



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 1 November 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

28 October 2004

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

Dear Councillors

Urban Planning Committee Meeting – 1 November 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 Monday 1 November 2004 at 6.00pm.**

Gary James
General Manager

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 11 October 2004	1
D2	Built Environment Principal Activity – Quarterly Management Plan Review	2
D3	Review of Outstanding Notices of Motion	29A

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

R1	Discussion Paper – Standard Provisions for Local Environmental Plans in NSW – 696.G	30
R2	Potential Heritage Item Investigation in Bellevue Hill, Rose Bay (North) & Darling Point – 1080.G (BH)	55

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 11 October 2004**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 11 October 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 11 October 2004 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: D2 Delegated to Committee
Subject: **Built Environment Principal Activity – Quarterly Management Plan Review**
Author: Allan Coker – Director Planning and Development
File No:
Reason for Report: To review the status of services, for the Management Plan principal activity of Built Environment for the three months ending 30 September 2004

Recommendation:

That the status of projects for the Built Environment Principal Activity be noted.

That variations to projects be agreed subject to adoption of the relevant budget variations included in the separately reported quarterly financial review.

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 annexure 1 to this report is the Built Environment Principal activity of the Management Plan with detailed comments on the status of items in each sub-activity.

This annexure includes all the details whereas set out in the following part of this report is a commentary on variations, changes, exceptions, completed work, achievements, etc. the purpose being to provide Councillors with a snapshot on the key influences or issues arising from this quarterly review.

"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.

Any changes to the budget required as a consequence of reordered priorities, including Notices of Motion will be considered in a separate budget report which reviews the overall financial position of the Council at the end of the quarter.

Following is the commentary on each sub-activity

1.1 Environmental Planning

The major focus of the Environmental Planning sub-activity in the 2004-2007 Management Plan is to complete the outstanding placed based development control plans (DCPs). This follows the completion of new DCPs for the Watsons Bay Conservation Area, our residential areas (RDCP 2003), the Woollahra Conservation Area, the Rose Bay Town Centre, the Double Bay Town Centre, and Paddington.

Thus, the Management Plan identified the following projects to complete a high quality contemporary planning framework for Woollahra:

- a new DCP for the Edgecliff Town Centre
- new DCPs for our neighbourhood centres

However, work on these key projects during the first quarter has been severely constrained due to the absence of the Urban Design Team Leader on extended leave and due to the time it has taken to recruit a suitable candidate to the position of Urban Design Planner. Also, the section has responded to other non-management plan needs that have arisen in the first quarter.

While work has not commenced on the Rose Bay Car Parks Master Plan an owner of adjoining properties has approached the Council with a new proposal for development of the adjoining lands, including upgrading the existing car park. This proposal will be reviewed by the MANEX team to determine whether or not it provides an acceptable solution for the car park.

The projects/issues that have been addressed and reported on during the quarter are set out in the table below:

Project	UPC	Reasons for priority
Exempt and Complying Development	12/7/04	Review after 3 years in operation, carried over from 2003 Management Plan
Rezoning of the former Holy Cross College	27/9/04 and 11/10/04	Unsolicited rezoning application submitted on 28/4/03 and amended 28/1/04
Report on Public Exhibition of Draft Bondi Junction Strategic Plan	9/8/04	Submissions on plan required August 2004
Report on Draft SREP Sydney Harbour Foreshores	9/8/04	Submission date by State government, August 2004
Stormwater DCP	30/8/04	Plans in course of preparation by council's Technical Service Division since 2003

Most of the Notices of Motion relevant to this sub-activity will be incorporated into and will complement our key projects. However, Council needs to indicate its priority for the completion of others, including:

- 9/7/01 - zoning of properties in the Five Ways Paddington
- 3/11/03 - comprehensive policy in relation to commercial use of the harbour foreshore
- 26/7/04 - marketing strategy for Double Bay
- 9/8/04 - policy on roof terraces

1.2 Heritage Planning

The focus of the heritage planning program in the first quarter has been on completing the investigation into potential heritage items in Bellevue Hill, Rose Bay (north) and Darling Point. The project is part of a systematic review of potential heritage items identified in the 1997 Tanner Report – *Preliminary Investigation of Heritage Items*. It involved preliminary assessment of the Tanner nominated properties by Council's heritage officers, review by independent heritage consultants, preparation of detailed inventory sheets and finally preparation of a draft LEP. It is pleasing to note that as a consequence of this work 20 properties were identified as additional heritage items, 9 properties were identified for inclusion in heritage item groups and 10 properties were nominated for inclusion in a heritage conservation area. The report on this project was submitted to the Urban Planning Committee on 27 September 2004.

It is also pleasing to note that good progress has been made on other key projects including the investigation of potential heritage items in the areas covered by the Watsons Bay and Woollahra Heritage Conservation DCPs, the investigation into contemporary heritage items and the review of the Paddington DCP. Noel Bell Ridley Smith has been commissioned to investigate the potential items in Watsons Bay and Graham Brookes and Associates has been commissioned to investigate potential items in Woollahra. It is anticipated that reports on these investigations will be presented in the first quarter of 2005-2006.

