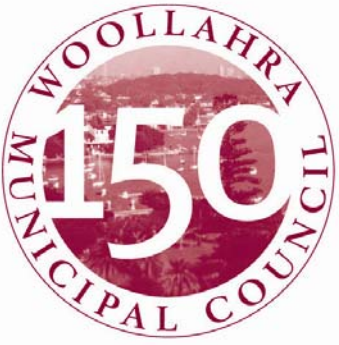


Urban Planning Committee



Agenda: *Urban Planning Committee*

Date: *Monday 31 January 2011*

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 (“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.

Delegated Authority (“D” Items)

- 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

27 January 2011

To: Her Worship The Mayor, Councillor Isabelle Shapiro ex-officio
Councillors Chris Howe (Chair)
Lucienne Edelman (Deputy)
Nicola Grieve
Ian Plater
David Shoebridge
Malcolm Young
Toni Zeltzer

Dear Councillors

Urban Planning Committee Meeting – 31 January 2011

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 Monday 31 January 2011 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	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 13 December 2010	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Amendments to State Environmental Planning Policy (Infrastructure) 2007 – Solar Energy Systems & Small Wind Turbine Systems – 696.G	2
R2	Amendments to State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 – 696.G	29
R3	Draft Woollahra Residential DCP 2003 (Amendment No. 3) – 1064.G	94

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 13 December 2010**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 13 December 2010 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 13 December 2010 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **Amendments to State Environmental Planning Policy (Infrastructure) 2007 - Solar Energy Systems and Small Wind Turbine Systems**
Author: Chris Bluett - Manager Strategic Planning
File No: 696.G
Reason for Report: To inform Council of amendments to SEPP (Infrastructure) 2007 relating to solar energy systems and small wind turbine systems.

Recommendation

That the report on the amendments to *State Environmental Planning Policy (Infrastructure) 2007* relating to solar energy systems and small wind turbine systems be received and noted.

1. Background

In April 2010 the NSW State Government released discussion papers on solar energy and small wind turbines. Both discussion papers sought comment on proposed changes to *State Environmental Planning Policy (Infrastructure) 2007* [SEPP (Infrastructure)].

We prepared a report on the discussion papers which was presented to the Urban Planning Committee meeting on 24 May 2010 (**annexure 1**). A submission was also prepared and lodged with the Department of Planning (**annexure 2**).

2. Amendment to SEPP (Infrastructure)

On 17 December 2010 *State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010* was gazetted. The amendment comprises changes to:

- SEPP (Infrastructure) – various items, including solar energy systems and small wind turbine systems
- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* – provides a cross reference to the solar energy system and small wind turbine system provisions in SEPP (Infrastructure)
- *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010* – introduces changes to the subdivision code
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* – minor changes relating to master plans and controls for waterways.

This report only addresses the amendment to SEPP (Infrastructure) which covers solar energy systems and small wind turbine systems.

Solar energy system is defined in the amendment as any of the following systems:

- (a) a photovoltaic electricity generating system (PV system)
- (b) a solar hot water system
- (c) a solar air heating system.

Small wind turbine system means a system comprising one or more small wind turbines each of which feed into the same grid or battery bank. Small wind turbine is defined as a wind turbine that has a generating capacity of no more than 100kW.

Prior to the amendment, PV systems and solar hot water systems were allowed as exempt and complying development subject to development criteria. Notably, the systems could not be exempt of complying development if they were proposed for buildings listed as State or local heritage items or buildings in a heritage conservation area.

Wind turbines were permitted with consent in limited situations but were not allowed as exempt or complying development.

The amendment -

- introduces a new category of development called solar energy system which comprises solar air heating systems, PV systems and solar hot water systems,
- expands the permissibility of solar energy systems and small wind turbine systems,
- allows solar energy systems to be installed by public authorities without the need for consent subject to certain criteria being met,
- omits the exempt and complying provisions for PV systems and solar hot water systems,
- introduces new exempt and complying development provisions for solar energy systems and small wind turbine systems.

Annexure 3 contains a summary of the new exempt and complying development provisions for solar energy systems and small wind turbine systems.

3. Application to Woollahra

The amendments apply to the Woollahra Local Government Area (LGA) in various ways.

Solar energy systems

- Permissible without consent
 - all land in LGA, but only as development carried out by or on behalf of a public authority and subject to limitations on generating capacity.
- Permissible with consent
 - all land in LGA, but with limitations on generating capacity in residential zones.
- Exempt development
 - all land in LGA, including land with State or local heritage items or land in a heritage conservation area (this arrangement did not apply in previous provisions)
 - visibility and location on building criteria apply to systems.
- Complying development
 - all land in LGA except for land with State or local heritage items or land in a heritage conservation area (this is consistent with previous provisions)
 - general criteria apply to all systems
 - separate criteria apply for ground-mounted systems and building-mounted systems.

Small wind turbine systems

- Permissible without consent
 - Not applicable.

