



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 25 July 2005*

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

21 July 2005

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 – 25 July 2005

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 25 July 2005 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 July 2005	1
D2	Build Environment Principal Activity - 4th Quarter Management Plan Review – 827.G 04-07	2

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

R1	Draft Woollahra Local Environmental Plan 1995 (Amendment No. 57) – Five Ways Paddington – 1064.G Amendment 57	48
R2	Car Volume Pressures – 583.G	62

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 11 July 2005**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 11 July 2005 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 July 2005 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: D2 Delegated to Committee
Subject: **Build Environment Principal Activity – Fourth Quarterly Management Plan Review**
Author: Allan Coker – Director Planning and Development
File No: 827.G 04-07
Reason for Report: To review the status of services for the Management Plan principal activity of Built Environment for the three months ending 30 June 2005 and to provide an overview of achievements during the 2004/05 financial year.

Recommendation

A. That the status of projects for the Built Environment principal activity be noted.

1. 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 fourth quarterly review of Principal Activity No. 1 of the Management Plan, which is “Built Environment”. This principal activity has the following sub- activities:

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

Included as annexures to this report are:

1. The Built Environment Principal activity section of the Management Plan, with comments on the status of items in each sub-activity.
2. A table of uncompleted notices of motion relating to the Built Environment principle activity.

The report provides a commentary on variations, changes, exceptions and completed work during the third quarter of 2004-2005. It also provides an overview of our achievements for the 2004-2005 year. The purpose is to provide Councillors with an overview of the key influences and issues affecting the delivery of projects and services within the Built Environment Principal Activity. Uncompleted notices of motion which have a major impact on approved Management Plan core activities and projects have been carried over to the 2005-2008 Management Plan to facilitate the changing of priorities in an orderly and transparent manner.

2. Fourth Quarterly Review

Following is the commentary, by each sub-activity, on projects undertaken during the fourth quarter.

2.1 Environmental Planning

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

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

Work on the neighbourhood centres, which was commenced in the second quarter, continued during the fourth quarter. Further discussion on this project is provided in the section on Urban Design. No work has been carried out on the Edgecliff Town Centre DCP, the Rose Bay Car Parks master plan, the Car Parking DCP review or the Residential Strategy review. These projects have been rescheduled for 2005-2006.

There has been significant delay to our program during the year arising from non-management plan issues and other unforeseen actions and circumstances. In the first two quarters, the Department of Infrastructure, Planning and Natural Resources (DIPNR) released two discussion papers that dealt with planning issues of varied complexity. Detailed submissions to DIPNR requiring considerable research were prepared. In the fourth quarter, major amendments to the *Environmental Planning and Assessment Act 1979* were gazetted. A detailed report on the changes was submitted to the Urban Planning Committee. Other factors influencing the program included two rezoning applications and the resignation of the Strategic Heritage Officer in June.

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

Project	UPC	Reasons for priority
Report on the zoning of properties in the Five Ways, Paddington	11.4.05	Notice of Motion of 7.7.01
Report on the Built Environment Principal Activity for 2005-2008	26/4/05	For committee review prior to inclusion in the 2005-2008 Management Plan
Third quarterly report on Built Environment Principal Activity	9/5/05	Quarterly report as required by LGA.
Progress report on the Neighbourhood Centres Strategy, including minutes from 6 Working Party meetings Report on proposed amendment to Woollahra Heritage Conservation Area DCP Report on Rushcutters Bay Notices of Motion	30.5.05	Management Plan project Issues arising from DA 04/0502 for 76 Old South Head Road, Woollahra and the need to list the property as a significant item. Report responding to 5 Notices of Motion on Rushcutters Bay valley and the White City site.
13 Lawson Street, Paddington – request to amend Woollahra LEP 1995 to include an additional use	14.6.05	Unsolicited application submitted in November 2004 and amended on 14 February 2005.
Report on <i>Environmental and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005</i> and <i>SEPP (State Significant Development) 2005</i> Report on Draft Section 94 Contributions Plan 2002 (Amendment No.1)	27.6.05 27.6.05	Necessary information for Councillors on important proposed changes to <i>Environmental Planning and Assessment Act 1979</i> and the introduction of a new State planning policy. To adjust the plan to ensure that it applied to the all business zoned land in Double Bay.

2.2 Heritage Conservation

The focus of the Heritage Conservation sub-activity work program in the fourth quarter has been on the following two projects:

2.2.1 Contemporary heritage items

Clive Lucas, Stapleton and Partners completed their investigations of twenty-four potential contemporary heritage items. This included discussions with architects, site inspections and the preparation of draft inventory sheets. Because of the need for additional research on a number of properties the project will be carried over into the 2005-2006 year. It is expected that the report on this project will be presented in the second quarter of 2005-2006, subject to staff issues in the heritage section being resolved.

2.2.2 Paddington DCP review

During the quarter further work on the review was undertaken and redrafting of the document continued. A further meeting with the Paddington DCP Working Party occurred on 3 May 2005. The dates for completing the review and reporting to the Urban Planning Committee cannot be confirmed at this time. We will be in a better position to determine these times once staff levels in the heritage section have been resolved.

The two heritage officers dealing with development applications processed 130 referrals during the quarter. Completion times for these referrals have largely met required time frames.

