

Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Tuesday 10 June 2014*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council:

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
 - Town Planning Objectives; and
 - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Planning Proposals and Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.

Delegated Authority:

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

Committee Membership:

7 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

5 June 2014

To: Her Worship the Mayor, Councillor Toni Zeltzer ex-officio
Councillors Katherine O'Regan (Chair)
Ted Bennett
Anthony Boskovitz
Luise Elsing (Deputy Chair)
James Keulemans
Greg Levenston
Matthew Robertson

Dear Councillors

Urban Planning Committee Meeting – 10 June 2014

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Thornton Room (Committee Room), 536 New South Head Road, Double Bay, on Tuesday 10 June 2014 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence Note Council resolution of 27 June 2011 to read late correspondence in conjunction with the relevant Agenda Item	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 26 May 2014	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Elaine – 550 New South Head Road, Point Piper – 329.550	2
R2	Draft Woollahra LEP 2013 – 1064.G Principal LEP	90
R3	Stormwater Development Control Plan – 1064.G	92

***Confidential Annexure 3 Circulated Under Separate Cover**

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 26 May 2014**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 26 May 2014 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 26 May 2014 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: *ELAINE*- 550 New South Head Road, Point Piper
Author: Amelia Parkins, Strategic Heritage Officer
File No: 329.550
Reason for Report: To respond to an adopted notice of motion requiring a report on the state heritage significance of the property at 550 New South Head Road, Point Piper.

Recommendation:

- A. That the heritage assessment for *Elaine* at 550 New South Head Road, Point Piper prepared by Paul Davies Pty Ltd be received and noted.
- B. That, in accordance with the conclusion of the heritage assessment by Paul Davies Pty Ltd, no further action regarding the state heritage listing of the property be taken.

1. Background

1.1 Notice of motion

On 24 February 2014 Council adopted the notice of motion:

That Council requests staff to prepare a report exploring the possibility of listing as an item on the NSW State Heritage Register the building known as 'Elaine', located at 550 New South Head Road, Double Bay [Point Piper], including its curtilage, grounds and the contents of the site.

On 5 March 2014 heritage consultants, Paul Davies Pty Ltd, were engaged to prepare an assessment of significance for the property and a recommendation on whether it should be listed as a heritage item on the State Heritage Register.

2. Description

The property at 550 New South Head Road, Point Piper, contains a large house, known as *Elaine*, and a stables outbuilding. The house is set in a large landscaped garden that extends to the foreshore of Seven Shillings Beach. The house underwent major alterations in the 1890s and 1950s. The stables building, situated to the east of the house has undergone some alterations but remains largely intact.

3. Assessment of significance

The subject property has been assessed using the criteria contained in the document titled *Assessing Heritage Significance*¹. The principles and definitions set out in the *Australia ICOMOS² Burra Charter 2013* and its Practice Notes were also used.

3.1 Criteria for assessing cultural heritage significance

¹ *Assessing Heritage Significance*, NSW Heritage Office 2001 (Heritage Manual Update)

² *The Burra Charter, 2013, The Australia ICOMOS Charter for Places of Cultural Significance*

The NSW Heritage Manual identifies seven criteria for evaluating the heritage significance of an item, place or site, which can be applied at a local, state or national level. The subject site at 550 New South Head Road, Point Piper, has been assessed against these criteria in the report prepared by Paul Davies Pty Ltd (**annexure 1**).

The assessment found that the property is of local significance for its historic, historic association and social values. The property was assessed as not satisfying any of the criteria at a state level.

Assessment criteria	Local significance	State significance
Criterion (a) Historical significance	✓	-
Criterion (b) Historical significance (association)	✓	-
Criterion (c) Social significance	-	-
Criterion (d) Aesthetic significance	✓	-
Criterion (e) Research Potential	-	-
Criterion (f) Rarity	-	-
Criterion (g) Representativeness	-	-

4. Conclusion

The property 'Elaine' at 550 New South Head Road, Point Piper, has been assessed by Paul Davies Pty Ltd against the industry best practice heritage criteria. Based on the findings of this assessment the building does not meet the threshold of significance warranting state heritage listing.

