



New South Wales

## **Woollahra Local Environmental Plan 1995 (Amendment No 46)**

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*. (S03/01477/S69)

DIANE BEAMER, M.P.,

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

## 2004 No 89

Clause 1            Woollahra Local Environmental Plan 1995 (Amendment No 46)

---

# Woollahra Local Environmental Plan 1995 (Amendment No 46)

under the

Environmental Planning and Assessment Act 1979

## 1 Name of plan

This plan is *Woollahra Local Environmental Plan 1995 (Amendment No 46)*.

## 2 Aims of plan

The aims of this plan are:

- (a) to rezone certain land at Rose Bay from Zone No 2 (a) (the Residential "A" Zone) to Zone No 2 (b) (the Residential "B" Zone) under the *Woollahra Local Environmental Plan 1995*, and
- (b) to amend the maximum floor space ratio permissible for buildings erected on certain land at Rose Bay, Bellevue Hill and Double Bay, and
- (c) to amend the maximum permissible height of buildings erected on certain land at Point Piper and Darling Point, and
- (d) to facilitate heritage conservation in the local government area of Woollahra, including by preventing the alteration of any inter-war flat building without development consent, and
- (e) to facilitate the application of dual occupancy development on certain land in the local government area of Woollahra, and
- (f) to provide environmental planning controls that will result in the management of any disturbance of acid sulfate soils on certain land at Rose Bay, and
- (g) to introduce savings and transitional provisions that provide that development applications, applications to modify development consents and applications to review the determination of development applications lodged, but not finally determined, before the commencement of this plan are to be dealt with as if this plan had not been made.

---

**3 Land to which plan applies**

This plan applies to all land in the local government area of Woollahra. In particular,

- (a) to the extent that it rezones land, this plan applies to land shown with distinctive colouring or edging on the set of maps marked “Woollahra Local Environmental Plan 1995 (Amendment No 46)” deposited in the office of Woollahra Council, and
- (b) to the extent that it permits development for the purpose of dual occupancy, it applies to land within Zone No 2 (a) (the Residential “A” Zone) and Zone No 2 (b) (the Residential “B” Zone) except the land that is within a heritage conservation area.

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

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

## 2004 No 89

Woollahra Local Environmental Plan 1995 (Amendment No 46)

Schedule 1 Amendments

---

### Schedule 1 Amendments

(Clause 4)

#### [1] Clause 9 Subdivision of land

Insert after clause 9 (3):

- (4) Despite subclause (1), the subdivision of an allotment on which development for the purpose of a dual occupancy has previously been carried out is prohibited.

#### [2] Clause 11 Floor space ratios

Insert “or a dual occupancy” after “dwelling-house” in clause 11 (1).

#### [3] Clause 21BA

Insert after clause 21B:

##### **21BA Development of certain land in Rose Bay**

- (1) This clause applies to the following land:
  - (a) Lot 14, Section D, DP 5092, being land known as 88 Newcastle Street, Rose Bay,
  - (b) Lots 15 and 16, Section D, DP 5092, being land known as 90–92 Newcastle Street, Rose Bay,
  - (c) Lot 1, DP 925797, being land known as 94 Newcastle Street, Rose Bay,
  - (d) Lot 17A, Section D, DP 5092, being land known as 96 (98) Newcastle Street, Rose Bay,
  - (e) Lot 18, DP 5092, being land known as 458 Old South Head Road, Rose Bay,
  - (f) Lot 19, DP 5092, being land known as 460 Old South Head Road, Rose Bay,
  - (g) Lot 20, DP 5092 and Lot 1, DP 455814, being land known as 462 Old South Head Road, Rose Bay,
  - (h) Lot 1, DP 945861, being land known as 464 Old South Head Road, Rose Bay,
  - (i) Lot 22, Section D, DP 4893, being land known as 466 Old South Head Road, Rose Bay,
  - (j) Lot 23, Section D, DP 4893, being land known as 468 Old South Head Road, Rose Bay,

- 
- (k) Lot 24, Section D, DP 4893, being land known as 470 Old South Head Road, Rose Bay,
  - (l) Lot 25, Section D, DP 4893, being land known as 17 Faraday Avenue, Rose Bay,
  - (m) Lot 23, Section C, DP 4887, being land known as 474 Old South Head Road, Rose Bay,
  - (n) Lot 24, Section C, DP 4887, being land known as 476 Old South Head Road, Rose Bay,
  - (o) Lot 25, Section C, DP 4887, being land known as 478 Old South Head Road, Rose Bay,
  - (p) Lot 26, Section C, DP 4887, being land known as 480 Old South Head Road, Rose Bay,
  - (q) Lot 27, Section C, DP 4887, being land known as 482 Old South Head Road, Rose Bay.
- (2) The Council must not grant consent to development 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 sulphate soils management plan prepared for the proposed development in accordance with the *Acid Sulfate Soils Assessment Guidelines* published from time to time by the NSW Acid Sulfate Soils Management Advisory Committee and adopted by the Director-General, and
  - (b) the likelihood of the proposed development resulting in the discharge of acid water, and
  - (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 sulphate soils management plan.