- Permissible with consent
 - all land in LGA but with limitations in residential areas on generating capacity and height of ground-mounted turbines.
- Exempt development
 - only applies to rural zones; not applicable in Woollahra.
- Complying development
 - all land in LGA except for land with State or local heritage items or land in a heritage conservation area
 - general criteria apply to systems
 - separate criteria apply for:
 - graduated setbacks from dwellings based on the sound power level of the system
 - ground-mounted systems and building-mounted systems in residential, special use and other zones, including criteria for the number of turbines and height of turbines above ground level or above a building.

4. Implications for Woollahra

The amendments have the effect of overriding provisions within Woollahra LEP 1995 and Woollahra DCP for Exempt and Complying Development. This means that provided nominated criteria and conditions are met, solar energy systems and small wind turbine systems may be installed on land in Woollahra with or without consent or as exempt or complying development.

Where the exempt and complying development provisions of SEPP (Infrastructure) cannot be met, a development application would need to be lodged with Council. The application would be assessed under section 79C of the Act, Woollahra LEP 1995 and the relevant DCP applying to the land.

The implications of the amendments will vary across the Municipality, depending on the location of development. In the following sections we provide an overview of the possible impact on heritage items, heritage conservation areas and other land in the Municipality. Our comments focus on residential areas and on building-mounted systems as they are more likely to occur than ground-mounted versions.

For most locations, in circumstances where exempt or complying development options are available, no environmental impact assessment is undertaken. The one exception is for exempt development proposals relating to heritage items and proposals in heritage conservation areas. In those cases the amendment (clause 20(2)(e)) requires that development “must involve no more than minimal impact on the heritage significance of the item or area.” This assessment would be carried out by the property owner or developer and would not involve consideration by the Council. A meaningful assessment would require the owner or developer to have an understanding of an item or area’s significance. In practice, it is likely that this criterion will receive little or no consideration.

In the case of other areas, where a proposal for a roof-mounted solar energy system meets the exempt or complying development standards set out in SEPP (Infrastructure), no assessment is made of the proposal’s possible impact on views, streetscape or bulk. By comparison, proposals which require development consent undergo a rigorous assessment by Council’s planners.

Another implication is that adjoining and neighbouring property owners are not provided with an opportunity to comment on proposals. Whilst this is common with exempt and complying development proposals, the amendments allow structures to protrude from a building which could result in negative impacts such as a view loss.

Heritage items and heritage conservation areas

Solar energy systems can now be installed as exempt development on buildings which are heritage items and buildings in a heritage conservation area. Whilst a system cannot be installed on part of a building facing a primary road¹, it can be placed on other parts of a building. Even though there are controls for setbacks and the amount by which a system can protrude from a building, it is likely, due to the topography of Woollahra's heritage conservation areas, that many building-mounted systems will be visible from both public and private lands.

The degree of visual impact will vary from place to place for individual buildings. The fact that systems are visible is not by itself a measure of adverse impact. For instance, systems integrated with a building can result in low or no impacts. However, the criteria will allow large systems (up to 10kW generating capacity) to be installed with an inclination up to 0.5m above the roof level. Potentially, such systems can cover large portions of the rear roof planes of the average building in Woollahra's heritage conservation areas. The cumulative impact of these systems can change the visual character of the heritage conservation areas and have a detrimental impact on their significance.

In the case of heritage items, changes to a building's roof form arising from the installation of systems can have variable impact on significance irrespective of whether the system is visible from a roadway.

In Woollahra, small wind turbine systems cannot be installed as exempt or complying development in heritage conservation areas or on land which is, or on which there is located, a heritage item.

Other land

Greater opportunities are open for buildings which are not heritage items and not located within heritage conservation areas. In particular, solar energy systems can be installed as exempt or complying development on any roof plane. On the roof planes facing a primary road, a solar energy system can protrude by up to 0.5m as either exempt or complying development. For other roof planes, the system can protrude by up to 1.0m as exempt development and 1.5m as complying development.

North-facing roof planes will provide the best orientation for these systems. Therefore, it is likely that systems with an inclination of up to 0.5m could be installed on roof planes facing a roadway. Impacts on streetscape will result.

Amenity impacts and impacts on views are also possible due to the ability of systems to be inclined.

Small wind turbine systems could have view impacts and other amenity impacts due to the height to which they can be erected. However, there are setback requirements linked to noise standards which may limit the opportunities for such systems.

¹ Primary road is defined in SEPP (Infrastructure) as meaning the road to which the front of a dwelling house, or a main building, on a lot faces or is proposed to face.

5. Conclusion

The amendments introduce substantial changes to SEPP (Infrastructure) with the aim of simplifying the planning process and promoting renewable energy generation systems. However, as with most State-wide legislation, the amendments have been delivered in a very broad-based manner and have little sensitivity to local areas such as those in Woollahra which have high scenic and heritage qualities. In particular, solar energy systems can now be installed as exempt development on heritage items and on land within heritage conservation areas. Whilst these systems cannot be installed on a wall or roof a building facing a primary road, impact may still arise with their location on other parts of a building. More sensitive criteria could have been introduced to minimise these possible impacts.

