



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Monday, 17 December 2007*

**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).

## **Delegated Authority (“D” Items):**

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- 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 below:

## **Recommendation only to the Full Council (“R” Items):**

- 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.
- Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Traffic Management and Planning (Policy) and Approvals.
- 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.

## **Committee Membership:**

7 Councillors

## **Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

13 December 2007

To: His Worship The Mayor, Councillor Geoff Rundle, ex-officio  
Councillors                      John Comino      (Chair)  
   Claudia Cullen    (Deputy Chair)  
   Christopher Dawson  
   Wilhelmina Gardner  
   Keri Huxley  
   Julian Martin  
   David Shoebridge

Dear Councillors

### **Urban Planning Committee Meeting – 17 December 2007**

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 **Dining Room, 536 New South Head Road, Double Bay, on Monday 17 December 2007 at 6.00pm.**

Gary James  
General Manager

# **Additional Information Relating to Committee Matters**

**Site Inspection**

**Other Matters**

## Meeting Agenda

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
1	Leave of Absence and Apologies	
2	Late Correspondence	
3	Declarations of Interest	

### **Items to be Decided by this Committee using its Delegated Authority**

D1	Confirmation of Minutes of Meeting held on 26 November 2007	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Public Car Parking in the Double Bay Commercial Centre – Proposed Amendments to Woollahra Section 94 contributions Plan 2002 & Woollahra DCP for off-street car parking provision & servicing facilities – 136.G	2
R2	Draft Woollahra LEP 1995 (Amendment No. 60) – Neighbourhood Centres & William Street Paddington – 1064.G (Amendment 60)	51

**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 26 November 2007**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 26 November 2007 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 November 2007 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** R1 Recommendation to Council

**Subject:** **Public Car Parking in the Double Bay Commercial Centre - Proposed Amendments to Woollahra Section 94 Contributions Plan 2002 and Woollahra DCP for Off-Street Car Parking Provision and servicing facilities**

**Author:** Chris Bluett - Manager Strategic Planning

**File No:** 136.G

**Reason for Report:** To respond to a decision of the Council made on 26 November 2007 regarding proposed changes to the Woollahra Section 94 Contributions Plan 2002 and Woollahra DCP for Off-street Car Parking Provision and Servicing Facilities, both or which relate to public car parking in the Double Bay Commercial Centre.

### **Recommendation**

- A. That a draft development control plan be prepared to amend Woollahra Development Control Plan for Off-street Car Parking Provision and Servicing Facilities by removing the requirement for additional off-street car parking and the requirement for a contribution under Woollahra Section 94 Contributions Plan 2002 for development involving a change of use in the Double Bay Commercial Centre, unless the proposed development will result in a net increase in gross floor area.
- B. That a draft development control plan be prepared to amend the Double Bay Commercial Centre Development Control Plan by including references which have the effect of allowing exemptions for off-street car parking provision and car parking section 94 contributions for certain development proposals, including change of use proposals, described in the Development Control Plan for Off-street Car Parking Provision and Servicing Facilities and the Woollahra Section 94 Contributions Plan 2002.
- C. That a draft contributions plan be prepared to amend Woollahra Section 94 Contributions Plan 2002 by:
  - (i) reducing the contribution for car parking in the Double Bay Commercial Centre from \$38,496 per space to \$27,325 per space,
  - (ii) making consequential changes to the Contributions Plan, including changes to the following clauses:
    - (a) clause 2.1 (schedule of contribution rates) - change contribution rate
    - (b) clause 2.2 (works schedule) – update the total cost figure for providing additional public parking in the Cross Street Car Park and the staging for the works
    - (c) clause 3.3 (land and development to which plan applies) – identify the exemption for change of use proposals and provide a cross reference to the Car Parking DCP
    - (d) clause 4.7.2 (additional public facilities), clause 4.7.3 (apportionment of costs) and clause 4.7.4 (contribution calculations) –update the total cost figure for providing additional public parking in the Cross Street Car Park; insert the new contribution rate; and note the exemption for change of use proposals.