2.3 Urban Design

The three key urban design projects in this sub-activity are the Neighbourhood Centres Strategy, Edgecliff Centre DCP review and the Rose Bay Car Parks. These projects are also contained within the Environmental Planning sub-activity because they will require specialist staff from both teams. Comments on these projects were provided above.

The neighbourhood centres project was delayed to some extent due to a staff vacancy and due to the need to allocate resources to undertake the research and report on the five (5) notices of motion relating to Rushcutters Bay and the White City site. A comprehensive report was presented on this matter to the Urban Planning Committee on 30.5.05.

During the quarter, the urban design team also focussed on the Neighbourhood Centres Strategy. Research was presented to meetings of the Strategic Working Party on 2 March, 3 February and 14 April 2005 and a progress report presented to the Urban Planning Committee also on 30.5.05. Peter Leyshon, a retail and planning strategist from Leyshon Consulting, was engaged to investigate six neighbourhood centres: Watsons Bay, Hopetoun Avenue, Rose Bay North, O'Sullivan Road and New South Head Road, Queen Street, and Ocean Street, Woollahra. Mr Leyshon made a presentation to the Working Party meeting on 14 April 2005.

The Urban Design team also provided comments on several large development proposals.

2.4 Development Control

2.4.1 Work volume and productivity

During the fourth quarter the Development Control Section received 540 applications (DAs, s96 modifications, s82A reviews and construction certificates [class 1 and 10 buildings]). This quarter saw a substantial increase in lodgements. A total of 488 applications were determined with a median processing time of 68 days.

2.4.2 Management Plan Projects

The projects identified in the management plan were aimed at achieving continuous improvement of development control services. These projects were generally completed or are ongoing. The only exception has been the post occupation audit of completed development, which has been carried over into the 2005-2008 Management Plan.

2.5 Compliance

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

- 45 construction certificates were determined, representing a market share of 26.01%
- 8 complying development certificates were issued, representing a market share of 88.89%
- Council was appointed as the Principal Certifying Authority (PCA) for 36 new construction projects, representing a market share of 26.67%
- 58 building certificates were issued
- 15 hoarding applications were determined
- 2 activity applications were determined
- 2 land and 4 strata applications were processed
- 56 new fire safety statements were registered
- 185 annual fire safety statements were submitted
- 12 fines were issued for failure to submit Annual Fire Safety Statement
- 6 Fire Safety Orders were issued
- 8 Fire Safety Orders were completed
- 81 Notices and Orders were issued for the rectification and unauthorised uses/works.

2.6 Management and Administration

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

3. Major Achievements during 2004-2005

3.1 Strategic Planning (including Environmental Planning, Heritage Planning and Urban Design)

- Gazettal of Woollahra LEP 1995 (Am.39) – Acid Sulfate Soils (11 March 2005)
- Digitised Woollahra LEP 1995 maps (land use, height, heritage conservation, acid sulfate soils) – available on website
- Review of Woollahra Exempt and Complying Development DCP completed. DCP approved on 13 December 2004. (Came into force 15 July 2005 with associated LEP amendment)
- Completion of Draft Woollahra LEP 1995 (Am.52) – Potential Heritage Items in Darling Point and Rose Bay and Heritage Conservation Area in Darling Point. Draft LEP referred to DIPNR for Minister's approval in December 2004. Yet to be gazetted.
- Detailed submissions on:

Draft Bondi Junction Strategic Plan

Draft Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2004 and
Draft Sydney Harbour Foreshores and Waterways Area Development Control Plan
Metropolitan Strategy Discussion Paper

Standard Provisions for Local Environmental Plans in NSW Discussion Paper

- Preparation and exhibition of Draft Woollahra LEP 1995 (Am.55) – Potential Heritage Items in Bellevue Hill and Rose Bay. This represents the last stage in the Tanner Study review.
- Review of land use zones in Five Ways Paddington. Preparation and exhibition of Draft Woollahra LEP 1995 (Am.57)
- Report on and lengthy discussion of planning history and options for the White City site.
- Introduction of procedures and requirements for assessing acid sulfate soils issues in DAs
- Review of procedures for producing and issuing certificates (s.149 planning, s.603 rates, outstanding orders and notices)
- Completion of Paddington DCP review (redrafting of DCP underway)
- Significant progress on development of the Neighbourhood Centres strategy.
- Completion of research for the contemporary heritage item project – consultant stage
- Completion of potential heritage item investigation in Watson Bay and Woollahra HCAs – consultant stage.

3.2 Development Control major achievements during 2004-2005

For the full year reporting period 1,576 applications (DAs, s96 modifications, s82A reviews and construction certificates [class 1 and 10 buildings]) were determined with a median determination time of 68 days. A total of 1598 applications were lodged. Staff conducted 79 pre-DA meetings with potential applicants providing advice on issues that must be addressed. As at 30 June 2005 423 applications remained undetermined. This equates to an active caseload of just over 17 applications per Assessment Officer. This is considered manageable within current assessment resources. From 1/1/2004 to 30 June 2005 we have had 76 class 1 appeals with a success rate exceeding 80%. We have had one s.56A appeal, which was won by Council. We have two active class 4 matters (one is near settlement) and one remains subject to a replacement development application. We have not had any successful class 4 actions against Council in the last 5 years.