Clive Lucas, Stapleton and Partners has been commissioned to investigate about 24 potential contemporary heritage items from a list of work from award winning architects. It is anticipated that the report on these investigations will be presented in the third quarter of 2004-2005.

Sufficient work has now been completed on the review of the Paddington DCP to convene a meeting of the working party. This will take place on 10 November 2004 and give the working party the opportunity to review and comment on work in progress.

Various Notices of Motion fit neatly into and will be integrated with the above projects but it is not yet clear when we will be able to complete the Notice of Motion of 31 May 2004, about the Oxford Street DCP, since we have not yet fully scoped this project.

1.3 Urban Design

The three key urban design projects, namely the Neighbourhood Centres Strategies, Edgecliff Centre DCP and the Rose Bay Car Parks are also contained within and have been reported on within the Environmental Planning sub-activity. This is because they are projects that will require specialist staff from both teams. An additional project completed by the Urban Design team was the report on the DA for the Advanx site, submitted to a meeting of the Urban Planning Committee on 13 September 2004.

1.4 Development Control

During the first quarter the Development Control section received 330 applications and processed 340 applications within a median time of 81 days. It also conducted 24 pre-lodgement meetings during this period. A detailed report on the performance of the development control section, with updated statistics, will be submitted to the Development Control Committee on 8 November 2004.

It is pleasing to note that the review of the DA Guide has been completed and that our new standard conditions of consent are well advanced. However, progress on other projects has been affected by the substantial time devoted to achieving a quality report and presentations on the Kiaora Lands DA. Now that consent for this project has been issued it is anticipated that staff will now be able to complete all nominated projects, including the Notices of Motion by the nominated target dates.

1.5 Compliance

During the first quarter the following core services were provided by the Compliance section:

- 56 construction certificates were determined, representing a market share of 30.9%
- 2 complying development certificates were issued, representing a market share of 67%
- Council was appointed as the Principal Certifying Authority (PCA) for 35 new construction projects, representing a market share of 25%
- 61 building certificates were issued
- 12 hoarding applications were determined
- 1 activity application was determined
- 10 land and 6 strata applications were processed
- 2 licensing court matters were processed
- 134 new fire safety statements were registered
- 142 annual fire safety statements were submitted
- 19 fines were issued for failure to submit Annual Fire Safety Statement
- 10 Fire Safety Orders were issued
- 5 Fire Safety Orders were completed
- 80 Notices and Orders were issued for the rectification and unauthorised uses/works.

It is expected that revised facts sheets and brochures will be completed by the target date. Review of the section's procedures is on-going.

1.6 Management and Administration

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

A key change implemented during the quarter was the appointment of former Team Leader Peter Kauter to the position of Executive Planner reporting directly to the Director. This management change was implemented to enable the Division to proceed with a number of important management initiatives and to better respond to various Notices of Motion.

Conclusion:

Most projects within the Built Environment Principal Activity are progressing in a satisfactory manner and will be completed in accordance with the target dates nominated in the Management Plan.

Allan Coker
Director Planning and Development

Annexures:

1. Status Report, 1st Quarterly Review, Built Environment Principal Activity.

Item No: D3 Delegated to Committee
Subject: **Review of Outstanding Notices of Motion**
Author: Les Windle - Manager Governance
File No: 900.G
Reason for Report: For the Committee to review the status of the outstanding Notices of Motion concerning matters that fall within the responsibility of the Urban Planning Committee.

Recommendation:

That the status of the outstanding Notices of Motion concerning matters that fall within the responsibility of the Urban Planning Committee be noted.

Background:

At the meeting held on 11 November 2002, Council adopted the following Notice of Motion:

That during the next round of committee meetings each committee review the status of relevant outstanding Notices of Motion and then conduct a regular review in conjunction with management plan quarterly reviews.

The Management Plan Review is submitted to the Committee in a separate report and, in accordance with the above Notice of Motion, a list of outstanding Notices of Motions that fall within the responsibility of the Urban Planning Committee is attached for review by the Committee.

Les Windle
Manager Governance

Annexures:

1. List of outstanding Notices of Motion – Urban Planning Committee matters

Item No: R1 Recommendation to Council

Subject: **Discussion Paper - Standard Provisions for Local Environmental Plans in NSW**

Author: Anita Lakeland - Team Leader Strategic Planning

File No: 696.G

Reason for Report: To report on the Discussion Paper – Standard Provisions for Local Environmental Plans in NSW.
To gain endorsement for Woollahra Council’s submission relating to the Discussion Paper.