## Background

On 19 November 2007 the Corporate and Works Committee considered a report (**annexure 1**) on the financial aspects of proposed amendments to the Woollahra Section 94 Contributions Plan 2003 (Contributions Plan). The amendments were recommended in response to the consideration of several Council decisions about the monetary contribution required in lieu of providing off-street parking in the Double Bay Commercial Centre. On 26 November 2007 the Council considered the Committee's recommendation and resolved:

- A. That a draft development control plan be prepared to amend Woollahra Development Control Plan for Off-street Car Parking and Servicing Facilities by removing the requirement for additional off-street car parking and the requirement for a contribution under Woollahra Section 94 Contributions Plan 2002 for development involving a change of use in the Double Bay Commercial Centre, unless the proposed development will result in a net increase in gross floor area.
- B. That a draft contributions plan be prepared to amend Woollahra Section 94 Contributions Plan 2002 by:
  - (i) reducing the contribution for car parking in the Double Bay Commercial Centre from \$38,496 per space to \$27,325 per space,
  - (ii) making consequential changes to the Contributions Plan, including changes to the following clauses:
    - (a) clause 2.2 (works schedule) – to update the total cost figure for providing additional public parking in the Cross Street Car Park,
    - (b) clause 3.3 (land and development to which plan applies) – to identify the exemption for change of use proposals and to provide a cross reference to the Car Parking DCP,
    - (c) clause 4.7.2 (additional public facilities), clause 4.7.3 (apportionment of costs) and clause 4.7.4 (contribution calculations) – to update the total cost figure for providing additional public parking in the Cross Street Car Park; to insert the new contribution rate; and to note the exemption for change of use proposals.
- C. That a report be submitted to the Urban Planning Committee setting out the proposed amendments to Woollahra Section 94 Contributions Plan 2002 and Woollahra Development Control Plan for Off-street Car Parking and Servicing Facilities.
- D. That the Council consider further investigations on the provision of parking in Double Bay in conjunction with the Double Bay business management strategy. These investigations may include:
  - (i) a full analysis of existing and anticipated floor space in the Centre, and
  - (ii) a review of the 1999 Double Bay traffic and parking study.

This report responds to item C of the decision.

## Proposed amendments to the Contributions Plan

The proposed amendments are listed in Part B of the Council's decision. In addition to those changes it will be necessary to amend clause 2.1 (Schedule of contribution rates). The amendments are shown in a marked version of the current Contributions Plan contained in **annexure 2**. The table below provides a reference to the amended provisions.



Clause	Page	Amendment
2.1 Schedule of contribution rates	3	Change contribution rate from \$38,496 per space to \$27,325 per space
2.2 Works schedule	4	Change cost of extension to Cross Street Car Park from \$3,310,644 to \$2,349,950. Change staging for proposed works from 2002-2007 to 2007-2012. Change subtotal of proposed works from \$8,707,634 to \$7,746,940
3.3 Land and development to which plan applies	5	Amend and reorganise to create four subheadings: 3.3.1 Land to which this plan applies 3.3.2 Development to which this plan applies 3.3.3 Development to which this plan does not apply 3.3.4 Catchment areas. The new subclause 3.3.3 contains the exclusion for change of use proposals.
4.7.2 Additional public facilities Table 4.7 Parking costs	23	Change cost of extension to Cross Street Car Park from \$3,310,644 to \$2,349,950.
4.7.3 Apportionment of costs	23	Insert reference to exclusion for change of use proposals mentioned in subclause 3.3.3.
4.7.4 Contribution calculations	24	Insert reference to exclusion for change of use proposals mentioned in subclause 3.3.3. Amend examples of calculation for car parking contribution by changing the cost of extension to Cross Street Car Park from \$3,310,644 to \$2,349,950 and the contribution rate from \$38,496 per space to \$27,325 per space.

### **Proposed amendment to DCP for Off-street Car Parking Provision and Servicing Facilities**

The amendment to the DCP for Off-street Car Parking Provision and Servicing Facilities (Car Parking DCP) involves the addition of the following clause.

#### **6.16 Premises within the Double Bay Commercial Centre**

The Council will not require additional off-street car parking for development proposals involving a change of use on land zoned business in the Double Bay Commercial Centre, unless the proposal will also result in a net increase in gross floor area.

The Council will not require a contribution under the Section 94 Contributions Plan for development proposals involving a change of use on land in the Double Bay Commercial Centre to which that Plan applies, unless the proposal will also result in a net increase in gross floor area.

This clause does not affect the operation of clause 6.13.

Clause 6.13 of the Car Parking DCP provides exclusions for additional parking and a section 94 contribution for cafes and restaurants in the Double Bay commercial centre. This exclusion clause was introduced to improve the centre's vitality and promote active street frontages.

