

Item No: R 2 Recommendation to Council
Subject: CRANBROOK SCHOOL DRAFT LEP (AMENDMENT 61)
Author: A Coker, Director Planning and Development
File No: 1064.G Amendment 61
Reason for Report: To advise Council of the current position with the Draft Plan and its relevance to the determination of the Development Application 508/2005.

Recommendation:

That Council, as part of its consideration of Development Application 508/2005 by the Cranbrook school, take into consideration that Draft LEP 1995 (Amendment No. 61) will be placed on public exhibition under section 66 of the *Environmental Planning and Assessment Act 1979* for a period of one month from Wednesday 7 February 2007.

1. BACKGROUND:

After considering a confidential report from the Urban Planning Committee about the Court of Appeal decision on Cranbrook School, Council on 26 June 2006 resolved:

1. *That Council immediately prepare a Local Environmental Plan (LEP), excluding the Rose Bay Bowling Club site, to clarify the meaning of the definition of "community facility" to preclude an "educational establishment" and to make it consistent with the intent of the zoning tables, with the intent of having the amendment in place in the minimum statutory period from this day.*
2. *That the draft LEP be prepared with the assistance of Dr Lindsay Taylor and brought back to the next meeting of the Urban Planning Committee with the intent to submit it to the Council meeting on that night as a matter of urgency.*
3. *That council not pursue an appeal to the High Court.*
4. *That Council write to the Department of Planning about the implications of the Court of Appeal decision in relation to the definition, "community facilities" in the Department's standard template LEP and seek its support to expedite the processing of the draft LEP referred to in recommendation No.1 above.*
5. *That Council ask the Local Government and Shires Association to support Council's case to the Department of Planning for an amending LEP and for an amendment to the standard template LEP.*
6. *That the legal advice, report and annexures submitted to the Urban Planning Committee on 26 June 2006 remain confidential for a period of six months or until the matter is finally dealt with.*

Draft Woollahra Local Environmental Plan (Amendment No. 61) giving effect to the above resolution was presented to the Urban Planning Committee on 10 July 2006. Following consideration of the Committee's recommendation, Council on the same evening resolved:

- A. *That Council adopt the draft LEP (annexure 3) to the report to the Urban Planning Committee on 10 July 2006) and to apply to all land zoned Open Space within the Municipality, without reservation.*
- B. *That the amendments to the LEP include a further objective to land zoned open space as follows:*
 - (f) *to retain the green and open nature of the existing open space within the Municipality*
- C. *THAT, subject to the issue of a certificate under section 65 of the Environmental Planning and Assessment Act 1979, Draft Woollahra Local Environmental Plan 1995 (Amendment No. 61), as may be determined by Council, be placed on public exhibition for a period of a least 28 days.*
- D. *That a further report be brought back to this Committee in relation to additional controls to protect the green and open space nature of land zoned open space.*

The above resolution was the subject of a rescission motion handed to the Mayor prior to the conclusion of the meeting. The rescission motion was considered by Council on 24 July 2006 but was not successful. This meant that the decision of 10 July 2006 could be put into effect.

The draft LEP was formally submitted to the Department of Planning under section 54 of the *Environmental Planning and Assessment Act 1979* on 28 July 2006.

On 10 August we wrote to the Department, in accordance with item 4 of the resolution of 26 June 2006 about the implications of the Court's decision on the standard template LEP.

On 29 August we wrote to the Local Government and Shires Association, in accordance with item 5 of the resolution of 26 June 2006 and sought the Association's support for an amending LEP and for an amendment to the standard template LEP.

The Department and the Association have not formally replied to these letters.

On 30 August 2006 we received advice from the Department of Planning that it did not support the draft LEP as it seeks to introduce a definition (of community facility) inconsistent with the one contained in the *Standard Instrument (Local Environmental Plans) Order 2006*. The Department suggested that, following a review of the implications of the proposed changes, Council prepare an amendment which adopts the Standard Instrument definition, or zone the former Rose Bay Bowling site more appropriately for its likely uses.