Recommendation:

- A. That Council endorse the submission relating to the *Discussion Paper – Standard Provisions for Local Environmental Plans in NSW* as contained in **Annexure 2** of the report to the Urban Planning Committee meeting on 1 November 2004.
 - B. That the Committee’s recommendation proceed to the Council meeting on 1 November 2004 as a matter of urgency.
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1.0 Background

In April 2003, the NSW Government established the Department of Infrastructure, Planning and Natural Resources (DIPNR) to bring together the departments of Land and Water Conservation, Planning NSW, the Infrastructure Coordination Unit of the NSW’s Premier’s Department and the Transport Planning Division of the former Department of Transport. The purpose of this change was to bring together within one department its decision-making about land use, transport and infrastructure priorities and natural resource management.

In 2003 the Minister for Infrastructure, Planning and Natural Resources (the Minister) commissioned taskforces to review parts of the planning system. These taskforces identified which aspects of the planning system needed reform and recommended options. The reviews covered:

- Plan making
- Local development assessment
- Developer contributions for local infrastructure (s94)
- Major assessments and infrastructure
- State environmental planning policies (SEPPs)
- Minister’s consent role
- Master plans
- Housing for older people and people with a disability

Following these taskforce reviews, on 30 September 2004 the Minister, Craig Knowles, announced a reform package for the planning system. The reform agenda includes four main platforms:

1. Strategically assess and plan for priority growth areas;
2. Simplify plan making by reducing the layers of planning instruments and making the local environmental plan the primary instrument;
3. Improve development assessment; and

4. More flexible use of developer financial contributions for local facilities and services (under section 94 of the Environmental Planning and Assessment Act 1979).

With regard to reform No. 2, DIPNR intends that once the reforms are fully implemented, the number of plans is expected to drop significantly:

- The number of State environmental planning policies (SEPPs) should go down, from around 59 to less than 25.
- There will be a handful of regional environmental plans compared with the present 44.
- There will be one local environmental plan in every local government area.
- Mandating standard provisions for local environmental plans will mean there could be less than 25 zones, and less than 240 definitions.

In simplifying plan making and planning instruments, the planning reforms propose to reduce the layers of planning instruments, prevent duplication, promote uniformity and reduce costly delays in the planning approval process. The following outlines the key reforms proposed for the simplification of planning instruments.

2.0 Simplifying planning instruments

A clear hierarchy of State, regional and local planning instruments will be created. The proposed reforms for the planning instruments are summarised as:

State environmental planning policies (SEPPs)

The number of SEPPs will be reduced. Existing policies will be reviewed and consolidated into around 25 new policies that focus on major environmental planning issues and key industry and economic activities.

Regional environmental plans (REPs)

The State's reliance on REPs will be reduced. Regional planning will, primarily be accomplished through regional strategies. Including regional strategies in the State Strategic Planning Framework will ensure that those components of regional strategies that need to be legally enforceable are translated into mandatory requirements in the LEPs.

Local environmental plans (LEPs)

- LEPs will be the primary document to deliver all mandatory development controls. They will cross-reference any other legal instruments, including SEPPs, that apply to the land in the area. Consequently, all planning rules will be found or referenced in the LEP.
- The format and land use definitions and zones (categories and core uses) for LEPs will be standardised State-wide
- Councils will choose from the menu of standard zones when making their LEPs. The definition of each standard zone will include a set of common core land uses. Councils will be able to add to the land uses (but not remove) within the standard zones and decide where the zones apply. The meaning of the zone will be the same across the State.
- A Statewide dictionary of land use terms will be established.
- Changes to legislation will be introduced to allow the Minister to directly amend LEPs for State significant issues.
- LEPs will be available on-line with links to related documents.
- Councils in high priority areas must develop a new LEP within three years. For the rest of NSW councils must review their LEPs within five years. DIPNR will offer financial assistance to councils to support the reform effort.
- Councils will need to review their LEPs every five years.

Development control plans

- Changes will be made to make clear that development control plans do not contain mandatory controls and they can only deal with matters that are not covered by another planning instrument.
- For any one property, only one development control plan will be permitted to apply.
- Council's are encouraged to prepare a single, comprehensive development control plan that applies to a locality, or even the whole local government area.

Within the context of these planning instrument reforms, DIPNR has released a discussion paper entitled '*Standard Provisions for Local Environmental Plans in NSW*' for review and comment (**Annexure 1**).

3.0 Discussion Paper – Standard provisions for local environmental plans in NSW

The Discussion Paper – *Standard Provisions for Local Environmental Plans* is part of DIPNR's ongoing consultative process to encourage input into the preparation of standard provisions for LEPs. The paper provides a draft standard LEP Template to regulate the form and content of all new LEPs in NSW. DIPNR has requested submissions in response to the discussion paper. The discussion paper directs submissions to respond specifically to the fundamental broader issues concerning the LEP Template. The document, however, contains some gaps in the detail and explanations, indicating the preliminary nature of the document itself.

The Draft LEP Template is described in brief below. The implications for Woollahra under each part of the template are also briefly described. The key issues concerning the document are primarily outlined in section 4 of this report and contained in more detail in the submission in **Annexure 2**.

3.1 Draft LEP Template content

Part 1 Introduction

The content of this Part is fixed, other than for the insertion of names, dates and objectives.