Our process of continuous improvement in the Development Control Section over the full year reporting period has included:

3.2.1 Staff development - the quality of assessments and reports depends on the skills of our officers

- (a) assessment officer training sessions with Jeremy Bingham, Senior Partner of Deacons, Michael Connell, General Counsel and Jane Hewitt Partner of Michell Sillar.
- (b) monthly department meetings including briefings by state government authorities, internal and external experts on contemporary issues affecting development assessment and to promote consistent assessment and reporting of development applications.
- (c) professional development training especially with respect to the application of Land & Environment Court Planning Principles and court practice directions.
- (d) review of class 1 and class 4 judgements to promote better application of development standards and controls directly relevant to Woollahra eg. [Billgate Pty Limited v Woollahra Municipal Council And Anor \[2005\] NSWLEC 61](#) and the expanding the list of Court planning principles.

- (e) promoting staff with appropriate experience to represent Council in planning, building, environmental health and heritage evidence in class 1 and class 4 matters before the Court, thus reducing dependence on consultants.

3.2.2 *Performance report - ongoing performance depends on reporting performance of the department, teams and individual staff*

- (a) Detailed performance reports for the Development Control Section, with statistics, submitted to the Development Control Committee on 21 January 2005,
- (b) Improved internal process performance reports to identify and address bottle necks in our processes and the performance of internal and external referral bodies,
- (c) Improved weekly performance reporting to managers and team leaders on the performance of individual staff
- (d) Performance reporting to the Department of Local Government
- (e) Statutory reporting to the Australia Bureau of Statistics

3.2.3 *Ongoing system maintenance - the quality and quantity of assessments and determinations depends on the quality of our systems*

- (a) detailed maintenance of over 300 template documents including letters, notices and reports to reflect changes in legislative, environmental planning instruments, development controls, the Building code of Australia and Australian Standards,
- (b) full review of DA guide and detailed annexures,
- (c) full review of all forms,
- (d) publication of updated guide and forms to website,
- (e) detailed relational database maintenance linked to mapping systems underpinning assessment processes,
- (f) implementation of a new format for Notices of Determination to provide applicants with significantly improved advice about what happens after consent has been issued.
- (g) continued drafting of new standard conditions (this very large project is nearing completion),
- (h) ongoing development of procedures database, particularly those procedures relating to assessing non-compliances,
- (i) implementation of legal advices database,
- (j) ongoing maintenance of legal case management database.

3.2.4 *Councillor briefings - the quality of decisions depends on the competency of councillors*

- (a) the Mayor procured a personal speech from the Chief Justice of the Land & Environment Court.
- (b) we held a Councillor workshop to review the way we deal with non-compliance and gain councillor guidance on what is expected from us in assessing and reporting on applications before Council (we wish to hold more to finalise a new report format acceptable to Councillors).
- (c) some Councillors attended conferences and seminars (we will continue to encourage this).

3.2.5 *Mail Out to top 200 Applicants - Regular Applicants need to be kept informed*

In early 2005 the first letter went out to our top 200 professional applicants informing them of important changes in the development assessment process including increased complexities in potentially contaminated land, acid sulphate soils, heritage, stormwater drainage, and administrative changes at Council.

3.3 Compliance major achievements during 2004-2005

The Compliance Section provided the following core services for the year 1 July 2004 to 30 June 2005:

- 218 construction certificates were determined, representing a market share of 30.28%;
- 16 complying development certificates were issued, with a median turnaround time of 12 days. The number of applications determined represented a market share of 76.19%;
- Council was appointed as the Principal Certifying Authority (PCA) for 121 new construction projects, representing a market share of 22%;
- 240 building certificates were issued with a median turnaround time of 38 days. The median turnaround figure is affected by a small number of certificates which took longer to process due the need to remedy authorised works;
- 68 hoarding applications were determined with a median turnaround time of 14 days;
- 4 activity applications were determined;
- 19 land and 19 strata applications were processed;
- 417 new fire safety statements were registered, in less than 7 days;
- 565 annual fire safety statements were submitted and registered, in less than 7 days;
- 64 fines were issued for failure to submit Annual Fire Safety Statement
- 26 Fire Safety Orders were issued
- 25 Fire Safety Orders were completed
- 262 Notices and Orders were issued for the rectification and unauthorised uses/works.

The above results reflect the following major achievements;

- We have maintained our market share for the determination of construction certificates and have a majority market share for complying development certificates, well above the targeted figure of 20%
- We have significantly exceeded our target number of new fire safety statements registered for the year by 89.5%

5. Conclusion

It is pleasing to report that the delivery of all core activities within the Built Environment Principal Activity has been satisfactory. However, it is apparent that key strategic planning projects within the sub-activities of environmental planning, heritage planning and urban design have not been completed within the timeframes set out in the Management Plan. This has been largely due to other priorities, including Notices of Motion, that emerged during the year, to staff vacancies and the considerable period of time it took to recruit a suitable urban design planner. Nevertheless, very good progress is being made on the Neighbourhood Centres strategy and the review of the Paddington DCP, which has been directed by the Paddington DCP working party. Other projects, such as the review of potential heritage items, were delayed due to Councillor and resident concerns expressed during formal committee consideration. In this case our report was deferred on two occasions for further notification and information.

Despite the non-completion of a number of Management Plan projects there is an impressive list of achievements set out in section 3.1 of this report. The overall performance of the Strategic Planning section needs to be considered in this context.