On 25 September we reported to the Urban Planning Committee about the Department's refusal to allow us to proceed with the draft plan. A copy of that report is attached as **annexure 1**. On 9 October 2006 Council resolved:

THAT Council resolve pursuant to Section 54 of the Environmental Planning and Assessment Act and in response to the advice from the Department of Planning:

1. *the draft LEP be revised so that the definition of 'community facility' is consistent with the definition contained in the Standard Instrument and with the inclusion of the following words "...but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone."...*

2. *the Development Control Table – Zone No. 6 – (Open Space) be amended at item 5, Development which may be carried out with development consent, to include child care centres and clubs (other than registered clubs)*
- B. *THAT, subject to the issue of a certificate under section 65 of the Environmental Planning and Assessment Act 1979, Draft Woollahra Local Environmental Plan 1995 (Amendment No. 61), as may be determined by Council, be placed on public exhibition for a period of at least 28 days.*
- C. *THAT all steps be immediately taken to have the amended LEP adopted in the minimum statutory time frame.*

On 12 October 2006 we submitted the amended draft LEP to the Department of Planning. A copy of the Draft Plan, as amended is attached as **annexure 2**.

On 13 December 2006 the Department authorised Council to exercise the following functions under the *Environmental Planning and Assessment Act 1979*:

- Section 65(1) – certification of the draft LEP
- Section 69 – report to the Minister

It also advised that there is no need for an environmental study.

On 15 December 2006, as required by section 62(b) of the Act we formally consulted with our neighbouring Councils, the City of Sydney and Waverley and asked that any submissions in relation to the draft LEP be provided by 19 January 2007. No submissions were received.

On 1 February 2006 I issued a Section 65 Certificate under the sub-delegation issued to me by the General Manager. Arrangements have been made to place the draft LEP on public exhibition under section 66 of the Act on Wednesday 7 February 2007. This means that the draft plan will not be on public exhibition on the day the matter is dealt with by the Strategic and Corporate Committee but will be on public exhibition when the Council determines the application on 12 February 2007.

2. IMPLICATIONS OF THE DRAFT LEP

Section 79C of the Act sets out the matters Council is required to take into consideration in determining a development application. Section 79C(1)(a)(ii) includes:

- (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and.....”*

Since the draft LEP is a draft environmental planning instrument when Council makes the decision on the development application it must take into consideration the draft LEP which has, among other things, the effect of prohibiting the proposed development. Therefore, at the time of determination there will be in force the current plan which permits the proposed development and a draft plan on public exhibition which prohibits the proposed development.

The Land and Environment Court has held that, under section 79C, a consent authority must take into consideration an exhibited draft LEP that would prohibit development that was the subject of an application before it, and that the draft LEP was to be given significant weight in relation to the

application, but not necessarily be determinative of it (*Novara Crescent Pty Ltd v Sutherland Shire Council* (2004) 136 LGERA 135).¹

In *Terrace Tower Holdings Pty Ltd v Sutherland Shire Council* the NSW Court of Appeal commented that, if an application was made under an existing instrument but approval would substantially undermine the purpose of the draft instrument, the draft instrument should be given significant weight in deciding whether to reject the application.²

The weight to be given to a draft instrument also depends on whether the instrument is 'certain and imminent'. In this case, the terms of the instrument are not 'certain' because the Council has not yet received or considered public submissions. This may well result in changes being adopted. It is also not possible to say whether the instrument is 'imminent'.

The legislation does not indicate what weight should be given to each of the matters contained in section 79C. Furthermore, there is no rule that says that if a development application fails on one factor it must be refused or a rule that all factors must be given equal weight. The only rules that apply are that all matters have to be given proper, genuine and realistic consideration and that the Council must not act in a manifestly unreasonable way when making a decision.

It is therefore a matter for Council to determine what weight it should give to the draft LEP. However, in exercising this discretion it could have regard to the following:

- **How likely is it that the plan will be made?**

It is not possible to provide a definitive answer to this question while there remain several key steps in the plan making process.

It is not known what public submissions will be received and what submissions may be received from the applicant.

We don't know whether Council will decide to proceed or not to proceed or proceed with the draft LEP in an amended form, eg. it could add transitional provisions or it could decide to not apply the LEP to the subject site.

There is also the possibility that the Minister may insert transitional provisions (to avoid changing the rules during the life of the application) or make other changes. The Council needs to consider whether the provisions of the draft instrument are relevantly certain in the way they apply to the subject development application.