## 2004 No 89

Woollahra Local Environmental Plan 1995 (Amendment No 46)

Schedule 1 Amendments

---

### [4] Clause 25C

Insert after clause 25B:

#### **25C Development for the purpose of dual occupancy**

- (1) This clause applies to land within Zone No 2 (a) (the Residential “A” Zone) and Zone No 2 (b) (the Residential “B” Zone) except that land which is within a heritage conservation area.
- (2) Despite clause 8, development for the purpose of a dual occupancy may be carried out on any land to which this clause applies but only with the consent of the Council.
- (3) The objectives of this clause in relation to dual occupancies are:
  - (a) to broaden the range of housing types available in Woollahra, and
  - (b) to fulfil the objectives of the Council’s Housing Study and Strategy, and
  - (c) to minimise any impact on the amenity of the neighbourhood.
- (4) A site must not be developed for the purposes of a detached dual occupancy unless the site area is 930 square metres or more and the width of the allotment at the front alignment is 21 metres or more.
- (5) In the case of a detached dual occupancy, the ancillary dwelling shall be limited to a single storey development not exceeding 4.5 metres in height and a maximum gross floor area not greater than 20% of the gross floor area of the principal residence.

### [5] Clause 36A

Insert after clause 36:

#### **36A Inter-war flat buildings**

A person must not alter an inter-war flat building except with the consent of the Council.

**[6] Clause 37 Savings and transitional provisions**

Insert after clause 37 (1):

- (1A) A development application lodged with the Council, but not finally determined, before the commencement of *Woollahra Local Environmental Plan 1995 (Amendment No 46)* is to be determined as if that plan had been exhibited but had not been made.

**[7] Clause 37 (2A)**

Insert after clause 37 (2):

- (2A) An application to modify a consent under section 96 of the Act that was lodged but not finally determined before the commencement of *Woollahra Local Environmental Plan 1995 (Amendment No 46)* is to be determined as if that plan had been exhibited but had not been made.

**[8] Clause 37 (4) and (5)**

Insert after clause 37 (3):

- (4) An application to review a determination under section 82A of the Act that is lodged but not finally determined before the commencement of *Woollahra Local Environmental Plan 1995 (Amendment No 32)* is to be determined as if that plan had been exhibited but had not been made.
- (5) An application to review a determination under section 82A of the Act that is lodged but not finally determined before the commencement of *Woollahra Local Environmental Plan 1995 (Amendment No 46)* is to be determined as if that plan had been exhibited but had not been made.

## 2004 No 89

Woollahra Local Environmental Plan 1995 (Amendment No 46)

Schedule 1 Amendments

---

### [9] Schedule 1 Definitions

Omit the definition of *alter*. Insert instead:

*alter* in relation to a heritage item or to a building or work within a heritage conservation area or to an inter-war flat building, means:

- (a) make structural changes to the outside of the heritage item, building or work or inter-war flat building, or
- (b) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work, or inter-war flat building, but not changes that involve the maintenance of the existing detail, fabric, finish and appearance of the outside of the heritage item, building or work or inter-war flat building.

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

Insert at the end of the definition:

Woollahra Local Environmental Plan 1995 (Amendment No 46)—Density Map (Sheets 1 to 5)

### [11] Schedule 1

Insert in appropriate order:

*dual occupancy* means 2 dwellings on a single allotment of land in the form of either:

- (a) one building containing 2 dwellings (known as an *attached dual occupancy*), or
- (b) two separate buildings comprising of an ancillary dwelling and a principle dwelling, (collectively known as a *detached dual occupancy*).

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

Insert at the end of the definition:

Woollahra Local Environmental Plan 1995 (Amendment No 46)—Height Map (Sheets 1 to 4)



**[13] Schedule 1, definition of “heritage conservation map”**

Insert at the end of the definition:

Woollahra Local Environmental Plan 1995 (Amendment No 46)—Heritage Conservation Map (Sheets 1 to 7)

**[14] Schedule 1**

Insert in appropriate order:

*inter-war flat building* means a building of 2 or more storeys and containing 2 or more dwellings, constructed in the period between 1918 and 1950.

**[15] Schedule 1, definition of “land use map”**

Insert at the end of the definition:

Woollahra Local Environmental Plan 1995 (Amendment No 46)—Land Use Map

**[16] Schedule 1, definition of “maintenance”**

Omit the definition. Insert instead:

*maintenance* in relation to a heritage item, or a building within a heritage conservation area or an inter-war flat building, means the continuous protective care of the fabric of the item and its setting or of the building within the heritage conservation area, or of the inter-war flat building, but in relation to an inter-war flat building, does not include the painting, rendering or similar treatment of external brickwork and other masonry surfaces that are not painted, rendered or similarly treated.

**[17] Schedule 1**

Insert in appropriate order:

*storey* means any separate level within a building (not including levels below existing ground level provided for car parking or storage, or both, that protrude less than 1.2m above existing ground level, or an attic level), where the number of storeys that a building contains is the maximum number of storeys of a building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.