- Name of Plan
- Where the Plan Applies
- Purpose of the Plan
- Consent Authority
- How the Plan Affects other Plans
- Date on Which Plan Takes Effect
- Saving Provisions

Implications for Woollahra

This part of the LEP Template is fairly generic and includes standardised clauses typical of all current LEPs. This part and the proposed content do not pose any significant implications for Woollahra and is generally supported.

Part 2 Local Strategy Statement

This part contains local content that is prepared by the council. It clearly and succinctly articulates the council's strategic planning objectives in relation to land use and development, and the desired future character of key localities and places in the local government area. These objectives will need to reflect State Government priorities and directions that have been articulated in relevant SEPPs and future regional strategies. The local strategic direction must be reflected in the application of the local planning provision, including zones and development control provisions.

Implications for Woollahra

This part requires the inclusion of a local strategy which is reflective of the broader planning framework including State, regional and local planning policies and strategies. These objectives are similar to the general intent of the 'aims and objectives' in clause 2 of Woollahra LEP 1995. A comprehensive review of these objectives, however, will be required in Council's LEP review process to include relevant objectives that reflect State and regional policies and strategies. Council's submission to the LEP Template makes further suggestions for this part regarding the inclusion of ESD principles as the fundamental over-arching principles of the LEP (see section 2.1 point 2 of Annexure 2.).

This part of the LEP Template can be easily accommodated and does not pose any significant implications for Woollahra and is therefore generally supported.

Part 3 State Planning Provisions

This part contains fixed State content. It would include a list of matters that are dealt with by SEPPs that apply to the local government area, and cross-references to the applicable provisions.

Implications for Woollahra

Despite DIPNR's intent to dramatically reduce the number of SEPPs, this part continues to provide for State plans to overlay local plans. It has been strongly suggested in Council's submission (see section 2.1 point 3 of Annexure 2) that SEPPs with State-wide application be repealed and their provisions included, as mandatory provisions within LEPs. It was further suggested that councils have the ability to gain exemption from SEPPs where LEPs demonstrate compliance with the SEPP intent. The continued application of SEPPs in Woollahra will maintain a multi-layered system of planning and will not significantly reduce the existing complexities.

Despite this, the requirement to cross-reference to all relevant SEPPs will provide greater clarity about those plans, other than the LEP, which apply to land. This part can be readily complied with in Woollahra.

Part 4 Local Planning provisions

This part contains fixed State content, content that is discretionary depending upon local circumstances, and local content developed by councils to suit the particular needs of their local government area.

The fixed State content is a set of mandatory provisions that must be included in all LEPs. Council's can also choose from a set of standard discretionary provisions that may be relevant to the council area. These provisions cannot be altered.

- Land use zones – councils select the appropriate zones from the Standard Provisions required to implement their local strategic direction and specify objectives, additional uses and spatial application.
- General provisions- contains fixed content from the Standard Provisions as well as locally derived provisions applying across the LGA.
- Specific provisions-contains fixed content from the Standard Provisions as well as locally derived provisions applying to particular localities.

Implications for Woollahra

This part of the LEP Template has the main implications for Woollahra. The standardisation of this essentially local content of the plan severely limits Council's ability to respond to local planning needs. The range of pre-determined zones and core permissible land uses limit the planning options from which Council can choose.

Councils can only choose from the range of zones contained in the LEP Template and are unable to introduce locally derived zones. Standard permissible core land uses are applied to each zone and Council can only introduce additional land uses, not remove any land uses. This proposal appears to be at odds with the intent of Part 2 which states that local strategies must be reflected in the application of the local planning provisions, zones and development controls.

As currently proposed, the proposed zones contained within the LEP Template are limited in their range and do not satisfy the planning needs in Woollahra.

For example, the Business secondary zones do not provide for a hierarchy of commercial centres and fail to provide for specialised or neighbourhood centres. The range of permissible land uses are also considered too broad and would undermine the planning intent and desired outcomes in Woollahra's smaller centres.

The Living secondary zones are also limited in their range and do not provide for a low density zone which recognises the limitation of the environment on development or the desire for retaining a single dwelling character. The Living zones would effectively permit multiple dwellings in all residential areas.

The Template is not clear at this point whether the zone objectives will be standardised or locally derived. However, it would be difficult to develop localised objectives that respond to a standardised range of zones and permissible land uses.

The LEP Template also proposes a standard set of mandatory provisions which deal with State-wide planning matters. This is generally supported as it will ensure that mandatory planning matters are considered in all local government areas and a standard approach is taken. Standardised discretionary provisions are also proposed which give council's the option to select from a suite of optional pre-determined provisions that require a standard application across the State. This approach is generally supported. The standardisation of these provisions will make the legal drafting of LEPs a simpler and more certain process and reduce the time taken to prepare and approve plans.

The LEP Template is not clear in its intent as to whether councils can develop their own locally derived planning provisions.

Sections 3 and 4 of the submission in **Annexure 2** identify specific issues in relation to these local planning matters.

Schedules

Local content prepared by the local council.