- **Would the granting of consent undermine the purpose of the draft instrument?**

The stated aims of the plan are to amend Woollahra Local Environmental Plan 1995 to:

- (a) clarify the meaning of 'community facility', and
- (b) make consequential changes to permissible uses in Zone No. 6 (Open Space Zone) arising from the changes to the definition of community facility.

The plan applies to all land to which Woollahra LEP 1995 applies.

¹ Farrier, D and Stein, P Editors, 2006, "*The Environmental Law Handbook*", Redfern Legal Publishing.

² Farrier, D and Stein, P Editors, 2006, "*The Environmental Law Handbook*", Redfern Legal Publishing.

It is not the stated aim of the plan to prohibit the development of the subject site for school purposes, however, this is a consequence of the draft plan and no doubt Council had this in mind on 10 July 2006 when deciding to proceed with the plan and to make the plan apply to all land zoned open space.

Approval of the application would not otherwise undermine the stated purposes of the plan to clarify the meaning of 'community facility'.

3. CONCLUSION

Council is required to consider the provisions of Draft Woollahra LEP 1995 (Amendment No. 61) in determining the development application by Cranbrook School. However, it is a matter for Council to determine what weight it should give to the draft plan, as one of a number of matters that must be considered, including the fact that the Court of Appeal has determined that what is proposed is permissible under the current planning instrument.

The advice contained in this report has been prepared with the assistance of Lindsay Taylor Lawyers. Further legal advice is likely in late correspondence.



Allan Coker
Director Planning and Development

Annexures:

1. Report to the Urban Planning Committee on 25 September 2006
2. Draft Woollahra LEP 1995 (Amendment No. 61)

Item No: R1 Recommendation to Council
Subject: WOOLLAHRA LEP AMENDMENT 61 - DEFINITION OF 'COMMUNITY FACILITY'
Author: Peter Kauter, Executive Planner
File No: 1064.G amend 61
Reason for Report: To consider the Department of Planning's response to draft Woollahra Local Environmental Plan 1995, Amendment No. 61 – 'community facility' definition

Recommendation:

- A That in response to the Department of Planning's response to the draft Woollahra Local Environmental Plan 1995, Amendment No. 61 – 'community facility' definition:
- 1 the draft LEP be revised so that the definition of 'community facility' is consistent with the definition contained in the Standard Instrument and with the inclusion of the following words "... but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone."
 - 2 the Development Control Table – Zone No. 6 – (Open Space) be amended at item 5, Development which may be carried out with development consent, to include child care centres and clubs (other than registered clubs)
- B THAT, subject to the issue of a certificate under section 65 of the Environmental Planning and Assessment Act 1979, Draft Woollahra Local Environmental Plan 1995 (Amendment No. 61), as may be determined by Council, be placed on public exhibition for a period of a least 28 days.
- C That the Committee note the suggestion by the Department of Planning regarding the zoning of the land formerly occupied by the Rose Bay Bowling Club having regard to its likely use given the Court of Appeal's decision and defer consideration of this matter until the Cranbrook School's development application, DA508/2005 has been determined.

1. Background:

The Council, at its meeting on 10 July 2006, resolved as follows:

- A. *That Council adopt the draft LEP (annexure 3 to the report to the Urban Planning Committee on 10 July 2006) and to apply to all land zoned Open Space within the Municipality, without reservation.*
- B. *That the amendments to the LEP include a further Objective to land zoned open space as follows:*
 - (f) *to retain the green and open nature of the existing open space within the Municipality*
- C. *THAT, subject to the issue of a certificate under section 65 of the Environmental Planning and Assessment Act 1979, Draft Woollahra Local Environmental Plan 1995*

(Amendment No. 61), as may be determined by Council, be placed on public exhibition for a period of a least 28 days.

- D. *That a further report be brought back to this Committee in relation to additional controls to protect the green and open nature of land zoned open space.*

Note: The above resolution was the subject of an unsuccessful rescission motion at the Council meeting on 24 July 2006.

The report considered by the Urban Planning Committee on 10 July 2006 is annexed. Annexure 3 of that report was draft LEP 61 to change the definition of 'community facility'.

We made a submission to the Department of Planning on 28 July 2006 advising it of the Council's resolution and including information required by section 54(4) of the *Environmental Planning and Assessment Act 1979* (the Act), clause 9(2) of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) and Planning Circular PS 06-005.

