



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Monday 29 October 2007*

**Time:** *6.00pm*

## **Outline of Meeting Protocol & Procedure:**

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

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

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below:

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

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Broad strategic matters, such as:-
  - Town Planning Objectives; and
  - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Traffic Management and Planning (Policy) and Approvals.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors, in accordance with any Council policy on "safeguards" and substantive changes.

**Committee Membership:**

7 Councillors

**Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

25 October 2007

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

Dear Councillors

### **Urban Planning Committee Meeting – 29 October 2007**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Monday 29 October 2007 at 6.00pm.**

Gary James  
General Manager

# **Additional Information Relating to Committee Matters**

**Site Inspection**

**Other Matters**

## Meeting Agenda

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

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

D1	Confirmation of Minutes of Meeting held on 8 October 2007	1
D2	Built Environment Principal Activity – First Quarterly Management Plan Review – 827.G 07-10	2

### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Draft Paddington Heritage Conservation Area Development Control Plan – 899.G <b>*Annexure 10 distributed separately</b>	33
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**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 8 October 2007**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 8 October 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

**Recommendation:**

That the Minutes of the Urban Planning Committee Meeting of 8 October 2007 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** D2 Delegated to Committee

**Subject:** **Built Environment Principal Activity – First Quarterly Management Plan Review**

**Authors:** Allan Coker – Director Planning and Development  
Chris Bluett – Manager Strategic Planning  
Tim Tuxford – Manager Compliance  
Brett Daintry – Manager Development Control

**File No:** 827.G 07-10

**Reason for Report:** To review the status of projects and services for the Management Plan principal activity of Built Environment for the three months ending 30 September 2007.

### **Recommendation**

- A. That the status of projects for the Built Environment principal activity be noted.
- B. That the variations to projects be agreed subject to adoption of the relevant budget variations included in the separately reported end of year financial review.

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### **Background**

Section 407(1) of the *Local Government Act 1993* requires that Council review the progress of the adopted management plan on a quarterly basis. Included with this report is the first quarterly review of Principal Activity No. 1 of the Management Plan, which is "Built Environment". This principal activity has the following sub-activities:

- 1.1 Environmental Planning
- 1.2 Heritage Planning
- 1.3 Urban Design
- 1.4 Development Control
- 1.5 Compliance
- 1.6 Management and Administration

Included as annexures to this report are:

The Built Environment Principal activity section of the Management Plan, with comments on the status of items in each sub-activity.

A table of uncompleted notices of motion relating to the Built Environment principle activity.

This report provides a commentary on variations, changes, exceptions and completed work during the first quarter of 2007-2008. The purpose is to provide Councillors with an overview of the key influences and issues affecting the delivery of projects and services within the Built Environment Principal Activity.

"Notices of Motion" which have a major impact on approved management plan core activities and projects have been included in the management plan as variations so as to facilitate the changing of priorities in an orderly and transparent manner.

## **Environmental Planning**

### **2.1 Management Plan projects**

**Annexure 1** contains a status summary of projects within the sub-activity. Our work in this program during the quarter was directed towards six projects.

#### **Draft Woollahra LEP 1995 (Amendment No. 61)**

This Draft LEP deals with an amendment to the definition of community facility. The need for the Draft LEP arose from a decision of the Court of Appeal in *Cranbrook School v Woollahra Council [2006] NSWCA 155*. The Court declared that development proposed by Cranbrook School for a preparatory and junior school on the former Rose Bay Bowling Club site was development which constituted a community facility and was permissible with consent under Woollahra Local Environmental Plan 1995 with the Open Space Zone applying to the site.

We reported to the Urban Planning Committee on 30 April 2007 with the results of the public exhibition of the Draft LEP. On 14 May 2007 the Council resolved to forward the Draft LEP to the Minister for Planning for approval and gazettal. The Parliamentary Counsel has provided advice that the Draft LEP may be made. We have sent the Draft LEP to the Department of Planning and been advised that it is with the Minister for his approval.

#### **Double Bay Commercial Centre and Oxford Street Paddington business management**

During the quarter we continued our research into options for a business management model. We reported our progress to the Urban Planning Committee on 9 July 2007 and 13 August 2007. On 27 August 2007 the Council endorsed the centre management model set down in the report to the UPC on 13 August 2007. At the same time the Council set in train other actions which require discussion with the Double Bay business community. These discussions are underway. The Double Bay Chamber of Commerce is expected to report back on progress at a breakfast meeting to be held on Friday 26 October.

#### **Draft East Subregional Strategy**

The Draft Strategy is an initiative of the NSW State Government and follows release of the Metropolitan Strategy in 2005. In the course of preparing a detailed submission to the Draft Strategy comments were obtained from Council's Technical Services Division and Community Services Division. The Draft Strategy sets employment and housing target and is particularly relevant to the preparation of the comprehensive LEP.

#### **Rezoning request for 4A Nelson Street Woollahra**

Further work was undertaken on the rezoning request by Jewish Care in response to a decision of the Council on 9 July 2007 and 27 August 2007. A report was considered by the Urban Planning Committee on 8 October 2007.

