



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday 1 February 2010*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

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

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

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

Delegated Authority (“D” Items)

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

Committee Membership:

7 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

28 January 2010

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio
Councillors Chris Howe (Chair)
Peter Cavanagh
Lucienne Edelman (Deputy)
Ian Plater
David Shoebridge
Malcolm Young
Toni Zeltzer

Dear Councillors

Urban Planning Committee Meeting – 1 February 2010

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 February 2010 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 14 December 2009	1
----	---	---

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

R1	Overview of the Latest Strategic Planning Working Party Meetings on Woollahra's New Principal LEP – 1067. WP	2
R2	Draft Woollahra Section 94A Development Contributions Plan 2009 – 1180.G	13
R3	Obscure Glazing to Upper Floor Windows and Screening for Privacy – 900.G	58

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 14 December 2009**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 14 December 2009 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 14 December 2009 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council

Subject: **Overview of the Latest Strategic Planning Working Party Meetings on Woollahra's New Principal LEP**

Author: Anne White - Senior Strategic Planner

File No: 1067.G WP

Reason for Report: To provide an overview of the latest Strategic Planning Working Party meetings held on the preparation of Woollahra's new Principal LEP. These meetings focused on addressing the State Government's housing targets.

Recommendation

- A. THAT the overview of the Strategic Planning Working Party meetings, held on the 18 June 2009, 9 July 2009, 6 August 2009 and 5 November 2009, be received and noted.
- B. THAT the progress on addressing the State Government's housing targets be received and noted.

Background

Council's Strategic Planning Department, is currently preparing Woollahra's new principal local environmental plan (LEP). This LEP will replace Council's current LEP called the Woollahra LEP 1995 (WLEP 95).

As previously reported—

- The Department of Planning (DoP) requires the new LEP to be prepared consistent with the Standard Instrument (Local Environmental Plans) Order 2006, referred to below as the Standard Instrument (SI).
- The DoP requires that Council demonstrate capacity within the new LEP to accommodate 2,175 new dwellings and 225 new jobs. This requirement has arisen from the target set in the *NSW Government Draft East Subregional Strategy*. This Draft Strategy has established housing and employment targets for the subregion and also for each Council area.

During 2009 the Strategic Planning Working Party (SPWP) met nine times to discuss planning issues and inform the preparation of Woollahra's new Principal LEP. These meetings have provided an excellent forum for Councillors and Strategic Planning staff, and participation at these meetings has been consistently strong.

In the latter part of 2009, the SPWP meetings focused on Woollahra's Residential Housing Strategy, and the preferred approach for achieving the housing target imposed by the Draft East Subregional Strategy.

Purpose of the report

This report provides an overview of the latest Strategic Planning Working Party meetings held in 2009 on the preparation of Woollahra's new Principal LEP, which were focused on addressing the State Government's housing target. This report also asks Councillors to receive and note the progress on addressing the State Government's housing target.

Strategic Planning Working Party meetings

Under the term of this current Council, the SPWP has met 11 times (nine times during 2009) with Council's Strategic Planning and Urban Design staff to discuss and inform the preparation of the Principal LEP. A list of the meetings, with the issues discussed and dates of subsequent reports to Council's Urban Planning Committee (UPC) is provided at **Annexure 1**.

This report provides an overview of the four meetings on the 18 June 2009, 9 July 2009, 6 August 2009 and 5 November 2009 which dealt with the preferred approach for achieving the State Government's housing target across the municipality.

Methodology for identifying the residential capacity

As previously reported, Council must demonstrate through the zoning and floor space ratio (FSR) framework in the new Principal LEP, a capacity to meet 75% of the housing and employment targets set in the draft East Subregional Strategy, being 2,175 and 225 respectively.

Staff adopted a three step methodology to identify and calculate the residential capacity. This housing analysis was presented to the SPWP.

<p>Step 1</p>	<p><u>Calculate new dwellings approved and constructed 2004-2009</u> The period for achieving the housing target is 2004-2031. Step 1 involved reviewing all development consents and construction certificates issued from the beginning of 2004. All approved and/or constructed dwellings were recorded.</p> <p>Step 1 identified that there have been 349 new dwellings approved or constructed since 2004.</p>
<p>Step 2</p>	<p><u>Identify latent capacity - unrealised development potential under the current WLEP 95</u> The second step calculated the latent capacity under the current zoning framework. This analysis focused on identifying unrealised development potential in the medium density 2(b) residential zoned lands and the 3(a), 3(b), and 3(c) business zoned land.</p> <p>Staff estimated the potential residential capacity by applying the current planning controls and extrapolating the net yield, assuming that each site is developed to its highest and best potential.</p> <p>The detailed methodology for identifying latent capacity is outlined in Annexure 2. This methodology is based on a reasonable and practical review of all the parcels zoned 2(b), 3(a), 3(b) and 3(c).</p> <p>Step 2 identified that the current zoning framework could reasonably yield some 963 additional dwellings.</p>
<p><i>The results of step 1 and 2 yielded 1,312 new dwellings, a shortfall of approximately 863 dwelling to achieve the target of 2,175.</i></p>	

Step 3	<p><u>Identify development opportunity sites</u> Step 3 involved identifying potential new development opportunities.</p> <p>Development opportunities are sites where there is strong planning justification to increase development potential (i.e. by increasing the maximum building height, FSR, and in some cases by rezoning to allow residential flat buildings or mixed use developments). Changes to the current planning controls at these locations will increase the potential residential yields.</p> <p>Staff considered four different approaches in identifying opportunity sites:</p> <ol style="list-style-type: none">1. Increasing FSR and height controls in the business and neighbourhood centres and medium density Residential 2(b) zone2. Increasing FSR and height controls at key transport nodes and transport corridors, specifically the Edgecliff Centre and the New South Head Road corridor between Double Bay and Rushcutters Bay3. Rezoning land from Residential 2(a) to Residential 2(b), particularly around the “transition zone boundary areas”4. Rezoning land where appropriate to enable residential development (e.g. Zone 5: Special Use to medium density Residential 2(b) zone) <p>Twenty four sites around the municipality were identified as opportunities. The list of development opportunity sites was presented to the UPC meeting on 14 December 2009 and approved for public consultation under Section 62 of the <i>Environmental Planning and Assessment Act 1979</i> (the Act).</p> <p>Unlike other Council areas, Woollahra’s residential housing target will be achieved by relatively small gains at a number of different locations, rather than a few sites providing large gains. Of the 24 sites that were identified in the report presented to UPC on 14 December 2009, only three sites had the potential to provide a net yield of 40 or more dwellings, whilst over 50% of the opportunity sites provided a net yield of less than 20 dwellings.</p>
---------------	--

The above methodology is based on reasonable and well founded planning assumptions regarding the existing planning controls, and the development potential of each site. It is also clear and transparent and we are confident that the methodology will withstand external scrutiny from the Department of Planning (DoP)¹.

