Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday 11 May 2009*

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

7 May 2009

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio

Councillors	Toni Zeltzer	(Chair)
	Sean Carmichael	
	Lucienne Edelman	(Deputy)
	Nicola Grieve	
	Chris Howe	
	David Shoebridge	
	Malcolm Young	

Dear Councillors

Urban Planning Committee Meeting – 11 May 2009

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 11 May 2009 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 27 April 2009	1
	Items to be Submitted to the Council for Decision with Recommendations from this Committee	
R1	Floor Space Ratio Controls and the Woollahra Principal LEP – A change in Policy direction – 1067.G WP and 1064.G Principal LEP	2

Item No:	D1 Delegated to Committee
Subject:	**Confirmation of Minutes of Meeting held on 27 April 2009**
Author:	Les Windle, Manager – Governance
File No:	See Council Minutes
Reason for Report:	The Minutes of the Meeting of Monday 27 April 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 27 April 2009 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council

Subject: **Floor Space Ratio Controls and the Woollahra Principal LEO—A Change in Policy Direction**

Author: Jacquelyne Jeffery—Team Leader Strategic Planning

File No: 1067.G WP and 1064.G Principal LEP

Reason for Report: To explain the translation of floor space ratio standards in the Woollahra LEP 1995 to the new Principal LEP.
To seek Council's endorsement of a new approach to control built form in residential areas that involves using building envelope controls instead of floor space ratio standards.

Recommendation

A. THAT Council approve the following approach to control built form on land zoned as Residential in the new Woollahra Principal LEP and Comprehensive DCP—

   a. Maximum building height to be included in the draft Woollahra Principal LEP
   b. Building envelope controls to be included in the draft Woollahra Comprehensive DCP.

B. THAT, subject to the above, floor space ratio controls are not applied to residential zoned land in the draft Woollahra Principal LEP.

Background

Council's Strategic Planning Department is currently preparing Woollahra's new principal local environmental plan (Woollahra Principal LEP).

The new LEP will replace Council's current LEP called the Woollahra LEP 1995 (WLEP 95), and will provide a comprehensive guide to development in the Woollahra Municipality over the 7-10 year life of the LEP.

Woollahra's new LEP must be consistent with a standard template prescribed by the NSW Government to all councils across the State, called the *Standard Instrument (Local Environmental Plans) Order 2006* and referred to in this report as the Standard Instrument (SI).

The SI is as a mandatory LEP template. The SI prescribes the form and content of Woollahra's new Principal LEP, including the standard zones, planning clauses and definitions for land use and planning terms.

Applying the SI represents a change in the scope and way Council prepares its LEP, and provides new opportunities and challenges for addressing planning issues affecting Woollahra.

Issues with translating existing FSR controls into the new Principal LEP

As previously reported, we are generally taking a 'translation approach' to preparing Woollahra's Principal LEP.

That is, the current zone, height and density controls in the WLEP 95 and Woollahra Residential Development Control Plan 2003 (RDCP) will be translated into similar controls under the SI, so that current planning controls and policy direction are broadly maintained in the new Principal LEP, notwithstanding some fine tuning.

However, the process of translating existing FSR controls into the new Principal LEP is proving to be very difficult. This is because the definition of gross floor area (GFA)[1] in the SI is fundamentally different to the definition in the WLEP 95, and under the operation of the SI, if Council chooses to apply FSR controls, it must—

- Use the SI definition of GFA, unchanged, and
- Must show the FSR in the LEP and not the DCP, unlike the current situation where some FSR controls are in the WLEP 95 and some are in the Residential Development Control Plan 2003 (RDCP).

This report—

- Explains the differences between the GFA definitions in WLEP 95 and the SI.
- Identifies that the definition of GFA under the SI is not a suitable control for residential development.
- Considers options for controlling residential built form in the new Woollahra Principal LEP.
- Proposes that building envelope controls are a more effective approach to residential control built form, and should be applied instead of FSR in the residential zones.

Differences between definitions of GFA under WLEP 95 and the SI

The definition of GFA under the WLEP 95 is fundamentally different to the definition in the SI. The definitions of GFA are set out below.

[1] Note—FSR is a function of GFA. FSR is derived by dividing the GFA by the site area.