#### **Woollahra Housing Strategy review**

The consultant firm BIS Shrapnel submitted a draft Residential Market Analysis report which was reviewed and returned for completion. The report will be used in further discussions with the Department of Planning on the housing targets contained in the Draft East Subregional Strategy and in the preparation of the comprehensive report.

#### **Woollahra Comprehensive LEP**

Minor work was carried out on this project in connection with the Draft East Subregional Strategy submission and Housing Strategy review. We will provide a progress report to the Urban Planning Committee in November at the request of the Mayor, Councillor Rundle.



During the quarter the following reports were presented to the Urban Planning Committee.

<b>Project</b>	<b>Committee</b>	<b>Reasons for project</b>
Centre Management – Oxford Street Paddington and Double Bay Commercial Centre	UPC 9.7.07	Response to notices of motion
Centre Management – Oxford Street Paddington and Double Bay Commercial Centre	UPC 13.8.07	Response to notices of motion
Rezoning request for 4A Nelson Street, Woollahra	UPC 13.8.07	Request by property owner
Draft White City DCP	UPC 27.8.07	Decision of Council
Draft East Subregional Strategy	UPC 10.9.07	Submission in response to State Government action
Draft City of Sydney Late Night Trading Premises Development Control Plan 2007	UPC 10.9.07	Submission in response to action by Sydney City Council Request from Mayor for submission
Draft East Subregional Strategy	UPC 10.9.07	Submission in response to State Government action
Planning Program	UPC 10.9.07	Information for new Urban Planning Committee

### **3 Heritage Conservation**

#### **3.1 Management Plan projects**

**Annexure 1** contains a status summary of projects within the sub-activity. Our focus in this sub-activity was on one project:

##### **Paddington DCP review**

The final meeting of the Draft DCP Peer and Community Review Panel was held on 12 July 2007. Recommendations of the Panel were co-ordinated and integrated with a revised Draft DCP.

#### **3.2 Core activities**

The two heritage officers dealing with development applications processed their referrals during the quarter largely within our required time frames.

### **4. Urban Design**

#### **4.1 Management Plan projects**

**Annexure 1** contains a status summary of projects within the sub-activity. Our work in this program during the quarter was mostly directed towards three projects.

##### **Neighbourhood Centres DCP and LEP (including William Street Paddington)**

We prepared a report on submissions received following exhibition of the Draft Neighbourhood Centres DCP and LEP in May and June. The report was considered by the Urban Planning Committee on 8 October 2007.

##### **Draft White City DCP**

On 27 August 2007 the Urban Planning Committee considered a report on submissions received following public exhibition of the Draft White City DCP in May and June 2007. The Council approved the DCP on 10 September 2007 with minor alterations.

### **Amendment to Woollahra Residential DCP**

Draft Woollahra Residential DCP (Amendment No.2) contains provisions for roof terraces, mechanical parking installations and air conditioners. Public exhibition of the Draft DCP occurred over the period 29 June 2007 to 8 August 2007. A draft report on submissions has been prepared and is being reviewed with the intention of a presentation to the Urban Planning Committee in November 2007.

#### **4.2 Core activities**

The Urban Designer Planner provided comments on major development applications and several of Council's capital works projects during the quarter.

### **5. Development Control**

#### **5.1 Core activities**

Council is required to fulfil statutory functions as a consent authority under the *Environmental Planning and Assessment Act 1979* (EPA Act). Under Part 4, 'Development Assessment' of the EPA Act Council is charged with assessing and determining development applications (DAs), applications to amend development consents (s.96) and applications for review of determinations (s.82A). Within the Development Control section we also assess and determine construction certificates for class 1 and 10 buildings.

We operate in an environment where the community expects and is provided with a high degree of rigour in the environmental assessment of these applications. This is also driven by the reality that our residents can challenge the validity of approvals granted if there is a failure in process.

This environment has resulted in a "belts and braces" approach to development assessment. We have well developed and well documented processes<sup>1</sup> and procedures which support each part of the process.

Our aim is to provide Councillors and the community with high quality development assessment reports. These reports properly inform Team Leaders, Senior Staff, the Application Assessment Panel (AAP), the Development Control Committee (DCC) and full Council to enable informed decisions to be made.

A detailed seven year report was presented to the DCC on 2 April 2007.

The following links provides access to that report and annexures:

[http://www.woollahra.nsw.gov.au/\\_data/assets/pdf\\_file/0005/20300/april2-07dccage.pdf](http://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0005/20300/april2-07dccage.pdf)  
[http://www.woollahra.nsw.gov.au/building\\_and\\_development/development\\_applications/our\\_performance](http://www.woollahra.nsw.gov.au/building_and_development/development_applications/our_performance)

A detailed performance report is being written for the period 1 July 2006 to 30 June 2007 and will be reported to the DCC in November 2007. We have held back reporting this period so that we report on the basis of the same data we have provided to the NSW Department of Planning. This report will be based on the same data recently provided to the NSW Department of Planning for 2006-2007 and will also include the data from 1<sup>st</sup> quarter 2007-2008. A précis of the 2006-2007 data was reported in the previous quarterly review.

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<sup>1</sup> [http://www.woollahra.nsw.gov.au/building\\_and\\_development/development\\_applications/process\\_overview](http://www.woollahra.nsw.gov.au/building_and_development/development_applications/process_overview)

Our performance in the 1<sup>st</sup> quarter of 2007-2008 has been very pleasing.