The development control section focussed on the delivery of its core development assessment services. It is pleasing to note that the median processing time of 68 days for applications more than met the Management Plan target of 80 days. It is also apparent from the list of initiatives outlined in section 3.2 that there has been a continuing focus on improving services. Updating our DA Guide, our new Notice of Determination, the review of our forms and templates as well as our new procedures provides strong evidence of our commitment to this goal. A particular concern that we attempted to address related to Councillor concerns about how we deal with non-compliances. In response to this important issue, and following a Councillor workshop, new procedures were developed and are currently being implemented. Other factors affecting development control services, not only at Woollahra, but across the state relate to increased complexity. This has been brought about by:

- Increased community scrutiny and expectations of assessment reports
- The need to address the planning principles published by the Land and Environment Court (some of which require detailed consideration)
- The need to more thoroughly address non-compliances
- New procedures relating to contaminated land and potential acid sulfate soils.

In the context of these pressures the workloads and resources of the development control section will need to be carefully monitored since a return to the work volumes experienced in 2003-2004 is likely to present difficulties in terms of maintaining acceptable processing times and workloads for staff.

The Compliance Section also focussed on the delivery of its core services. It is pleasing to note that our market share target of 30% for construction certificates was achieved and we obtained a majority market share for complying development certificates, well above our target of 20%. While the number of applications was below our annual estimate, the processing of these applications generally achieved our targeted objectives.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Brett Daintry
Manager Development Control

Tim Tuxford
Manager Compliance

Annexures

1. Status Report, 3rd Quarterly Review, Built Environment Principal Activity.
2. Notices of motion update report

Item No: R1 Recommendation to Council
Subject: **Draft Woollahra Local Environmental Plan 1995 (Amendment No. 57) - Five Ways, Paddington**
Author: George Losonci, Senior Strategic Planner
File No: 1064.G Amendment 57
Reason for Report: To report on the public exhibition of Draft Woollahra Local Environmental Plan 1995 (Amendment No. 57) - which proposes to rezone part of No. 243 Glenmore Road, Paddington (known as St George's Anglican Church) from 3(c) Business Neighbourhood to 5 Special Uses - Existing (Church) and to rezone Nos. 6 and 8 Heeley Street, Paddington from 2(a) Residential "A" to 3(c) Business Neighbourhood.

Recommendation:

THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 57), as exhibited and as contained in **Annexure 1** of the report to the Urban Planning Committee meeting of 25 July 2005, be referred to the Department of Infrastructure, Planning and Natural Resources for approval by the Minister and for gazettal.

1.0 BACKGROUND

In July 2001, Council adopted a notice of motion requiring Council officers to examine the zoning of certain properties in Five Ways, Paddington with a view to rationalising any anomalies. An analysis of existing zoning anomalies in the commercial centre of Five Ways was undertaken and a presentation of those anomalies was made to Council's Strategic Planning Working Party on 17 March 2005.

On 11 April 2005, Council's Urban Planning Committee considered a report regarding the outstanding notice of motion and the subsequent analysis.

Council, at its meeting of 26 April 2005, resolved the following:

THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995 to:

rezone part of No. 243 Glenmore Road, Paddington (being part of Lot 5 DP 111237) from 3(c) Business Neighbourhood to 5 Special Uses – Existing (Church) and remove the density provision which permits a maximum floor space ratio of 1:1; and rezone Nos. 6 and 8 Heeley Street, Paddington (being Lots 1 and 2, DP 503111) from 2(a) Residential 'A' to 3(c) Business Neighbourhood and apply a maximum floor space ratio of 1:1.

2.0 PREPARATION OF DRAFT WOOLLAHRA LEP 1995 (AMENDMENT NO. 57)

After the Council's decision of 26 April 2005, preparation of the Draft LEP commenced in the manner set out in the Environmental Planning and Assessment Act 1979 (the Act) and the Environmental Planning and Assessment Regulation 2000 (the Regulation). The following statutory steps were undertaken during the plan preparation process.

2.1 Section 54(4) notification to DIPNR

Notification to the Department of Infrastructure, Planning and Natural Resources [DIPNR] about Council's decision to prepare the Draft LEP was carried out in the manner required by section 54(4) of the Act and clause 9 of the Regulation.

No direction has been received from the Director-General requiring the Council to prepare a local environmental study relating to the Draft LEP.

2.2 Section 62 consultation

As part of the draft LEP process, section 62 of the Act requires that the Council carry out consultation with those public authorities and bodies that, in the Council's opinion, will or may be affected by the draft LEP, and with the adjoining council, where the draft LEP applies to land on a local government boundary.

Notification of the Draft LEP and a copy of the report to Council's Urban Planning Committee of 11 April 2005, were sent to the NSW Heritage Office.

In a response dated 14 July 2005, the NSW Heritage Office raised no objection to the aims and content of the Draft LEP.

2.3 Section 64 notification

DIPNR was informed in the required manner that the consultation had occurred. A copy of the Draft LEP was included in the correspondence.

2.4 Section 65 certificate

A certificate under section 65 of the Act enabling the Draft LEP to be exhibited was issued under delegation from the Director-General.

2.5 Consideration of SEPPs, REPs and Ministerial directions

2.5.1 SEPPs and REPs

In the course of preparing the Draft LEP consideration has been given to relevant State environmental planning policies (SEPPs) and regional environmental plans (REPs). The proposed amendment is not inconsistent with the provisions or objectives of any applicable SEPP or REP.