Definition of GFA under the WLEP 95—

gross floor area in relation to a building, means the sum of the areas of each level of the building, including:

(a) the thickness of all external walls, and

(b) the area of voids, staircases and lift shafts, counted at each level, and

(c) that part of the area of balconies and verandahs which is in excess of $20m^2$ per dwelling in the case of a building used or intended for use for residential purposes, or in excess of 10% of the site area in the case of a building used or intended for use for non-residential purposes, and

(d) any other areas of the building where the height of those areas exceeds 1.5 metres above ground level,

and excluding:

(e) car parking to meet the requirements of the Council and any access to the car park, and

(f) any area used or intended for use as a car parking station, and

(g) uncovered roof terraces, and

any area used or intended for use as an arcade.

Definition of GFA under the SI—

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

(a) the area of a mezzanine, and

(b) habitable rooms in a basement or an attic, and

(c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

(d) any area for common vertical circulation, such as lifts and stairs, and

(e) any basement:

(i) storage, and

(ii) vehicular access, loading areas, garbage and services, and

(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and

(g) car parking to meet any requirements of the consent authority (including access to that car parking), and

(h) any space used for the loading or unloading of goods (including access to it), and

(i) terraces and balconies with outer walls less than 1.4 metres high, and

(j) voids above a floor at the level of a storey or storey above.

The key differences between the two definitions relate to the type of building and design elements that are 'excluded' from the calculations of GFA under the SI, such as balconies, staircases and voids relating to mezzanine levels.

We find that GFA under the SI is a measure of development yield or rentable area, not building bulk. To that end—

- It is a suitable control for business zoned land, and is consistent with Woollahra's existing LEP and DCP controls for the Double Bay and Rose Bay town centres.
- It is not a suitable control for residential zoned land, as housing form commonly includes a range of design elements, that are not part of the rentable area (such as balconies), which substantially add to building bulk.

We anticipate that, in Woollahra's residential areas, the exclusion of design elements such balconies, staircases and voids relating to mezzanine levels from GFA calculations will result in—

- Increased building bulk. This will be most evident in localities characterised by larger sized lots or land with sloping topography and views, where multi-storey housing and expansive balconies are often sought.
- Reduced ability to control residential built form or provide certainty in development outcomes, because these design elements of the building cannot be accounted for.

We are concerned with the SI definition of GFA, and have raised these with the Department of Planning. However, the Department will not allow changes to the definition.

Table 1 on the next page identifies the key differences between the WLEP 95 and SI definitions. Further details, including diagrams to illustrate these differences, are provided in **Annexure 1**.

		WLEP 95	Standard Instrument
Elements Calculated as GFA	**External walls**	✓	**X** (GFA measured to the internal face)
	Staircases and lift shafts	✓	**X**
	Voids	✓	**X**
	Balconies greater than 20m^2	✓	**X** (GFA excludes all balconies with outer walls less than 1.4m high – there is no control or limit to balcony size)
	Non habitable rooms/ storage in a basement or attic	✓	**X** (GFA excludes bathrooms, laundries, walk in wardrobes and corridors if located in a basement or attic)
	Storage (not in a basement or attic)	✓	**X** (GFA excludes storage – there is no control or limit to this exclusion)

Table 1: Key differences between the WLEP 95 and SI definitions

What impact could the SI definition of GFA have on residential development in Woollahra?— Case studies

Table 1 above, identifies that there are six significant building and design elements that contribute to the bulk and scale of housing, which are included in the WLEP 95 GFA definition but not included in the calculation of GFA under the SI.

This creates problems when translating the existing FSRs in WLEP 95 to the new Principal LEP, as potentially larger buildings will be achieved under the SI definition of GFA, compared with the GFA as defined under WLEP 95.

To illustrate the difference in GFA calculations, the GFA of six recently approved development proposals was calculated applying the WLEP 95 definition of GFA and then the SI definition. The results are in Table 2.

