



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday 13 October 2008*

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

9 October 2008

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio
Councillors Toni Zeltzer (Chair)
Sean Carmichael
Lucienne Edelman
Nicola Grieve
Chris Howe
David Shoebridge
Malcolm Young

Dear Councillors

Urban Planning Committee Meeting – 13 October 2008

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 13 October 2008 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	Election of Deputy Chairperson	1
D2	Confirmation of Minutes of Meeting held on 8 September 2008	2
D3	Recording of Voting on Planning Matters – 1191.G	3

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

R1	NSW Planning System – NSW Government Reforms – 696.G	6
R2	New Principal Local Environmental Plan for Woollahra – 1064.G Principal LEP Draft Woollahra Plan	11

Item No: D1 Delegated to Committee
Subject: **Election of Deputy Chairperson**
Author: Les Windle - Manager Governance
File No:
Reason for Report: For the Committee to elect a Deputy Chairperson

Recommendation:

That Councillor _____ be elected as Deputy Chairperson of the Urban Planning Committee for the ensuing twelve months.

Background:

It has been the practice for the Committee to elect a Deputy Chairperson who can chair the meeting in the absence of the chairperson.

Les Windle
Manager Governance

ANNEXURES:

Nil

Item No: D2 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 8 September 2008**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 8 September 2008 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 8 September 2008 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: D3 Delegated to Committee
Subject: **Recording of Voting on Planning Matters**
Author: Les Windle - Manager Governance
File No: 1191.G
Reason for Report: To advise Councillors of new legislative requirements

Recommendation:

That the information be noted.

Background:

The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 was passed by both houses of the NSW Parliament on 30 June 2008 and became effective from 1 October 2008. This Act amends the Environmental Planning and Assessment Act and the Local Government Act.

The Environmental Planning and Assessment Act is amended in relation to the disclosure of political donations and gifts. The Local Government Act is amended in relation to political donation disclosures and the recording of voting on planning matters.

This report relates to the recording of the voting on planning matter requirements. A separate report concerning the political donation requirements has been submitted to the Corporate and Works Committee.

Proposal:

The Local Government Act has been amended by inserting new Section 375A which states:

375A Recording of voting on planning matters

- (1) *In this section, planning decision means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979:
 - (a) *including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but*
 - (b) *not including the making of an order under Division 2A of Part 6 of that Act.**
- (2) *The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.*
- (3) *For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee.*
- (4) *Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.*
- (5) *This section extends to a meeting that is closed to the public.*

Council is now required, in relation to planning decisions, to record by way of a Division the name of each Councillor who voted for the decision and each Councillor who voted, or is taken to have voted, against the decision at Council and Committee Meetings.

This change will mainly affect the recording of minutes at Development Control Committee, Urban Planning Committee, Strategic and Corporate Committee and Council meetings.

The legislation defines a planning decision as a decision made in the exercise of a function of the Council under the Environmental Planning and Assessment Act including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act.

The legislation however does not define the meaning of a “decision” and it was unclear whether a resolution of Council or a Committee in instances such as deferring a planning matter for a site inspection or for further information constituted a decision that required the recording of Councillor’s votes. Similarly it was unclear whether a vote on an amendment moved at a meeting was a matter that required the recording of Councillors names when a further vote on a motion was still required to arrive at the final decision of the Council or Committee.

In this regard advice was sought from the Department of Local Government. The Department was not able to provide definitive advice on the matter but advised that the intent of the legislation is to link political donations to the determinative decisions made by Councillors on planning matters. The Department indicated that it would be reasonable to take the view that decisions such as deferring a matter or voting on amendments could be considered as process decisions and not determinative decisions and therefore Council could decide to not record the Councillor votes for these types of process decisions.

In view of this advice it is proposed to only record Councillor voting details on planning matters at Council and Committee meetings for the resolution or Committee recommendation in relation to “R” items that would give a determinative resolution, or recommendation to Council, for approval or refusal of the matter.