2.5.2 Section 117 directions

Section 117 of the Act provides that the Minister may give directions to a public authority or a person who has functions under the Act or under an environmental planning instrument. Through section 117, the Minister may direct a council to carry out the council's functions in preparing a draft LEP in accordance with principles set out in the direction. Under section 117, the Minister may also direct a council to include provisions in a draft LEP that will achieve or give effect to principles, aims, objectives or policies specified in the direction. In all instances the principles, aims, objectives and policies must be consistent with the Act. No direction has been issued to Woollahra Council specifically for the Draft LEP.

Since the inception of the Act a total of twenty-nine general directions and twenty-eight specific directions have been issued for the preparation of draft LEPs. No directions have been issued specifically for the preparation of the Draft LEP.

In the course of preparing the Draft LEP consideration has been given to section 117 directions as required by the Act. There are no specific directions applicable to the Draft LEP.

3.0 PUBLIC EXHIBITION PROCESS

3.1 Exhibition period and location

The Draft LEP was exhibited in the manner required by the Act and the Regulation. The exhibition occurred at the Council's Customer Services area over the period Wednesday 8 June 2005 to Friday, 8 July 2005. The content of the exhibited Draft LEP is attached as **Annexure 1**.

3.2 Advertising and notification

Details of the exhibition were notified in the Wentworth Courier editions of 8 June, 15 June, 22 June, 29 June and 6 July 2005.

The owner/s of the properties affected by the Draft LEP and immediately adjoining and surrounding property owners were informed of Council's decision and invited to participate in the public consultation process associated with the exhibition of the Draft LEP.

3.3 Summary of submissions

Following the exhibition of the Draft LEP, two submissions were received from neighbouring resident/owners of Nos. 34 and 38 Duxford Street, Paddington (**Annexure 2**). Neither of these submissions have resulted in an alteration to the Draft LEP.

3.3.1 Submission from No. 34 Duxford Street

The submission from No. 34 Duxford Street raised the following issues:

- (i) **No. 6 Heeley Street has always been residential and there is no motive for this change.**

Response

It is correct that the site has no history of a non-residential use. However, the proposed rezoning of Nos. 6 and 8 Heeley Street corrects an existing anomaly which has been identified from Council's previous planning legislation (Woollahra LEP No. 24 – gazetted May 1985). It is clear that due to a mapping error the sites were incorrectly zoned Residential 2(a) under Woollahra LEP 1995. They had previously been zoned 3(c) Business Neighbourhood. It is also clear from the land use table of Woollahra LEP 1995 that the sites are intended to be zoned 3(c) Business Neighbourhood under Woollahra LEP 1995.

- (ii) **The heritage value of Paddington lies in its residential properties. Shop fronts and business signs do not enhance its beauty. The best way to maintain the character of Paddington is to keep it residential, but the changes to zoning in Glenmore Road are already turning the Five Ways area into a shopping precinct. Heeley Street should not go the same way.**

Response

The heritage value of Paddington does not solely lie in its residential building typology. Pages 3 and 15 of the Paddington Development Control Plan (DCP) states:

Paddington is a unique urban area of outstanding national heritage significance. The special character of Paddington is derived from its historical development and associations.... evident in its interrelationship of buildings, spaces, topography, landscape settings and land uses. (p. 3)

A perceived homogeneity of a Victorian era terrace built form which on close examination is made up of a diversity of building types reflecting the historical development of Paddington. These building types include... shops and commercial buildings, forming continuous street facades in large groups along Oxford Street and Five Ways, or located through the residential areas on street corners. (p. 15)

Shop fronts and businesses and the mix of land uses, including residential contribute to the character of Paddington. The mix of land uses combined with the architectural significance, landscape and street pattern contribute to the character of the locality.

A neighbourhood centres study is currently being undertaken by Council's Urban Design team, with one of its primary aims being the preparation of a DCP for all the existing neighbourhood commercial precincts throughout Woollahra (including Five Ways Paddington). The DCP will contain provisions requiring the retention of the existing predominant architecture and character of those buildings with heritage significance, despite their use. These controls will reinforce the current controls within the Paddington DCP.

Under the provisions of the City of Sydney Planning Scheme Ordinance (PSO), the property at No. 257 Glenmore Road was zoned 3(b) Business Neighbourhood and was subsequently rezoned to Residential 2(a) under the provisions of Woollahra LEP 24. Although it is still zoned Residential 2(a), Woollahra LEP 1995 (Amendment No. 40) permitted the broadening of permissible uses on the ground floor of this site to include a café used in conjunction with, but subordinate to, the existing bakery use.

Further, a detailed examination of the previous and existing zoning patterns within the Five Ways commercial centre was undertaken and revealed that there have not been any other zoning changes along Glenmore Road, Five Ways.

As previously stated, there is a history of a business neighbourhood zone applying to Nos. 6 and 8 Heeley Street. The proposed rezoning of these sites corrects an anomaly. The Five Ways commercial precinct is not being extended.

- (iii) **Any change to existing usage or zoning will signal to developers that Council is relaxing the rules, and the residential character of Paddington will be at risk.**

Response

The purpose of the proposed rezoning is to correct planning anomalies. The rezonings respond to Council's notice of motion, not to a request from a property owner.

The controls which will apply to the sites, should a development application be lodged, will be enforced and aim to provide for development of a scale and type compatible with the amenity of the surrounding residential area.

- (iv) **It is important not to set a precedent that property can be rezoned because someone has set up a business there; rewarding improper behaviour is bad government.**

Response

The rezonings proposed by this Draft LEP have not been initiated because of existing commercial activity. The review of the zones in Five Ways arises from a notice of motion, which required Council officers to examine the zoning of properties in Five Ways with a view to removing anomalies.