	GFA calculated		**Amount of additional floor area that could be added to the development under the SI definition to deliver 'the same' numerical GFA calculation**
Address	**under WLEP and RDCP**	**under SI**	
67 Beresford Rd, Bellevue Hill	562m²	397m²	165m²
20 Ray Ave, Vaucluse	791m²	604m²	187m²
101 Kings Rd, Vaucluse	505m²	253m²	252m²
128 Victoria Rd, Bellevue Hill	480m²	267m²	213m²
2 Marine Pde, Double Bay	475m²	292m²	183m²
3 Loftus Rd, Darling Point	1069m²	934m²	135m²

Table 2: Difference in GFA calculations between the WLEP 95 and SI definitions of GFA

Table 2 shows that a larger sized development will result from applying the SI definition of GFA. Take for example the case of 20 Ray Avenue, Vaucluse: a GFA of 652m^2 (and FSR of 0.64:1) is calculated under Council's existing controls, yet applying the SI definition, a GFA of only 397m^2 (and FSR of 0.48:1) is calculated. Hence it is most likely that the developer, if using the SI definition, would increase the size of the building by 187m^2 to achieve a comparable FSR value to that achieved under the current controls. This would result in a substantially larger development.

Table 2 also shows that the difference between the GFA calculations under the WLEP 95 and SI figure range from 14%-100% depending on the site and the building design. It appears that factors such as size of land, sloping topography and views contribute to the potential for the different GFA outcomes—because those site characteristics lend themselves to multi-storey housing design and expansive balconies and, therefore elements that are not calculated under the SI definition of GFA. However, the percentage difference in the GFA calculation is irregular, and it is not possible to identify a constant relationship between these factors to determine a discounted FSR value (by locality or housing type) to the existing numerical FSR values under the WLEP 95 and RDCP.

This makes the 'translation approach' difficult, as an FSR of 0.5:1 under Council's current controls cannot be translated to an FSR of 0.5:1 in the new Principal LEP— as an FSR of 0.5:1 under the SI definition of GFA will result in a larger built form outcome. Also, due to the significant variations in outcomes, a discount rate cannot be applied to account for the increase under the SI definition.

For example, a discount rate of 10% cannot be applied to an existing FSR of 0.5:1, to arrive at a translated FSR of 0.45:1 for the new LEP, as it cannot be rigorously or reasonably determined that, on average across the Municipality there is a 10% difference in GFA outcomes between the WLEP 95 and SI definitions.

Options for controlling built form in the new Woollahra Principal LEP

The difficulties in translating the FSR controls in the current WLEP 95 to the new Principal LEP are numerous. This presents challenges for preparing the new Woollahra Principal LEP, and in fact, requires Council to consider if it is appropriate to include FSR controls in the new LEP.

To that end, we identified three options to control built form on residential zoned land—

Option 1. In the new Principal LEP—apply the FSR values from the current WLEP 95 and RDCP

Option 2. In the new Principal LEP—apply the FSR values from the current WLEP 95 and RDCP with a discount rate to account for the increase in built form arising from the SI definition of GFA

Option 3. In the new Principal LEP—do not apply FSR controls. Establish building envelope controls (BECs) in the Comprehensive DCP. The BECs will set the maximum number of storeys, building setbacks, footprint, wall height and excavation controls. The maximum building height will be in the Principal LEP

We consider that Option 3 is the best approach for the reasons outlined in Table 3.

Option 1—Apply existing FSR numerical values in LEP and DCP For example: FSR = 0.55:1 in current DCP translated to FSR = 0.55:1 in new LEP	**Advantages—** • FSR controls included in the LEP **Disadvantages—** • GFA under the SI is not a measure of built form for residential development • Crude translation of existing FSR values • Will result in increased housing building bulk. Greatest increases likely to occur on larger sized lots, or land with sloping topography and views • Detrimental amenity and environmental impacts in the long term due to cumulative overdevelopment • False impression of no perceived changes to existing FSR controls as the numerical FSR values are unchanged

Option 2—Apply discount rate to existing FSR numerical values in LEP and DCP to account for increase, therefore seeking to maintain FSR status quo, though the numerical values are different
 	
For example:
Assume 10% discount rate for all sites with FSR = 0.5:1 in current DCP translated to
FSR = 0.45:1 in new LEP
	Advantages—
	• FSR controls included in the LEP
	
	Disadvantages—
	• GFA under the SI is not a measure of built form for residential development
	• No way to accurately translate existing FSR values into SI FSR as there is:
	  • No constant relationship between SI and WLEP 95 definitions
	  • No rigorous methodology to support 'discount' values
	• Likely to result in an increase in housing building bulk. Greatest increases will occur on larger sized lots, or land with sloping topography and views
	• Perceived decrease in development potential for a site, as the numerical FSR values will be reduced