Amelia Parkins
Strategic Heritage Officer

Chris Bluett
Manager Strategic Planning

Annexures:

Annexure 1 'Elaine' - Heritage Assessment Report by Paul Davies Pty Ltd, dated May 2014

Item No: R2 Recommendation to Council
Subject: **Draft Woollahra LEP 2013**
Author: Chris Bluett - Manager Strategic Planning
File No: 1064.G Principal LEP
Reason for Report: To obtain Council's agreement for the schedule of reporting on submissions received in relation to Draft Woollahra LEP 2013.

Recommendation:

- A. That the Council endorse the method of considering submissions on Draft Woollahra LEP 2013 as set out in section 2 of the report to the Urban Planning Committee meeting on 10 June 2014.
- B. That the recommendation of the Urban Planning Committee proceed to the meeting of the Council on 10 June 2014 as a matter of urgency in order to assist with the programming of committee meetings.

1. Background

Draft Woollahra Local Environment Plan 2013 (the Draft LEP), which will be the new LEP for the Woollahra Municipality, is currently in the final stages of production. Public exhibition of the Draft LEP over the period 21 August to 13 November 2013 resulted in the receipt, to date, of 286 submissions.

Recording and assessment of these submissions is reaching completion. On 14 May 2014 the Strategic Planning Working Party was given an overview of the submissions by staff from the Strategic Planning Department and possible amendments to the Draft LEP were presented.

The next step of the process requires the Council to consider a report on the submissions and determine whether certain changes to the Draft LEP should be made. Following that action, the Draft LEP may be referred to the Department of Planning and Environment for consideration by the Department's regional office and the Parliamentary Counsel.

2. Reporting the submissions

Under normal circumstances reports would be considered by the Urban Planning Committee and then a recommendation would proceed to the full Council. The UPC is open to the public and the Committee's protocol and procedures enable public members attending the meeting to address the Councillors on agenda items for a maximum of four minutes.

Public submissions on the Draft LEP cover a range of issues. At this time we do not know the number of people who would attend a UPC meeting or how many of those would seek to address the Councillors. In the course of informing people about the UPC meeting we will ask them to register their interest in addressing the Committee. This will provide an indication of numbers and the topics to be raised.

Notwithstanding that, it is reasonable to say that a normal UPC meeting which meets on the second and fourth Monday each month for 1.5 hours would only have the capacity to hear a small or moderate number of people before it moved into discussion amongst the Councillors. We therefore suggest a different meeting structure specifically tailored for the Draft LEP. This would involve the following steps.

Distribution and notification

1. Distribute report to Councillors in advance of public.
2. Publish report on Council's website, inform submitters of committee meeting details and request registration of interest in addressing committee.

Consideration of submissions

1. Two Strategic and Corporate Committee meetings within one month – Tuesdays after UPC meetings.
2. All Councillors invited with full voting rights.
3. The purpose of these meetings is to provide opportunity for people who made submissions to address the Councillors.
4. At the second S+ C Committee, part of the meeting time is used to form a recommendation.

Decision making

A meeting of the full Council will consider the S+C Committee's recommendation. This will occur in the normal timeframe for Council's meetings.

Should the Council agree with this schedule of meetings, dates will need to be determined having regard to other Council business.

3. Conclusion

The Council is required to consider submissions before it refers the Draft LEP to the Department of Planning and Environment for approval by the Minister. In order to afford reasonable time for public presentations to the Councillors and then consideration by a committee and full Council, a special schedule of meetings is necessary. This will enable other business of the Council to be conducted within the normal committee framework.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Item No: R3 Recommendation to Council
Subject: **Stormwater Development Control Plan**
Author: Cathy Edwards-Davis, Manager Engineering Services
File No: 1064.G
Reason for Report: To obtain a resolution from Council to proceed with the exhibition of the Stormwater Development Control Plan

Recommendation:

1. That the Council resolve to proceed with the exhibition of the draft Stormwater Development Control Plan in accordance with Annexure 1 of this report.
2. That the draft Stormwater Development Control Plan be included within and advertised in conjunction with the forthcoming Comprehensive DCP.
3. That the relevant Section 149 (2) Certificates be updated for properties identified as being subject to coastal inundation in the “Estuary Planning Levels” report dated November 2013 prepared by Cardno.