Implementation of this process will require the Committee Chairperson or Mayor, when a determinative decision is reached, to advise the Councillors that a Division will be recorded on the decision and request the Councillors to raise their arm to indicate the votes for the motion and then the votes against the motion. The voting record will be recorded in the meeting minutes in the following manner:

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor A

Councillor B

Councillor C

Etc

x/y

Council is also required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

The register is to include:

- A description or identifier of the development or planning matter considered by Council,
- The decision in relation to the matter or a reference to the minutes of the meeting where the decision is recorded,
- The names of the councillors who supported the decision,
- The names of the councillors who opposed (or are taken to have opposed) the decision.

Council will maintain a register and have the register available on the Council's web page.

Consultation:

The changes required by the new legislation will need to be included in Council's Code of Meeting Practice. As the change is a legislative requirement Council will not be required to undertake the usual public consultation process and the Code of Meeting Practice will automatically be updated to include these changes.

Identification of Income & Expenditure:

There is no additional expenditure incurred by Council implementing the legislative changes.

Conclusion:

By legislation commencing 1 October 2008 Council is required to record the voting of Councillors on planning matters and maintain a register containing the details of the voting record. This report advises how Council will implement the legislative requirements. It is recommended the information be noted.

Les Windle
Manager Governance

Geoff Clarke
Director Corporate Services

Annexures:

Nil

Item No: R1 Recommendation to Council
Subject: **NSW Planning System - NSW Government Reforms**
Author: Allan Coker – Director Planning and Development
Chris Bluett – Manager Strategic Planning
Jacquelyne Jeffery – Team Leader Strategic Planning
File No: 696.G
Reason for Report: To provide Council with an overview of recent legislative changes to the NSW planning system.

Recommendation

That the report on the NSW Planning System – NSW Government Reforms be received and noted.

Background

The NSW land use planning system has undergone a number of significant changes since the introduction of the *Environmental Planning and Assessment Act* (EP&A Act) in 1979. This includes substantial reviews undertaken over the last 10 years, such as the introduction of integrated development assessment in 1997 and the standard model instrument for local environmental plans (LEPs) in 2006.

However, over the last 9 months the NSW Government has initiated aggressive, extensive and widespread changes that potentially affect all areas of the planning and development assessment system including: plan-making, development assessment, certification, development contributions and community consultation processes.

The NSW Government claims that their planning reform agenda will promote a more efficient planning system. This claim is generally not supported by councils across NSW, notwithstanding the acknowledgement that some aspects of the reforms have merit.

Woollahra Council does not support the reforms in totality, and has made numerous submissions to the Department of Planning expressing concern with the proposed changes and likely consequences which include—

- Reduced opportunities for the community to have a say about development that directly affects them;
- Compromised, poor and unresponsive urban planning and design outcomes;
- Increased red tape and decision making layers in an already complex development assessment system;
- Loss of development contributions funding and therefore infrastructure services to the community.

A lack of detail on the changes, coupled with the pace of the proposed reforms, further diminishes Council's confidence in the NSW Government's planning reform agenda.

Planning reforms – the NSW Government’s agenda

The NSW Government is concerned that the planning system is inefficient and the planning process lengthy, complex and confusing for users of the system, particularly the ‘mums and dads’ at the local level.

Specifically, the NSW Government identifies that—

- The approval process is too long and complex, particularly for minor and routine development;
- There are too many development applications and too few complying development certificates, particularly for minor or routine developments;
- Plan-making is too slow and the system does not differentiate between large and small amendments to LEPs in terms of the statutory procedures required to make new LEPs;
- Community input to both the plan-making and development assessment process can be ineffective;
- Following the ‘process’ often seems more important than achieving a good outcome;
- The planning system is complex and difficult to follow;
- The system is not consistent across the State and has led to widely different approaches to minor development control and assessment requirements between councils;
- Planning resources are not used effectively, with most resources taken up dealing with small residential development applications.

To that end, the proposed reforms seek to make significant changes to the following fundamental elements of the planning and development system—

- Development assessment and review;
- Exempt and complying development;
- Building and subdivision certification;
- Land use, zoning changes and LEP making.