Option 3—Apply building envelope controls (BECs). Maximum building height in the LEP, all other controls to be in the DCP	**Advantages—** • BECs are a dedicated built form control • Controls respond to prevailing character of an area and the predominant and desired building form • Controls are based on location and building type • Better building form outcomes • Controls developed on sound planning grounds • Logical relationship between the controls • Provides a clear hierarchy of controls • Improved certainty and confidence in controls • Effective for electronic deployment of planning controls **Disadvantages—** • FSR controls not included in the LEP, with the BECs included in the DCP • Perception that strength and status of controls are reduced if located in the DCP, rather than the LEP

Table 3: Analysis of options for controlling built form in the new Woollahra Principal LEP

These three options were also discussed at the Strategic Planning Working Party (SPWP) meeting on 26 March. There was general agreement amongst staff and Councillors at the SPWP that Option 3 is the best approach.

We recognise that FSR controls are often used as a building bulk control, and being a quantitative measure provide a perceived level of confidence and comfort.

However, there is no certainty that planning outcomes can be adequately controlled using the GFA definition under the SI.

Therefore, we strongly advise against the use of FSR controls on residential zoned land in the new Principal LEP.

Preferred approach for controlling built form in residential zones in the new Woollahra Principle LEP—building envelope controls

As identified in Option 3 above, building envelope controls (BECs) are a more effective approach to control built form, and should be used instead of FSR when preparing the new planning controls for Woollahra.

BECs are an effective way to control built form in residential areas as they are location responsive and can be tailored to recognise and respond to the existing, prevailing and desired character of particular streets or localities.

We propose that BECs will contain controls for—

- Number of storeys
- Setbacks (front, side and rear)
- Footprint
- Wall height
- Excavation

The maximum building height will be set out in the Principal LEP, all other BEC elements will be set out in the new Comprehensive DCP

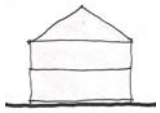
BECs, as well as providing location relevant controls, will establish a clear hierarchy of controls and provide greater compatibility and consistency between the LEP and DCP. This will lead to more consistent application, certainty and confidence in the controls—which means more defendable controls if tested in the Land and Environment Court.

It is proposed that a range of BECs will be prepared to reflect and respond to different streetscape and locality conditions; these will be able to be tailored to address any specific conditions.

The diagram on the following page presents seven typical forms, for which BECs will be prepared.

Two storey residence

Two storey residence with pitched roof character

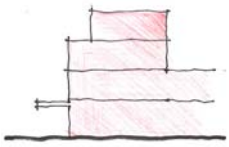


Three storey residence with pitched roof character

Three storey residence

Three or more storey residential flat building

Mixed use building with zero front setback



Zero side setback terrace

Conclusion

The SI definition of GFA cannot be relied upon as an effective built form control for housing, therefore, we do not support the use of FSR controls on residential zoned land in the new Principal LEP.

Under the SI, GFA is a measure of development yield or rentable area, not building bulk. The SI definition excludes elements such balconies, staircases and voids relating to mezzanine levels, so applying FSR to residential zoned land in the new Principal LEP will result in—

- Increased building bulk. This will be most evident in localities characterised by larger sized lots or land with sloping topography and views, where multi-storey housing and expansive balconies are often sought.
- Reduced ability to control residential built form or provide certainty in development outcomes, because these design elements of the building account be accounted for.

Instead of FSR controls on residential zoned land, we recommend that BECs be prepared and applied as the built form control in Council's new plans.

BECs are an effective way to control built form in residential areas as they are location responsive, and can be tailored to recognise and respond to the existing, prevailing and desired character of particular streets or localities.

BECs will identify the maximum number of storeys, setbacks, building footprint, wall height and excavation requirements. The maximum building height will be set out in the Principal LEP, all other BEC elements will be in the new Comprehensive DCP

This approach represents a change in policy direction for Council and additional work which may impact our staff's work program. However, we are confident that BECs are the best option for controlling residential built form, given the constraints of the SI.