Background

Council has a draft Stormwater Drainage Management DCP dated 14 December 2006 and a draft Flood Risk Management DCP dated 23 August 2004. These documents are out-dated and neither have been formally adopted by Council.

A new draft Stormwater Development Control DCP has therefore been prepared. The draft DCP has been prepared in consultation with staff from the Technical Services and Planning and Development divisions.

A Councillor briefing on the draft Stormwater DCP was held on the 5 May 2014. At this meeting, Councillors had the benefit of legal advice from Dr Lindsay Taylor and Megan Hawley from Lindsay Taylor Lawyers.

Proposal

The draft Stormwater DCP is contained within Annexure 1. The following table summarises the key controls contained within the draft Stormwater DCP.

Section	Requirement	Detail
2.2.2	Water sensitive urban design	<ul style="list-style-type: none"> • WSUD (eg. rainwater tanks) is encouraged, but not compulsory.
2.2.3	Stormwater treatment	<ul style="list-style-type: none"> • Stormwater treatment (eg. GPTs) is required for major developments or for discharge to Sydney Harbour.
2.2.4	On-Site Detention	<ul style="list-style-type: none"> • OSD is required for developments where the site area is more than 500m² and where the site is not located in the OSD exemption area. • A rainwater tank may be installed as an alternative to OSD. The rainwater tank must be 1.5 times the OSD volume requirements.
2.2.5	Connection to Council's drainage system	<ul style="list-style-type: none"> • All stormwater discharge to Council's drainage system must be gravity fed. • In general, the stormwater discharge from development sites must be to Council's below ground drainage system (exemptions based on merit). • Only dwelling houses and developments involving minor alternations and additions may discharge to the kerb and gutter.
2.2.6	Diversion of Council's drainage	<ul style="list-style-type: none"> • Applications to divert Council's drainage will be considered on their merits.
2.2.7	Structures over or near drainage lines and easements	<ul style="list-style-type: none"> • Generally, new buildings, structures and overhanging structures are not permitted over existing or proposed drainage lines or easements. • Driveways and landscaped areas are generally permitted over drainage lines and easements.
2.2.8	Connection to Council's parks	<ul style="list-style-type: none"> • Applications to discharge stormwater to a natural watercourse or Council below ground drainage line within a park will be considered on their merits.
2.2.9	Low Level Properties and Easements	<ul style="list-style-type: none"> • All stormwater discharge to Council's drainage system must be gravity fed. This may require the creation of an easement through the downstream property. • If an easement is not obtainable, it may be possible to connect to Council's below ground stormwater system if the Council system is extended to the site. • Easement alternatives will be considered only where the development involves alterations and additions to a dwelling house; and where the development increases the impervious area of the site by less than 40m².
2.2.10	Groundwater	<ul style="list-style-type: none"> • Where excavations are deeper than 1.0m, the works must be designed such that there will be no adverse hydrogeological impacts.
2.11	Absorption systems	<ul style="list-style-type: none"> • Absorption systems may only be utilised where it is not possible to discharge drainage to Council's stormwater system by gravity.
2.12	Pump and sump systems	<ul style="list-style-type: none"> • Pump and sump systems will be considered only where the development involves alterations and additions to a dwelling house; and where the development increases the impervious area of the site by less than 40m²; and where it is not possible to discharge drainage to Council's stormwater system by gravity.