The net (gross minus 'stop the clock' days) median determination times for the 1<sup>st</sup> Quarter 2007-2008 was 52.5 days and the gross median was 69 days across all levels of determination.

These overall average and median figures were largely achieved due to staff delegated approvals being a net median of 40.5 days and a gross median 46 days.

In the same quarter the number of outstanding DAs, s.96, s.82A and CCs has dropped under 400 and remains well under 400 at this date, an historic low.

The time to determine applications jumps significantly from staff determinations to AAP, modestly increases again to DCC and increases again when they go to full Council. The volume of applications determined drops at these higher levels of determination. This trend continues as in previous reporting periods. This reflects the fact that more complex and controversial development applications receive a more rigorous assessment which takes longer as they are exposed to the higher levels of transparency afforded through, many more referrals (internal and external) and the AAP, DCC and Council reporting processes.

The number of applications subject to requests for additional information rose from 29.5% in the period 2006-2007 to 33% in the 1<sup>st</sup> quarter 2007-2008. The number of applications rejected in 2006-2007 due to incomplete information totalled 7. In the first quarter of 2007-2008 we rejected 7 applications due to incomplete information.

The efforts of applicants to lodge complete applications is disappointing despite our best efforts and advice including provision of our pre-DA service<sup>2</sup>, the publication of our 5 Step DA Guide<sup>3</sup> and all environmental planning instruments and development control plans being on our website<sup>4</sup> free of charge.

The complexity of the development application process has increased with the implementation of site signs which caused noticeable delays in processing some applications because applicants failed to comply with the new requirements during 2006-2007. There has been some improvement in applicants' compliance during the 1<sup>st</sup> quarter 2007-2008 as regular applicants have become accustomed to the new requirements.

In summarised terms, the average net for our assessment of all development applications and section 96 applications for 2006-2007 was 95 days with a median of 72 days. In this 1<sup>st</sup> quarter 2007-2008 the average net days fell from 95 days to 87 days (8 days less) and the median net fell from 72 days to 52.5 days (20 days less than in 2006-2007).

We determined 72% of all applications in the 1<sup>st</sup> quarter of 2007-2008 under Team Leader delegations. Of those granted consent, 63% of the total, we took an average of 55 days and a median of 40.5 days. These are the so called "mum and dad" applications with no objections or objections resolved by conditions of consent or amendments prior to determination.

We will be providing a more detailed report to the DCC in November 2007.

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<sup>2</sup> [http://www.woollahra.nsw.gov.au/building\\_and\\_development/pre-development/pre-da\\_meetings](http://www.woollahra.nsw.gov.au/building_and_development/pre-development/pre-da_meetings)

<sup>3</sup> [http://www.woollahra.nsw.gov.au/building\\_and\\_development/pre-development/development\\_application\\_guide](http://www.woollahra.nsw.gov.au/building_and_development/pre-development/development_application_guide)

<sup>4</sup> [http://www.woollahra.nsw.gov.au/building\\_and\\_development/planning\\_rules](http://www.woollahra.nsw.gov.au/building_and_development/planning_rules)

## **5.2 Management Plan projects**

The projects identified in the management plan are aimed at achieving continuous improvement of development control services. These are ongoing. The specific projects underway are:

### **Review DA assessment process**

The recommendations of the McKinley report on the referrals process have been substantially implemented. The outcome of the McKinley report will be reported in detail to DCC in the second quarter. The McKinley report recommended administrative changes and implementation was immediate.

One of the most significant changes is that the Manager Development Control now chairs the Development Assessment Review Committee. Changes have been made to service standards in assessment and referral replies and staff have worked diligently towards achieving these standards. We believe that all these changes are reflected in improved assessment performance demonstrated in the 1<sup>st</sup> quarter 2007-2008.

We are undertaking a complete process review in a staged approach and will report on progress over the coming quarterly reviews. In addition to the systematic review daily ongoing improvements and updating of over 300 templates used in the process continues to ensure statutory compliance.

### **Post determination processes and procedures**

A new notice of determination format has been introduced. A new post determination information package has been prepared and is awaiting final review before implementation.

### **Post occupation audit of development**

The site audits took place on 27 April 2006 with eleven sites inspected. We carried out inspections and completed checklists, reviewing each development against the objectives of the controls.

Staff present included the Director Planning and Development, Manager Development Control, Executive Planner and all three Development Assessment Team Leaders. The Executive Planner is to report on the outcomes but this has been delayed by the Executive Planner's role in assessing several very complex and controversial development applications, including the Rose Bay and Point Piper Marinas and 20 Roslyndale Avenue during the 2006-2007 period. The executive planner has not finalised this as he continues to be diverted to the assessment of major development applications.

### **Review and document s.68 Activity Approval Process**

This project has not been commenced.

## **6. Compliance**

### **6.1 Core activities**

During the quarter the following core services were provided by the Compliance Section:

- 49 construction certificates were determined, representing a market share of 24.1%. The number of construction certificates determined was more than 17% above the quarterly

average for 2006/07, while the market share was in line with the 2006/07 results. The median turn-around time for constructions certificates was 20 days, a modest improvement on the 2006/07 annual result of 22 days.