We now seek Council's endorsement of the building envelope control approach, so that clear direction is provided to the preparation of the draft Woollahra Principal LEP and draft Comprehensive DCP.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planning

Tom Jones
Urban Designer / Architect

Annexure

1. Illustration of the differences between definitions of GFA under WLEP 95 and the SI

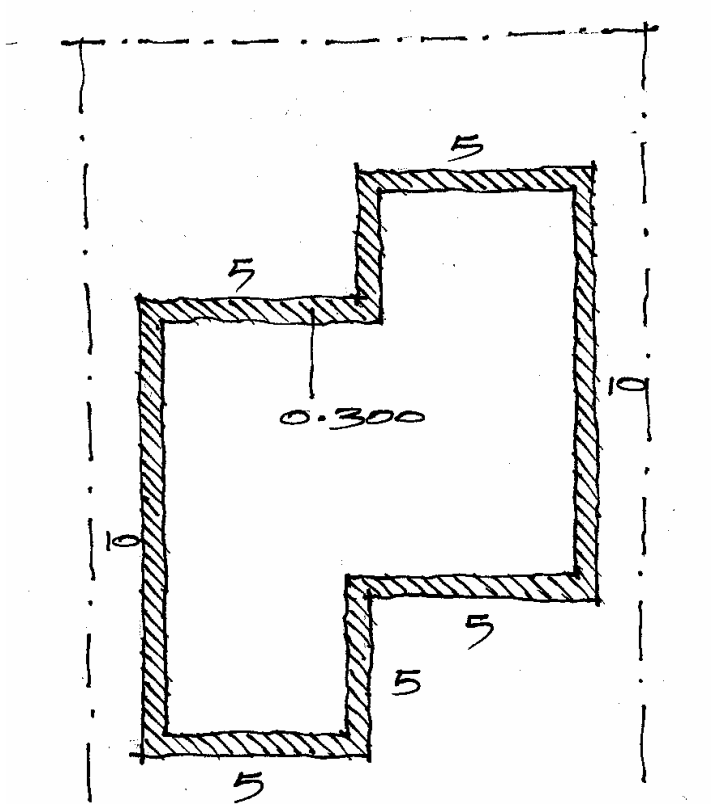
ANNEXURE 1: 1. Illustration of the differences between definitions of GFA under WLEP 95 and the SI

The definitions of GFA under WLEP 95 and the SI, measure different things. In particular, the SI definition excludes the following building and design elements from the calculations of GFA—

- External walls
- Staircases and lift shafts
- Voids
- Balconies
- Non habitable rooms/storage in a basement or attic
- Storage area (not in a basement or attic)

The diagrams below help illustrate these differences.

External walls—



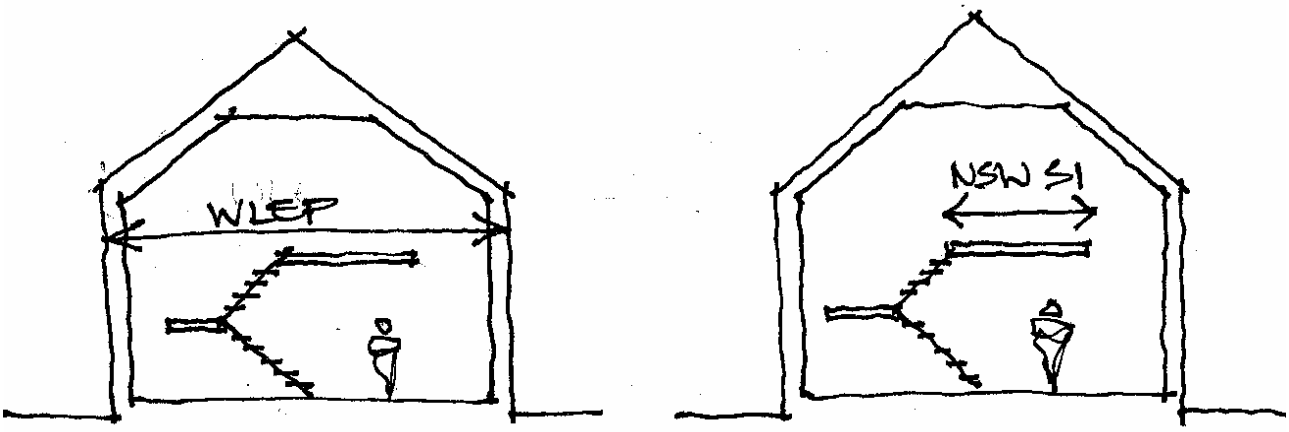
WLEP 95 vs. SI—

- WLEP 95 includes in the GFA the thickness of all external walls.
- SI only measures from the internal face of external walls.

