



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Tuesday 15 June 2004*

**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

10 June 2004

To: The Mayor, Councillor Rundle, ex-officio  
Councillor David Shoebridge (Chair)  
Anthony Boskovitz  
John Comino  
Christopher Dawson  
Keri Huxley  
Julian Martin  
Isabelle Shapiro

Dear Councillors

### **Urban Planning Committee Meeting – 15 June 2004**

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 Tuesday 15 June 2004 at 6.00pm.**

Gary James  
General Manager

## 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 31 May 2004	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Draft State Environmental Planning Policy (Application of Development Standards) 2004 and Associated Draft Planning Guideline – 696.G	2
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**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 31 May 2004**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 31 May 2004 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 31 May 2004 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** R1 Recommendation to Council  
**Subject:** **DRAFT STATE ENVIRONMENTAL PLANNING POLICY  
(APPLICATION OF DEVELOPMENT STANDARDS) 2004 AND  
ASSOCIATED DRAFT PLANNING GUIDELINE**  
**Author:** Chris Bluett - Manager Strategic Planning  
**File No:** 696.G  
**Reason for Report:** To respond to the recommendation of the Urban Planning Committee made on 31 May 2004 regarding *Draft State Environmental Planning Policy (Application of Development Standards) 2004*

### Recommendation

- A. That a submission on *Draft SEPP (Application of Development Standards) 2004* and the associated Draft Planning Guideline be made to the Department of Infrastructure, Planning and Natural Resources incorporating the following comments:
- (a) Support in general for the *Draft SEPP* and *Draft Planning Guideline*.
  - (b) A need for further consideration to the issue of “better environmental planning outcome” and to the criteria for demonstrating such an outcome, given the examples that arise in Woollahra with minor development and minor departures. In this regard the submission will include the recommended changes to the Draft SEPP contained in the report to the Urban Planning Committee meeting on 15 June 2004.
  - (c) Clarification of the information that a council should maintain under clause 12 of the Draft SEPP. In this regard whether the information listed under the heading in the Draft Guidelines “monitoring and plan review” should relate to clause 12, not clause 11.
  - (d) A request that the Guideline be amended by removing reference to variation of development standards through use of an objection under the policy.
- B. That the Committee’s recommendation proceed to the Council meeting on 15 June 2004 as a matter of urgency as the closing date for submissions is 18 June 2004.

### Introduction

The Urban Planning Committee considered a report on *Draft State Environmental Planning Policy (Application of Development Standards) 2004* and its associated *Draft Planning Guideline* at its meeting on 31 May 2004 (**annexure 1**). The report recommended:

*That a submission on Draft SEPP (Application of Development Standards) 2004 and the associated Draft Planning Guideline be made to the Department of Infrastructure, Planning and Natural Resources incorporating the following comments:*

- (a) *Support in general for the Draft SEPP and Draft Planning Guideline.*
- (b) *A need for further consideration to the issue of “better environmental planning outcome” and to the criteria for demonstrating such an outcome, given the examples that arise in Woollahra with minor development and minor departures.*
- (c) *Clarification of the information that a council should maintain under clause 12 of the Draft SEPP. In this regard whether the information listed under the heading in the Draft Guidelines “monitoring and plan review” should relate to clause 12, not clause 11.*

- (d) *A request that the Guideline be amended by removing reference to variation of development standards through use of an objection under the policy.*

After considering the report the Committee recommended:

*That this matter be deferred to the next Urban Planning Committee on Tuesday 15 June 2004 (and subsequently referred to Council as a matter of urgency) in order for the Manager Strategic Planning to further address point (b) below, providing a more concrete proposal for this Committee to consider.*

Copies of the *Draft SEPP* and *Draft Planning Guideline* are provided as **annexures 2** and **3**.

## **2. Further discussion**

Point (b) of the suggested recommendation of 31 May 2004 was based on a number of facts and observations:

1. The criteria set down in clause 7(3) of the *Draft SEPP* for determining a “better environmental planning outcome” are not applicable in all instances for minor departures from a development standard and for minor types of development, particularly in the case of existing development. This was illustrated by the example provided in the previous report to the Committee (**annexure 1**). There are many other examples that could occur in Woollahra and elsewhere. For instance, a development proposal for minor internal works to an existing residential flat building constructed in the 1930s may breach the height control and current floor space standards. However, such a proposal would not pass the *Draft SEPP* test because the element of work that breaches the standard is not likely to be necessary due to unusual site characteristics, nor is it likely to be of exceptional design quality, or of social or economic benefit to the community.
2. The discussion on better environmental planning outcome contained in the *Draft Planning Guideline* is weighted towards larger development proposals, possibly commercial proposals, which are likely to have broad community associations. This is particularly evident in the explanation and examples provided for exceptional design quality, social benefit and economic benefit.
3. *SEPP No.1 – Development Standards* has a proper planning purpose and applies to all development standards, unless otherwise excluded by reference in an environmental planning instrument. However, by virtue of the restrictive criteria set down in clause 7(3), the *Draft SEPP* will have a narrower application that may preclude proposals which, in all other respects, are satisfactory from an environmental planning perspective.