SPWP meetings on 18 June 2009, 9 July 2009, 6 August 2009

What follows is a brief summary of the SPWP meetings where staff reviewed and identified Woollahra’s housing analysis applying the three step methodology outlined in section 4.

¹ On behalf of the DoP, consultants recently review Ku-ring-gai Council’s Housing Analysis, titled “*Estimated Dwellings Yields*”. Having reviewed this report, and the consultant’s recommendations, we are satisfied that our methodology is similar to the preferred approach.

5.1 SPWP 18 June 2009 (Watsons Bay, Vaucluse, Rose Bay and Bellevue Hill)

The SPWP meeting held on 18 June 2009 reviewed the residential capacity within the suburbs of Watson's Bay, Vaucluse, Rose Bay and Bellevue Hill. Staff identified that the potential residential capacity within these four suburbs is as follows.

		Yield	Comments
Step 1	Approvals (since 2004)	220	Including 78 new dwellings from the redevelopment of the former Vaucluse High School site.
Step 2	Latent capacity (in residential and business zoned land)	518	The majority identified in the Rose Bay Centre and Rose Bay 2(b) residential area.
Step 3	Development opportunity sites	161	Achieved from 8 opportunity sites (see map in annexure 3)
Total		899	

5.2 SPWP 9 July 2009 (Point Piper, Darling Point and Paddington)

The SPWP meeting held on 9 July reviewed the residential capacity within Point Piper, Darling Point and Paddington. Staff identified that the potential residential capacity within these three suburbs is as follows.

		Yield	Comments
Step 1	Approvals (since 2004)	46	Approvals were equally distributed between the three suburbs.
Step 2	Latent capacity (in residential and business zoned land)	59	Latent capacity in Darling Point provided the largest relative yield.
Step 3	Development opportunity sites	242	Achieved from 6 opportunity sites in Paddington (see map in annexure 3). No opportunity sites in Point Piper or Darling Point.
Total		347	

5.3 SPWP 6 August 2009 (Double Bay, Edgecliff and Woollahra)

The SPWP meeting held on 6 August reviewed the residential capacity within Double Bay, Edgecliff and Woollahra. Staff identified that the potential residential capacity within these three suburbs is as follows.

		Yield	Comments
Step 1	Approvals (since 2004)	83	Over 60% in Double Bay
Step 2	Latent capacity (in residential and business zoned land)	386	Almost 90% identified in the Double Bay Centre and residential 2(b) area.
Step 3	Development opportunity sites	601	Achieved from 8 sites (see map in annexure 3), with over 70% achieved in and around the Edgecliff Commercial Centre.
Total		1,070	

Totals	
1. SPWP 18 June 2009	899
2. SPWP 9 July 2009	347
3. SPWP 6 August 2009	1,070
	2,316

Staff applied the three step approach and identified a capacity for 2,316 additional dwellings which is generally within the framework of the current LEP land use zones and controls. This estimated yield exceeds the State Government's housing target of 2,175 by 141.

Public consultation on the opportunity sites will occur in early 2010, under section 62 of the *Environmental Planning and Assessment Act 1979* (the Act), as part of the preparation of the Principal LEP. In response to issues raised by the community during this consultation period, it may be that Council will not proceed with some of the opportunity sites. Our estimated yield of 2,316 takes this into account.

In late 2009, Council undertook a community engagement project, in order to inform the development of the Community Strategic Plan. It is understood that two major themes resulting from the community engagement were:

- Retain and enhance the village atmosphere throughout the area offering a good range of shops and services (in particular Double Bay, Queen Street, Paddington, Rose Bay and Vacluse)
- Minimise inappropriate high rise and oversize development

The results of this project may indicate potential community resistance to some of the identified opportunity sites. The findings of this project will be reported to the Community and Environment Committee on 1 February 2010.

In the event that too many opportunity sites are removed from the list and the residential target is no longer met, a further review of the municipality will occur to identify more development opportunity sites. This would likely involve a review of Woollahra's low density residential 2(a) zone to propose suitable areas for up zoning to allow medium density residential development. Such an approach would represent a shift from the current approach, which has generally been focused on increased density in the centres, especially Edgecliff, and avoiding changes to the low density residential areas.

SPWP 5 November 2009 (The Edgecliff Centre)

The SPWP meeting on 6 August focused on land within and around the Edgecliff Commercial Centre. The specific sites were:

1. Thane Building, 240-246 New South Head Road
2. Edgecliff Centre, 203-285 New South Head Road
3. Crystal Car wash site, 73-83 New South Head Road

It was reconfirmed that our strategy for achieving the housing target is largely dependent on increasing development potential at these sites. Indeed, we identified that proposed redevelopment in and around the Edgecliff Commercial Centre would account for about approximately 50% of the residential yield provided by all of the development opportunity sites combined.

The selected sites have good public transport links and significant potential for commercial and residential expansion. Increased densities at these locations would provide residents with immediate access to commercial and retail facilities and an integrated rail and bus interchange, thereby reducing car dependency. Applying new planning controls, Council could establish an exemplary development model in low-car housing.