- 1 complying development certificate was issued, representing a market share of 12.5%. The turn-around time for this application was 47 days. The number of complying development certificates issued for the area is generally low at about 40 applications per year. However, the first quarter's market share result represents a significant change to the annual results for 2005/06 and 2006/07 where Council issued about 50% of all complying development certificates. This trend will be monitored over the coming quarters.
- Council was appointed as the Principal Certifying Authority (PCA) for 34 new construction projects, representing a market share of 22.8%. The number of appointments was more than 11% above on the quarterly average for 2006/07 and the market share was a modest 1.2% increase from the 2006/07 annual result.
- 63 building certificates were issued, with a median turn-around of 23 days. The number of building certificates determined was more than 5% above the quarterly average for 2006/07, while the median turn-around time fell from 32 days for 2006/07.
- 9 hoarding applications were determined, with a median turn-around of 2 days. The number of hoarding applications determined was about 30% below the quarterly average for 2006/07, however the median turn-around time fell from 9 days for 2006/07.
- 6 Local Government Act activity applications were determined, being comparable with the quarterly average for 2006/07.
- 4 land and 2 strata applications were processed, being comparable with the quarterly average for 2006/07.
- 11 new fire safety statements were registered, being comparable with the quarterly average for 2006/07.
- 137 annual fire safety statements were submitted, being about 4% below the quarterly average for 2006/07.
- 1 penalty infringement notice was issued for failure to submit an Annual Fire Safety Statement.
- 10 Fire Safety Orders were issued, with 6 Fire Safety Orders being finalised.
- 86 Notices and Orders were issued for the rectification of unauthorised uses/works, being about 6% below the quarterly average for 2006/07.

## **7. Management and Administration**

All planning, rates and notices and outstanding orders certificates were issued within the applicable time frames.

## 8. Conclusion

Our Environmental Planning, Urban Design and Heritage Conservation programs have proceeded in a satisfactory manner in the context of staffing difficulties we experienced during the quarter. We currently have four (4) vacancies within these sections being:

- Team Leader Strategic Planning
- Strategic Heritage Officer
- Team Leader Urban Design
- Senior Strategic Planner

We have recruited for these positions but no appointments have yet been made.

The statistics presented for Development Control demonstrate an improvement in the turnaround times for DAs and associated applications. This is a trend in the right direction and one that needs to be maintained during a period of low lodgements. Significant changes implemented in relation to the operation of our Development Application Review Committee are working well and have resulted in improved turnaround times for referrals. We also commenced a major project involving the complete review of our DA processes with an initial focus on improving our tracking information for both internal and external customers. During the quarter we also commenced a project to examine how new 3D visualisation modelling could be applied to development control processes. These new tools are likely to revolutionise the way we go about determining and assessing built form impacts.

The Compliance Section focussed on the delivery of its core services, generally meeting our service standards for most core activities, except for Building Certificates and Complying Development Certificates. The quarterly results showed significant increases and improvements on the 2006/07 quarterly averages and determination times.

The median determination time for Building Certificates continued to improve during the quarter, however at 23 days, it still exceeds our target figure of 14 days. This departure is largely due to the fact that some building certificate applications are submitted to regularise illegal building work and in many cases we have to wait for works as executed plans, engineering certification and, in some cases, section 96 applications for retrospective approval. Furthermore, some building certificates have to be deferred pending the completion of required works.

The Complying Development Certificate result may be a one-off anomaly and will be closely monitored in future reporting periods.

Allan Coker  
Director Planning and Development

Chris Bluett  
Manager Strategic Planning

**Brett Daintry**  
**Manager Development Control**

**Tim Tuxford**  
**Manager Compliance**

## Annexures

1. September 2007 Quarterly Review of Principal Activity, Built Environment
2. September 2007 Quarterly Review of Outstanding Notices of Motion, Built Environment

**Item No:** R1 Recommendation to Council

**Subject:** **Draft Paddington Heritage Conservation Area Development Control Plan**

**Author:** Chris Bluett - Manager Strategic Planning  
Jodi Ayre – Strategic Heritage Officer

**File No:** 899.G

**Reason for Report:** To report on the outcome of the review undertaken by the Peer and Community Panel  
To present the revised Draft Paddington HCA DCP  
To obtain the Council's approval of the Draft DCP  
To obtain a decision to amend the Paddington HCA DCP.

### **Recommendation**

- A. THAT Draft Paddington Heritage Conservation Area Development Control Plan 2007, as contained in **annexure 10** of the report to the Urban Planning Committee meeting on 29 October 2007, be approved and come into effect on the date a public notice of Council's approval is placed in the newspaper.
- B. THAT a draft development control plan be prepared to amend the Paddington Heritage Conservation Area DCP 2007 by including provisions for loft structures over garages. The draft DCP is to be submitted to the Urban Planning Committee prior to public exhibition.

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### **Background**

On 28 August 2006 the Urban Planning Committee considered a report on the Paddington DCP review (**annexure 1**). The report included the new Draft Paddington Heritage Conservation Area DCP 2006 (Draft DCP). The Draft DCP represented the culmination of a lengthy review of the current Paddington DCP which was overseen by the Paddington DCP Working Party. The Council resolved on 11 September 2006 to place the Draft DCP on public exhibition.