The existing commercial business at No. 8 Heeley Street was originally granted consent under a planning regime when the site was zoned 3(c) Business Neighbourhood. As previously stated, a land use zone mapping anomaly occurred with Nos. 6 and 8 Heeley Street during the transition between Woollahra LEP 24 and Woollahra LEP 1995.

- (v) **Any increase in the number of businesses in the area will impinge on the amenity for the residents. There are already many restaurants in the area, and parking is a problem for residents... Further, noise from restaurant and hotel patrons is already a nuisance.**

Response

Issues such as available car parking and noise arising from the future uses of these sites will be assessed together with other environmental issues if a development application is lodged with Council.

It should be noted, however, that development consent has been granted for a non-residential use at No. 8 Heeley Street (a coffee-lounge), which adjoins a residential property. The use is required to operate under the terms and conditions of that consent. Any changes or intensification of this use will be assessed against Council's controls, and adjoining property owners will have an opportunity to make a submission at that time. Any issues raised will be considered in the context of the development application at that time.

- (vi) **The operators of the restaurant at No. 8 Heeley Street have regularly contravened zoning and established rights, for example by using the backyard for dining. If the Council changes zoning then there is absolutely no guarantee that they will respect any future legal obligations that may accompany the rezoning.**

Response

No. 8 Heeley Street was approved as a coffee-lounge under DA 18/1970. This use has approval for footpath dining under DA 327/1997 comprising two tables and two chairs. Approval was given under DA 873/1999 to increase the footpath dining to 3 tables and 6 chairs. This use was granted on 27 March 2000, and was limited to a 12-month trial period.

On 6 November 2003, a 12-month conditional consent was granted to DA 663/2003, which approved additional footpath seating for the purposes of alfresco dining in association with the existing use. Council has subsequently received an application seeking approval to make this seating permanent. This application is still being assessed by Council officers.

The proposed rezoning of the site does not automatically allow the rear yard of the site to be used for dining purposes. There has been no consent granted by Council for the use of the rear courtyard for seating/dining purposes. Any future use of the rear courtyard used in association with the existing café would require the lodgement of an application to Council. Any non-compliance with current conditions of consent will be forwarded to Council's Compliance Team for enforcement of the existing consent.

3.3.2 Submission from No. 38 Duxford Street

The submission from No. 38 Duxford Street raised the following additional issue:

The Council must recognise the difficulties residents already endure without further creating more problems if they are to retain the character of the area.

Response

It is not clear from the submission what "difficulties" residents already endure. However, the submission makes reference to parking and noise problems and the emission of odours from existing restaurants.

As stated previously, issues such as car parking, noise and other environmental issues will be assessed if a development application is lodged with Council.

The proposed rezoning would not alter the character of the area. The character elements of Paddington described in the Paddington DCP (p. 14) are, in part:

A land use character which is predominantly residential but which also contains a mix of shops and hotels, many of which are located on corners, some commercial buildings and a few remaining light industrial and warehouse style buildings.

Future building alterations and additions will be assessed under current planning provisions which include the controls within the Paddington DCP. The DCP includes controls for the retention of building facades. Specifically, section 5.1.1 lists a number of objectives for street frontages, including the retention of the original street front elevations, yards and fences. Section 5.3.2 refers to the development of multi-storey terrace housing and contains similar objectives and controls regarding the retention of existing street front facades.

4.0 STATUTORY PROCESSES

Prior to a draft LEP being approved by the Minister Assisting the Minister for Infrastructure and Planning, an opinion must be obtained from the Parliamentary Counsel that the draft LEP can be legally made. Comments from the Parliamentary Counsel usually relate to matters of legal drafting.

Following receipt of Parliamentary Counsel's opinion, the Draft LEP will be referred to DIPNR for the Minister's approval and then gazettal. The Draft LEP will come into effect when a notice is placed in the Government Gazette.

5.0 CONCLUSION

The purpose of the Draft LEP is to overcome zoning anomalies that exist under the provisions of Woollahra LEP 1995. The Draft LEP is consistent with the provisions of relevant State environmental planning policies and local planning objectives. Further, the proposal is consistent with Ministerial Directions under s.117(2) of the Act.

Future land use issues which may affect the character or amenity of the surrounding area will be assessed in accordance with Council's controls. Consideration of any objections by neighbouring property owners with respect to future land use issues will be addressed when a development application has been received.

Preparation of the Draft LEP has been undertaken in the manner required by the Act and the Regulation. No alterations to the Draft LEP are recommended. Consequently, it is recommended that the Draft LEP be forwarded to DIPNR for gazettal subject to any legal drafting alterations requested by Parliamentary Counsel.

George Losonci
Senior Strategic Planner

Anita Lakeland
Team Leader – Strategic Planning

Annexures

- 1.** Draft Woollahra LEP 1995 (Amendment No. 57).
- 2.** Submissions from neighbouring residents.

