



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 15 December 2008*

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

11 December 2008

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio
Councillors Toni Zeltzer (Chair)
Sean Carmichael
Lucienne Edelman (Deputy)
Nicola Grieve
Chris Howe
David Shoebridge
Malcolm Young

Dear Councillors

Urban Planning Committee Meeting – 15 December 2008

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 **Committee Room, 536 New South Head Road, Double Bay, on Monday 15 December 2008 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 1 December 2008	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Neighbourhood Centres Development Control Plan Woollahra LEP 1995 (Amendment No. 60)	2
R2	Desalination Plants – 990.G	29

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 1 December 2008**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 1 December 2008 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 1 December 2008 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **Neighbourhood Centres Development Control Plan - Woollahra LEP 1995 (Amendment No. 60)**
Author: Chris Bluett - Manager Strategic Planning
File No: 1064.G (Am 60)
Reason for Report: To inform Council of the gazettal of Woollahra LEP 1995 (Amendment No.60)
To obtain Council's approval of the DCP following gazettal of Woollahra LEP 1995 (Am 60)

Recommendation

That the Neighbourhood Centres Development Control Plan as contained in annexure 4 of the report to the Urban Planning Committee meeting on 15 December 2008 be approved.

Background

The Neighbourhood Centres DCP and Woollahra LEP 1995 (Amendment No.60) represent the main outcomes of a lengthy and detailed planning and urban design study for neighbourhood centres across the Municipality. Preparation of the DCP and LEP amendment involved detailed investigation and analysis of the neighbourhood centres over three years from late 2004 to mid 2007. The project also involved input from the Council's Strategic Planning Working Party.

Public exhibition of the draft plans occurred over the period Friday 11 May 2007 to Friday 22 June 2007. A report on submissions was considered by the Urban Planning Committee on 8 October 2007 (**annexure 1**). The Council approved the DCP on 29 October 2007, subject to minor changes. At the same time the Council endorsed the Draft LEP for the purpose of referral to the Minister for Planning for approval and gazettal. Minor alterations were made to the Draft LEP by the Council at that time. The Parliamentary Counsel made several legal drafting changes.

Woollahra LEP 1995 (Amendment No.60) was gazetted on 28 November 2008. A copy of the written instrument is attached as **annexure 2**. In summary the effect of Amendment No.60 is to:

- amend floor space ratios within specific neighbourhood centres
- provide higher floor space ratios for nominated sites in neighbourhood centres where design and relevant access requirements are met
- amend height controls within specific neighbourhood centres
- permit restaurants in neighbourhood centres
- prohibit dwelling-houses in neighbourhood centres
- rezone certain land in Bellevue Hill from Neighbourhood Business 3(c) to Residential 2(b)
- amend the definitions of mixed development and restaurants.

Annexure 3 contains a table identifying properties affected by land use, height and floor space ratio changes.

Approval of the Neighbourhood Centres DCP

The Neighbourhood Centres DCP was initially approved by the Council on 29 October 2007. The *Environmental Planning and Assessment Regulation 2000* requires that a notice of the Council's decision and the commencement date be placed in a local paper within twenty-eight days of the Council's decision to approve the DCP. Such a notice was not made. Therefore, although the Council made a valid decision to approve the DCP, a new decision is necessary so that the notice of approval and commencement date may be made within the required period.

It should be noted that the operation of the DCP is contingent on gazettal of Woollahra LEP 1995 (Amendment No.60). The commencement date for the DCP, had it been placed in the paper, would have been set at the date of gazettal for Woollahra LEP 1995 (Amendment No.60).

A copy of the DCP, including alterations set out in the Council's decision on 29 October 2007 is attached as **annexure 4**.

Conclusion

Preparation of the Neighbourhood Centres DCP has involved detailed planning and urban design investigations. Both plans have been prepared and exhibited in the manner required by the Act and Regulation. The decision to approve the DCP again is an administrative step which is required to fulfil the requirements of the *Environmental Planning and Assessment Regulation 2000*.