Due to the significant potential of the sites, an independent consultant firm, *Jackson Teece Architects*, were commissioned to provide visual and impact modelling for buildings scenarios. Jackson Teece presented their work to the SPWP meeting on the 5 November, which included:

- images of a 3D model showing the existing built fabric
- the 3D model showing three different building scenarios
- modelling the impacts of these three scenarios, including identifying the overshadowing, visual impacts and interruption of view corridors from each scenario
- identifying the most appropriate built form at each location in collaboration with Council staff
- detailed photomontages to indicate how each scenario would fit into the existing streetscape.

Jackson Teece calculated that the residential yield from the Edgecliff sites was some 450 new dwellings (similar to the Edgecliff yields which were discussed at the SPWP on 6 August 2009).

Conclusion

The SPWP meetings have continued to provide an excellent forum for Councillors and Strategic Planning staff to discuss planning issues and inform the preparation of Woollahra's new Principal LEP. In the latter part of 2009, there has been a particular focus on the Residential Housing Strategy, and how Woollahra will achieve the housing target imposed by the Draft East Subregional Strategy.

We have undertaken a housing analysis to estimate the housing capacity across the municipality. This has included reviewing approved dwellings, identifying latent capacity in existing centres and residential areas, and proposing development opportunity sites.

We have identified that Woollahra can meet the housing target set by the State Government provided that the development opportunity sites are incorporated in the new draft Principal LEP, and in particular that there is a considerable increase in the height and FSR controls in and around the Edgecliff Commercial Centre for specific sites. This approach will generally avoid increased residential densities in our residential and commercial zones so that we can retain and enhance the village atmosphere of the Woollahra local government area.

Public consultation will be carried out in early 2010 under section 62 of the Act, as by Council on 21 December 2009.

Councillors are asked to note and receive the progress of these four SPWP meetings, and also the progress on addressing the State Government's housing targets.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planning

Anne White
Senior Strategic Planner

Annexures

1. Schedule of previous Strategic Planning Working Party meetings held to discuss the progress of the new Principal LEP
2. Methodology for identifying latent capacity
3. Maps identifying the opportunity sites (Map 1: *Watsons Bay, Vaucluse, Rose Bay & Bellevue Hill*, Map 2: *Point Piper, Darling Point & Paddington*, Map 3: *Double Bay, Edgecliff & Woollahra*)

ANNEXURE 1: Schedule of previous Strategic Planning Working Party meetings held to discuss the progress of the new Principal LEP

	Date of Meeting	Issue Discussed	Report to Urban Planning Committee
1	27 November 2008	<u>Introduction & Ideas</u> Introduction to the Principal LEP and identification of key planning issues	23 March 2009
2	4 December 2008	<u>Housing & employment growth</u> Review of the NSW Governments planning framework for growth, and how to increase residential capacity in Woollahra.	
3	12 February 2009	<u>Land Use Zones – Part 1</u> Translating the current LEP Land Use Zones into the new zones in the Principal LEP. In particular the Residential, Special Use & Open Space zones.	
4	26 February 2009	<u>Land Use Zones – Part 2</u> Translating the current LEP Land Use Zones into the new zones in the Principal LEP. In particular the Business Zones	
5	26 March 2009	<u>Development Standards (FSR) – PT 1</u> Translating WLEP95 into the Standard Instrument , proposed changes and the introduction of the Built Envelope Controls.	11 May 2009
6	30 April 2009	<u>Development Standards (Height & Excavation) – PT 2</u> Translating WLEP95 into the Standard Instrument, proposed changes and further explanation of the Built Envelope Controls.	
7	18 June 2009	<u>Addressing the State Governments Housing Targets – PT 1</u> Identifying the potential residential capacity in the four suburbs of Watsons Bay, Vaucluse, Rose Bay and Bellevue Hill,	
8	9 July 2009	<u>Addressing the State Governments Housing Targets – PT 2</u> Identifying the potential residential capacity in the three suburbs of Point Piper, Darling Point and Paddington.	The subject of this report
9	6 August 2009	<u>Addressing the State Governments Housing Targets – PT 3</u> Identifying the potential residential capacity in the three suburbs of Double Bay, Edgecliff and Woollahra.	

10	17 September 2009	<u>Community Consultation</u> Identifying how Council will facilitate Community Consultation and engagement during the lead up to and exhibition of the Principal LEP.	12 October 2009
11	5 November 2009	<u>Addressing the State Governments Housing Targets – PT 4</u> Focusing on the potential in and around the Edgecliff to accommodate significantly more residential development.	The subject of this report

ANNEXURE 2

Step 2: Methodology for identifying latent capacity

To review the latent capacity, staff identified all land not currently developed to its highest and best yield under the existing planning framework. These sites are considered to have latent capacity or development potential. This review focused on land zoned for business purposes and medium density residential. The approaches for calculating the latent capacity are set out below.

Business Zoned Land

The first step in identifying latent capacity in business zoned land was to filter out sites that are highly unlikely to redevelop because of the following conditions:

- strata titled
- require amalgamation of three or more properties to achieve a site area 600m² or more (sufficient size to reasonably accommodate a mixed use development incorporating units)
- recently redeveloped.

The estimated capacity of the remaining parcels was calculated by multiplying the site area by the permissible floor space ratio (FSR) to achieve an indicative gross floor area (GFA). It was then assumed that 25% of this GFA would accommodate a commercial activity, and the remaining GFA would accommodate a residential use (i.e. to account for the likelihood of a mixed use development).

The estimated residential yield was then identified by dividing the GFA by an indicative unit size. The indicative unit size was identified by reviewing recent approved development applications for mixed use developments in the same area and calculating the average dwelling size.

Residential 2(b) Zone

Latent capacity in the Residential 2(b) zone was calculated using a similar filtering process to the business zoned land, and was facilitated by the Council Geographical Information System (GIS).

