



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Tuesday 14 June 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

9 June 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 – 14 June 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 Tuesday 14 June 2011 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 30 May 2011	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Draft Woollahra Section 94A Development Contributions Plan 2011 - 1180.G	2
R2	Net Dwelling Yield and the New Woollahra Local Environmental Plan – 1064.G Principal LEP	66

**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 30 May 2011**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 30 May 2011 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 30 May 2011 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** R1 Recommendation to Council

**Subject:** **Draft Woollahra Section 94A Development Contributions Plan 2011**

**Author:** Anne White – Senior Strategic Planner

**File No:** 1180.G

**Reason for Report:** To obtain Council's decision to prepare and exhibit the Draft Woollahra Section 94A Development Contributions Plan 2011, which will repeal Woollahra Section 94A Development Contributions Plan 2009.

### Recommendation

- A. That the Council resolve to prepare a contributions plan to authorise the imposition of conditions under Section 94A of the *Environmental Planning and Assessment Act 1979*.
- B. That the Draft Woollahra Section 94A Development Contributions Plan 2011 as contained in **Annexures 1 and 2** of the report to the Urban Planning Committee meeting on 14 June 2011 be placed on public exhibition.

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### Background

Section 94A of the *Environmental Planning and Assessment Act 1979* (the Act) enables a council that has a contribution plan in force to impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage of the proposed cost of carrying out the development.

For Council to impose a condition under section 94A, a contributions plan that complies with clause 27(1) of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) must be in place.

Council approved the Woollahra Section 94A Development Contributions Plan 2009 (the 2009 Plan) on 8 February 2010. The plan commenced operation on 17 February 2010. The 2009 Plan authorises Council to impose conditions on development consents, which requires the applicant to pay Council a maximum levy of 1% of the proposed cost of carrying out the development.

A Ministerial Direction under section 94E of the Act (10 November 2006) directs the maximum percentage of the levy, based on the range of the development cost:

- up to \$100,000, the maximum percentage of the levy is Nil
- \$100,001-\$200,000, the maximum percentage of the levy is 0.5%
- more than \$200,000, the maximum percentage of the levy is 1.0%

These limitations are also set down in the Regulation.

Money obtained through the section 94A levy is applied towards the provision, extension or augmentation of public amenities or public services or towards recouping the costs in providing, extending or augmenting those amenities or services.

Council must list in a schedule, and map these public amenities and services in the section 94A development contributions plan. The monies from levies paid may be pooled and used progressively. Indicative priorities for expenditure are also set out in the schedule.

Section 94A funds are one source of revenue available to Council for expenditure on projects. The Section 94A plan is not the mechanism for approving expenditure on projects, or does it approve the carrying out of the works. Expenditure of Section 94A funds is approved through the Council's budget which is contained in the Delivery Programme and Operational Plan (DPOP). The DPOP will also provide agreement for particular projects, but the eventual approval to carry out the works may require development consent or an approval under Part 5 of the Act. Alternatively some works may be carried out as exempt or complying development.

### **Current Woollahra Section 94A Contributions Plan 2009**

Section 94A levies acquired by condition of consent under the 2009 Plan are applied to the provision, extension or augmentation of the following categories of public facilities:

- Community facilities
- Environmental works
- Council property
- Infrastructure renewal
- Open space improvements
- Business centres and harbourside projects.

The demand for public facilities is related to expected residential, commercial, retail and other non-residential development across the Municipality. Demand for the public facilities has been identified by a series of studies, surveys and investigations.

The schedule of works included in the current plan needs updating as some projects have been completed, and additional projects identified.

### **Draft Woollahra Section 94A Contributions Plan 2011**

Departments across Council have reviewed the existing plan and provided input to the proposed Draft Woollahra Section 94A Development Contributions Plan 2011 (Draft Plan), which is provided at **Annexure 1**. The Draft Plan will repeal the 2009 Plan.

The key changes in the Draft Plan are to the list of supporting documents and the summary of works schedule.