Chris Bluett
Manager Strategic Planning

Allan Coker
Director Planning and Development

ANNEXURES

1. Report to Urban Planning Committee 8 October 2007
2. Woollahra LEP 1995 (Amendment No.60) – written instrument
3. Table of properties affected by land use, height and floor space ratio changes under Woollahra LEP 1995 (Amendment No.60)
4. Neighbourhood Centres DCP – CIRCULATED SEPARATELY

Item No: R2 Recommendation to Council
Subject: Desalination plants
Author: Rebecca Peacock - Environmental Protection Co-ordinator
File No: 990.G
Reason for Report: Response to adopted notices of motion

Recommendation:

- A. That the report on desalination plants be noted.
- B. That the *Woollahra Municipal Council DA Guide* be amended to incorporate water demand and supply requirements for development applications.

1. Background

The Council adopted the following two notices of motion at the Council Meeting held on the 31 January 2005:

That a report be brought to the appropriate committee investigating the following:

1. *Legal issues that may be relevant to council's authority to control the installation of private or public underground water bores; and*
2. *Control of private or public water desalination plants.*

That a report be brought to the appropriate committee investigating:

1. *The environmental impact of private or public water desalination plants and the potential pollution of Sydney Harbour and its environs; so far as it effects the Woollahra Municipality, and*
2. *That a water desalination policy control be drafted for inclusion in the Woollahra Local Environmental Plan and any relevant Development Control Plans.*

This report will focus on the control of private and public desalination plants. The issue of private or public water bores will be addressed in a further report.

2. What is desalination?

Desalination is the process of removing dissolved minerals, including salts, from a water source such as seawater, estuarine water, treated sewage and waste water or brackish water (*Planning for Desalination* July 2005, GHD Fichtner).

There are a number of desalination technologies available including reverse osmosis, thermal distillation, electrodialysis and vacuum freezing (*Desalination Fact Sheet* August 2005, Sydney Coastal Councils Group). The *Planning for Desalination* report states that reverse osmosis and thermal distillation are the two most commercially proven desalination technologies.

Reverse osmosis involves the pumping of seawater at high pressure through permeable membranes that separate the salt from the water. Pre-treatment of the seawater is required to remove particles, such as sand, shells or seaweed that may clog the membranes.

Thermal distillation involves the removal of salt by evaporating seawater to vapour and then condensing back to drinking water.

3. Potential impacts of desalination

There are many potential issues associated with the installation and operation of desalination plants. In summary these issues are:

- Impacts on marine ecosystems resulting from the discharge of the liquid brine waste back into the marine environment (different temperature, increased salt concentration, chemicals used as a part of the process, increased turbidity, reduced oxygen levels and denser discharge water),
- High energy use to operate the plant,
- Impacts to the marine environment from accidental discharges of hazardous material,
- Intake of water directly from the harbour may entrain fish and other marine life,
- Physical disturbances to the inter tidal and marine ecosystems during the construction of infrastructure,
- Generation of noise from the pumps during operation, and
- Cumulative impacts of desalination plants in the coastal zone.

4. Desalination in the Woollahra LGA

Council has received a number of enquiries and two development applications for the installation and operation of private desalination plants in Woollahra. These appear to be in response to the continuation of the drought and the introduction of staged water restrictions since October 2003, with residents looking for alternative water sources.

Council referred one of the applications to the following State Government departments/agencies as a part of the assessment process:

- Sydney Harbour Foreshores Committee,
- Department of Primary Industries (DPI),
- Waterways, and
- Department of Environment and Conservation (DEC), now known as the Department of Environment and Climate Change (DECC).

The following provides a summary of each department's response to the proposal.

The Sydney Harbour and Foreshores Committee's only concern regarding the application was the potential of pollution to the harbour receiving waters from the chemicals and corrosion products contained in the discharge waters from the plant. The committee recommended that Council impose a condition of consent to ensure the maximum protection of the harbour from pollution.

The DPI advised that the proposal would require approval for the discharge of hypersaline water (either by the DEC for discharge to the Harbour or by Sydney Water to the sewer). If the approval for disposal was granted and the works involve impacts on marine vegetation, then the DPI would require information to determine the impact of the proposal. The required information ranged from the purpose of the works, cost/benefit analysis of the proposal versus the use of rainwater tanks, impacts to marine vegetation and the cumulative impacts of private desalination plants on the Harbour.