At the Committee meeting on 31 May 2004 there was discussion about the frequency in which *SEPP No.1* is used and the appropriateness of Woollahra’s development standards. Whilst it is reasonable to expect all development proposals to fully satisfy development standards, circumstances do exist and do arise where environmentally acceptable development that departs from a standard can occur. There is nothing sinister in this. Proposals that are properly assessed and supported by sound reasons for non-compliance with a standard will not erode community principles.

Non-compliance with a numerical figure by itself is not a true indication that a negative impact will eventuate. Furthermore, it cannot be assumed that a proposal represents an over-development of the site because it fails to comply with a development standard. The term over-development describes a proposal that has numerous excesses or deficiencies that can collectively produce an adverse impact.

It should not be implied that non-compliance with the standards in Woollahra is the norm or that instances where non-compliance is proposed are dealt with in a relaxed fashion. Non-compliance with development standards occurs in Woollahra for a number of reasons.

1. Woollahra is an established area with a diversity of build forms and in some localities an intermix of land use types.
2. The standards are not intended to reflect the existing built form in all instances, but seek to achieve a desired future character. The alternative to this approach is to prescribe hundreds or perhaps thousands of standards for individual properties based on their existing built form and development potential. Such an approach is impractical.
3. Existing development is not penalised because it does not meet a numerical standard. Provided a development proposal will adequately satisfy relevant environmental objectives, including the objectives of the standard, and other controls a consent may be issued.

In many respects the *Draft SEPP* provides a tighter process for preparing and assessing development proposals that, if carried out, will breach development standards. However, because development standards are applied in a wide range of circumstances, from individual sites to whole suburbs or areas, it is difficult to apply a single assessment tool such as that now proposed in the *Draft SEPP* in an equitable manner. The process is further complicated by the types of development standards that can be created (see **annexure 4**) and applied to development of all magnitudes.

The recommendation, therefore, is to seek a change to the *Draft SEPP* that acknowledges minor development (which might, depending on circumstances, such as the 1930s building example, involve a large numerical departure) and development that will depart from a standard in a minor way (generally a minor numerical departure). These circumstances are particularly relevant for proposals involving existing development.

The alterations focus on clause 7 of the *Draft SEPP* and are shown below, with the changes highlighted in strike out and underline fashion.

## **7 Application for departure**

- (1) A person:
  - (a) who makes a development application to carry out development to which this Policy applies, and
  - (b) who, in carrying out the development, wishes to depart from a development standard that would otherwise apply to the development, must submit with the development application a written statement that identifies the development standard and that seeks to justify the departure.
- (2) The written statement must demonstrate how each of the following requirements is satisfied:

- (a) that the proposed departure from the development standard will result in a better environmental planning outcome than that which could have been achieved on the site had the standard been complied with, and
- (b) the proposed development will be in the public interest by being consistent with any aims and objectives expressed in, or implied from:
- (i) the zone in which the development is proposed to be carried out, or
  - (ii) the development standard, ~~or~~  
in any relevant environmental planning instrument.
- (3) For the purpose of subclause 2(a), a better environmental planning outcome will not be demonstrated unless:
- (a) the element of the proposed development that is inconsistent with the relevant development standard is necessary because of unusual site characteristics, or
  - (b) the proposed development, including the element that is inconsistent with the relevant development standard, comprises any one or more of the following:
    - (i) ~~exceptional~~ design quality that is evident through aspects and outcomes, including:
      - a positive response and contribution to the area's desired future character
      - appropriate scale and form, having regard to the area's desired future character
      - sustainable development features addressing matters such as water conservation, energy efficiency and thermal comfort,
    - (ii) negligible impact on amenity or improved amenity for adjoining properties and properties in the immediate vicinity of the proposal's site,
    - (iii) social benefit to the community, which is above and beyond that which could have been achieved had the development standard been complied with,
    - (iv) economic benefit to the community, which is above and beyond that which could have been achieved had the development standard been complied with,  
~~which is above and beyond that which could have been achieved had the development standard been complied with,~~
- or both.
- (4) The Guideline must be taken into consideration in determining whether the proposed development achieves a better environmental planning outcome for the purposes of this clause.

If these recommended alterations to the *Draft SEPP* are taken up, changes would also be necessary to those parts of the *Draft Planning Guideline* that provide notes and elaboration on the meaning of "better environmental planning outcome". In particular, the Guideline would need to include discussion and examples that relate to minor types of development in a local neighbourhood context, instead of concentrating on large-scale proposals that have broader community impact.

### 3. Conclusion

The *Draft SEPP* and *Draft Planning Guideline* respond in positive ways to many of the issues and concerns associated with *SEPP No.1 – Development Standards*. A policy such as the *Draft SEPP* is an important and necessary planning tool. However, it is evident that *Draft SEPP* in its current construction will struggle to deal equitably with all development types and proposals, particularly those relating to existing buildings and those involving minor departures or minor works. A number of changes to the *Draft SEPP* are recommended to address these matters.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

### ANNEXURE

1. Report to Urban Planning Committee meeting of 31 May 2004
2. Draft SEPP (Application of Development Standards) 2004
3. Draft Planning Guidelines
4. Definition of development standard (clause 4, *Environmental Planning and Assessment Act 1979*)