Again, the first step was to remove those sites that are highly unlikely to redevelop because of the following conditions:

- strata titled
- a heritage item
- within a heritage conservation area
- unable to form a lot size of 930m² either individually or with an adjoining underdeveloped property (sufficient size to accommodate a residential flat building)

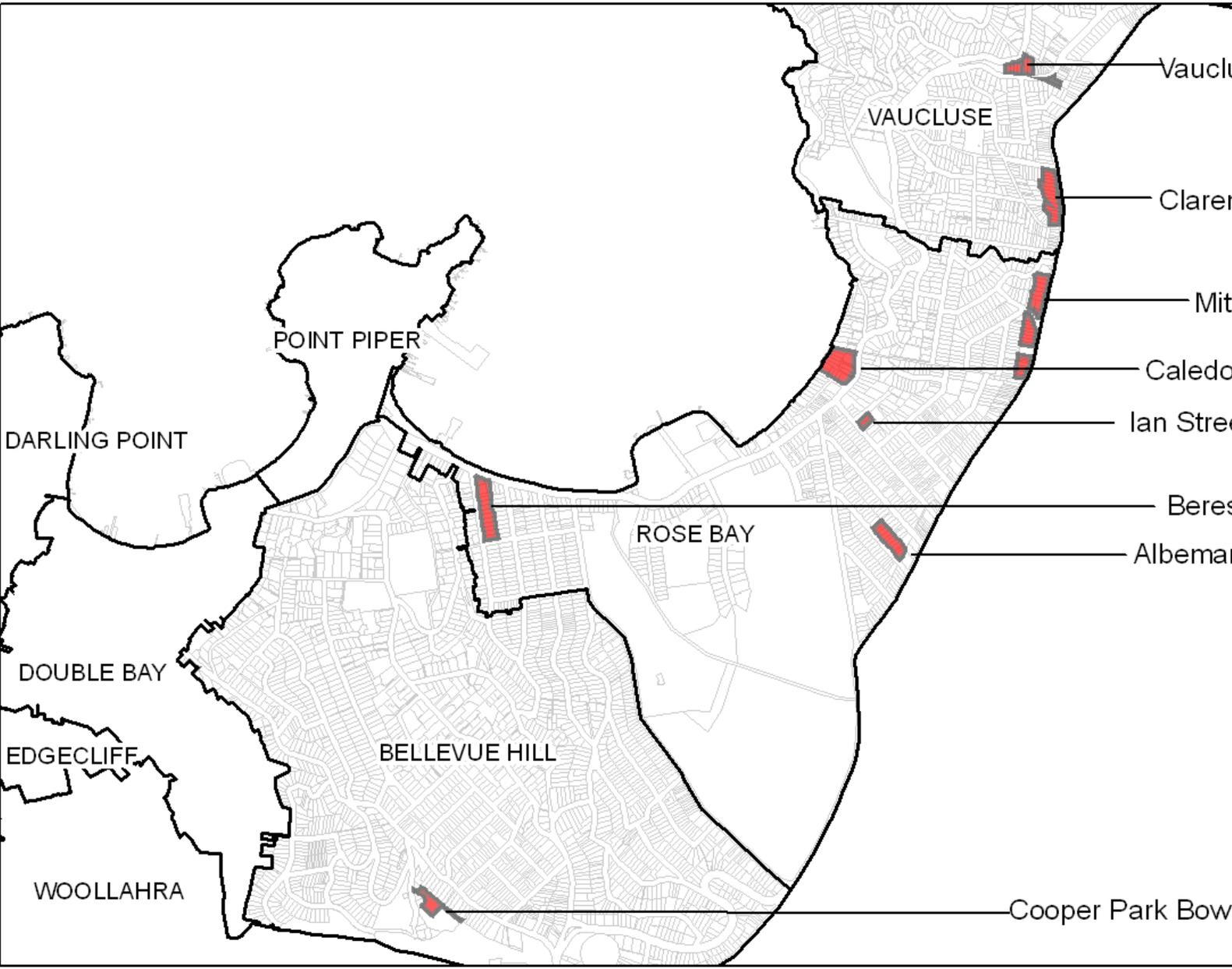
- under the minimum site frontage requirements of
 - 15m for single properties to develop three apartments or
 - 21m for two properties to develop more than 3 apartments
- recently redeveloped.

The estimated capacity of the remaining parcels was calculated by multiplying the site area by the permissible FSR to achieve an indicative GFA. The estimated residential yield was then identified by dividing the GFA by an indicative unit size. The indicative unit size was identified by reviewing recent approved development applications for residential flat buildings in the same area.

In calculating the potential GFA of each site, a discount rate was not applied. Based on our experience, the majority of development consents achieve the maximum FSR on the site, indeed the maximum FSR is often exceeded. Accordingly a discount rate is not considered necessary.