Waterways advised that 'if Council is of a mind to grant development consent' a Part 3A Permit would not be required for the development provided that a number of general and non-specific terms were met. These general terms were mainly in relation to sediment and erosion control.

In December 2004 DEC provided Council with a copy of the draft *Guidance Note about Desalination Plants* to assist councils in assessing the disposal of discharge effluent/waste water from a desalination plant into tidal waters in December 2004. The draft guidance note clearly states that a desalination plant is not a scheduled activity under the *Protection of the Environment Operations Act 1997* (POEO Act 1997) and that Council is therefore the Appropriate Regulatory Authority for this activity. The draft guidance note highlights a number of potential impacts that need to be addressed in the assessment of applications. A copy of the draft guidance note is attached as **annexure 1**. To date the draft guidance note has not been finalised by the DECC (former DEC).

Generally, the referral advice from the State Government departments was not helpful in assessing the application. It was apparent that the assessment and the determination of the precedent-setting development application was left to Council with little guidance from State authorities.

One of the fundamental concerns with the application was that the environmental impacts of a single desalination plant were not fully understood. There were also serious concerns regarding the cumulative impacts of multiple desalination plants operating in the harbour and coastal zone. If Council approved the installation of one plant it might set a precedent for which the cumulative impacts were not fully understood. Furthermore, approval would be in conflict with the principles of Ecological Sustainable Development (ESD), particularly the precautionary principle - *where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation*.

After reviewing the application and associated technical reports, and the advice from the State Government departments, the applicant was asked to provide:

- An options report that demonstrates what their water requirements are (uses and volumes) and details why these cannot be met by a combination of demand (conservation actions) and supply options (alternative sources), and
- A report that addresses each of the potential impacts associated with the construction and operation of a desalination plant. Potential cumulative impacts were also to be addressed.

The requested information was not provided and the application was withdrawn by the applicant. The second application for a desalination plant was withdrawn early in the assessment process.

Whilst not related specifically to the two applications lodged with Council, the Sydney Coastal Councils Group (SCCG) wrote to the Minister for Infrastructure Planning and Natural Resources in January 2005, on behalf of the member councils, requesting that development for private desalination be considered as integrated development under the *Environmental Planning and Assessment Act 1979* (EPA Act) and that it be listed as a scheduled activity under the POEO Act. The SCCG has advised that they have not received a response to their request.

To date Council has not received any further DAs involving the installation of private desalination plants.

5. Public desalination plants

The NSW Government's Metropolitan Water Plan (2006) considers seawater desalination as one of a number of options to ensure Sydney's long term water needs. It is recognised that no single option will be sufficient by itself. The NSW Government proposes to meet Sydney's water needs through a combination of:

- demand management (installation and use of water efficient appliances and rainwater tanks),
- increased recycling of water (waste and stormwater) for reuse,
- public education on how to save water around the home, and
- increased dam water supplies (infrastructure to reach deep water in existing dams, the transfer of water from the Shoalhaven, and the use of groundwater and desalinated seawater).

The report clearly states, however, that groundwater and desalinated seawater will only be used during a severe or extreme drought and is a last resort.

The *Environmental Planning and Assessment Amendment (Infrastructure and other Planning Reform) Act* was passed by Parliament in June 2005. This Act amends the *Environmental Planning and Assessment Act 1979* to reform land use planning and development assessment and approval system, particularly as it relates to major infrastructure and other significant development.

The new Part 3A of the Act establishes provisions for the Minister for Planning to declare projects to be 'critical infrastructure projects'. Prior to making such a declaration, a preliminary risk assessment is required to consider the economic, social and environmental risks of declaring the project critical infrastructure. These projects require only concept approval and there are no appeal rights except if it is initiated by the Minister.

The Minister for Planning declared the Sydney Desalination Project to be 'critical infrastructure' and therefore approval for the plant could be granted without any opportunity for local government or the community to legally challenge the decision on environmental grounds.