Proposed changes include—

- Establishing a new development assessment regime, which amongst other things significantly reduces the role of elected local representatives in decision making;
- Limiting opportunities for community consultation and public exhibition of proposals, particularly at the development assessment stage;
- Extending exempt and complying development provisions through the introduction of mandatory State-wide exempt and complying development codes;
- Expanding the private certification system;
- Creating a one-stop shop for legal drafting of LEPs within the Department of Planning, and hence removing LEP drafting responsibilities and skill sets from Council’s planning officers.

Planning reforms – Woollahra Council’s position

The NSW Government’s scope of the planning reforms were initially identified and exhibited for public comment in a document titled “Improving the NSW Planning System - a Discussion Paper (November 2007)”. The matters raised in the Discussion Paper were then largely reflected in draft Exposure Bills: the *Environmental Planning and Assessment Amendment Bill 2008* (EP&A Amendment Act) and the *Building Professionals Amendment Bill 2008* (BP Amendment Act), exhibited in April 2008.

Woollahra Council identified significant concerns with the proposed reforms and made separate submissions to both the Discussion Paper and the Exposure Bills. Key matters raised in Council's submissions included—

- Reduced opportunities for the community to have a say about development that directly affects them;
- Increased control to the Minister and Department of Planning;
- Diminished role of Council in plan-making and determining development applications. Council needs to retain certain responsibilities, if it is to be able to appropriately represent the community in planning decisions;
- Increased complexity into the system; introducing the Planning Advisory Commission (PAC), Joint Regional Planning Panels (JRPP) and planning arbitrators (PA) into development assessment represents additional layers of decision making;
- Expansion of the accredited certifier system. There is an inherent conflict of interest and the problems with the current system which proves that this conflict cannot be adequately managed or controlled regardless of the checks and balances in place;
- Changes to the development contributions framework which will limit the types, and way, councils can levy community infrastructure for development contributions; further increasing the Minister's power and eroding Council's capacity to fund local community infrastructure;
- Establishing arbitrary benchmark figures as a key performance measure of how well the planning system is operating, in the absence of considering planning outcomes and community satisfaction;
- General uncertainty about the potential impact of the reforms, due to the NSW Government's lack of detail on how the reforms will be implemented. Such detail is to be provided in Regulations, directions and guidelines to be prepared and published by the Department of Planning in the future.

Notwithstanding Council's objections to the proposed reforms, which echoed many of the local government and community sector concerns, the Bills were assented to on 25 June 2008 with only a few changes.

Most of the provisions in the Amendment Acts did not actually commence on assent as the Department of Planning had not prepared the supporting regulations and guidelines necessary for the practical interpretation and implementation of the changes. These are to be prepared in stages over the next 12 months. Therefore, the true impact and consequences of the reforms are yet to be realised.

Commencement of the planning legislation

To date, only a few provisions of the EP&A Amendment Act 2008 and the BP Amendment Act 2008 have commenced. These are largely provisions relating to the regulation of building and subdivision certification including matters such as: increased maximum penalties for carrying out work without authorisation, and clarification of when building or subdivision actions can be brought. Such provisions commenced on 1 August 2008.

A few other mechanisms and systems to support the planning reforms have been finalised. For example, a new approval body, the Planning Assessment Commission (PAC), has recently been established. The PAC is an independent body. Its duties will include determining State significant major projects and providing advice to the Minister on planning and development matters. The NSW Government anticipate that the PAC will act as the consent authority for about 80 per cent of major projects currently determined by the Minister for Planning. The PAC will commence on 1 October 2008.

The NSW Government has also exhibited draft State-wide mandatory Codes for exempt and complying development. These Codes represent a key element in reforms to the development assessment system. It is intended that the Codes will apply to all councils across NSW, providing a common State-wide set of planning controls and a simple approval process for housing and related residential development, and small scale commercial and industrial development. These Codes would be mandatory and potentially override Council's existing Exempt and Complying Development Control Plan.

The NSW Government claims that the draft Codes will—

- Streamline the approval process for housing developments;
- Reduce delays in receiving approval for housing developments;
- Standardise the application of common exempt and complying housing development requirements across the State;
- Provide clearer processes for certification of common housing developments;
- Increase the number of development proposals dealt with as complying development across the State from 11% to 50% within four years.