Similarly, the installation of solar energy systems and small wind turbine systems on non-heritage related lands in the manner allowed in the amendments could have potential impacts in many areas. These impacts could have been minimised with better criteria related to building types and their locations.

Following the release of the amendments we are now able to commence work on reviewing our existing DCPs to provide new controls for renewable energy generation systems. These controls will be used for proposals that require development consent through the development application process.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

ANNEXURE

1. Report to Urban Planning Committee meeting on 24 May 2010.
2. Submission to Department of Planning dated May 2010.

Item No: R2 Recommendation to Council
Subject: **Amendment to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008**
Author: Anne White – Senior Strategic Planner
File No: 696.G
Reason for Report: To provide an overview of how the amended *NSW Housing Code* will apply to land within the Woollahra Municipality.

Recommendation:

That the report on the amendments to *State Environmental Planning Policy (Exempt and Complying Developments Codes) 2008* be noted.

1. Background

As part of the reforms to improve the efficiency of the NSW planning system, the State Government is continuing its rollout of State-wide exempt and complying development codes. Under these State codes certain types of minor development are identified as exempt development or complying development. Where a development is classified as exempt development, no approval is required. Where development is complying development, a complying development certificate is required.

The State codes are contained in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP). The Codes SEPP commenced in February 2009 and was amended in September 2009².

The Codes SEPP currently contains the following codes:

- (Part 2) General Exempt Development Code
- (Part 3) General Housing Code (applies to lots greater than 450m² with a minimum width of 12 metres)
- (Part 4) Housing Internal Alterations Code
- (Part 5) General Commercial and Industrial Code
- (Part 6) Subdivisions Code.

For the Woollahra Municipality, three codes currently apply –the General Exempt Development Code, the Housing Internal Alterations Code and the General Commercial and Industrial Code. The General Housing Code does not currently apply to any land in the Municipality because all land in Woollahra is ‘excluded land’ as defined in clause 1.19(5) of the Codes SEPP. This is because all land falls into one or more of the following categories: land within a heritage conservation area, land in a foreshore scenic protection area, or land in a harbour foreshore scenic protection area. In July 2010 the State Government published the *NSW Housing Code expansion to cover small lots: Discussion paper*. This paper identified that the Department of Planning was intending to expand the complying development provisions in the Codes SEPP. Of particular concern to Council was the proposed expansion of complying development into heritage conservation areas where the code

² The introduction of the Codes SEPP, and amendments were reported to the Urban Planning Committee on 27 January 2009, 24 August 2009 and 9 August 2010.

may have impacts on heritage significance. On 9 August 2010 Council resolved to make a submission on the discussion paper raising a number of issues of concern.

2. Amendments to the Codes SEPP to expand exempt and complying development provisions

Following the exhibition period on the Discussion Paper, on 1 December 2010 the *State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Additional Codes) 2010* was published on the NSW legislation website. This policy and the amendments are due to commence on 25 February 2011.

This amending SEPP identifies a large number of changes to the Code SEPP. Notably, some of these changes were not included for consultation in the Discussion Paper. The amendments are numerous and complex and the Department of Planning produced twelve fact sheets to help explain the different parts of the amendments. All of these Fact Sheets are attached at **annexure 2**. In summary, the key implications of the 2010 amendments to the Codes SEPP are:

- Application of the General Housing Code to the foreshore scenic protection area and harbour foreshore scenic protection area. Allowing as complying development new single and two storey dwellings and detached studios in these areas.
- Allowing as complying development: outbuildings and minor external alterations in heritage conservation areas
- Allowing as complying development the demolition of outbuildings in heritage conservation areas

The amendments proposed to the code and the implications to exempt and complying development in Woollahra are addressed in section 3-8 below.

3. Amendments to the content and structure of the Codes SEPP

The 2010 amendments to the Codes SEPP restructure its format, and includes additional parts to cover further forms of complying development including the new *Rural Housing Code*, *General Development Code* and *Demolition Code*. The Codes SEPP will be structured as follows:

- (Part 2) General Exempt Development Code (amended)
- (Part 3) General Housing Code (amended and applies to all lots including smaller lots (200m² – 300m²))
- (Part 3A) New Rural Housing Code³.
- (Part 4) Housing Alterations Code (renamed and amended)
- (Part 4A) New General Development Code
- (Part 5) General Commercial and Industrial Code⁴
- (Part 6) Subdivisions Code.
- (Part 7) New Demolition Code

Table 1 below identifies where each part of the amended Codes SEPP will apply to land within Woollahra.

³ The Rural Housing Code is not applicable to Woollahra.