- Reclassification of land
- Exempt and complying development
- Heritage items
- Variations to standards
- Notification requirements

Implications for Woollahra

The LEP Template provides no explanation for these schedules making it difficult to comment at this stage.

Dictionary

- State definitions

Lists terms used in the LEP that are defined in the Standard Provisions (State dictionary).

- Local definitions

Local content prepared by the local council (as required).

Implications for Woollahra

The standardisation of definitions across the State and between relevant planning legislation and policies is generally supported. There are implications, however, for Woollahra as some of the definitions in Woollahra LEP 1995 are localised to achieve certain planning outcomes. For example, Woollahra has a number of terms that reflect the specific planning needs of the Municipality. Some of these definitions have been absorbed into the proposed standard definitions list, while others haven't. Of particular note, is that 'cafés' and 'restaurants' have been absorbed into 'refreshment room' as one land use category. This has implications for Woollahra as these definitions are separately defined. Restaurants are prohibited in the 3(b) Special Business zone and 3(c) Neighbourhood Business zone (except for certain defined sites) while cafes are permissible.

In addition, Woollahra has locally specific definitions such as 'harbour foreshore scenic protection area' and 'inter-war flat buildings' that are not provided for in the LEP Template. It is assumed that these local definitions can be included in the Local Definitions Schedule.

It is not clear from the LEP Template how the proposed local definitions list will operate. For instance, will locally derived definitions override the standard definitions by redefining terms where required? If so, will the LEP only include those localised additional definitions.

4.0 Key Issues arising from the discussion paper

The discussion paper identifies a number of 'matters for consideration' that respondents should focus their submission on. The matters for consideration effectively focus submissions on some of the broader fundamental issues concerning the proposed LEP Template, rather than the detail. A submission (**Annexure 2**) has been prepared in response to those matters for consideration. The key issues contained in the submission have been extracted from the submission and presented below.

Additional matters requiring review

The review and streamlining of LEPs across the State is supported provided councils retain their ability to effectively respond to local circumstances with locally derived planning controls. In its review and streamlining of local planning instruments, it is strongly recommended that DIPNR:

- incorporate a review of how community land is managed by streamlining the planning processes contained in the Local Government Act 1993 and EP&A Act 1979 to ensure a consistent approach to planning;
- thoroughly review and incorporate the EP& A Model Provisions 1980 into the LEP Template to reduce the layering of standard provisions;
- review and streamline what is included within a local government boundary as defined by the Local Government Act 1993 and EP&A Act 1979;
- investigate a parcel based delivery of all relevant planning controls as part of the effort to make planning controls available on-line.

Support for LEP Template

The proposed format and structure of the LEP Template is considered workable and could be appropriately applied to most situations across the State. The Template content is considered to be logical and simple enough to ensure better useability and consistency across the State.

Subject to the detailed comments made in the submission, the standardisation of certain parts of the LEP Template which have wide application across the state and do not impact on, or restrict a council's ability to continue to plan locally, are supported. The following aspects of the LEP Template are supported:

- The proposed structure and format of the document;
- Part 1 Introduction;
- Part 2 Local Strategy Statement – including reference to State, regional and local objectives (plus suggestions made in submission relating to ESD);
- The standardisation of mandatory provisions which have state-wide application;
- The standardisation of those discretionary provisions which require a state wide approach;
- The standardisation of primary zones and objectives (excluding secondary zones and objectives);
- State definitions (with flexibility to add to the list as additional definitions arise).

Key issues of concern with the LEP Template

Concerns regarding the LEP Template relate not so much to its format and structure, but to the proposed standardisation of local planning provisions which may limit and constrain the ability of councils to put in place locally derived planning controls. These restrictions relate to the proposed standard zones, permissible core land uses, standard range of discretionary planning provisions and standard definitions. The standardisation of this content of the LEP, which is fundamentally local content, may erode the local nature of the LEP and may result in a 'State plan' with little distinction between local government areas. The local plan making process relies heavily on the input of the local community. The proposed standardisation of the local planning provisions has the potential to erode a council's ability to respond to local conditions and issues.

The following is a summary of the key issues and themes that have emerged from the review of the discussion paper and response to the matters for consideration.

- The over standardisation of zones, objectives, land uses and definitions has the potential to be a rigid inflexible state controlled planning system which erodes a council's ability to respond to local conditions and planning issues.
- The Local Environmental Study process is a necessary strategic planning tool and should be retained as a discretionary part of the plan making process.
- ESD principles should be included in the LEP as an overarching objective of the plan and be mandated across the State.
- SEPPs with application State-wide should be translated as standard mandatory provisions within the LEP rather than continue as a SEPP.
- Those LEPs that demonstrate compliance with the intent of other relevant SEPPs should be granted an exemption from that SEPP.
- The range of secondary zones is very limited and constrains a council's ability to develop locally specific zones to respond to local circumstances. The range of secondary zones should be expanded to service a broader range of planning needs across the State.
- The Secondary Business zones should be developed based on a hierarchy of business centres, including neighbourhood centres, and specialised business centres where required.