Public exhibition of the Draft DCP occurred over the period 29 September 2006 to 10 November 2006.

On 18 December 2006 the Urban Planning Committee considered a report on submissions received during the exhibition of the Draft DCP (**annexure 2**). In general, the public submissions fell into two categories:

1. Restrictions on excavation.
2. Restrictions on internal change to the principal building form, particularly relating to the demolition of cross walls.

The Committee's recommendation was considered by the Council on 18 December 2006 and the following decision was made:

- A. THAT consideration of the Draft Paddington Heritage Conservation Area Development Control Plan 2006 be deferred until the meeting of the Urban Planning Committee to be held on 12 February 2007.

- B. THAT an Executive Summary be prepared and circulated to the owners of the properties in the Paddington Ward on or before 31 January 2007 identifying the salient matters in the DCP.
- C. THAT a report be brought to the Urban Planning Committee on 29 January 2007 in respect to the establishment of a peer and community group reviewing the DCP and with the mechanism of being able to hold workshops on the issues raised in relation to the draft DCP as it presently stands.
- D. THAT the scope of the peer and community review be limited to the issues that have been raised, both existing and during the consultation process, as a community concern.

The following actions were taken in response to the decision:

*Item B* – an executive summary was prepared by staff and reviewed by Councillor Keri Huxley who was the Mayor at that time (**annexure 3**). The document was circulated to Paddington property owners in the week commencing 29 January 2007.

*Item C* – at its meeting on 29 January 2007 the Urban Planning Committee considered a report on the peer and community group (**annexure 4**). On 12 February 2007 the Council resolved:

- A. THAT the information brochure circulated to all properties in the Paddington Ward be noted.
- B. THAT the composition of the Peer and Community Review Panel be the experts identified in section 3.1 of the report, a representative of The Paddington Society and a community member, preferably who made representations to the Urban Planning Committee, as determined by the Chair of the Urban Planning Committee on the recommendation of staff, and that the workshops be co-ordinated as outlined in the project timeline contained in annexure 4.
- C. THAT a further report be brought to the Urban Planning Committee at the conclusion of the workshops with the Peer and Community Review Panel, to report on the expert advice received in relation to Clause 4.1.1 and 4.1.6 of the Draft Heritage Conservation Area Development Control Plan 2006.
- D. THAT written submissions be invited to be made to the Peer and Community Review Panel.

In response to item D of the Council's decision on 12 February 2007 an advertisement was placed in the Wentworth Courier edition of 28 February 2007 inviting written submissions to the Panel. The advertisement included Council's decisions and a background to the DCP review. A similar notice was placed within the public notices section of the Council's website.

The advertising resulted in 51 additional submissions, which fell into three categories:

- 1. Support for the Draft DCP (seven submissions)
- 2. Concern about a current DA consent, but neither support nor objection to the Draft DCP (one submission)
- 3. Objection to aspects of the Draft DCP (43 submissions).



A summary of submissions is provided in **annexure 5**. A breakdown of the 43 objections is provided below.

No. of submissions	Objection to controls/issues raised
5	General objection – did not raise a specific issue
4	Restrictions on excavation only
3	Restrictions on internal changes only
1	Prohibition of lofts over garages only
24	Restriction on excavation and internal changes*
1	Restriction on excavation and prohibition of lofts over garages
5	Restriction on excavation and internal changes, prohibition of lofts over garages*

\*Note: Two submissions also listed concern over the controls for rear roof skylights. One submission referred to landscaping and lightwells.

Despite the high number of objections it is interesting to note that over half of the submissions referred to the important heritage values of Paddington, in particular the historic built form of the locality. Similar comments were contained in submissions received when the Draft DCP was exhibited. Both cases reflect a public attitude and understanding of heritage conservation which seems to be based on the concept of facadism or streetscape value.

### **Peer and Community Panel review process**

#### Panel members

The Peer and Community Review Panel comprised six members:

#### *Peer members:*

- Susan MacDonald – Director Policy and Heritage Management, Department of Planning
- Howard Tanner – Director Tanner Architects
- Dr Felix Barda – Civil Engineer, Alba and Associates Pty Ltd

#### *Community members*

- Robyn Attuell – The Paddington Society
- Richard d’Apice – resident of Double Bay
- Ruth Daniell – architect and heritage consultant

A copy of the Panel’s terms of reference is provided in **annexure 6**.

#### Panel meetings and discussion

The proposed schedule for the Panel, as outlined in the report to the Urban Planning Committee on 29 January 2007, was adjusted to allow receipt of written submissions for the Panel’s consideration.

The Panel met on 3 April, 1 May, 8 May and 12 July 2007. Minutes from these meetings are attached as **annexure 7**.

Prior to their first meeting the Panel members were given documentation which included copies of reports to the Urban Planning Committee, the exhibited Draft DCP, submissions on the exhibited Draft DCP and submissions arising from the advertising carried out in February 2007.

