registered covenant B49841   | Not applicable  |
| 3           | Land comprised in Lot 19, DP 12264, known as No 4 Anderson Street, Double Bay—development which is permissible with or without consent within the zone in which the land is situated.  | Registered covenant B159583  | Not applicable  |
| 4           | Land comprised in Lot 20, DP 12264, known as No 2 Anderson Street, Double Bay—development which is permissible with or without consent within the zone in which the land is situated.  | Registered covenant B364994  | Not applicable  |

BY AUTHORITY