The Minister for Planning gave concept approval for the Sydney Desalination Project and project approval for the desalination plant at Kurnell and the seawater intake and outlet structures in November 2006. The plant will use reverse osmosis technology to remove salts and other impurities from seawater to produce drinking water. Water from the desalination plant at Kurnell will be pumped into Sydney's water distribution system through a pipeline from Kurnell, across Botany Bay to Kyeemagh. From Kyeemagh the water will be distributed to up to 1.5 million people south of Sydney Harbour, to supplement their water supply. The Minister for Planning gave approval for the pipeline in October 2007. The proposed pipeline route from Kyeemagh connects to the main City Water Tunnel at Erskineville.

Water supplied from the desalination plant will increase the total volume of water available to all customers across the whole Sydney Water area including the Blue Mountains, the Illawarra and Sydney.

Sydney Water commenced the construction works associated with the Sydney Desalination Project in May 2007. At the end of October 2008 the project is 45% complete. A copy of the latest Sydney Water Community Update Newsletter on the Sydney Desalination Project is attached as **annexure 2**.

6. Discussion

The associated impacts from the operation of a desalination plant on the environment are dependant on many factors including the:

- technology used for desalination (i.e. reverse osmosis or distillation),
- location of the plant and discharge points, the volume of brine discharged,
- sensitivity of the receiving water ecosystems,
- tidal influence of the receiving waters,

- maintenance regime and chemicals used, and
- hours of operation.

The issues relating to the installation and operation of a private desalination plant need to be addressed by the applicant prior to the determination of an application by Council. Provision of this information is vital for assessing and processing the application.

The production of water through desalination is very energy intensive. The consultant's report submitted with the desalination development application discussed in this report, calculated that the amount of energy expended by a desalination plant is 56 times larger than that required to supply the equivalent volume by the Sydney Water Corporation's service. The use of desalination plants, especially for the supply of water for outdoor private residential use, seems to be a very inefficient and unsustainable method, that is inconsistent with current NSW Government objectives for reducing residential energy consumption by 40% for detached and semi detached residential housing. The consultant estimates that the operation of a desalination plant to supply outdoor water use (100kL/year) would equate to a 17% increase in the household's greenhouse gas emissions per year.

The broader impacts of desalination plants are not fully understood. In considering this, the installation and operation of these plants is in conflict with the principles of ESD, especially the precautionary principle. Alternative water supply options that are less harmful to the environment need to be considered.

The DEC's *Guidance Note about Desalination Plants* suggests that councils consider requiring applicants of private desalination systems to demonstrate in a report why their needs cannot be met by a combination of the demand and supply options. Householders could firstly reduce their outdoor domestic water demands by:

- using garden mulch,
- installing automatic watering systems with moisture sensors, and
- using a pool cover and other measures, which are described, in greater detail at www.sydneywater.com.au and www.basix.nsw.gov.au.

The energy consumption of such options is minimal.

If an alternative domestic supply is desired and its sustainability is important, alternatives to consider include:

- rainwater tanks,
- stormwater tanks,
- greywater systems, and
- recycled water.

In general, the energy consumption of a rainwater or stormwater tank with a pump would typically be less than 0.3 kWh/kL. The energy consumption of greywater and recycled water systems varies considerably but is typically less than 1 kWh/kL.

Increases in greenhouse gases in the atmosphere generated by human activity are contributing to the enhanced greenhouse effect and global warming. Some of the impacts predicted to affect the east coast of Australia as a result of global warming are increases in the frequency and intensity of drought, reduction in rainfall, more frequent storm events and higher temperatures. It is ironic then that the very measure the government wants to implement as a contingency for water supply during the drought, will contribute significantly to increasing greenhouse gas emissions.

7. Control of desalination plants

7.1 Control of private plants

Desalination plants are not specifically listed as permissible development under Woollahra LEP 1995. However, a desalination plant is permissible development where it is proposed and used as an ancillary component of development which is permissible. Also, where development has the benefit of existing use rights, a desalination plant which is ancillary to that development, may be approved by the Council.

Pipes or other elements located below mean high water mark used for the intake or discharge of water to and from the land based plant would be subject to the provisions of *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)*.

Under the SREP a desalination plant, including its associated infrastructure, is not specifically defined, but could be an ancillary component of development that is permissible in the waterways zones listed in the SREP or permissible by other provisions of the SREP. Generally, the permissible development is classified as land-water interface development for which the Council is the consent authority, unless another environmental planning instrument specifies the Minister for Planning as the consent authority.