To help identify the changes to the works schedule, we have prepared two schedules to this report:

- Works schedule listing all projects to be included in the Draft Plan (i.e. existing ongoing projects and new projects). The new projects are italicised and highlighted with an asterisk (\*). (Refer to **Annexure 2**)
- Works schedule listing each project in the 2009 Plan and indicating the status of the project: 'completed', 'no longer required', or 'ongoing'. Only the 'ongoing' projects have been carried over into the Draft Plan. (Refer to **Annexure 3**)

Other than the schedule of works, the Draft Plan is largely the same as the 2009 Plan, but with minor amendments such as updated references. These changes are identified in the Draft Plan at **Annexure 1** with deleted text shown as ~~strike through~~ and added text shown as underlined.



### **Conclusion**

The works schedule in the 2009 Plan has been reviewed. The updated list of projects is reflected in the Draft Plan.

We recommend that Council endorse the Draft Plan for exhibition. Consistent with the Act, the Draft Plan will be publicly exhibited for a minimum of 28 days. A further report will be submitted to the Urban Planning Committee when following exhibition.

Tom O'Hanlon  
Director Technical Services

Chris Bluett  
Manager Strategic Planning

Anne White  
Senior Strategic Planner

### **ANNEXURES**

1. Woollahra Section 94A Development Contributions Plan 2011 (with amendments highlighted)
2. Work Schedule for the Woollahra Section 94A Development Contributions Plan 2011, with the new projects highlighted.
3. Works Schedule Status Update from the Woollahra Section 94A Development Contributions Plan 2009.

**Item No:** R2 Recommendation to Council  
**Subject:** **Net Dwelling Yield and the New Woollahra Local Environmental Plan**  
**Author:** Jacquelyne Jeffery – Team Leader Strategic Planning  
**File No:** 1064.G Principal LEP  
**Reason for Report:** To respond to a Council resolution requesting a report on mandating additional dwellings when additional floor space and height is allowed.

## **Recommendation**

That Council does not pursue approaches to regulate net dwelling yield in the new Woollahra Local Environmental Plan.

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### **1. Background**

On Monday 2 May 2011 Council considered a report on opportunity sites at Vaucluse, identified for proposed rezoning as part of the new Woollahra Principal Local Environmental Plan (LEP). In resolving to include the opportunity sites in the draft LEP for further exhibition, Council also resolved:

- F. That a further report be presented to the Urban Planning Committee on the options for mandating additional dwellings when additional floor space and height is allowed.*

### **2. Mandating additional dwellings when additional floor space and height is allowed**

Council is concerned that increasing floor space ratio (FSR) and height controls in the new Woollahra LEP will result in larger buildings, but not necessarily increase the total dwelling stock.

This situation is explained in the following example:

A site of 1000m<sup>2</sup> has a current FSR of 0.75:1 and a two storey height limit of 9.5 metres. The site contains an older style residential flat building (RFB) of 8 dwellings. The average gross size of each dwelling is about 90m<sup>2</sup>.

Doubling the FSR to 1.5:1 and increasing the height to 3 storeys and 12 metres will allow a larger building on the site but could result in a new RFB that contains only 6 dwellings, each with an average gross size of 250m<sup>2</sup>.

In this example the net dwelling yield has decreased despite the larger building form.

Council seeks a planning mechanism to ensure that additional dwellings are derived when FSR and height is increased, referred to as a ‘net yield’ and ‘net dwelling yield’ in this report.

### **2.1. Department of Planning and Infrastructure's position on net yield in LEP**

The current Woollahra LEP 1995 does not address the issue of net dwelling yield. We have spoken with the Department of Planning and Infrastructure (DoPI) numerous times between October 2008 and May 2011 about the possibility of introducing a net yield clause in the new Woollahra LEP. The DoPI understands the problem but does not support a net dwelling yield clause as it would interfere with market forces and seek to control development beyond the intended role of an LEP.

The Standard Instrument template for the new Woollahra LEP does not include a standard clause for net yield. Council would need DoPI support, as well as Parliamentary Counsel approval, to include a local clause for net yield. This is unlikely.