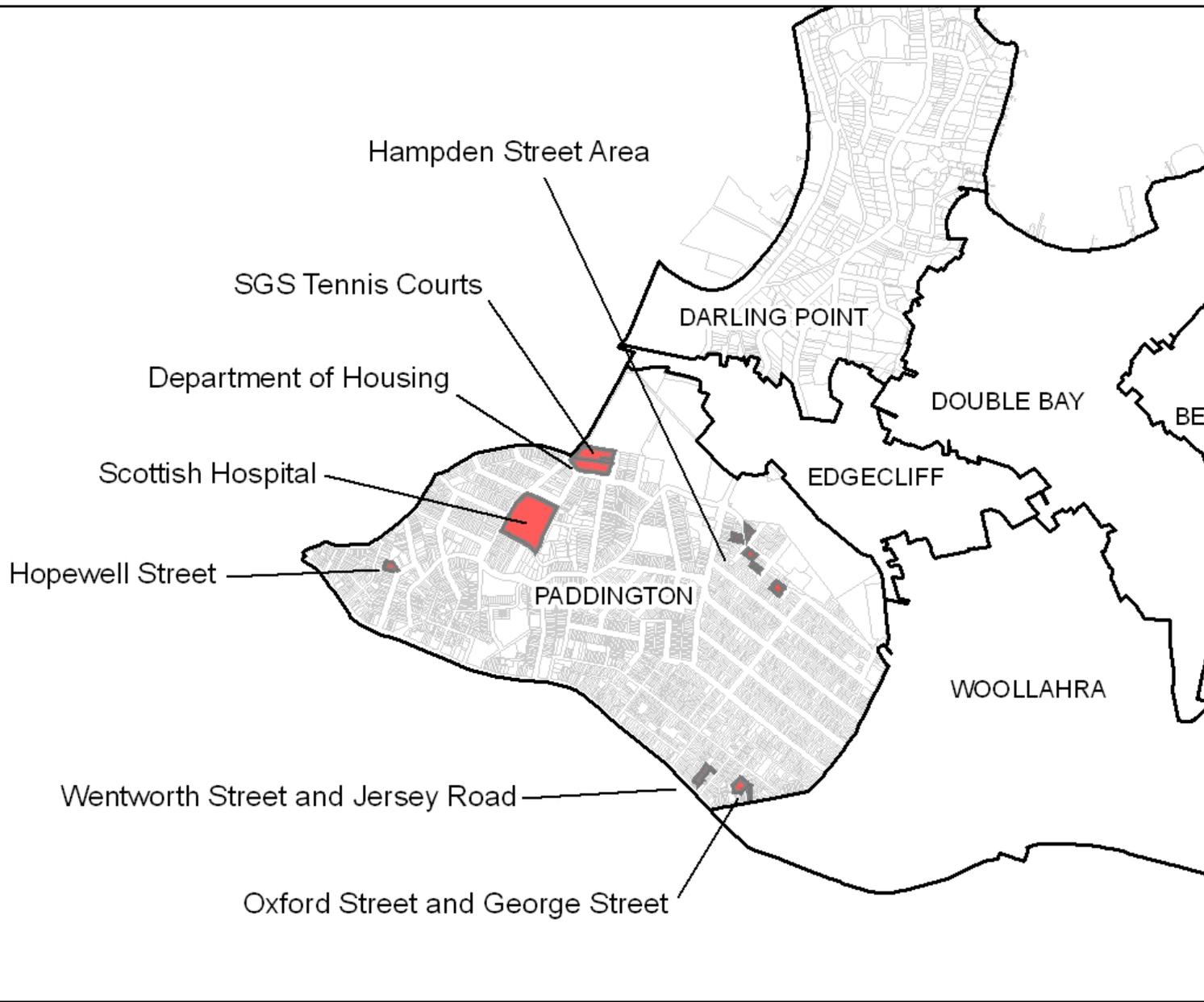
ANNEXURE 3: Maps identifying the opportunity sites

Strategic Planning Working Party Opportunity Sites – 18

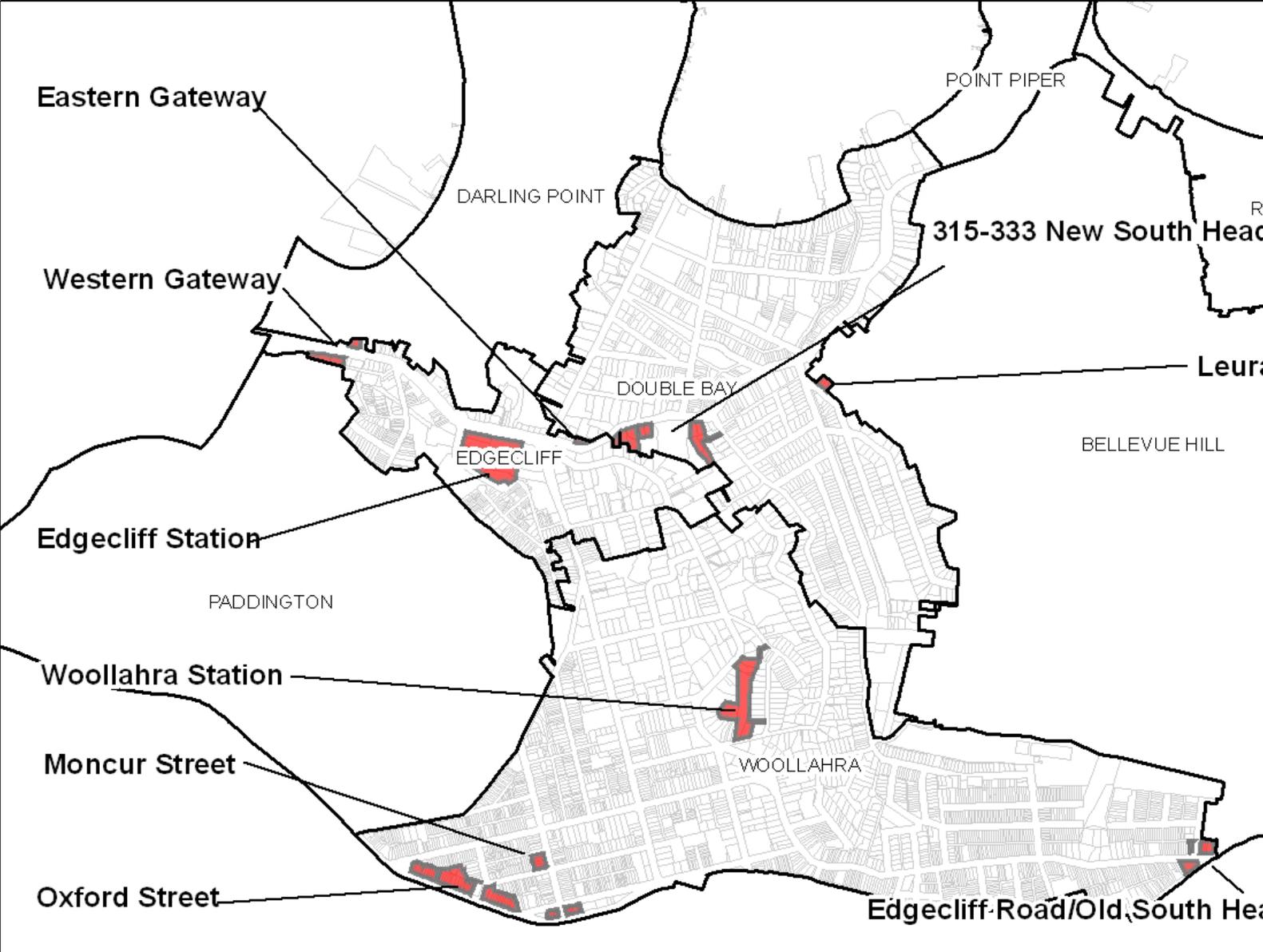


June

Strategic Planning Working Party Opportunity Sites – 9 July



Strategic Planning Working Party Opportunity Sites – 6 August



Item No: R2 Recommendation to Council

Subject: **Draft Woollahra Section 94A Development Contributions Plan 2009**

Author: Anne White – Senior Strategic Planner

File No: 1180.G

Reason for Report: To report on the public exhibition of the Draft Development Contributions Plan and obtain Council's approval of the Draft Plan which will repeal the Woollahra Section 94A Development Contributions Plan 2005.