- Should the range of secondary zones not satisfy local planning needs, councils should have the ability to introduce additional secondary zones where local circumstances warrant.
- The Environmental Protection primary zone should be an ‘overlay’ zone, instead of a land use zone, which may be applied to all land uses.
- Public open space is incorrectly grouped with National Parks and Nature Reserves as a secondary zone.
- Private open space is not dealt with by any of the proposed zones.
- Open space should be a primary zone with secondary zones which include public open space, National Parks, Nature Reserves, private open space etc.
- The core permissible land uses in the Business primary zone are too broad and limit a council’s ability to retain specialised business zones and smaller neighbourhood centres.
- The core permissible land uses in the Living primary zone are too broad and allow multiple dwellings in all residential zones, without acknowledging local conditions and character and / or environmental constraints on development.
- The Living secondary zones should be developed based on a hierarchy of dwelling types, with a specific zone which restricts dwelling types to single detached dwellings.
- Secondary zone objectives should not be standardised across the State, but developed based on desired local planning outcomes and character.
- Councils should not be limited to the range of discretionary provisions proposed by the Template, but should be able to introduce locally derived provisions where required.
- The standard definitions have implications for development and land uses.

5.0 Conclusion

The planning reforms announced by the Minister are a positive step forward in overhauling and simplifying the NSW planning system. The Discussion Paper – *Standard Provisions for Local Environmental Plans in NSW* is a move towards simplifying local planning instruments. This document is, however, a working draft for comment and raises a number of fundamental issues and implications that require further consideration. Following DIPNR’s review of public submissions, Woollahra’s submission strongly recommends further consultation with councils to develop the local content of the LEP Template.

It is recommended that Council endorse Woollahra’s submission in response to the Discussion Paper – *Standard Provisions for Local Environmental Plans in NSW*, which is contained in **Annexure 2**, and that the submission be forwarded to DIPNR for consideration.

Anita Lakeland
Team Leader – Strategic Planning

Chris Bluett
Manager – Strategic Planning

Annexures:

1. The Discussion Paper – Standard provisions for local environmental plans in NSW.
Distributed separately
2. Woollahra Council Submission on Discussion Paper – Standard provisions for local environmental plans in NSW.

Item No: R2 Recommendation to Council
Subject: **Potential heritage item investigation in Bellevue Hill, Rose Bay [North] and Darling Point**
Author: Chris Bluett - Manager Strategic Planning
File No: 1080.G [BH]
Reason for Report: To respond in part to the Council's decision of 23 September 2002 requiring an update on the Tanner Study.
To make recommendations on the actions for potential heritage items.
To respond to the Council's decision of 11 October 2004.

Recommendation

A. THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995 in the following manner:

(i) by including the following properties as heritage items in Schedule 3:

<i>Bellevue Gardens,</i>	<i>Bellevue Hill</i>	<i>7,8,9</i>	<i>Quarried rock face (at the rear)</i>
<i>Bellevue Park Road,</i>	<i>Bellevue Hill</i>	<i>1A</i>	<i>'Ben Ledi', house and grounds</i>
<i>Bellevue Road,</i>	<i>Bellevue Hill</i>	<i>98B</i>	<i>Shops and residential flat building, original shopfronts</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40</i>	<i>'Dalkeith', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40A</i>	<i>'Exeter', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40B</i>	<i>'Warrington', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81</i>	<i>'Cumberland', residential flat building, dwarf brick walls, paving and grounds</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81A</i>	<i>'Westmoreland', residential flat building, dwarf brick walls, paving and grounds</i>
<i>Bundarra Road,</i>	<i>Bellevue Hill</i>	<i>7</i>	<i>'Bundarra', house and grounds</i>
<i>Eastbourne Road,</i>	<i>Darling Point</i>	<i>15</i>	<i>'Kendall Lodge', house and grounds</i>
<i>Fairfax Road,</i>	<i>Bellevue Hill</i>	<i>10</i>	<i>House and grounds</i>
<i>Fairfax Road,</i>	<i>Bellevue Hill</i>	<i>12</i>	<i>'Lincluden', residential flat building, sandstone retaining wall and balustrade</i>
<i>Fairfax Road,</i>	<i>Bellevue Hill</i>	<i>22</i>	<i>'Chislehurst', residential flat building and grounds</i>
<i>Ian Street,</i>	<i>Rose Bay</i>	<i>17</i>	<i>'Coorong', house and grounds</i>
<i>New South Head Rd,</i>	<i>Rose Bay</i>	<i>593</i>	<i>'The Chilterns', residential flat building and grounds</i>

<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>275</i>	<i>Residential flat building and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>277</i>	<i>Residential flat building and grounds</i>
<i>Spencer Street,</i>	<i>Rose Bay</i>	<i>23</i>	<i>House and grounds</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>165</i>	<i>Residential flat building and grounds</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>167</i>	<i>Residential flat building and grounds</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>206A</i>	<i>'Glamis', residential flat building, front boundary wall, entry link and grounds</i>