### **Proposed amendment to Double Bay Commercial Centre DCP**

Minor amendments to the Double Bay Commercial Centre DCP will be required to ensure that the proposed exclusions in the Contributions Plan prevail and there is no inconsistency between the Double Bay DCP and the Contributions Plan. These amendments were not listed in the report to the Corporate and Works Committee. The proposed amendments are administrative measures that have no bearing on the considerations made by the Corporate and Works Committee.

The amendments are:

## **1.8 Relationship to the Act, the Regulation and to other plans and policies**

Add at the end of this clause the following sentences:

The provisions of clauses 6.13, 6.15 and 6.16 of the Development Control Plan for Off-street Car Parking Provision and Servicing Facilities prevail over the provisions of this DCP. The provisions of Woollahra Section 94 Contributions Plan 2002 relating to the exemption of change of use proposals prevail over the provisions of this DCP.

### **6.7.2 On-site parking**

Add a sentence to the end of principle P1.

#### **Principles**

P1 Council would prefer to accept a monetary contribution in lieu of car parking for retail and commercial development on narrow sites, where car parking can not be reasonably provided. This principle does not apply to the exemptions for certain development proposals, including change of use proposals, described in the Development Control Plan for Off-street Car Parking Provision and Servicing Facilities and the Woollahra Section 94 Contributions Plan 2002.

#### **Controls**

Add a paragraph to the retail and commercial components section.

#### **Retail and commercial components**

Commercial and retail development is required to provide 100% of required car parking on-site as private parking. Developments on small sites, which do not readily accommodate car parking, due to site width depth or shape, (these sites are indicated on the drawing in 6.2), and which are required to provide less than 15 retail/commercial car spaces may make a monetary contribution in lieu of all, or part of, the required parking. Any option for making a contribution in lieu of on-site parking must be discussed with Council at the time the development concept is being prepared, prior to submission of a development application. (Refer to Woollahra Councils S94 Contributions Plan)

These requirements do not apply to the exemptions for certain development proposals, including change of use proposals, described in the Development Control Plan for Off-street Car Parking Provision and Servicing Facilities and the Woollahra Section 94 Contributions Plan 2002.,

#### **Next steps**

Amendments to the Contributions Plan and Car Parking DCP will be prepared and placed on public exhibition early next year. We anticipate the exhibition can commence in late January 2008, after the Christmas and New Year holiday periods. The public exhibition will follow the statutory process set down in the *Environmental Planning and Assessment Regulation 2000*. The minimum exhibition period is twenty-eight days.

#### **Identification of income and expenditure**

All costs associated with the preparation of amendments and their exhibition will be met from the 2007-2008 budget.

### **Conclusion**

The proposed amendments to the Contributions Plan and Car Parking DCP are a way in which the Council can assist with the promotion of business activities in the Double Bay Centre. As such, the amendments have a sound planning purpose. The amendments have been informed by a retail study and by material used in a recent appeal to the Land and Environment Court. Preparation and exhibition of the amending plans should now be undertaken to allow public comment.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

### **ANNEXURES**

1. Report to Corporate and Works Committee 19 November 2007
2. Woollahra Section 94 Contributions Plan 2003 with proposed amendments

**Item No:** R2 Recommendation to Council  
**Subject:** **Draft Woollahra LEP 1995 (Amendment No.60) - Neighbourhood Centres and William Street Paddington**  
**Author:** Chris Bluett - Manager Strategic Planning  
**File No:** 1064.G (Amendment 60)  
**Reason for Report:** To inform the Council of advice from the Parliamentary Counsel and Department of Planning.  
To modify the Council's decision of 29 October 2007.

**Recommendation:**

That the decision of 29 October 2007 regarding Draft Woollahra LEP 1995 be modified by removing item A(i) which calls for the inclusion of a provision delaying the provisions for the William Street Paddington until an amendment to the Paddington Heritage Conservation Area DCP comes into force.

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Background

The Urban Planning Committee considered a report on Draft Woollahra LEP 1995 (Amendment No.60) [Draft LEP] at its meeting on 8 October 2007. The Committee discussed the provisions for William Street Paddington and formed a view that those provisions should not commence until new controls had been prepared and approved for the buildings that would be used for non-residential purposes. The new controls would be prepared as an amendment to the Paddington Heritage Conservation Area Development Control Plan.