### **2.2. Council Strategic Planning Team's position on net dwelling yield in LEP**

We agree with the DoPI and do not support a net yield provision in the new Woollahra LEP as the clause would interfere with market forces. In addition, we cannot find evidence that net dwelling loss is a significant issue across Municipality.

Our searches identify that, between 2001 and 2011, there were only 15 approved development applications which resulted in a net dwelling loss (refer to **Annexure 1**).

Eight of these DAs were for a major renovation change, or demolition, of an existing RFB and replacement with a new RFB containing fewer dwellings. Four DAs involved the amalgamation of two adjoining dwelling houses to create one dwelling house. Of the other DAs, two involved amalgamating adjoining apartments in an existing RFB, and one involved changing an existing RFB into a dwelling house.

Combined, these 15 DAs resulted in a reduction of 40 dwellings over 9 years. On average this is a loss of 4.4 dwellings each year.

These figures on net dwelling loss indicate that the problem is not widespread, frequent or significant. We have no compelling argument to put to the DoPI to justify a local provision on net dwelling yield in the new Woollahra LEP.

### **2.3. Alternative approaches to address net dwelling yield**

The DoPI suggested we look at other ways to encourage dwelling yield, such as:

- Prohibiting dwelling houses and dual occupancies in the R3 Medium Density Residential Zone.
- Increasing FSRs and height controls to improve economic viability for redevelopment.
- Relaxing other controls, such as section 94A contribution rates, to stimulate increased dwelling yield.

We do not support these alternative approaches.

The DoPI suggestions are unsuitable for the following reasons:

- Prohibiting dwelling houses and dual occupancies in the median density zone will open up the issue of existing use rights.
- Increasing FSRs or relaxing section 94A contribution rates could stimulate development but would not address the issue of net dwelling yield at all.

### **3. Conclusion**

We recommend that Council does not pursue approaches to regulate net dwelling yield in the new Woollahra LEP as these would interfere with market forces and would not be supported by the DoPI. Furthermore, the issue of net dwelling loss is not widespread, frequent or significant enough across the Municipality to warrant special planning provisions.

Jacquelyne Jeffery  
Team Leader Strategic Planning

Chris Bluett  
Manager Strategic Planning

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### **ANNEXURE**

1. Approved development applications that produced a net dwelling loss (2001 – 2011)

**ANNEXURE 1—APPROVED DEVELOPMENT APPLICATIONS THAT PRODUCED  
A NET DWELLING LOSS (2001 – 2011)**

	Renovate or replace existing RFB	Amalgamate 2 dwelling units	Demolish RFB and replace with house	Amalgamate 2 dwelling houses	<b>Net dwelling loss</b>
	Original number of dwellings : Approved number of dwellings				
10 Annandale Road, Darling Point	7 : 2				5
4-10 &12 Guilfoyle Avenue, Double Bay	12 : 7				5
12 Court Road, Double Bay	6 : 1				5
163 Victoria Road, Bellevue Hill	4 : 3				1
98 Bellevue Road, Bellevue Hill	3 : 2				1
6 Buckhurst Avenue, Point Piper	12 : 6				6
38 Wolseley Road, Point Piper	3 : 2				1
9 Military Road, Watsons Bay	9 : 3				6
54 Mona Road, Darling Point			5 : 1		4
22&23/107 Darling Point Road, Darling Point		2 : 1			1
2&4/10 Wolseley Road, Point Piper		2 : 1			1
98-100 Wolseley Road, Point Piper				2 : 1	1
10 Norwich Road, Rose Bay				2 : 1	1
6-8 Carrara Road, Vaucluse				2 : 1	1
1 & 3 Victoria Road Watsons Bay				2 : 1	1
	56 : 26	4 : 2	5 : 1	8 : 4	<b>40</b>

**POLITICAL DONATIONS DECISION MAKING FLOWCHART  
FOR THE INFORMATION OF COUNCILLORS**