(ii) by including the following properties as heritage item groups in Schedule 3:

<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40</i>	<i>'Dalkeith', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>and</i>			
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40A</i>	<i>'Exeter', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>and</i>			
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>40B</i>	<i>'Warrington', residential flat building, garages, stone paving, brick and stone retaining walls and stairs</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81</i>	<i>'Cumberland', residential flat building, dwarf brick walls, paving and grounds</i>
<i>and</i>			
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81A</i>	<i>'Westmoreland' residential flat building, dwarf brick walls, paving and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>275</i>	<i>Residential flat building and grounds</i>
<i>and</i>			
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>277</i>	<i>Residential flat building and grounds</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>165</i>	<i>Residential flat building and grounds</i>
<i>and</i>			
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>167</i>	<i>Residential flat building and grounds</i>

(iii) by deleting the following property from the list of heritage items in Schedule 3:

<i>Ian St</i>	<i>Rose Bay</i>	<i>15</i>	<i>House</i>
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(iv) by including the following properties in a heritage conservation area:

<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>76</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>78</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81</i>
<i>Birriga Road,</i>	<i>Bellevue Hill</i>	<i>81A</i>

as shown on the map labelled 'Birriga Road Heritage Conservation Area' within the report to the Urban Planning Committee meeting on 1 November 2004.

- (v) by including the following properties in a heritage conservation area:

<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>165</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>167</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>169-171</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>175</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>177</i>
<i>Victoria Road,</i>	<i>Bellevue Hill</i>	<i>179</i>

as shown on the map labelled 'Victoria Road Heritage Conservation Area' within the report to the Urban Planning Committee meeting on 1 November 2004.

- B. THAT the individual heritage inventory sheets for those properties in Bellevue Hill and Rose Bay prepared by Colin Brady, Architect, Town Planner, Heritage Specialist and amended by Council's Strategic Heritage Officer be adopted and used in the assessment of development applications for those properties.
- C. THAT the individual heritage inventory sheet prepared by Mark Robinson, Architect, Town Planner, Heritage Specialist and amended by Council's Strategic Heritage Officer be adopted and used in the assessment of development applications for the following property:
- Eastbourne Road, Darling Point 15 'Kendall Lodge', house and grounds*
- D. THAT the individual heritage inventory sheet prepared by Council's Strategic Heritage Officer be adopted and used in the assessment of development applications for the following property:
- Bellevue Park Road, Bellevue Hill 1A 'Ben Ledi', house and grounds*
- E. THAT the Woollahra Council Heritage Inventory Sheets for each property nominated in A be forwarded to the NSW Heritage Council for their information.
- F. THAT the owners of those properties listed in recommendation A above be advised of the Council's decision and informed of the opportunity to participate in the public consultation process associated with the exhibition of the draft LEP.
- G. THAT the Council note the properties contained in annexure 1 of the report to the Urban Planning Committee meeting of 1 November 2004 that have been eliminated from the Tanner list as potential heritage items. Note: This information was initially contained in annexure 3 of the report to the Urban Planning Committee meeting of 27 September 2004.

1.0 Background

At its meeting on 27 September 2004 the Urban Planning Committee considered a report on potential heritage items in Bellevue Hill, Rose Bay and Darling Point (**annexure 1**). Several property owners and a heritage consultant made oral submissions to the Committee regarding the proposed listings, the consultation and notification process, and the impact of heritage listing. A representative from the Woollahra History and Heritage Society made a submission on 25 Hamilton Street Rose Bay, a property that was not recommended for listing.

The Committee's recommendation was considered by the Council on 11 October 2004 and the following decision was made:

- A. *That in view of the omission of notification to some property owners, consideration of the report on the potential heritage item investigation in Bellevue Hill, Rose Bay (north) and Darling Point be deferred to the meeting of the Urban Planning Committee on 1 November 2004.*
- B. *That the owners of properties listed in recommendation 1 of the report to the Urban Planning Committee meeting on 27 September 2004 be provided with:*
- (i) *advanced notice (at least two weeks) of the meeting to be held on 1 November 2004*
 - (ii) *information on the chronological process followed by the Council in the preparation and exhibition of a draft local environmental plan, including advertising and notification and opportunities for making written and oral submissions to the Council.*
- C. *That the proposal by the Woollahra History and Heritage Society to include 25 Hamilton Street as a heritage item be investigated.*

Notice of the UPC's meeting of 1 November 2004 was sent to property owners on 8 October 2004. A brochure containing information mentioned in item B(ii) of the Council decision was included in the notice (**annexure 2**).

2.0 Investigation of 25 Hamilton Street Rose Bay

Item C of the Council's decision on 11 October 2004 required an investigation of the Woollahra History and Heritage Society's proposal to list 25 Hamilton Street Rose Bay as a heritage item. This part of the decision arises from an oral submission to the Urban Planning Committee made by Mr Poland, President of the Woollahra History and Heritage Society, and from correspondence received from Mr Poland over the past twelve months. Copies of the correspondence are attached as **annexure 3**.