A response was received from the Department of Planning on 30 August 2006 in the following terms:

I am writing in response to Council's letter dated 28 July 2006 advising, pursuant to section 54(4) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'), of the Council's decision to prepare a draft local environmental plan ('LEP') to amend the definition of 'community facility' and make consequential changes to Woollahra LEP 1995.

The Department recognises that the recent Court of Appeal decision regarding Cranbrook School and use of the former Rose Bay Bowling Club site raises a significant issue for Council that needs to be addressed prior to completion of the new principal LEP, due within five years. However, the form of the amendment as resolved by Council is not supported as it seeks to introduce a definition inconsistent with the one contained in the Standard Instrument (Local Environmental Plans) Order 2006. The Department will also consider whether the Court decision has any implication for the Standard Instrument definition.

In the meantime Council may wish to consider an amendment which adopts the Standard Instrument definition, following a review of the implications for the use of 6 Open Space zone. Council should also consider zoning the former Rose Bay Bowling Club site more appropriately for its likely uses given the Court of appeal decision. With regard to use of the Standard Definition, the Department would support the addition of words having a similar effect to those at the end of Council's proposed definition i.e. "not being a building or place elsewhere defined in this plan", but with the words based around the wording found in Clause 12(3)(b) of the Standard Instrument, which relates to zone objectives and the land use tables.

You will be aware that an instrument of delegation in respect of my LEP making functions was executed on 16 February 2006 ('delegation'). Use of the delegation in respect of a draft LEP is conditional on receipt by Council of a Written Authorisation to Exercise Delegation ('Authorisation').

I have determined that an Authorisation will not be issued in this instance and therefore the Council will not be able to exercise any functions under the delegation in respect of the draft LEP referred to above.

Should the Council decide to proceed with the draft LEP in the terms proposed, you should be aware that I am unlikely to certify the draft plan pursuant to section 65(1) of the EP&A Act for the abovementioned reasons.

Councillors were advised of the Department's response by memorandum dated 31 August 2006.

2. Options

The Department's response suggests that Council consider 2 matters:

- 1 An amendment which adopts the Standard Instrument definition, following a review of the implications for the use of 6 Open Space zone
- 2 Zoning the Rose Bay Bowling Club site more appropriately for its likely uses give the Court of Appeal decision

2.1 Adopting the Standard Instrument Definition

Community facility is defined in the Standard Instrument as follows:

Community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community

The current definition in WLEP 95 is as follows:

Community facility means a building or place owned or controlled by the Council, a public authority, a religious organisation or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community, which may include:

- (a) a public library, rest rooms, meeting rooms, recreation facilities, a child care centre, cultural activities, social functions or any similar building, place or activity, or
 - (b) a community club, being a building or place used by persons sharing like interests, but not a registered club,
- whether or not that building or place is also used for another purpose.*

The definitions differ regarding the entities which can own or control a building or place to qualify as a community facility. The Standard Instrument definition refers only to a *public authority* whereas the WLEP definition refers to a *public authority* but additionally refers to *the Council, a religious organisation or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community*. A public authority is defined by the Act as:

public authority means:

- (a) a public or local authority constituted by or under an Act, or
- (b) a government Department, or
- (c) a statutory body representing the Crown, or
- (d) a chief executive officer within the meaning of the Public Sector Management Act 1988 (including the Director-General), or
- (e) a statutory State owned corporation (and its subsidiaries) within the meaning of the State Owned Corporations Act 1989, or
- (f) a chief executive officer of a corporation or subsidiary referred to in paragraph (e), or
- (g) a person prescribed by the regulations for the purposes of this definition.

Under the Standard Instrument definition a council is still an owning or controlling entity but a religious organisation or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community, are not.

The Standard Instrument provides that a building or place be used for the physical, social, cultural or intellectual development or welfare of the community. The WLEP 95 provides that uses may include certain specific uses but only excludes registered clubs.