Item No: R2 Recommendation to Council
Subject: Car Volume Pressures
Author: Lorna Oliver, Traffic and Transport Planner
File No: 583.G
Reason for Report: Council Notice of Motion requesting a report

Recommendation:

- A. That Council further explores connection between the Cross-City Tunnel and the Eastern Distributor for vehicles travelling to and from Moore Park Road with the Roads and Traffic Authority (RTA) and Cross-City Motorways (CCM).
- B. That a report on the traffic impacts of the Cross-City Tunnel be submitted to the Urban Planning Committee after the tunnel has been operational for six months.
- C. That a further report be submitted following analysis of the data proposed to be obtained from the Transport Data Centre, identifying proposals of mutual benefit for discussion with neighbouring councils, taking into account the effect of the Cross-City Tunnel on local roads and public transport.
- D. That a submission be prepared for the reclassification of the South Dowling Street / Barcom Avenue / Boundary Street corridor if it is deemed warranted after the assessment of the impact of the Cross-City Tunnel.

Background:

Council, at its meeting of 14 February 2005, adopted the following Notice of Motion:

“In order to ease the private car volume pressures within the Woollahra Municipality, including on Ocean St, New South Head Road, Hargrave St and other congested peak hour and through traffic locations, a report be brought to the Urban & Planning Committee with the view that:

1. *This Council actively promote with the relevant NSW Government departments and the RTA:*
 - a. *The urgent establishment of a new east west connector road system between Oxford Street/Moore Park Road and Western Sydney, possibly going under Surry Hills/Central station area.*
 - b. *The urgent upgrading of public transport options including: heavy and light rail options beyond Bondi Junction; improvements to bus service frequency; and the examination of an additional Ferry service stopping at Rushcutters Bay/David Martin Reserve.*
 - c. *The reclassification of the South Dowling / Barcom / Boundary Street corridor as a local road route to reflect the prevailing residential use.*
2. *That proposals be developed to enable Woollahra Council work with its neighbouring councils (Waverley, Randwick and City of Sydney) to advocate and action these critical long term infrastructure and integrated transport outcomes with the RTA and other relevant NSW State Government departments.”*

The RTA has advised that the Cross-City Tunnel (CCT) is scheduled to open at the end of July 2005. When this occurs, it will become the major east-west connector route between the eastern suburbs and western Sydney (via Rushcutters Bay & Darling Harbour) and will significantly transform traffic patterns throughout the eastern suburbs.

Council's resolution stems from concern over the likely impact of the tunnel on traffic patterns within the Woollahra Municipality. It is considered that the opening of this tunnel will substantially increase traffic volumes in north-south and south-north directions throughout the western half of the Municipality. This will severely impact on all roads forming part of a north-south through route (eg Ocean Street, Glenmore Road / Neild Avenue, and the South Dowling Street / Barcom Avenue / Boundary Street corridor).

Issues

Council's resolution relates to three linked matters, namely, the general impact of the Cross-City Tunnel, improvements to public transport within the Municipality and the downgrading of the Boundary Street / Barcom Avenue / South Dowling Street route. Whilst all three matters pertain to the central issue of the opening of the tunnel, these three items will be addressed independently for clarity.

1. Cross-City Tunnel

"The urgent establishment of a new east west connector road system between Oxford Street/Moore Park Road and Western Sydney, possibly going under Surry Hills/Central station area."

The establishment of a road system such as this would be a duplication of the Cross-City Tunnel that is currently scheduled to open at the end of July 2005. The RTA does not generally support road system duplication, therefore the establishment of a road system of this nature is highly unlikely to proceed. Additionally, should northbound vehicles be able to access the Cross-City Tunnel after entering the Eastern Distributor at Drivers' Triangle (Moore Park Road) and southbound vehicles entering the Eastern Distributor from the Cross-City Tunnel be able to access the Moore Park Road and Anzac Parade exits, this system would be unnecessary.

As there is no toll for southbound travel on the Eastern Distributor, vehicles entering the Eastern Distributor from the Cross-City Tunnel would be required to pay the toll for use of the Cross-City Tunnel only. Northbound vehicles accessing the Cross-City Tunnel from the Eastern Distributor will be required to pay both tolls as vehicles exiting the Eastern Distributor at William Street exit after the toll plaza at Palmer Street before entering the Cross-City Tunnel.

Confirmation has been sought from the RTA and Cross-City Motorways (CCM) that the manoeuvre from the Eastern Distributor to the Cross-City Tunnel is physically possible for vehicles entering at Drivers' Triangle and also in relation to the tolling arrangements. Verbal advice has been received from CCM that the manoeuvre is physically possible but requires the crossing of an unbroken white line and that vehicles taking this route would be required to pay both tolls. Written confirmation is anticipated in the near future. The RTA has advised that vehicles are not permitted to change lanes or cross over an unbroken lane line. Confirmation has also been sought in relation to the corresponding manoeuvre for southbound vehicles.

Council has repeatedly expressed its concerns to the RTA about the potential impact of the tunnel on this Municipality and has outlined options for avoiding and/or mitigating these impacts. This has taken the form of extensive correspondence over at least five years and two submissions to the RTA during community consultation. These submissions are attached to this report as Annexures. Residents and resident groups, including the Darling Point Society, Paddington Society and Ocean Street Not Ocean Freeway (OSNOF), have also expressed concern. These groups have also made submissions to the RTA during community consultation. In addition, the office of Clover Moore has made two submissions to the RTA during community consultation.