⁴ Proposed amendments to this Part are currently the subject of a separate discussion paper

Table 1: Application of the Codes SEPP to land within the Woollahra Municipality

		Heritage Items	Heritage conservation area	Land on acid sulfate soils (Class 1 & 2)	Land in foreshore area	All other land (including SPA)
Exempt Development						
Part 2	General Exempt Development Code	✘	✓	✓	✓	✓
Complying Development						
Part 3	General Housing Code	✘	✘ (unless development is a detached outbuilding)	✘	✘	✓
Part 3A	Rural Housing Code	N/A: There are no Rural Zones in Woollahra				
Part 4	Housing Alterations Code	✘	✓	✓	✓	✓
Part 4A	General Development Code	✘	✓	✓	✓	✓
Part 5	General Commercial and Industrial Code	✘	✓	✓	✓	✓
Part 6	Subdivisions Code	✘	✓	✓	✓	✓
Part 7	Demolition Code	✘	✓	✓	✓	✓

Acid sulfate soils (Class 1 and 2) =

Those areas on the acid sulphate soils planning map where there is the most chance of soils containing highly acidic soil horizons, and no works below the existing ground level can be carried out without consent.

The two residential areas in the Woollahra Municipality identified on the Acid Sulfate Soils Planning Map as Class 2 are:

- *The Double Bay Valley Floor (bounded by Ocean Avenue to the west, the Harbour to the north and New South Head Road to the south)*
- *Watsons Bay Valley Floor behind Camp Cove Beach (bounded by Victoria Street to the north, Cliff Street to the west and Pacific Street to the south)*

Land in foreshore area =

Land located between the mean high water mark and the foreshore building line.

SPA =

Scenic Protection Areas (including foreshore scenic protection area and harbour foreshore scenic protection area).

4. Exempt Development - amendment to the General Exempt Development Code (Part 2)

The Exempt Development Code applies to all land within the Woollahra Municipality (with the exception of land on which there is a heritage item). The Exempt Code makes provision for certain development types that are of minimal environmental impact to be carried out without obtaining development consent, if the person complies with the applicable development standards. The 2010 amendment introduces nine new exempt development types, and seven types that will apply to residential land (see Fact Sheet 2 at **annexure 2**). These seven types are:

- Emergency work and temporary repairs
- Filming

- Solar hot water systems⁵
- Solar (photovoltaic) electricity generating systems⁶
- Minor subdivision works
- Temporary structures (other than tents and marquees), and temporary alterations or additions to building or works, solely for filming purposes
- Tents or marquees used solely for filming purposes

The 2010 amendment also includes various other amendments to twelve existing development types. In particular we support the amendment to strengthen the noise requirements for air conditions and setbacks to awnings, blinds and canopies from side boundaries, but do not support the increase to the maximum size of shade structures. Details of all the amendments to the exempt development types can be found in Fact Sheet 2 at **annexure 2**.

Following the 2010 amendments, there are now only two exempt development types in the Woollahra Exempt and Complying DCP that are not superseded by the Codes SEPP (or the Infrastructure SEPP). These are “Advertising structures and signs” and “Events”.

5. Complying Development – amendments to the General Housing Code (Part 3)

Prior to the 2010 amendment, the General Housing Code did not apply to any land in the Municipality. This is because all land within Woollahra is excluded land as defined in clause 1.19(5) of the Codes SEPP. The 2010 amendment has removed this exclusion. As identified in Table 1 above, the only land based exclusions that will continue to apply are:

- Land that comprises a heritage item,
- Land within a heritage conservation area or draft heritage conservation area (unless development is a detached outbuilding (max floor area of 20m² and max 4.8m high)),
- Land identified on an Acid Sulfate Soils Map as being Class 1 or 2 and,
- Land in a foreshore area.

As from 25 February 2011 the General Housing Code will become applicable to the majority of the Woollahra Municipality.

The amended General Housing Code will allow as complying development:

- New single and two storey dwelling houses (on all lots from 200m² plus),
- Alterations and additions to existing single storey or two storey dwelling houses,
- The addition of a second storey to an existing single storey house,
- Building walls to boundaries in certain conditions for lots under 10m wide (refer to Fact sheet 9 in **annexure 2**).
- External alterations (refer to Fact sheet 5 in **annexure 2**),
- Basements (on lots 6m-10m wide a basement can be a maximum of 25m², and on lots 10m+ wide a basement can be a maximum of 45m² - refer to Fact sheet 3 in **annexure 2**),
- Tree removal (for trees less than 6m high and within 3m of the proposal),
- Erection of ancillary development including out buildings, or additions to ancillary development,

⁵ Solar hot water systems can be carried out as exempt development under State Environmental Planning Policy (Infrastructure 2007).

⁶ Solar (photovoltaic) electricity generating systems can be carried out as exempt development under State Environmental Planning Policy (Infrastructure 2007).

- Erection of detached studios (for lots 18m+ wide, these can be up to 4.5m high and a maximum of 100m² – refer to Fact Sheet 3 in **annexure 2**).
- Some works on flood control lots subject to specific development standards (refer to Fact sheet 11 in **annexure 2**),
- Demolition or removal of dwelling houses or ancillary buildings.