Recommendation

1. That the Draft Woollahra Section 94A Development Contributions Plan 2009 contained in annexure 1 of the report to the Urban Planning Committee meeting of 1 February 2010 be approved.
2. That the Woollahra Section 94A Development Contributions Plan 2009 come into effect on the date notice of the approval is published in the Wentworth Courier.

Background

A section 94A development contributions plan is a means of collecting levies for infrastructure by conditions of development consent. Levies are based on the estimated cost of development. The levying of funds is authorised by Section 94A of the *Environmental Planning and Assessment Act 1979* (the Act).

Monies collected under the plan help fund public amenities and services as listed in the schedule of works in the plan. The provision of these public amenities and services support the future growth of Woollahra and include projects such as upgrading our parks, providing public art, improvements to roads and the building of new community facilities such as libraries.

Woollahra Council's current section 94A development contributions plan was approved on 14 November 2005 and commenced operation on 16 November 2005. The works schedule in the current plan has not been updated since 2005. The current plan is therefore out of date, and a new plan is required.

This matter was reported to the Urban Planning Committee on 12 October 2009 and on 2 November 2009 the Council resolved:

- A. *That the Council resolve to prepare a contributions plan to authorise the imposition of conditions under Section 94A of the Environmental Planning and Assessment Act 1979.*
- B. *That the draft Woollahra Section 94A Development Contributions Plan as contained in Annexure 1 of the report to the Urban Planning Committee meeting on 12 October 2009 be placed on public exhibition subject to clause 3.10 (Application of levy) being amended to read as follows:*

“Money paid to the Council under a condition authorised by this Plan is to be applied by the Council towards the cost of such of the public facilities listed in the works schedule in this Plan as the Council in its discretion may from time to time determine.”

- C. *That a report on the submissions to the draft contributions plan be prepared and presented to the Urban Planning Committee following the public exhibition process.*

A copy of the report presented to the Urban Planning Committee on 12 October 2009 can be found at **annexure 1**. A copy of the Draft Woollahra section 94A plan 2009 can be found at **annexure 2**.

The Draft Woollahra section 94A development contributions plan 2009 (the Draft Plan) will repeal the Woollahra section 94A development contributions plan. The body of the new plan remains largely as the 2005 plan, with some minor changes. The main changes between the two plans relate to the list of the supporting documents, and Schedule 2, which provides a *Summary of works schedule*. A comparison plan identifying the differences between the two plans, including the new *Summary of Works Schedule* was presented to the Urban Planning Committee on 12 October 2009.

The summary of works schedule

The money Council collects under section 94A is allocated towards the cost of public amenities and services. These must be listed in the works schedule contained within the plan. To ensure the plan is kept up to date, this schedule of works must be regularly reviewed. The schedule within the current plan was created in 2005. Since then 80 of the projects have either been completed or are no longer required, whilst an additional 50 new projects have been identified. The schedule of works within the Draft Plan has been updated to reflect these changes.

The schedule of works in the Draft Plan lists approximately 250 projects (including the 50 new projects). These are divided into 6 categories:

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

Public exhibition

The Draft Plan was prepared with input from a number of Council divisions, including Technical Services, Community Services and Planning and Development

The Draft Plan was placed on public exhibition over the period 18 November 2009 to 23 December 2009.

The exhibition took place in the Council's main offices in Double Bay, within the Customer Service area. Copies of the Draft Plan were available free of charge. A copy of the Draft Plan and explanatory material was placed on the Council's website for the duration of the exhibition period. An information brochure was also included as part of this exhibition period.

Notice of the public exhibition was placed in the Wentworth Courier editions of 18 November, 25 November, 2 December, 9 December and 16 December 2009.

The public exhibition was carried out in accordance with the manner required by the *Environmental Planning and Assessment Act 1979* (the Act) and the *Environmental Planning and Assessment Regulations 2000* (the Regulations).

Submissions

One submission was received during the exhibition period. This was from the Manager of Open Space and Trees (Woollahra Council), and requested the inclusion of six additional projects in the “Open Space Improvements” section of the works schedule. These additional projects will need to be reported to a future meeting of the Corporate and Works Committee, to enable consideration in the context of the capital works budget. Until that process is completed these projects should not be included in the Draft Plan.

No changes are proposed to the Draft Plan (which can be found at **annexure 2**).

Next stages for considering the Draft Plan

Clause 31 of the Regulation sets out the next stages in the process. The Council may:

- approve the plan in the form in which it was publicly exhibited, or
- approve the plan with such alterations as the Council thinks first, or
- may decide not to proceed with the plan.

Public notice of the Council’s decision must be made within 28 days of the decision. Where the Council decides not to proceed with the Draft Plan the notice must set out the reasons for the decision.

A development contributions plan comes into effect on the date that the public notice of its approval appears in a local newspaper or on a later date specified in the notice.

Conclusion

The Draft Plan has been prepared and exhibited in the manner required by the Act and Regulation.

One submission was received, however this will be reported to a future meeting of the Corporate and Works Committee. There are no alterations proposed to the exhibited Draft Plan.

We recommend approval of the Draft Plan as exhibited.