In May 2008 the Department of Planning released 6 (of a proposed 21) draft State-wide mandatory Codes for public comment

- Complying Development Codes for—
 - New single storey housing on lots over 600 square metres;
 - Single storey housing alterations and additions on lots over 600 square metres;
 - Internal alterations for two-storey houses;
 - Commercial and industrial development.
- Exempt Development Codes for—
 - Residential and rural zones;
 - Commercial and industrial development.

The Department advise that the other 15 draft Codes, yet to be prepared, will address other forms of development such as single storey housing on lots less than 600 square metres, two storey housing, duplexes, and terrace housing.

Woollahra Council reviewed all 6 draft Codes exhibited in May 2008, and made a submission to the Department of Planning expressing concern that the draft Codes—

- Represent the systemic erosion of local, place-based planning controls and will undermine decades of work Council and the community has undertaken to establish development control plans for each locality that reflect local conditions, nuances, and the desired future character of each local area;
- Introduce a one-size fits all approach that will compromise environmental sustainability and lead to poor and unresponsive urban planning outcomes; including more intensive development with less rigorous assessment and less community involvement in the development assessment process.

It is important to note that Council opposed the draft Complying Development Codes, notwithstanding the fact that these draft Codes would not apply to Woollahra. Under the draft Codes as exhibited, it is proposed that complying development cannot be undertaken on environmentally sensitive areas, such as: land comprising a heritage item, land within a heritage conservation area, or land within a foreshore scenic protection area. Such areas cover all of the Woollahra local government area.

There are inherent problems with applying a State-wide one-size-fits-all approach; many other councils across NSW recognise this, and also raised concerns with the draft Exempt Development Codes and the draft Complying Development Codes.

The Department of Planning is currently reviewing the 6 draft Codes in response to submissions received during the exhibition period. Trials of the draft codes have also been undertaken in 10 local government areas of Randwick, Penrith, Blacktown, Shoalhaven, Armidale-Dumaresq, Canada Bay, Pittwater, Orange, Tweed Heads and Sutherland. Council's planners understand that these trials have identified major deficiencies in the practical implementation of the draft Codes.

At this stage the Department has not made any statement about the future of the 6 exhibited draft Codes, nor have they forecast when the other draft housing codes will be released for exhibition.

Future of the planning reforms

The departure of Frank Sartor (MP) from Cabinet and the appointment of Kristina Keneally (MP) as the Minister for Planning is likely to cause some disruption to the timing for the roll out and implementation of the planning reforms. Notwithstanding, the new Minister has confirmed her commitment to the planning reform agenda.

In the meantime, Council's planners will continue to liaise with the Department of Planning so that Council can more readily anticipate and accommodate changes, whilst also continuing to identify areas where further consideration should be given by the NSW Government with regards to potential impacts of the reforms on the community and the built environment.

Further reports to Council will be provided as the NSW Government's planning reforms take effect.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planning

Item No: R2 Recommendation to Council
Subject: **New Principal Local Environmental Plan for Woollahra**
Author: Chris Bluett - Manager Strategic Planning
Jacquelyne Jeffery – Team Leader Strategic Planning
File No: 1064.G Principal LEP Draft Woollahra Plan
Reason for Report: To provide Council with an overview of a key Strategic Planning project for Council—the preparation of Woollahra's new principal local environmental plan

Recommendation

That the report on the New Principal LEP for Woollahra be received and noted.

Background

Council's Strategic Planning section, within the Planning and Development Department, is responsible for one of Council's key projects—the preparation of Woollahra's new principal local environmental plan (LEP).

The new LEP will replace Council's current LEP called the Woollahra LEP 1995 (WLEP 95), which was originally gazetted on 10 March 1995; over 50 amendments have since been made to the LEP.

This new LEP must be consistent with a standard template prescribed by the NSW Government to all councils across the State. The standardisation of LEPs is part of the NSW Government's planning reform agenda. It represents a change in the scope and way Council prepares its LEP and provides new opportunities and challenges for addressing planning issues affecting Woollahra.