Section	Requirement	Detail										
2.13	Charged or siphonic systems	<ul style="list-style-type: none"> Charged or siphonic systems use the height of the building to create a pressurised stormwater system. This allows the system to draw water out of the gutters at higher velocities and flow rates. The drainage line permanently holds water. Charged or siphonic systems may only be utilised where it is not possible to discharge drainage to Council's stormwater system by gravity. 										
2.14	Activities on a public road	<ul style="list-style-type: none"> Where stormwater works are required in a public roadway, these are subject to a separate approval process under Section 138 of the Roads Act. 										
2.3.3	Flood Planning Levels	<ul style="list-style-type: none"> FPLs set the floor level height for development in areas which are subject to flooding. The FPLs vary depending on the relative flood risk and the proposed development type. FPLs consist of the following: <ul style="list-style-type: none"> A flood level which has been determined from a flood study; plus A freeboard that compensates for uncertainties in the estimation of flood levels across the floodplain; plus Foreshore developments subject to coastal inundation must give consideration to two factors: <ul style="list-style-type: none"> Flood planning levels (FPLs); and Estuary planning levels (EPLs). EPLs consist of the following: <ul style="list-style-type: none"> A still water level which has been determined from a coastal inundation study; plus A wave run-up/ overtopping height which has been determined from a coastal inundation study; plus A sea level rise factor; plus A freeboard that compensates for uncertainties in the estimation of coastal inundation levels across the coastal zone. All new developments and major alterations and additions are to have their floor levels set at the required FPL and EPL as stipulated in the following table: <table border="1" data-bbox="622 1594 1481 2074"> <thead> <tr> <th>Development Type</th> <th>Flood (and Estuary) Planning Level</th> </tr> </thead> <tbody> <tr> <td>Habitable floor areas</td> <td>100 Year ARI flood level plus 0.5m freeboard.</td> </tr> <tr> <td>Non-habitable floor areas</td> <td>100 Year ARI flood level plus 0.3m freeboard.</td> </tr> <tr> <td>Habitable floor areas for foreshore developments subject to coastal inundation</td> <td>The highest RL, calculated from the following: 100 Year ARI flood level plus 0.5m freeboard; OR Still water level plus 100 Year ARI wave run-up plus a sea level rise factor plus 0.3m freeboard.</td> </tr> <tr> <td>Ground level, open</td> <td>20 Year ARI flood level plus 0.3m</td> </tr> </tbody> </table> 	Development Type	Flood (and Estuary) Planning Level	Habitable floor areas	100 Year ARI flood level plus 0.5m freeboard.	Non-habitable floor areas	100 Year ARI flood level plus 0.3m freeboard.	Habitable floor areas for foreshore developments subject to coastal inundation	The highest RL, calculated from the following: 100 Year ARI flood level plus 0.5m freeboard; OR Still water level plus 100 Year ARI wave run-up plus a sea level rise factor plus 0.3m freeboard.	Ground level, open	20 Year ARI flood level plus 0.3m
Development Type	Flood (and Estuary) Planning Level											
Habitable floor areas	100 Year ARI flood level plus 0.5m freeboard.											
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Habitable floor areas for foreshore developments subject to coastal inundation	The highest RL, calculated from the following: 100 Year ARI flood level plus 0.5m freeboard; OR Still water level plus 100 Year ARI wave run-up plus a sea level rise factor plus 0.3m freeboard.											
Ground level, open	20 Year ARI flood level plus 0.3m											

Section	Requirement	Detail	
		car parking spaces	freeboard.
		Enclosed car parking spaces, three or fewer vehicles	20 Year ARI flood level plus 0.3m freeboard.
		Enclosed car parking spaces, more than three vehicles	100 Year ARI flood level plus 0.3m freeboard.
2.3.4	Flood Controls	<ul style="list-style-type: none"> • All overland flood paths are to be free of obstructions and they are to be designed to convey the 1:100 ARI event. • Where an applicant cannot increase FPLs to take into account the sea level rise planning benchmarks, Council may consider imposing time-limited consent to provide the potential to remove, replace or adapt development in the future. • Properties within a High Flood Risk Precinct are unsuitable for all development unless a Flood Risk Management Report has been prepared. • Properties within a Medium Flood Risk Precinct are generally unsuitable for critical and sensitive use development such as hospitals and educational establishments. Such developments will be considered on their merits. 	

The majority of the recommended controls in the draft Stormwater DCP 2014 are contained within the draft Stormwater Drainage Management DCP 2006 and draft Flood Risk Management DCP 2004 and have been imposed or conditioned by staff on development applications for many years.

The controls which are substantially new within the draft Stormwater DCP 2014 are largely found in Section 2.3.3 Flood Planning Levels and include:

- Freeboards
- Estuary Planning Levels
- Time limit consents

These will be discussed further below.