The main differences between the definitions of 'community facility' are shown in the following table:

STANDARD INSTRUMENT		WLEP 95
Owning or controlling entity	<ul style="list-style-type: none"> Public authority 	<ul style="list-style-type: none"> Council Public authority Religious organisation Body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community
Uses	<ul style="list-style-type: none"> Must be for the physical, social, cultural or intellectual development or welfare of the community 	<ul style="list-style-type: none"> Excludes registered clubs

Using a school as an example:

- schools could be a community facility under both definitions
- the Standard Instrument would only include schools owned or controlled by a public authority, e.g. public schools
- the WLEP 95 would include schools if they were owned or controlled by the Council, a public authority, a religious organisation or a body of persons associated for the physical, social, cultural, economic, intellectual or religious welfare of the community

Clause 12(3)(b) of the Standard Instrument, referred to in the Department's response, provides:

12 Zone objectives and land use table

(3) *In the table at the end of this Part:*

(b) *a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.*

For example under the Standard Instrument if a 'community facility' was referred to as a permissible use in the Private Recreation Zone and an 'educational establishment' was referred to as a prohibited use in that zone a school development would not be permissible as a 'community facility'.

2.2 Rezoning the Rose Bay Bowling Club site:

The Department suggests that Council should consider zoning the RBBC site more appropriately for its likely uses given the Court of Appeal decision. Given the Court of Appeal decision the likely use of the site will be a school. The Department's response therefore implies that Council should consider rezoning the land to Special Uses – School, Zone No. 5.

Prior to the Court of Appeal decision the use of the RBBC site for a school was considered to be prohibited. The previous decision of the Council to change the 'community facility' definition was to prevent school and other inappropriate development on all Open Space zoned land.

3. Consideration:

The Open Space zone objectives and land use tables are as follows:

3. Objectives of the zone

- (a) to identify existing publicly and privately owned land used or capable of being used for recreational purposes,*
- (b) to identify areas which are reserved for future public open space -
 - (i) in the case of land edged red and marked with the letter "L" in red, being local open space, and*
 - (ii) in the case of land edged red and marked with the letter "R" in red, being regional open space,**
- (c) to increase the provision of public open space within the Council's area to meet the needs of the population,*
- (d) to enable development for the purpose of public and private recreation and community facilities sympathetic to the environmental characteristics of the land and surrounding areas, and*
- (e) to protect the visual and environmental attributes of the foreshores.*

4. Development which may be carried out without development consent

Development for the purpose of:

Bushfire hazard control; drainage; maintenance of gardens and structures. Development pursuant to, or approved in accordance with, the plan of management adopted under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993 and for the time being applicable to the subject land.

5. Development which may be carried out only with development consent

Development for the purpose of:

Community facilities; recreation areas; recreation facilities; roads; uses or buildings associated with development permitted in the zone without development consent; utility installations (other than gas holders or generating works).

6. Development which is prohibited

Any development other than development included in Item 4 or 5.

An amendment which adopts the Standard Instrument definition would not, in itself, limit the range of uses which fall into the 'community facility' category. As registered clubs would not be excluded by the Standard Instrument definition the range of uses would actually be expanded when compared to the WLEP 95 definition. In order to avoid buildings and places which would otherwise be prohibited in a zone from being categorised as a community facility the Standard Instrument definition, if adopted, should also include the following words "*.....but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone.*". These words are consistent with clause 12(3)(b) of the Standard Instrument as suggested by the Department.

The buildings or places which are specifically referred to in the current definition but which would be excluded if the Standard Instrument definition was adopted are child care centres and clubs (excluding registered clubs) unless they were owned or controlled by a public authority. As the operation of these facilities by persons or organisations other than public authorities can be appropriate on Open Space zoned land they should be included as development permissible with consent in the Open Space zone table.

The Standard Instrument definition considerably limits the owning or controlling entities. For instance, based on the Cranbrook School v Woollahra Council court judgements, Cranbrook School was considered to be a body of persons associated for the welfare of the community. As the Standard Instrument refers to owning or controlling entities as 'public authorities' Cranbrook would not have been able to satisfy the criteria.

The Standard Instrument definition also requires the use of buildings and places to be for the development and welfare of the community. This is considered to be more appropriate than the WLEP 95 definition which has no such requirement.

In view of the Department's suggestions it is considered that we should revise the draft LEP by:

- adopting the Standard Instrument's definition of 'community facility' but with the inclusion of the following words "*.....but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone.*"
- Including child care centres and clubs (excluding registered clubs) as development permissible with consent in the Open Space zone

The definition of community facility would therefore read as follows:

Community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone.