Collectively, the Panel members provided a range of skills, experience and opinions which assisted in a broad debate of the issues. The Panel members represented a cross section of technical skills and community attitudes. Dr Barda provided valuable technical information on engineering practices and solutions. Ms Daniell, on behalf of residents, property owners and architects, provided a strong case for a more merit based consideration of proposals and use of flexible controls. Ms McDonald and Mr Tanner brought to the discussions their wide heritage and development experience in both the public and private sectors. Ms Attuell presented community heritage views. Mr d'Apice presented community opinions from both heritage conservation and other perspectives. Understandably, different views were expressed by Panel members and consensus was not reached on the finer resolution of the issues. Dr Barda provided a letter with comments on the process (**annexure 8**).

The Panel approached each issue in an open manner and went through a systematic analysis of information and options. Discussions covered technical, practical, philosophical, lifestyle and economic viewpoints. Several case studies were used in the process to illustrate issues and options. The Panel also took into consideration technical information about subsurface conditions. A summary of the main points raised in discussions is provided below. These points are not attributed to a particular member of the Panel. Reference to the minutes provided in **annexure 7** record comments made by individual members.

The points summarised below cover the four topics discussed by the Panel:

- Excavation
- Internal change to the principal building form/demolition of cross walls
- Lofts over garages
- Rear roof plane skylights.

The last two topics arose from the additional advertising carried out in February 2007.

#### ***Excavation***

- An understanding of surface and subsurface conditions is important from engineering and construction viewpoints. Sand, rock and combinations of sand and rock conditions influence the depth, setbacks and quantity of excavation that may be allowed.
- Appropriate geotechnical information is necessary at the DA stage to inform assessment and decision making.
- Examples where extensive excavation and interior demolition have occurred are not typical of work in Paddington and should not be used as a basis for preparing policy. Proposals of this nature have only occurred under particular circumstances and therefore should be considered on their merits.
- Corridor-style excavation from rear to front of a property was not supported. This form of excavation results in substantial loss to building fabric and has a high potential for damage to adjoining properties.
- Consideration should be given to maintaining the proposed prohibition on excavation below the principle building form.
- There are engineering and construction methods which may minimise impact of structures depending on circumstances.
- Engineering considerations and solutions need to be measured against other considerations such as the potential impact to a building's fabric and heritage significance and likely impact to adjoining properties.

***Internal change to the principal building form/demolition of cross walls***

- Requiring a detailed fabric analysis for internal space would be too onerous for applicants. Instead the DCP should encourage retention of characteristic features of a terrace house. There must be a balance between the scope of work required and the amount of information required from an applicant.
- The small remaining parts of demolished lateral walls, commonly known as nib walls, can only provide adequate structural stability if they have a particular size (generally ranging from 600-900mm).
- If internal walls are to be removed, they should be replaced by other structures or measures with an equal or greater structural performance.
- As a pure engineering solution, steel portal frames in dimensions calculated for required spaces can provide structural stability, possibly with better results than existing fabric.
- Enclosed portal frames can provide interpretation of walls, provided the frames are located in the same place of the demolished walls.
- The process of introducing portal frames into spaces has potential to result in damage to the fragile building fabric of most Paddington terrace houses.

***Lofts over garages***

- Lofts over garages can provide benefits such as: additional accommodation; surveillance to rear lanes; improved aesthetics to laneways if well designed and located.
- Amenity for adjoining and neighbouring properties is an important issue.
- Effective operation of existing garages should not be compromised.
- New garages should meet the required controls and standards.

***Rear roof plane skylights***

- Requirement for the symmetrical location of skylights may not match internal planning of terrace houses or provide adequate amenity to internal spaces.

***General***

- It is reasonable to expect change to buildings within Paddington. The degree of change is often a consequence of lifestyle desires or architectural fashion, or both.
- Independent peer review of engineer plans and specifications at the DA stage has merit but is contrary to the current privatised certification system and limitations imposed on councils under the *Environmental Planning and Assessment Act 1979*.
- There are distinct limitations on the use of conditions of development consent to achieve intended outcomes in the case of structural engineering. The council cannot impose standards that are more onerous or restrictive than those contained in the Building Code of Australia.
- Excavation for additional floor space, whether habitable or not, and removal of cross walls to provide larger room sizes are often sought to improve lifestyles and maximise property value.
- Current design fashion has a strong influence on the extent of change proposed to terrace housing.
- The precautionary principle, as defined in the *Local Government Act 1993*, underpins the objectives and controls of the Draft DCP and the assessment of DAs.
- With correct structural systems and careful construction processes substantial removal of walls and excavation could be carried out. However, this level of change and intervention to Paddington buildings and sites would have detrimental impacts on the heritage significance of buildings and the area.
- Once restrictive controls are in place it will be difficult to have development proposals that exceed or do not meet the controls heard as merit based cases.
- Controls should be performance based rather than prescriptive to allow consideration of engineering options.

### **Outcomes of Panel review and recommended alterations to Draft DCP**

As mentioned before, during their discussions the Panel members expressed varying opinions about the topics being reviewed. This reflected the different philosophical, technical and practical backgrounds of the members. Despite this, the Panel's recommendations have resulted in the retention of provisions for excavation and changes to the interior of the principal building form, albeit in modified ways to the exhibited versions.