This new Plan will ensure that monies collected are appropriately spent on public amenities and services as listed in the updated schedule of works in the plan.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Anne White
Senior Strategic Planner

Annexures

1. Report to Urban Planning Committee meeting on 12 October 2009
2. Draft Woollahra Section 94A Development Contributions Plan 2009

Item No: R3 Recommendation to Council
Subject: **Obscure Glazing to Upper Floor Windows & Screening For Privacy**
Author: Jacquelyne Jeffery—Team Leader Strategic Planning
File No: 900.G
Reason for Report: To respond to a Notice of Motion seeking a review of the DCP controls relating to privacy

Recommendation:

- A. That Council resolve to amend the Woollahra Residential Development Control Plan 2003 visual privacy controls in Section 5.8 ‘Acoustic and Visual Privacy’ as set out in Part 4 of the report to the Urban Planning Committee of 1 February 2010.
 - B. That the draft amendments be placed on public exhibition consistent with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulation.
-

Background

On 11 May 2009 Council adopted the following Notice of Motion (NoM) regarding residential privacy issues:

Council to seek a review, in the form of a report, of the DCP controls related to privacy, with particular consideration to the appropriateness of the use of obscure glazing to upper floor bedroom windows. Additionally, the extent to which screening is used to provide privacy is also to be reviewed and whether screening contributes to bulk and scale of the proposed building.

Purpose of the report

To advise that, in response to the adopted NoM, we—

- have reviewed the Woollahra Residential Development Control Plan 2003 (Woollahra RDCP) identifying that the controls in Section 5.8 ‘Acoustic and Visual Privacy’ could be improved
- seek Council’s approval to exhibit proposed amendments to the Woollahra RDCP, as set out in Part 4 of this report.

Introduction

Privacy, and in particular, potential loss of privacy arising from redevelopment, is a common concern for residential living in built up urban areas.

The privacy needs of residents and neighbours should influence all stages of the building design process, from the location of dwellings and the placement of windows and private open space, through to the selection of materials and construction techniques.

Council’s development control and assessment process must provide a suitable framework to guide and address privacy issues and determine what is reasonable, taking into account the urban nature of development, lot size and dwelling sizes in the Woollahra Municipality.

It is important to note, however, that privacy issues are an inherent component of urban living. There is no absolute solution and in many cases some degree of mutual overlooking from property to property is unavoidable.

Woollahra RDCP visual privacy controls

Council’s privacy controls are set out in Section 5.8 ‘Acoustic and Visual Privacy’ of the Woollahra RDCP (**annexure 1**). Provisions C5.8.5 and C5.8.6 are specifically relevant to the matters raised in the NOM—

- C 5.8.5** Habitable room windows with a direct sightline to the habitable room windows in an adjacent dwelling within 9.0m:
- are offset from the edge of one window to the edge of the other by a distance sufficient to limit views into the adjacent windows; or
 - have sill heights of 1.7m above floor level; or
 - have fixed obscure glazing in any part of the window below 1.7m above floor level.
- C 5.8.6** Balconies, terraces, decks, roof terraces and other like areas within a development are suitably located and screened to prevent direct views into habitable rooms or private open space of adjoining and adjacent dwellings (see Figure 5.8.4).

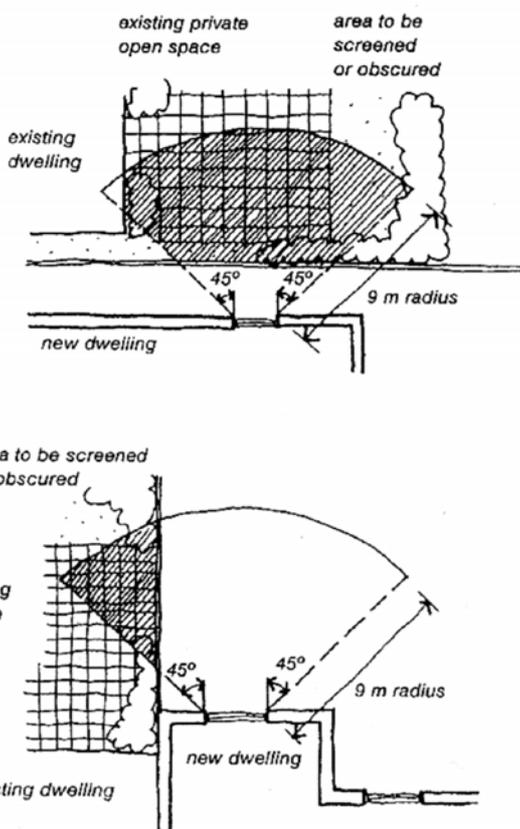


Figure 5.8.4 Acceptable screening of views to adjacent open spaces

We have reviewed these provisions and identify that the controls could be improved as set out in Part 4 of this report.

Review of the Woollahra RDCP visual privacy controls

Use of obscure glazing on upper floor bedroom windows

The first concern raised in the NoM relates to the impact of obscure glazing² on the amenity of habitable rooms.

Woollahra RDCP provision C5.8.5 states that “fixed obscure glazing in any part of the window below 1.7m above floor level” is one solution to provide for privacy where a habitable room window has a direct sightline to a habitable room window in an adjacent dwelling within 9 metres. The two other solutions for addressing privacy in C5.8.5 relate to window offsets/separation and sill heights.

We have further considered this DCP provision. We find that amenity to habitable rooms is diminished as the result of fixed obscure glazing to 1.7 metres. We also find that applying a 1.7 metre sill height (another solution specified in C5.8.5) diminishes amenity.

While these solutions provide very effective privacy screening, they also prevent any views out of the habitable room even where those views may not be to areas of private open space or to the windows of habitable rooms.

It is not good practice to design a habitable room that contains only one window where that window has obscure glazing or high sills, as these result in a room with no views or a window that cannot be easily opened. To achieve reasonable amenity, at least one window in a habitable room should facilitate an external view out, and be easily accessed to open.

Obscure glazing or 1.7 metre sill heights should generally only be applied to secondary windows of habitable rooms or to non-habitable rooms such as bathrooms, laundries and stairwells.