The code also includes a number of complying development standards (addressing matters such as site coverage, setbacks and landscaping), and standard conditions for the complying development certificate. A summary of all the General Housing Code development standards has been attached at **annexure 1**. The Code is applied based on lot size, and lot width. There is a positive relationship between the size of the lot and the amount of complying development that can be achieved.

Table 2 below is an extract of three of the complying development standards from the General Housing Code identifying the height, floor area and site coverage standards for each lot size.

Lot Size	200m ² <250m ²	250m ² <300m ²	300m ² < 450m ²	450m ² <600m ²	600m ² <900m ²	900m ² <1500m ²	1500m ² +
Height	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m
Floor Area	90%	85%	270m ²	330m ²	380m ²	430m ²	430m ²
Site Coverage	65%	60%	55%	50%	50%	40%	30%

NB: When floor area is expressed as a percentage figure, the maximum floor area is calculated by multiplying the percentage figure by the lot size

Table 3 below identifies the comparative controls for the 2(a) Residential zone under the Woollahra LEP and Residential DCP.

Lot Size	200m ² <250m ²	250m ² <300m ²	300m ² < 450m ²	450m ² <600m ²	600m ² <900m ²	900m ² <1500m ²	1500m ² +
Height	9.5	9.5m	9.5m	9.5m	9.5m	9.5m	9.5m
Floor Area	92%	83%	219m ²	247.5m ²	330m ²	495m ²	825m ²
Site Coverage	68%	65%	58%	47%	43%	35%	30%

In practice it is anticipated that people will not use the complying development provisions in the General Housing Code, as they can achieve a house with a greater height (and sometimes floor space) under the controls within the relevant Woollahra planning controls. However, we still have concerns that the complying development standards within the SEPP completely disregard consideration of view loss and views from the Harbour within the foreshore scenic protection area. Other Sydney Harbour Coastal Councils with a scenic protection area will be similarly affected by the application of the General Housing Code to previously excluded land (with the exception of Mosman Council). The group recognises that some limited complying development is appropriate for these areas, but not to the extent identified in the General Housing Code. We are anticipating that the group will lodge a submission to the Department of Planning requesting the maintenance of the exclusion until such a time as agreed new complying development standards for the scenic protection areas are finalised.

5.1 Amendments to the General Housing Code and Heritage Conservation Areas

Following the 2010 amendments, the General Housing Code does not apply to land within heritage conservation areas or draft heritage conservation area unless the development is for the construction or alteration of a detached outbuilding.

Where the proposal is for an outbuilding (detached from the main dwelling) the following development standards apply.

- The outbuilding has a maximum area of 20m²
- The outbuilding must be located behind the rear of the existing dwelling house and not within a side setback
- No works are permissible where the rear of the lot adjoins a laneway, a secondary road or a parallel road
- All other relevant standards from the General Housing Code apply such as those relating to maximum height (4.8m), landscaped area and site coverage.

No other complying development works are permissible under the General Housing Code in heritage conservation areas.

Having analysed the number of lots that are eligible for complying development in the Paddington HCA we do not consider that this is going to create a significant impact due to the limited application of the Code. In the Paddington HCA, we estimate that approximately 80% of the residential zoned parcels in Paddington are less than 200m² and therefore the General Housing Code does not apply. This is a conservative estimate as it does not factor in the minimum six metre lot width. It is therefore likely that the actual figure would be greater than 80%. A large number of Paddington lots adjoining a laneway to the rear (and or side), which would further exclude them from the application of this code.

In the Woollahra HCA, we estimate that 60% of the parcels zoned Residential 2(a) would fail to meet the minimum lot size requirement for the Code.

However in the Watsons Bay HCA, we estimate that 75% of the parcels zoned Residential 2(a) would meet the minimum lot size requirements and would therefore be eligible for outbuildings as complying development.

6. Complying Development – amendments to the Housing Alterations Code (Part 3)

The 2010 amended Housing Alterations Code (which applies to land in heritage conservation areas) will allow as complying development some external alterations (previously this Code only related to internal alterations).

It is noted that external alterations cannot be carried out on a residential flat building. Complying development for the purposes of external alterations can only be carried out on a dwelling house (attached, semi-detached or detached).

These external alterations will be limited to:

- External changes to an external wall, such as windows and doors, so long as there is no increase in the footprint of the dwelling house or any increase in the maximum floor area of the dwelling.
- Attic conversions

- Dormer windows or rear roof windows (rear roof extensions).

6.1 Amendments to the Housing Alterations Code and heritage conservation areas

Complying development carried out in heritage conservation areas are subject to the following additional development standards:

- External works must be to the rear of an existing dwelling and must be at the ground floor level only.
- Attic conversions are permissible. However, associated dormer windows or raised roof windows are not allowed. Any window to an attic conversion must be flush with the roof with a maximum area of 1.5m² total and be located to the rear roof plane.