There are numerous reasons why it may not be possible or practical to meet the proposed flood planning levels. The draft DCP therefore proposes a number of exemptions:

- For alterations and/or additions (only) developments, where it is not practical to meet the above habitable, non-habitable and car parking floor levels due to compatibility with the height of adjacent buildings, or compatibility with the floor level of existing buildings, a lower floor level may be considered, based on the individual merits. In these circumstances, the floor level is to be as high as practical, and no lower than the existing floor level.
- In order to achieve the required FPL and/or EPL for car parking, Council may allow the use of mechanical barriers such as flood gates. Where a mechanical barrier is permitted, a 0.5m freeboard will be required.
- All FPLs and EPLs represent the minimum standard required for the development type. An applicant may seek to lower the minimum FPL and/or EPL. Such requests will be assessed

on their merits. A Flood Risk Management Report and/ or a Coastal Inundation Assessment, prepared by a suitably qualified practitioner, will be required.

- For ground level shop fronts in commercial and mixed-use developments, an applicant may seek to lower the FPL and/or EPL in order to allow the development to match into existing longitudinal street levels, to optimise retail potential and/or to provide acceptable access for persons with disabilities. Such requests will be assessed on their merits.
- For heritage conservation properties, an applicant may seek to lower the FPL and/or EPL, for the heritage component of the building only, in order to remain sympathetic with the heritage values of the property. In general, any alterations and additions will be required to meet the FPL and/ or EPL. Such requests will be assessed on their merits.

Freeboard

Freeboard is an amount that is added to a calculated flood level that allows for a factor of safety. It allows for model inaccuracies, turbulence, hydraulic wave action, afflux (the increase in flood level upstream of an obstruction such as a road culvert, a pipe narrowing or an overland flow path which runs between properties) and other unforeseen events. Council's current practice is to utilise a freeboard of 0.3m for habitable floors and 0.15m for non-habitable floors such as car parks. This freeboard has not been formally adopted by Council, but has been the practice of Council staff for a number of years.

On the 31 January 2007, an amended section 117 Ministerial Direction was released in relation to flood prone land. The Ministerial Direction states:

(1) A draft LEP shall include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*)....

(5) For the purposes of a draft LEP, a council must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the *Guideline on Development Controls on Low Flood Risk Areas*) unless a council provides adequate justification for the proposed departure from that Manual...

The NSW Floodplain Development Manual states that "in the majority of circumstances a freeboard of 0.5m would be acceptable for new development controls". Many other Sydney Councils are using 0.5 metres.

The Department of Planning "Guideline on Development Controls on Low Flood Risk Areas – Floodplain Development Manual" dated 31 January 2007 advises that Section 733 of the Local Government Act protects Councils from liability if they have followed the requirements of the NSW Floodplain Development Manual.

Given the above, it is recommended that Council adopt a freeboard of 0.5 metres for habitable floor areas and 0.3 metres for non-habitable floor areas.

Impact of Freeboard Policy

Without examining each property and the existing floor levels individually, it is difficult to identify which properties and developments will be impacted by the proposed change to the freeboard. Council has four identified floodplain areas:

- Rushcutters Bay
- Double Bay
- Rose Bay
- Watsons Bay

For each of these floodplain areas, Council has prepared (or will shortly finalise) three reports: a Flood Study, a Risk Management Study and a Risk Management Plan. These various reports identify the total number of properties within the 100 year ARI flood area.