A heritage assessment of 25 Hamilton Street was completed by Council's consultant, Colin Brady in July 2003. Mr Brady recommended that the property not be listed as an item. He also recommended that the building be recorded in the event of planned demolition or removal. Mr Poland was informed of these conclusions in a letter of 11 August 2003. Mr Poland was also informed by Council's Strategic Heritage Officer, Ms Maher, that whilst additional investigations of the property in response to further information provided by the Society could be carried out, those investigations could not be give priority due to a commitment towards projects within the Management Plan.

Ms Maher has now provided the following response:

Details in the description of the draft inventory sheet should be corrected and the historical outline should be revised in accordance with further research [undertaken].

The description [should] be corrected to acknowledge:

- The original roof form is a double transverse gable with a front verandah, rather than the second transverse gable being a substantial early addition.
- The terracotta roofing tiles are a recent replacement of apparently earlier tiles. Much of the weatherboarding has been sympathetically replaced.

Mr David Sheedy's considered opinion on the interior of the house is accepted. The four front rooms are relatively intact, except for the removal of the fireplaces. Mr Sheedy was contacted by [me] to confirm the details. The interiors had not been inspected by Mr Brady or [me], as the owner had only given permission for an external viewing of the cottage.

[Statements by Mr Sheedy about the] intactness of the front verandah, however, conflict with [my opinion] and [that] of Mr Brady. [The statements also conflict with] the written information provided by the owner of the property. There has been substantial reconstruction of the verandah with second hand materials, including the verandah posts, french doors and front door. BA47/1977 confirms that the northern end of the verandah was enclosed as part of the bedroom and that the southern end of the verandah was enclosed by glazing. The early 1970s photograph confirms the enclosure of the verandah by glazing, but the detail of the front wall to the house is obscured by vegetation.

The additional historical facts in [the Society's] letter regarding the ownership of the house by the former Mayor of Vacluse, Alfred Charles Samuel were confirmed by Council's Local History Librarian, Jane Britten. Ms Britten also confirmed that Mr Samuel had lived 'all but continuously in Victoria Street Vacluse from 1907 until his death in 1945.' The historical detail in the inventory sheet [should be] amended [to include] the research [material provided] by the Woollahra History and Heritage Society. The historical association assessment [should also] be amended.

[I disagree] with the alterations suggested in [the Society's] review of the [cottage's] heritage assessment [for the following reasons]:

- Whilst the ownership of the property by Mr Samuel is a significant period of the history of the property, he did not live in the house and his ownership is not evident in the fabric of the house.
- The level of intactness of the external fabric of the house has not altered from the assessment stated by Mr Brady.
- The detailing of the house in the Federation vernacular style is not remarkable and is not considered to be aesthetically significant. The additions to the house do not contribute to this value.
- The relative intactness of the form and part of the interior does not make it an important reference type. There are better examples within the municipality within heritage conservation areas.
- The rarity of the building was appropriately assessed. The house was one of three timber cottages in the Hamilton /Spencer Street remaining from the early 20th century at the time of the assessment.
- Council's Team Leader Heritage – Development Assessment assessed the timber cottage at No.43 Spencer Street in relation to an application for demolition, as having no heritage significance to the Woollahra area.
- The early Federation cottage at No.23 Spencer has been recommended as a potential heritage item because it is a rare and substantially intact example of the small weatherboard cottage form, which incorporates 'Carpenter Gothic details'.
- The house at 25 Hamilton Street has a relatively intact front form, which has been extended, but its original materials have been substantially replaced.
- The building is not an outstanding example of its type nor is it a significant variation of the vernacular type of cottage. It does not meet the threshold as a representative example.

[My] recommendation to not list the cottage as a heritage item is not varied by the additional information provided, nor the arguments presented [by the Society]. Whilst the additional research and opinion by the Woollahra History and Heritage Society is much appreciated and has been incorporated into the heritage assessment sheet for this property, it did not alter the final recommendation.

A copy of the revised heritage assessment for the property is attached as **annexure 4**.

3.0 Conclusion

Property owners have been informed of the Council's decision to defer consideration of the report until 1 November 2004. Information on the heritage assessment process and the process for preparing a draft local environmental plan has been sent to property owners.

A heritage assessment of 25 Hamilton Street, Rose Bay, has been completed by the Council's consultant, with minor additions from Council's Strategic Heritage Officer. Information provided by the Woollahra History and Heritage Society has been assessed. Whilst the heritage inventory sheet has been amended to take in some factual information provided by the Society, the recommendation of not listing the property is unaltered.

This report and its annexures are now submitted for Council's consideration.

Chris Bluett
Manager Strategic Planning

Allan Coker
Director Planning and Development

Annexure

1. Report to Urban Planning Committee 27 September 2004 – **Distributed Separately**
2. Heritage information brochure
3. Correspondence from Woollahra History and Heritage Society
4. Amended heritage assessment for 25 Hamilton Street, Rose Bay