7. Complying Development - new General Development Code (Part 4A)

A new General Development Code has been introduced to provide a separate Code for development types that are not easily categorised as either commercial, industrial or residential. At present this new Code only includes bed and breakfast accommodation (removed from the General Exempt Development Code).

It is understood that the General Development Code will be expanded as other complying development types are identified and included in the Codes SEPP. As an example it is anticipated that a future Codes SEPP revision will include advertising signage into the General Development Code.

8. Complying Development – The New Demolition Code (Part 7)

Demolition is currently permitted under the General Housing Code, the General Commercial and Industrial Code and the Housing Alterations Code. The 2010 amendments groups these controls together so that they are in a stand alone Demolition Code which also includes Heritage Conservation areas. More information on the Demolition Code can be found in Fact Sheet 7 attached in **annexure 2**.

Under the demolition code the following development types can be demolished or removed:

- A dwelling
- Ancillary development
- An industrial building
- A commercial building that would be complying development under the General Commercial and industrial Code

Demolition in heritage conservation areas is limited to detached outbuildings, located within the rear yard, and not within the side setbacks. The outbuilding must have a maximum floor area of no more than 20m², and the rear of the property is not to be located on a laneway, a secondary road or a parallel road i.e. visible from the public realm.

Of concern to Woollahra are those existing buildings, not listed as heritage items within the LEP that make a significant contribution to the urban fabric. Located behind the dwelling house, these include significant:

- Backyard toilet structures

- Stables
- Coach houses,
- Wells.

The 2010 amendments will allow the demolition of such outbuildings as complying development.

9. Conclusion

We have made numerous submissions to the Department of Planning opposing the expansion of the one-size fits all approach to exempt and complying development which also reduces the opportunity for community participation in the assessment process.

The 2010 amendments are a further example of this erosion by expanding the Codes SEPP into the foreshore scenic protection area and the harbour foreshore scenic protection area and heritage conservation areas.

It is important that Council monitors the impacts of the Codes and makes representations to any reviews. It is hoped that any future proposed revisions will include public consultation on all aspects of the Codes SEPP.

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Manager Strategic Planning

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ANNEXURES:

Annexure 1: Summary of amended General Housing Code

Annexure 2: Department of Planning Fact Sheets explaining the key changes being made to the Codes SEPP.

- Fact sheet - Overview of the changes to the Codes SEPP
- Fact sheet 1 - Part 1 General
- Fact sheet 2 - Part 2 General Exempt Development Code
- Fact sheet 3 - Part 3 General Housing Code
- Fact sheet 4 - Part 3A Rural Housing Code
- Fact sheet 5 - Part 4 Housing Alterations Code
- Fact sheet 6 - Part 4A General Development Code
- Fact sheet 7 - Part 7 Demolition Code
- Fact sheet 8 - Heritage conservation areas
- Fact sheet 9 - Allowing walls to be built to boundary and protecting adjoining property
- Fact sheet 10 - Complying development on bushfire prone land
- Fact sheet 11 - Complying development on flood control lots
- Fact sheet 12 - Changes to Section 149 certificates
- Fact sheet 13 - Extension of transition period

Fact sheet 14 - Changes to EP&A Regulation 2000 **Annexure 1: Summary of the key development standards in the amended General Housing Code**