The issue of excavation below the principal building form was discussed in great detail. The discussion included reference to comments and opinions raised in public submissions. In the end, controls that allow excavation have been recommended, but with several qualifications including:

- variable setbacks from common walls and boundaries depending on the depth of the sand or rock subsurfaces,
- adequate light and ventilation for habitable rooms,
- submission of geotechnical and structural reports at the DA assessment stage.

It should be noted that the Paddington Society expressed reservations about excavation below the principal building form.

We support the recommendations made by the Panel on this issue.

The Panel also discussed the issue of changes to the interior of the principal building form in detail. Again, the public views were considered in the process. The Panel's recommendations include controls that allow new openings in walls, ceilings and floors subject to the primary objective of maintaining the structural integrity of buildings. This enables the use of performance based engineering options such as steel portal frames. The Panel did not support the complete or substantial removal of interiors that contain original and significant fabric.

We also support the recommendations made by the Panel on this issue.

Brief discussion on the issue of lofts over garages occurred. The Panel did not object to provisions for loft structures being added to the Draft DCP. This matter will be discussed in section 3.3 below.

The issue of skylights on rear roof planes was raised but not discussed. We have dealt with this matter in section 3.3 below.

#### Alterations arising from public exhibition

The first set of recommended alterations to the Draft DCP was contained in the report to the Urban Planning Committee meeting on 18 December 2006 (**annexure 2**). Those alterations resulted from consideration of submissions to the public exhibition process. The majority of those alterations are retained in the Draft DCP attached as **annexure 10**.

#### Alterations arising from Peer and Community Panel review

The recommended alterations arising from the Peer and Community Panel review are limited to:

- clause 4.1.1 – Principal building form and street front zone
- clause 4.1.6 – Excavation.

The alterations to clauses 4.1.1 and 4.1.6 are set out in **annexure 9**. Changes are distinguished by underlined and strikeout text. The proposed alterations are summarised below.

<b>Clause 4.1.1 – Principal building form and street front zone of significant buildings</b>	<b>Reason for alteration</b>
<p><b>Explanation</b> Additional commentary Distinct sections for the principal building form and street front zone</p>	<p>Assists with interpretation and reinforces the purpose of the objectives and controls</p>
<p><b>Objectives (original - O1, O2, O8, O9, O10. New - O11, O12, O13)</b> Alterations and additions relating to conservation of original fabric, structural integrity of buildings and protection of heritage artefacts.</p>	<p>Clarifies objectives and provides better links to controls</p>
<p><b>Controls</b> Separation of controls into two categories:</p> <ul style="list-style-type: none"> <li>▪ principal building form <ul style="list-style-type: none"> <li>- exterior controls</li> <li>- interior controls</li> </ul> </li> <li>▪ street front zone</li> </ul>	<p>Assists with interpretation and use of controls.</p>
<p><b>Control (original C1)</b> Alterations to controls for retention and reconstruction of external elements.</p>	<p>Clarifies control.</p>
<p><b>Control (original C2)</b> Removal of original control for partial demolition of internal cross walls Removal of note with references to 200-300mm nib walls</p>	<p>Superseded by new performance based control which emphasises retention of a buildings structural integrity.</p>
<p><b>Note</b> Addition of note stating Council's opposition to gutting of terrace house buildings that contain original and significant fabric.</p>	<p>Practice is contrary to current day heritage conservation principles. Extensive removal of internal building elements and fabric increases potential risk to the structural integrity of buildings, including adjoining buildings.</p>
<p><b>Control (new C5)</b> Addition of control for retention, in general, of characteristic elements of the principal building form.</p>	<p>To emphasise important characteristics of terrace houses.</p>
<p><b>Control (new C6)</b> Addition of performance based control relating to removal of internal walls and floor and ceiling structures. Reference to use of suitable portal frames.</p>	<p>Recognises principal objective of retaining structural stability of buildings. Recognises use of modern engineering methods to provide structural stability to buildings.</p>
<p><b>Control (original C7 renumbered C8)</b> Alteration of control requiring retention of all original windows and doors to basement levels.</p>	<p>Clarifies control.</p>
<p><b>Control (original C8 renumbered C9)</b> Alteration of control to require reconfiguration of non-original doors and windows to tradition types.</p>	<p>Provides consistency with and reinforces original objectives.</p>
<p><b>Control (original C9 renumbered C10)</b> Removal of reference to high brick fences.</p>	<p>Reference is superfluous.</p>

Clause 4.1.6 – Excavation	Reason for alteration
<b>Explanation</b> Additional commentary and minor removal of existing commentary.	Assists with interpretation and reinforce the purpose of the objectives and controls
<b>Objectives</b> Alterations and additions relating to structural integrity of buildings, protection of original building fabric, protection of external heritage features and provision of adequate amenity for buildings.	Clarifies objectives and provides better link to controls.
<b>Notes</b> Provide note setting out requirement for geotechnical report. Reorganise notes setting out requirements for dilapidation reports, construction details and structural reports. Provide additional note defining front façade.	Provides emphasis to notes. Highlights documentation set down in DA Guide. Provides clarification.
<b>Controls</b> Reorganise under four headings <ul style="list-style-type: none"> <li>▪ General</li> <li>▪ Excavation for garage structures</li> <li>▪ Excavation for structures beyond the principal building form or secondary wing</li> <li>▪ Archaeology</li> </ul>	Assists with interpretation and use of revised controls.
<b>Controls (original C1 – C11 renumbered C1-C7)</b> Revised having regard to particular subsurface conditions.	Responds to submissions. Links excavation to subsurface conditions.