These representations have not been successful in preventing construction of the tunnel. Neither, to date, have they been successful in either the construction of an entrance to the Cross City Tunnel at Drivers' Triangle or in removing the additional toll for access to the tunnel from the Eastern Distributor. However, there have been some concessions, eg when NSW Planning granted approval for the project it was subject to over 250 conditions. Many of these conditions relate to issues raised in the submissions mentioned in the previous paragraph. Initially, the RTA determined that Woollahra Council was not to be represented on the King's Cross Community Liaison Group, despite numerous requests, as it was considered to be remote from the construction site. This was remedied after the same request was also made by at least one resident group.

Local traffic conditions are expected to worsen upon opening of the tunnel. If this proves correct, the use of before-and-after traffic data will be vital in Council's lobbying of the RTA to effect change. To this aim, Council has already conducted traffic counts at numerous strategic locations throughout the Municipality thereby establishing pre-tunnel traffic conditions. Further traffic counts will be conducted over coming months to measure post-tunnel traffic volumes and to measure the change to traffic flows within the Municipal boundaries.

It is proposed that Council continue discussions with the RTA and CCM in relation to access between the Cross-City Tunnel and the Eastern Distributor for vehicles travelling to and from Drivers' Triangle, including the removal of the additional toll for northbound vehicles. A further report will be submitted to the Urban Planning Committee six months after the opening of the Cross-City Tunnel detailing the traffic impact on this Municipality and outlining progress in these discussions. New traffic counts will not reliably mirror behaviour until traffic has adapted to the new conditions. This is expected to take approximately three months. Following this adaptation, traffic counts will be obtained and analysed taking a further two months. As this information will be used in ongoing negotiations, the time taken for the RTA and CCM to respond also needs to be considered.

2. Public Transport

"The urgent upgrading of public transport options including: heavy and light rail options beyond Bondi Junction; improvements to bus service frequency; and the examination of an additional Ferry service stopping at Rushcutters Bay/David Martin Reserve."

"That proposals be developed to enable Woollahra Council work with its neighbouring councils (Waverley, Randwick and City of Sydney) to advocate and action these critical long term infrastructure and integrated transport outcomes with the RTA and other relevant NSW State Government departments."

The Ministry of Transport (MoT) is responsible for the administration of bus, ferry & train public transport services. To adjust existing routes or to investigate additional routes, Council is required to make a submission to the MoT with supporting documentation, including an assessment of the demand for the service, cost/benefit analysis and an assessment of the likely impacts on other modes of transport.

In examining or developing new or alternate public transport proposals, Council is required to show that a demand exists for this service. To this end, it is proposed to source journey to work data including origin, destination and mode of transport from the Department of Infrastructure Planning and Natural Resources' (DIPNR) Transport Data Centre. DIPNR can provide journey to work data and household travel data that will assist in investigating the merits of an additional ferry service as well as light/heavy rail options and bus operations. This data will cost approximately \$1,200 and will be funded from the operational budget.

There are additional matters to be addressed in the examination of a potential ferry service at Rushcutters Bay. These include whether this is to be a new route or an additional stop on an existing route, wharf access and suitability, construction/refurbishment costs and maintenance arrangements. It is considered that any proposal to provide new ferry facilities should be borne solely by the state government and not by Council.

In order to develop proposals for Woollahra Council to work with its neighbouring councils in the area of long-term infrastructure and integrated transport, areas of mutual benefit and concern need to be identified. This will be done through targeted discussions with neighbouring councils after the analysis of the DIPNR transport data has led to the identification of these areas. Matters relating directly to the RTA would be best approached following assessment of the impact of the Cross-City Tunnel and identification of strategic areas of mutual interest to neighbouring councils.

3. Road Classification

“The reclassification of the South Dowling/Barcom/Boundary Street corridor as a local road route to reflect the prevailing residential use.”

Under the RTA Road Classification System the South Dowling Street / Barcom Avenue / Boundary Street corridor is categorised as a regional road/route.

The RTA is currently undertaking a review of road classifications and Council can make a submission to the RTA panel for consideration of this proposal. Verbal indication has been given that, as the CCT is likely to impact on these roads, this submission would most likely be considered separately from the review process. Road Classification submissions require Council to show justification for the downgrading of this route to that of local road status. This submission would require supporting data (eg historical and current traffic counts, local zoning, and resident support), as well as a recommendation for an alternate route to replace the function of the South Dowling Street / Barcom Avenue / Boundary Street corridor. The previously mentioned origin/destination data from DIPNR will assist Council in formulation of this submission.

It is likely that the opening of the Cross-City Tunnel will have a significant impact on this route and these effects should be included in Council's submission to the RTA. It is, therefore, recommended that an application be prepared to review the classification of these roads if it is deemed necessary after the assessment of the impact of the Cross-City Tunnel.

Identification of Income & Expenditure:

As mentioned previously, the cost of obtaining the report from DIPNR's Transport Data Centre is approximately \$1,200 and can be funded from the operational budget.

Conclusion:

It is expected that there will be significant impacts from the Cross-City Tunnel on traffic within the Municipality. The three matters raised by Council's resolution will be affected by the opening of the tunnel and should, therefore, be considered after the tunnel has opened and has been operational for a short period. In order to access the impact of the tunnel, Council has collected, and will continue to collect, data in order to develop and validate proposals to the RTA and MoT.

Lorna Oliver
Traffic and Transport Planner

Warwick Hatton
Director Technical Services

Annexures:

1. Council Submission to the RTA in response to the Environmental Impact Statement for the proposed Cross-City Tunnel
2. Council Submission to the RTA in response to the Supplementary Environmental Impact Statement for the modified proposed Cross-City Tunnel