	Lot Width	6<10m	6<10m	10m<12m	10m<12n	10m<12m	12m<15m	15m<18m	18m<24m	24m+	
	Lot Size	200m ² < 250m ²	250m ² < 300m ²	300m ² < 450m ²	450m ² < 500m ² & single storey	450m ² < 600m ²	600m ² < 900m ²	900m ² < 1500m ²	1500m ² +	1500m ² +	
New single & two storey dwelling houses/ alterations & additions	Floor Area (CI 3.10)	90%	85%	270m ²	330m ²	330m ²	380m ²	430m ²	430m ²	430m ²	
	Max Height (CI 3.13)	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	
	Front Setback	Average of the setback of nearest two dwellings (CI 3.14)									
	Side Setbacks (CI 3.16)	0.9m up to 5.5m; Above 5.5m – 0.9m plus ¼ of the height of the building over 5.5m.		0.9m up to 4.5m;					1.5m up to 4.5m,		2.5m for all walls
	Zero Side Setback (CI 3.16(3))	Built to boundary provisions may apply		N/A							
	Basement Floor Area (CI 3.4)	25m ²	25m ²	45m ²	45m ²	45m ²	45m ²	45m ²	45m ²	45m ²	45m ²
	Carparking	At least one off-street carparking space must be provided on the lot. (CI 3.26) Hard stand car parking space must measure at least 2.6m wide and 5.4m long (CI 3.27)									
	Max Garage width (CI 3.27)	3.2m No garage on lots < 8m wide	3.2m	3.2m	3.2m	6m	6m	6m	6m	6m	6m
	Excavation	Max 1m below existing ground level (CI 3.29)									
Other Controls	Site Coverage (CI 3.9)	65%	60%	55%	55%	50%	50%	40%	30%	30%	
	Landscaping (CI 3.24)	10%	10%	15%	20%	20%	30%	40%	45%	45%	
	Private Open Space (CI 3.25)	16m ²	16m ²	24m ²	24m ²	24m ²	24m ²	24m ²	24m ²	24m ²	
	Swimming pool	Must behind the front setback of the building, greater than 1m from a boundary. (CI 3.34)									
	Balcony/Terrace	Attached to a dwelling house with a floor level >3m above ground level must not be greater than 12m ² (CI 3.12)									
Outbuildings	Max Floor Area (CI 3.11)	36m ²	36m ²	45m ²	45m ²	45m ²	60m ²	100m ²	100m ²	100m ²	
	Max Height (CI 3.13)	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	
	Side setback (CI 3.16)	0.9m	0.9m	0.9m	0.9m	0.9m	0.9m	0.9m	1.5m	2.5m	
	Setback from rear boundary (CI 3.18)	0m - above 3.3m – ¼ of the height of the outbuilding above 3.3m					0.9m up to 3.8m		1.5m up to 3.8m	2.5m up to 3.8m	
							Above 3.8m – 0.9m plus ¼ of the height of the building over 3.8m.				
	Rear Laneway	Outbuilding to a rear laneway can be 50% of the rear boundary, regardless of lot width (CI 3.18(4))									
HCA's (CI 3.36A) (Additional controls)	-Must be located behind the dwelling house (and no closer to the side boundary than the dwelling house). -Max floor area of 20m ² -Must not adjoin a lane, secondary or parallel road frontage.										
Detached Studio (CI 3.33)	Dimensions	Max 6m in height, 9m in width and 7m in depth. At least 3m from the ground floor of the dwelling.									
	Max Floor Area	60m ²	60m ²	60m ²	60m ²	60m ²	75m ²	100m ²	100m ²	100m ²	
	Side Setback	0.9m up to 4.5m 1.2m above.		0.9m up to 4.5m 1.2m above.				0.9m up to 4.5m, 1.5m above	1.5m up to 4.5m 2.5m above		
	Zero Side Setback	Built to boundary provisions may apply		N/A							

Item No: R3 Recommendation to Council
Subject: **Draft Woollahra Residential DCP 2003 (Amendment No. 3)**
Author: Jacquelyne Jeffery – Team Leader Strategic Planning
File No: 1064.G
Reason for Report: To report on the public exhibition of the Draft Woollahra Residential DCP 2003 (Amendment No. 3).
To obtain the Council’s approval of the Draft Woollahra Residential DCP 2003 (Amendment No. 3).

Recommendation

- A. That the Draft Woollahra Residential DCP 2003 (Amendment No. 3) contained in **Annexure 1** of the report to the Urban Planning Committee meeting of 31 January 2011 be approved.
- B. That the Draft Woollahra Residential DCP 2003 (Amendment No. 3) come into effect on the date notice of the approval is published in the Wentworth Courier.

1. Background

On 11 May 2009 Council adopted the following Notices of Motion regarding development controls in the Woollahra Residential Development Control Plan 2003 (RDCP):

Council to seek a review, in the form of a report, of the DCP controls related to privacy, with particular consideration to the appropriateness of the use of obscure glazing to upper floor bedroom windows. Additionally, the extent to which screening is used to provide privacy is also to be reviewed and whether screening contributes to bulk and scale of the proposed building.

Council to seek a review, in the form of a report, of the interaction or possible conflict between two controls in our planning instruments, one related to maximum street frontage for garaging and the other being the requirement for off-street parking.

In response to the Notices of Motion amendments to the RDCP have been prepared and publicly exhibited. The amendments were to:

- clause 5.8 “Acoustic and Visual Privacy” by including new privacy controls
- clause 5.9 “Car Parking and Driveways” so that garages and parking areas do not dominate the streetscape.

2. Summary of amendments to the RDCP

2.1 Visual privacy controls—finding a balance between maintaining privacy and promoting good design outcomes and internal living amenity

Councillors identified that in the development assessment process, privacy and overlooking concerns between adjoining residential properties were often addressed by Council assessment staff through conditions on the consent for glazing of habitable windows, bedroom windows with a minimum sill height of 1.7 metres or external window screens.

Some Councillors were concerned that these conditions were ad hoc solutions to privacy concerns that often compromised good architectural outcomes and internal living amenity of the proposed development.

Staff reviewed the privacy controls in response to the Notion of Motion. There was considerable deliberation amongst the Committee about the best approach for achieving a reasonable balance between maintaining privacy and promoting good architectural design outcomes and internal living amenity.

Options for new privacy controls were reported to the Urban Planning Committee on 1 February, 8 March and 6 September 2010. The key issues of deliberation related to whether the new privacy controls should apply to bedrooms, and if the minimum window sill height should be 1.5 metres, 1.6 metres or 1.7 metres.