The Council would have regard to a range of statutory and policy documents when assessing an application for a desalination plant. These documents include:

Environmental Planning and Assessment Act 1979

Section 79C (Evaluation) contains the primary heads of consideration for assessing and determining development applications. It draws in for consideration all environmental planning instruments and development control plans relevant to an application. It also requires consideration of the impact of a development on the built and natural environment, the suitability of the site for the development and the public interest.

Woollahra LEP 1995

The LEP contains:

- aims and objectives in relation to - protection of the natural environment, protection of the foreshores and inter-tidal areas, retention of foreshore public access, global warming, water conservation.
- land use zones objectives
- development standards – building heights, foreshore building lines, floor space ratios
- special provisions for development in the harbour foreshore scenic protection area.

Woollahra residential and commercial centre development control plans

These DCPs provide objectives and controls for various matters including:

- building scale and location,
- energy efficiency,
- water conservation,
- stormwater management (including water conservation),
- development on the harbour foreshore – including protection of ecological communities and the natural foreshores, and
- acoustic privacy.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Heads of consideration address:

- biodiversity, ecology and environment protection
- public access to, and use of, foreshores and waterways
- interrelationship of waterways and foreshore uses
- foreshore and waterways scenic quality.

Sydney Harbour Foreshores and Waterways Area DCP

This DCP operates under the SREP and includes provisions for ecological and landscape assessment and design guidelines for water-based development, land/water interface development and land-based development.

In addition to the matters to be considered under the statutory and policy documents, it would be open to Council to refer an application for a private desalination plant to another authority or agency for comment. For instance, comments might be sought from the Sydney Harbour Foreshores Committee, Waterways Authority, Department of Primary Industries and Department of Environment and Conservation.

7.2 Control of public plants

Public desalination plants are unlikely to be located in Woollahra for a range of factors including the absence of suitable land and likely impacts on the harbour and foreshore lands. For the purpose of this report it is sufficient to note that the assessment and approval of public desalination plants would most likely occur under the provisions of Part 3A (Major infrastructure and other projects) of the EPA Act. Such a process was undertaken for the Kurnell Desalination Plant, which was declared to be a critical infrastructure project by the Minister for Planning under section 75C of the EPA Act in November 2005.

8. Water desalination policy

Collectively there is an abundance of planning provisions at State and Local Government levels that may be applied to the assessment and control of private desalination plants. Our current planning system is complex and compounded by layers of regulation at State and local levels. Whilst the Council might consider introducing policy for desalination plants, such a policy would add to the process without tangible benefits. However, it is evident from experience with the two DAs for private desalination plants lodged with the Council that there is a need to ensure sufficient and credible information is supplied by applicants. Therefore, it would be beneficial to amend the

Woollahra Municipal Council DA Guide to require the submission of a report that demonstrates the site's water needs and how these needs will be met through a combination of water demand and supply options. Provision of this information is supported by the energy and water objectives contained in Council's DCPs and LEP, and reinforces Council's position regarding the sustainable use and supply of water. The recommended approach has been adapted from the demand and supply options included in the DEC *Guidance Note about Desalination Plants*.

9. Conclusion

Desalination plants are energy intensive, potentially environmentally harmful and inefficient method for providing fresh water for residential use. Other demand management and alternative domestic supply options must be encouraged before desalination is to be considered. Under the current planning framework there are adequate statutory and policy documents to assess a development application for a desalination plant, including objectives in Council's current DCPs and LEP. To further support Council's energy and water conservation objectives contained in our planning documents, it is recommended that the Woollahra Municipal Council DA Guide be amended to require additional information to be submitted with development applications relating to water demand and supply. Specifically, applicants would have to provide a report that demonstrates the site's water needs and how these needs will be met through a combination of water demand and supply options.

Rebecca Peacock
Environmental Protection Coordinator

Chris Bluett
Manager Strategic Planning

ANNEXURES

1. Department of Conservation *Guidance Note about Desalination Plants*
2. Sydney Water Sydney's Desalination Project Community update November/December 2008

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