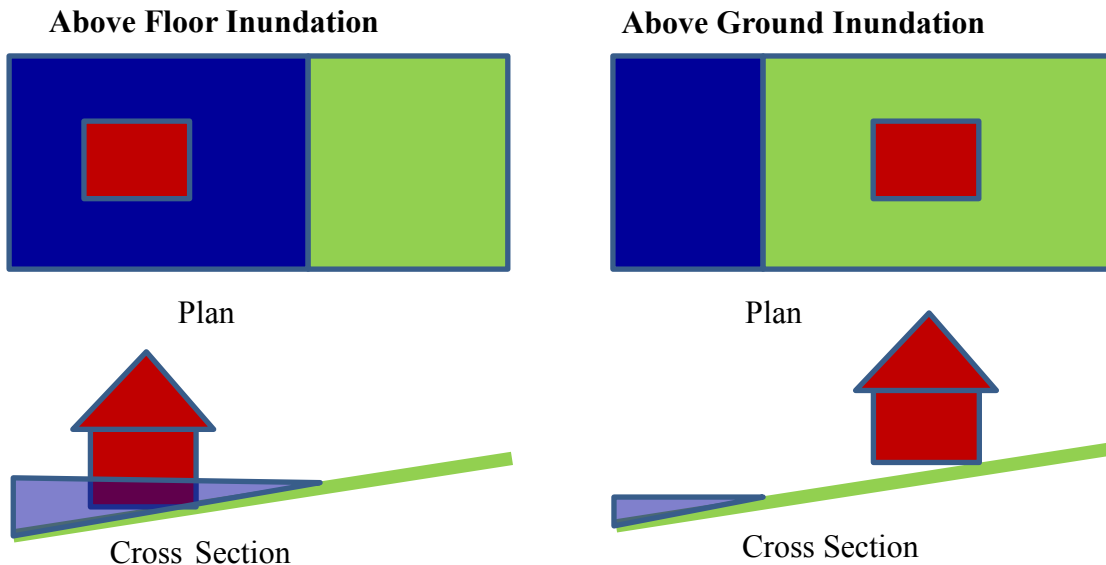
Consideration will have to be given to each property on an individual basis when any future DA is lodged. It is likely that the majority of the properties within the 100 ARI flood area will need to implement a freeboard. However, depending on the existing floor levels of the property, they may not need to increase the floor level by the full 0.5 metre freeboard amount. For example, if the existing floor levels are already 0.3 metres above the 100 year ARI flood level, then they will only need to increase their floor level by an additional 0.2 metres.

The following table presents the approximate number of properties which *may* require a freeboard level (subject to individual assessment when any future DA is lodged). These figures have been taken from the various Flood Studies, Risk Management Studies and Risk Management Plans.

Catchment	Properties with Above Floor Inundation				Properties with Above Ground Inundation (approximate) *
	Residential	Business	Other	Total	
Rushcutters Bay	47	4	3	54	97
Double Bay	62	142	-	204	620
Rose Bay	75	43	4	122	292
Watsons Bay	6	-	1	7	28
Total	190	189	8	387	1,037

* All properties with above floor inundation are included in the properties with above ground inundation.

The diagram below illustrates the difference between above floor inundation and above ground inundation.



Some properties which are in the upper areas of the catchments, outside the identified 100 year ARI flood level, and properties which are outside the four identified floodplain areas may be subject to localised overland flooding. These properties would generally be required to flood proof their properties, but not modify (increase) floor levels. Such flood proofing would require minor structural changes such as increasing window heights, restricting access (doorways) on the flood prone side of the property and installing landscaping mounds/ walls. It is estimated that approximately 3-4 properties per year, which submit a DA, would be subject to these types of controls and DA conditions. Council's Drainage Design Engineer already imposes these types of conditions on these properties, as appropriate.

It should be noted that the change from a 0.3 metre freeboard to a 0.5 metre freeboard will not greatly increase the *number* of impacted properties. It will mean that those properties which fall into the 100 year ARI flood area will be impacted to a greater extent.

Estuary Planning Levels

- Estuary Planning Levels (EPLs) consist of the following:
 - A still water level which has been determined from a coastal inundation study; plus
 - A wave run-up/ overtopping height which has been determined from a coastal inundation study; plus
 - A sea level rise factor; plus
 - A freeboard that compensates for uncertainties in the estimation of coastal inundation levels across the coastal zone.

Council engaged a consultant, Cardno to prepare a report dated November 2013 on Estuary Planning Levels for the Woollahra Municipality. This report individually identifies all properties which are impacted by coastal inundation and a unique EPL has been calculated for each property.

A component of the EPL is a sea level rise factor.

The previous State Government had a Sea Level Rise Policy which set sea level rise benchmarks of 40cm by 2050 and 90cm by 2100. Similarly to freeboard, Councils were protected from liability if they followed the State Government Policy (s733 Local Government Act).

The current State Government requested that the Chief Scientist investigate the adequacy of the science behind these sea level rise benchmarks. The Chief Scientist concluded in a report dated April 2012:

Estimates of global sea level rise in the late 19th century to early 21st century, measured through tide gauges and more recent (since 1993) satellite altimetry, show a rise of between 1.7mm/ year to over 3mm/year...

The way the science has been used to determine benchmarks is adequate, in light of the evolving understanding of the complex issues surrounding future sea levels.