On 1 November 2010 Council resolved to amend the privacy controls in clause 5.8 of the RDCP. The proposed controls are set out in the Draft RDCP Amendment No. 3 (refer to **Annexure 1** clause 2.1 and 2.3). The amendment establishes the following:

- Visual privacy controls apply to all habitable rooms. This includes rooms such as a bedroom, living room, lounge room, kitchen and dining room.
- A hierarchical control framework for addressing privacy and overlooking which establishes that some solutions are preferred over other solutions.
In this hierarchy, a well considered house layout and design that offsets windows from the windows of the adjoining property is the preferred approach for addressing privacy. Architectural devices such as external screening should be considered next, while using glazed fixed windows and windows with high sills to achieve privacy are the least preferred options and should only be considered in limited circumstances when all other solutions for addressing privacy have been reasonably exhausted.
- Minimum height for sill and glazed windows of 1.7 metres.
- Where architectural devices such as external louvres or planter boxes are used to address privacy, these must be integrated with the overall design of the building and contribute to its architectural merit. Such devices should not detrimentally impact on bulk and scale or impact on significant views from adjoining or adjacent properties.

A copy of the reports to the Urban Planning Committee is provided at **Annexure 2**.

2.2 Off-street car parking requirements and street frontage controls—ensuring that parking areas and driveways do not dominate the streetscape

The review of the controls relating to car parking and driveways focuses on the conflict between two controls in the RDCP, one related to maximum street frontage for garaging and the other being the requirement for off-street parking.

The issue is that all single dwelling houses are required to provide two off-street car parking spaces. However, other controls in the RDCP limit the width of the site that can be occupied by car parking to ensure that garages, car parking structures and driveways do not dominate the streetscape. These street frontage controls provide that no more than 30% of the frontage is occupied where the lot width is 20 metres or more, and no more than 40% of the frontage is occupied where the lot width is 20 metres or less.

It is often difficult or impossible for an applicant to provide the two parking spaces and also meet the street frontage requirements. Further, the RDCP does not indicate which control prevails when this conflict occurs.

The consequence has been that Council has received a number of applications for double garages that occupy more than 40% of the lot frontage. This can produce unsatisfactory streetscape outcomes because the streets become dominated by garages and parking areas.

A review of the RDCP controls was necessary to remove the conflict between the off-street parking controls and the maximum street frontage controls. The matter was reported to the Urban Planning Committee on 8 February 2010, and on 22 February 2010 Council resolved to amend the off-street parking controls in clause 5.9 of the RDCP.

The proposed controls are set out in the Draft RDCP Amendment No. 3 (refer to **Annexure 1** clause 2.2). The amendment clarifies that the controls which set the maximum street frontage that can be occupied by garages prevail over the numerical requirements for off-street parking.

A copy of the report to the Urban Planning Committee is provided at **Annexure 3**.

3. Public exhibition

The Draft DCP incorporated the amendments to both the visual privacy controls and to the off-street car parking requirements and street frontage controls. It was placed on exhibition from Wednesday 17 November to Friday 24 December 2010. A copy of the exhibited Draft DCP is attached at **Annexure 1**.

The public exhibition was carried out in accordance with the manner required by the *Environmental Planning and Assessment Act 1979* (the Act), and the *Environmental Planning and Assessment Regulations 2000* (the Regulation).

Notice of the public exhibition was placed in the *Wentworth Courier* weekly during the exhibition period. We also notified The Paddington Society, Double Bay Residents' Association, Rose Bay Residents' Association and others who each submitted late correspondence to the Council meeting of 1 November 2010 on the privacy controls.

The exhibition took place in the Council's main offices in Double Bay, within the Customer Service area. Copies of the Draft DCP were available free of charge. The Draft DCP and supporting material were also placed on Council's website during the exhibition period.

4. Submissions

Prior to the exhibition, Council received six letters on the privacy controls as late correspondence to its meeting on 1 November 2010. These letters gave support for applying privacy controls to bedrooms, which was the subject of a rescission motion. At that meeting Council carried the rescission motion, resolving to apply the privacy controls to bedrooms. No further submissions were received from those that made late correspondence.

No submissions were received to the exhibition of the Draft DCP. We do not recommend any changes to the exhibited Draft DCP.

5. Conclusion

The Draft DCP was prepared and exhibited in the manner required by the Act and Regulation. No submissions were received.

We recommend the approval of the Draft DCP as exhibited. The plan will then come into effect on the date notice of the approval is published in the Wentworth Courier.

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planner

Annexures

1. Draft Woollahra Residential DCP 2003 (Amendment No. 3)
2. Reports to the Urban Planning Committee on the visual privacy controls—1 February, 8 March and 6 September 2010
3. Report to the Urban Planning Committee on the off-street car parking requirements and street frontage controls—22 February 2010

**POLITICAL DONATIONS DECISION MAKING FLOWCHART
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