Implications—

- For a typical house in Vaucluse the SI = 15% less area calculated as GFA.

Staircases, lift shafts and voids—



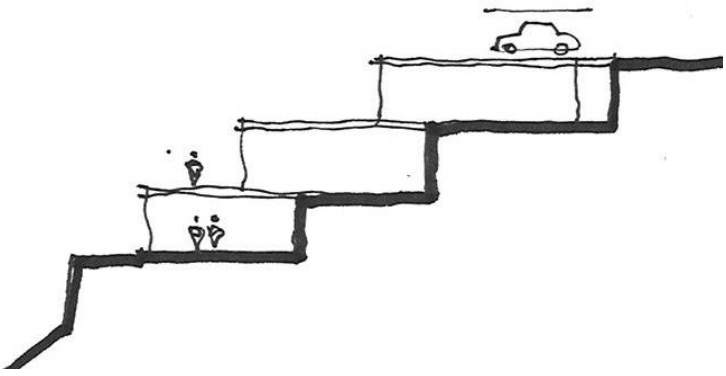
WLEP 95 vs. SI—

- WLEP 95 calculates—
  - Area of voids, staircases and lift shafts, counted at each level.
- SI does not calculate—
  - Any area for common vertical circulation, such as lifts and stairs.
  - Voids.

Implications—

- In the Woollahra Municipality, it is not uncommon for 2–3 storey large houses to contain upper level voids. Where the upper level void occupies 50% of the ground floor, SI = 25% less GFA.
- In multi storey residential flat buildings, vertical access may account for between 10 and 20% GFA.

Balconies greater than 20m^2—



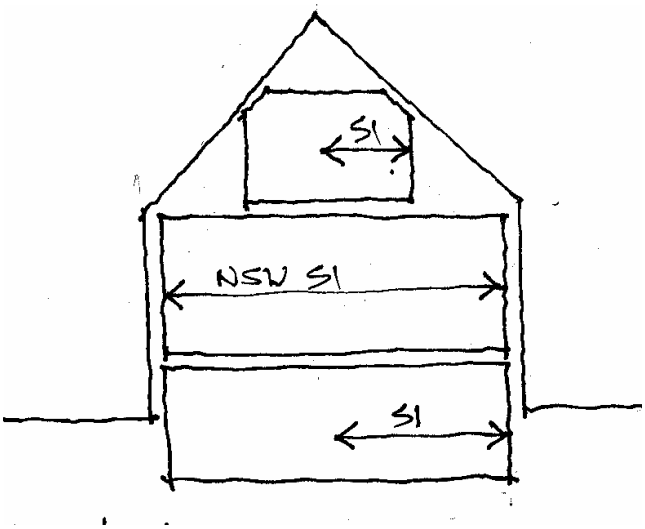
WLEP 95 vs. SI—

- WLEP 95 calculates—
  - That part of the area of balconies and verandahs which is in excess of 20m^2 per dwelling in the case of a building used or intended for use for residential purposes.
- SI does not calculate—
  - Terraces and balconies with outer walls less than 1.4 metres high.

Implications—

- Under the SI, no balcony area would be included in the GFA calculation, regardless of the size, provided the balcony did not have an outer wall of 1.4 metres
- In the Woollahra Municipality, it is not uncommon houses on larger sized lots, sloping topography and views, to be designed with large balconies. The SI definition would encourage housing with more and larger balconies.

Non habitable rooms/storage in a basement or attic—



WLEP 95 vs. SI—

- WLEP 95 calculates any other areas of the building where the height of those areas exceeds 1.5 metres above ground level.
- SI does not calculate any basement or storage areas, and non-habitable rooms in a basement or an attic.

Implications—

- Basements and attics can serve as storage areas, walk-in wardrobes or even bathrooms and laundries.
- For some houses, basement and attics could account for up to 50% of the area.

POLITICAL DONATIONS DECISION MAKING FLOWCHART FOR THE INFORMATION OF COUNCILLORS