To address these matters the controls should—

- Identify a greater range of solutions for resolving privacy impacts, such as horizontal or vertical louvres, or other design options including architectural devices set off from the window or planter boxes.
- Provide a framework that gives greater weight and eminence to controls that address privacy through design layout that avoids overlooking and separation, which are more sophisticated approaches to addressing privacy than other solutions such as screening or use of obscure glazing. This approach is broadly based on the planning principle set out in the Land and Environment Court (LEC) judgement Meriton Properties Management Pty Ltd and Karimbla Properties (No3) Pty Ltd v Sydney City Council [2004] NSWLEC 313.³
- Ensure that screening devices have regard to impact on building bulk as well as views.

To that end, we propose that existing RDCP provision C5.8.5 is deleted and replaced with the new clause C5.8.5 as set out on the following page.

² “obscure glazing” means translucent glazing, where light but not images can be seen through the window glass.

³ The planning principle considers density, separation, use and design. It identifies that on existing residential lots there is often little ability to control density, separation and use, however, there is the ability to utilise good design to avoid visual privacy impacts. In the words of Commissioner Roseth:

the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscured glass and privacy screens, while sometimes being the only solution, is less desirable.

C 5.8.5 Habitable room windows are designed to prevent a direct sightline to the habitable room windows in an adjacent dwelling within 9.0m. This can be achieved by options including, but not limited to, (in order of preference):

1. Layout and separation—offsetting windows from the windows of the adjoining dwelling by a sufficient distance to limit views between the windows, or
2. Architectural design solutions and devices—redirecting and limiting sightlines using deep sills and planter boxes, fixed horizontal or vertical louvres, or other architectural devices set off the windows, or
3. Glazed hopper windows—using hopper windows with obscure glazing to a height of 1.7m above floor level and fitted with a winder mechanism to allow a maximum opening of 300mm, or
4. Glazed fixed windows or high sills—using fixed windows with obscure glazing in any part of the window below 1.7m above floor level, or window sill heights of 1.7m above floor level.

Note:

- Architectural design solutions and devices should be integrated with the overall design and contribute to the building's architectural merit. Applicants need to particularly consider i) aesthetics of the building including visual bulk, iii) compliance with minimum boundary setback controls, iii) appearance from adjoining properties. Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.
- Layout and separation solutions are more readily achieved within the context of new development and new second storey additions. Opportunities are more limited in the case of alterations; in such circumstances, architectural design solutions and devices should generally be considered in preference to applying high sill heights or obscure glazing. However, all applications will be considered on merit.

Impact of privacy screens on building bulk and scale

The second concern raised in the NoM relates to the impact of privacy screens on building bulk and scale.

Woollahra RDCP provision C.5.8.6 identifies that screening is an acceptable solution to prevent direct views from balconies, terraces, decks, roof terraces and the like into habitable rooms or private open space of adjoining and adjacent dwellings.

We have further considered this DCP provision. We find that privacy screens on balconies, terraces and similar spaces do not necessarily impact on the visual bulk and the aesthetic of development. This is particularly true when screening is a considered part of the building design. However, the visual impact of screening can become problematic when screens are applied as an afterthought, often in response to neighbour objections about privacy.

We also identify that screening can impact on the views from adjacent and adjoining properties. This typically occurs where properties obtain significant views from across the side boundaries.

To address these matters the controls should—

- Ensure that screening devices have regard to impact on building bulk as well as views.
- Apply the provision to development that is within 12 metres of the balcony, terrace or like area. Privacy impacts are generally mitigated where separation distances are greater than 12 metres.

To that end, we propose that existing RDCP provision C5.8.6 is amended by inserting the words shown in **bold** as set below.

C 5.8.6 Balconies, terraces, decks, roof terraces and other like areas within a development are suitably located and screened to prevent direct views into habitable rooms or private open space of the adjoining and adjacent dwellings **if within a distance of 12m as measured from the external face of the building with balcony, terrace or the like, to the external face of the adjoining building** (see Figure 5.8.4).

Note:

- **Screening should be integrated with the overall design and contribute to the building's architectural merit so as not to detrimentally impact on bulk and scale. Screening should not impact on significant views from adjoining or adjacent properties. Applicants may be required to demonstrate how privacy impacts are resolved by way of view line diagrams, photographs and other suitable means.**

Subsequent amendments

We also recommend amending the 'Explanation' to Section 5.8 'Acoustic and Visual Privacy' to reflect the intent of changes proposed above to RDCP C5.8.5 and C5.8.6.

We propose that existing RDCP provision C5.8.6 is amended by inserting the words shown in **bold** and deleting the words shown as ~~striketrough~~ as set out below.

Explanation

Privacy is a major determinant of the ability of residents and neighbours to enjoy their home. Privacy refers to both acoustic and visual privacy. The privacy needs of residents and neighbours should influence all stages of design, from the location of dwellings and the placement of windows and private open space through to the selection of materials and construction techniques.

It is important to note, however, that privacy issues are an inherent component of urban living. There is no absolute solution and in many cases some degree of mutual overlooking from property to property, or noise impacts, is unavoidable.

Visual privacy can be achieved by:

- layout **and separation** that avoids overlooking;
- ~~separation~~;
- **architectural design solutions and devices**; and
- screening.

The level of acoustic privacy depends upon the location of habitable rooms relative to noise sources such as air conditioning units, swimming pool pumps and major roads.

Conclusion

In response to the Council's adopted NoM we have reviewed the controls for visual privacy in the RDCP and propose a number of amendments.

The amendments seek to guide applicants to achieve a reasonable balance between the need for privacy on one hand, with the need to promote good architectural design outcomes and internal living amenity. In particular, the amendments include a range of solutions for addressing privacy, in preference order.

It is recommended that Council endorse, for the purpose of exhibition, the proposed amendments to RDCP Section 5.8 'Acoustic and Visual Privacy' as set out Part 4 of this report. The draft DCP will then be placed on exhibition in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulation. A further report will be submitted to the Urban Planning Committee following the exhibition.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planning

Annexure:

1. Woollahra Residential Development Control Plan 2003 Section 5.8 'Acoustic and Visual Privacy' (*Distributed separately*)

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