We consider that the recommended alterations to clause 4.1.1 do not change the Draft DCP in a substantial manner so as to create quite a different plan. The alterations assist with explanation and interpretation of the controls. The recommended alterations to clause 4.1.6 (Excavation) may have to be re-exhibited depending on legal advice. We will provide Councillors with this advice at the Committee meeting.

Other alterations to the Draft DCP

***Skylights***

The issue of skylights (clause 4.2.1, C23- C29) was raised briefly at the Panel’s meeting on 12 July 2007. The Panel did not express a view on the issue and therefore no recommended alterations can be associated with the Panel’s considerations. However, we consider that the points raised by Ms Daniell have merit and therefore clause 4.2.1 could be altered to allow two skylights in a non-symmetrical layout in certain cases. This might occur where one of the skylights is to be set above a stairway located next to a boundary wall. An alteration has been provided in the revised Draft DCP (**clause 4.2.1, control C25 - annexure 10**). We consider this alteration to be minor in nature and not require re-exhibition.

***Excavation beyond the principal building form and secondary wing***

The Panel did not specifically address this issue. Controls were included in the exhibited Draft DCP and will be retained with minor alterations (**clause 4.1.6, control C7 - annexure 9 and 10**). We consider these alterations to be minor in nature and not require re-exhibition.

### ***Excavation for garage structures***

We have included a control for garage structures to avoid confusion with other excavation controls (**clause 4.1.6, control C6 - annexure 9 and 10**). This control meets the principles expressed in the other excavation controls. We consider this alteration to be minor in nature and therefore it does not require re-exhibition.

### ***Loft structures over garages***

The issue of loft structures over garages was discussed at the Panel's last meeting on 12 July 2007 (**annexure 7**). The current Paddington DCP allows lofts over garages, but they are prohibited in the exhibited Draft DCP. There did not appear to be objection or concern from those Panel members present at the meeting to the inclusion of provisions for lofts over garages. The Paddington Society representative led the discussion and raised several points in favour of lofts over garages.

The Panel agreed to the Paddington Society submitting a set of controls for lofts over garages. The existing Paddington DCP controls would be reviewed in this process. Representatives from the Paddington Society met with the Manager Strategic Planning on 20 July 2007 and presented a set of controls and diagrams. These were distributed to other Panel members for information and comment. Council's Strategic Heritage Officer has expanded the controls and diagrams, using some of the provisions contained in the current Paddington DCP.

Whilst it is possible to include the package of controls and diagrams in the Draft DCP we consider they should be exhibited for public comment. We consider this action to be necessary because the exhibited Draft DCP contained a specific prohibition on loft structures over garages and the inclusion of controls allowing such structures would alter the document in an important respect. Rather than delay the Draft DCP, we recommend that a separate draft plan be prepared specifically for the garage loft structure controls. We can prepare this new draft DCP and submit it to Council for consideration before the public exhibition process. The recommendation to this report addresses this action.

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

Expenditure for the preparation and review of the Draft DCP has been met by allocations from the 2006-2007 and 2007-2008 operational budgets. Income will be received from the sale of the documents.

### **Conclusion**

Preparation of the Draft DCP has been undertaken in the manner required by the Act and the Regulation. Public involvement in the process has occurred at numerous stages commencing with the Paddington DCP Review Working Party, then exhibition of the Draft DCP, and lastly with the Peer and Community Panel review. The last review process included a further opportunity for community involvement through the distribution of a brochure and advertising inviting comments to the Panel. The review, which focussed on particular aspects of the Draft DCP, has been very beneficial. It has resulted in a refinement of provisions for two controversial issues raised in public submissions to the Draft DCP.

Alterations to the Draft DCP are recommended partly in response to certain public submissions and partly as a result of the review by the Peer and Community Panel. Several minor alterations are proposed due to staff comments. The alterations will assist with interpretation of existing provisions and clarify provisions. Other than the recommended alterations to clause 4.1.6 (Excavation) we do not consider the proposed changes need to be re-exhibited. We can confirm the need to re-exhibit changes to clause 4.1.6 at the Committee meeting following receipt of legal advice.

Proposed changes which would result in new provisions for loft structures over garages are considered to represent substantial changes. These changes should be placed on public exhibition. We recommend that an amending DCP be prepared to incorporate these provisions.

Our recommendation is to approve the Draft DCP as contained in **annexure 10**. However, the recommendation may need to be altered following further advice on the need for re-exhibition.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

### **Annexures**

1. Report to Urban Planning Committee 28 August 2006
2. Report to Urban Planning Committee 18 December 2006
3. Executive summary brochure for Draft Paddington HCA DCP
4. Report to Urban Planning Committee 29 January 2007
5. Summary of submissions to Peer and Community Review Panel
6. Peer and Community Review Panel terms of reference
7. Minutes of Peer and Community Review Panel meetings
8. Letter from Dr Barda
9. Revised clauses 4.1.1 and 4.1.6.
10. Revised Draft DCP – version October 2007 (circulated separately)