The NSW Government introduced the Coastal Protection Amendment Bill 2012. This legislation no longer provides recommendations for sea level rise. The reasoning provided by the State Government for this is:

There is considerable uncertainty in projections of future sea level rise which means that the Government does not consider that it is appropriate to recommend specific statewide projections for use by Councils. Councils need the freedom to consider local conditions when determining local future hazards. The NSW Government is not intending to release a new sea level rise policy statement.

The State Government has advised that they may be setting up a technical advice centre to provide individual Councils with guidance on sea level rises. It is unclear at this stage what form this expert advice will take and when it may be available to Councils. Further, it is subject to budgetary review.

Councils have been advised to make use of information already available, including the Chief Scientist's report and the website of the Office of Environment and Heritage.

The new State Government legislation leaves all Councils with a lot more uncertainty. It also limits Council protection from liability. Councils have been advised to consider information on historical and projected future sea level rise which is "widely accepted by competent scientific opinion".

Without direction from the State Government, the appropriate approach would appear to be to follow the guidance of the Chief Scientist who clearly meets the criteria of "widely accepted by competent scientific opinion". The Chief Scientist has found that the science behind the previous State Government benchmarks were adequate. Given this, it is recommended that Council set sea level rise benchmarks of 40cm by 2050 and 90cm by 2100.

Legal Advice on Sea Level Rise

Statewide Mutual commissioned DLA Piper to provide legal advice in relation to sea level rise. Their advice is dated 13 March 2013 and is attached within a confidential annexure.

Impact of Estuary Planning Levels

Without examining each individual development application, it is difficult to identify which developments will be impacted by EPLs. Consideration will have to be given to each property on an individual basis when any future DA is lodged.

The following table presents the approximate number of properties which *may* require an EPL (subject to individual assessment when any future DA is lodged). These figures have been taken from Cardno's Estuary Planning Level report.

Scenario	Additional Properties	Total Properties
Present Day Coastal Inundation (100 Year ARI)	-	480
Present Day Coastal Inundation (100 Year ARI) and 40cm sea level rise by 2050	+86	566
Present Day Coastal Inundation (100 Year ARI) and 90cm sea level rise by 2100	+169	735

Should Council resolve to impose development restrictions with regards to EPLs, the relevant Section 149 (2) Certificates will need to be updated for properties identified as being subject to coastal inundation in the "Estuary Planning Levels" report prepared by Cardno.

Time Limit Consents

There are numerous reasons why it may not be possible or practical to meet the proposed EPLs to take into account sea level rise. The draft DCP therefore outlines that Council may consider imposing time-limited consent to provide the potential to remove, replace or adapt development in the future (s80A (d) and (e) Environmental Planning and Assessment Act) under a merits based assessment.

Another methodology would be to develop an appropriate trigger which would require the removal of the development. For example, if the coastal inundation were to reach a pre-identified height. This methodology would satisfy reasonableness in that the risk has to eventuate in order to trigger the removal of the development.

Consultation

It is recommended that the Draft Stormwater DCP be exhibited in conjunction with the comprehensive DCP.

Consultation with the community will occur through the exhibition processes required under Part 3 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. This legislation requires that Council consider any submissions received as a result of the public exhibition of a draft DCP, before it can be adopted.

Identification of Income & Expenditure

The implementation of the Stormwater DCP, including the imposition of appropriate conditions of consent, will be undertaken by existing internal staff.

Conclusion

The draft Stormwater DCP outlines the appropriate objectives and controls to manage stormwater drainage collected on and discharged from new developments; and to minimise flood related risks to people and property associated with the development and use of land.

A new Stormwater DCP 2014 is needed to replace the out-dated draft Stormwater Drainage Management DCP dated 14 December 2006 and draft Flood Risk Management DCP dated 23 August 2004.

It is therefore recommended that Council proceed to include, as part of the Comprehensive DCP, a Stormwater DCP in accordance with the attached draft Stormwater Development Control Plan.

Cathy Edwards-Davis
Manager Engineering Services

Tom O'Hanlon
Director Technical Services

Annexures:

1. Draft Stormwater Development Control Plan
2. Estuary Planning Levels report prepared by Cardno
3. Legal advice (Confidential)

Political Donations – matters to be considered by Councillors at Meetings