Item 5 of the Open Space Development Control Table would therefore read as follows:

5. Development which may be carried out only with development consent

Development for the purpose of:

Child care centres; clubs (other than a club registered under the Registered Clubs Act 1976); community facilities; recreation areas; recreation facilities; roads; uses or buildings

associated with development permitted in the zone without development consent; utility installations (other than gas holders or generating works).

The impact of adopting the Standard Instrument definition on the other provisions of WLEP 95 also needs to be considered. Community facilities are also referred to in the:

- aims and objectives of the plan, clause 2(1)(d)
- objectives in relation to residential development, clause 2(2)(a)(i)
- Commercial zone 3(a), 3(b) and 3(c) tables, clause 8
- Special Uses zone table, clause 8
- community use of certain facilities, clause 13
- development on certain land in Double Bay, clause 21E
- additional uses in heritage conservation areas, clause 30

The revised 'community facility' definition would not have undesirable implications for these provisions and this was discussed in detail in the annexed report. Also, because the Standard Instrument definition requires community facilities to be used for the development and welfare of the community it would be more relevant for achieving the aims and objectives of the WLEP 95 than the current definition.

Regarding the Department's suggestion on zoning the former RBBC land given the Court of Appeal decision, the previous Council resolutions to change the 'community facility' have sought to restrict the permissibility of uses, including school use, on Open Space zoned land. The Council purposefully resolved that the draft LEP regarding the 'community facility' definition not exclude the RBBC land. The previously proposed definition would have meant that schools could not satisfy the community facility criteria and would therefore be prohibited in the Open Space zone.

Notwithstanding the previous Council decisions to prohibit certain uses, including school use, of Open Space zoned land the RBBC land will be an anomaly should the community facility definition change. From a planning perspective there is logic in rezoning the RBBC site to permit school use (i.e. Special Use Zone No.5 – Schools) in order to achieve orderly development of the land. This is because the Court of Appeal has ruled that the development for school purposes proposed by the Cranbrook School's DA on the land is permissible. However, as the DA has not been determined it is recommended that further consideration of this matter be deferred.

The previous Council resolution provided for an additional objective to be included in the objectives for the Open Space zone, i.e.:

(f) to retain the green and open nature of existing open space within the Municipality

The Department have not raised issue with this additional objective and therefore including it as part of a revised draft LEP amendment should not affect the Department's decision to support the amendment.

4. Conclusion:

In view of the Department of Planning's response, the draft WLEP amendment no. 61 should be revised to have the effect of making the definition of 'community facility' consistent with the Standard Instrument definition.

The Department has suggested that the Council should consider the zoning of the former Rose Bay Bowling Club land. However, it is recommended that this matter be deferred until the Cranbrook School's DA has been determined.

Peter Kauter
Executive Planner

Allan Coker
Director -- Planning & Development

Annexure:

Report to the Urban Planning Committee meeting held on 10 July 2006 (the annexures to that report will be available at the meeting)

Draft

Woollahra Local Environmental Plan 1995 (Amendment No 61)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under
the *Environmental Planning and Assessment Act 1979*. (Ref ##)

Minister for Planning

Draft

Clause 1

Woollahra Local Environmental Plan 1995 (Amendment No 61)

Woollahra Local Environmental Plan 1995(Amendment No 61)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Woollahra Local Environmental Plan 1995 (Amendment No 61)*.

2 Aims of plan

This plan aims to amend Woollahra Local Environmental Plan 1995 to:

- (a) clarify the meaning of 'community facility', and
- (b) make consequential changes to permissible uses in Zone No. 6 (Open Space Zone) arising from the changes to the definition of community facility

3 Land to which plan applies

- (1) This plan applies to all land to which the *Woollahra Local Environmental Plan 1995* applies.

4 Amendment of Woollahra Local Environmental Plan 1995

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

Draft

Woollahra Local Environmental Plan 1995 (Amendment No 61)

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 4)

[1] Clause 8 Zone No. 6 (Open Space Zone)

Insert in alphabetical order in item 5 of the Table to the clause

child care centres

clubs (other than a club registered under the Registered Clubs Act 1976)

[2] Schedule 1 – definition of ‘community facility’

Omit the definition. Insert instead:

Community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community but does not include, in relation to any zone, a building or place referred to separately in the development control table for that zone.