Consequently, the Committee formed a recommendation which was adopted by the Council on 29 October 2007.

- A. THAT the amended Draft Woollahra Local Environment Plan 1995 (Amendment 60) as contained in **Annexure 8** of the report to the Urban Planning Committee meeting of 8 October 2007 be referred to The NSW Department of Planning for approval by the Minister and for gazettal, subject to:
- (i) adding a provision that has the effect of delaying the provisions for William Street Paddington coming into force until the date on which the amendment to the Paddington Heritage Conservation Area DCP, as proposed by item C of this decision, comes into force.
  - (ii) omitting the rezoning of No.77 New South Head Road, Vaucluse
  - (iii) any legal drafting alterations requested by Parliamentary Counsel.
- B. THAT the amended Draft Neighbourhood Centres Development Control Plan as contained in **Annexure 9** of the report to the Urban Planning Committee meeting of 8 October 2007, including the amendments contained in **Annexure 7** of the report to the Urban Planning Committee meeting of 8 October 2007, be approved subject to removal of reference to No.77 New South Head Road, Vaucluse.

- C. THAT a draft development control plan be prepared to amend the Paddington Heritage Conservation Area Development Control Plan to include controls for buildings in William Street, Paddington which may be used for non-residential purposes under the current provisions of Woollahra LEP 1995 and under Woollahra LEP 1995 (Amendment 60).

The changes required by part A(i) and (ii) of the decision were made to the Draft LEP and the amended document and supporting material were sent to the Department of Planning's legal branch with a request for an opinion by the Parliamentary Counsel. A copy of the amended written instrument is attached as **annexure 1**.

Discussions were held with staff from the Department and the Parliamentary Counsel's office about the use of a deferred commencement provision in a LEP. Both offices have advised that a deferred commencement with an uncertain date is not possible (**annexure 2**). Consequently, the provision would need to be removed from the Draft LEP before the plan could be approved by the Minister. The Parliamentary Counsel is awaiting further advice on actions the Council wishes to take.

### **Options**

In view of the advice from the Department and the Parliamentary Counsel's office, the Council will need to reconsider part A(i) of its decision on 29 October 2007. Three options are suggested.

1. Defer the William Street provisions from the Draft LEP under section 68(5) of the *Environmental Planning and Assessment Act 1979* (the Act) and submit the Draft LEP to the Department.
2. Request the Department to discontinue processing the Draft LEP until the amended DCP provisions are operational.
3. Proceed with the Draft LEP without a deferred commencement clause.

#### *Option 1*

Section 68(5) of the Act enables the Council to exclude provisions from a draft LEP which in the Council's opinion require further consideration. The "deferred matter" can be dealt with in a further draft LEP at a later stage without the need for re-exhibition. Section 68(5) should only be used where a council considers an aspect of an exhibited draft LEP requires further consideration. At this stage we understand the Council has not indicated that further consideration of the William Street provisions is necessary.

#### *Option 2*

This option contemplates delaying the whole Draft LEP until the proposed changes to the Paddington HCA DCP are approved and in force. We do not consider this option is reasonable or practical. The William Street provisions comprise a very small aspect of the Draft LEP. The main component of the Draft LEP relates to neighbourhood centres. The Council has approved the Neighbourhood Centres DCP, but the plan cannot commence until the Draft LEP is gazetted. Amendments to the Paddington HCA DCP would not be operational until at least mid-2008. Effectively, this would delay commencement of the Draft LEP and the Neighbourhood Centres DCP for about six months.

#### *Option 3*

In the circumstances, we recommend option three. Gazettal of the Draft LEP without further delay will benefit the neighbourhood centres and the William Street properties. We are mindful of the need to resolve the illegal use of properties in William Street and discharge orders that have been served on William Street property owners.

### **Conclusion**

Advice from the Department of Planning and Parliamentary Counsel's office requires Council to reconsider part of its decision about the Draft LEP taken on 29 October 2007. The recommended option is to proceed with the Draft LEP without a provision that delays commencement of the William Street provisions. If the Council agrees with this option it will need to modify its decision of 29 October 2007.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

### **Annexure**

1. Draft Woollahra LEP 1995 (Amendment No.60) – with alterations from Council's decision on 29 October 2007.
2. Advice from Parliamentary Counsel dated 5 December 2007.