Woollahra's new principal LEP will guide development over the 7-10 year life of the LEP, therefore Council's support, interest and involvement in the preparation of the new LEP is paramount.

Introduction to planning instruments—LEPs and DCPs

What is an Local Environmental Plan?

A local environmental plan (LEP) is Council's main legal document for controlling development and guiding planning decisions made by Council to ensure that growth and development occurs in a planned and coordinated manner consistent with Council and the community's expectations and needs.

An LEP controls and guides proposed development using land use zones and development standards.

Land use zones establish the type of land uses that are permitted (with or without consent) or prohibited in each zone. For example, a hotel may be permitted in a business zone but prohibited in an area zoned for residential purposes.

Development standards generally control the form of development, such as building height, floor space ratio, or the minimum lot size for certain development.

In addition to land use zones and development standards, the LEP often includes other planning provisions that set out additional planning controls or matters to consider when proposing development. For example, heritage provisions are included in an LEP to ensure heritage values are specifically considered and addressed in development assessment.

An LEP is made by Council in consultation with the community, and approved by the Minister for Planning, according to the *Environmental Planning and Assessment Act 1979* and Regulations. It is reviewed every 7 to 10 years to ensure that the LEP is forward looking and suitably addresses current and emerging planning issues.

What is a Development Control Plan?

A development control plan (DCP) supports and supplements the LEP by way of more detailed planning and design guidelines and built form controls.

A DCP may establish the design controls for a particular type of development in a certain locality. For example Council's Double Bay Centre DCP includes controls, such as building envelopes, architectural form, parking and pedestrian access. The Paddington Heritage Conservation Area DCP sets built form controls that focus on building facades and elements such as roofs or carports, so that new development, additions and alterations are sympathetic to the heritage and streetscape character of the locality.

A DCP is made by council in consultation with the community, and approved by the council, according to the *Environmental Planning and Assessment Act 1979* and Regulations.

Woollahra Council has over 15 DCPs. Woollahra Council will be reviewing all DCPs to comply with the State Government's new requirement that only 1 DCP applies to a parcel of land. Council's DCP are generally very comprehensive; the emphasis of Council planner's work will be on the delivery of controls in an electronic format. This will allow property owners, applicants and others to obtain a list of controls by property address and by development type. This work will occur concurrently with the preparation of the LEP.

Council's new principal LEP under the Standard Instrument

Under the NSW Government's planning reform agenda all councils in NSW are required to prepare a new comprehensive LEP (or 'principal LEP') based on the *Standard Instrument (Local Environmental Plans) Order 2005* (the Standard Instrument).

Woollahra's new principal LEP will therefore be prepared consistent with the Standard Instrument.

The Standard Instrument was developed by the NSW Government and gazetted on 31 March 2006. It prescribes the standard form and content of a principal LEP, including standard zones, planning clauses and a dictionary of land use and planning terms; it serves as a mandatory template that all councils must use.

The NSW Government established timeframes for which councils had to complete their new principal LEPs. Councils were given 2, 3 or 5 years from March 2006. Woollahra was identified as a 5 year council and is required to have its principal LEP gazetted by 31 March 2011.

On 26 November 2007 Council resolved to prepare its principal LEP for Woollahra. It will replace the current Woollahra LEP 1995 (WLEP 95) and apply to the whole local government area. Work on preparing Woollahra's principal LEP has commenced. An outline of the methodology and proposed timeframe for making the principal LEP is provided at Annexure 1.

Council's approach to preparing the new principal LEP under the Standard Instrument

Generally the Woollahra LEP 95 works well and reflects the current and future land use needs of the community.

To that end Council will take a 'translation approach' to preparing the new LEP, i.e. the current zone, height and density in the WLEP 95 will be translated into similar controls under the Standard Instrument, so that current land use planning controls and policy direction are generally maintained.

However, even in applying this translation approach there will be some proposed changes arising from—

- Local planning needs, i.e. a need to change planning controls in response to current or emerging local planning issues such as sustainability and climate change;
- State planning needs, including requirements to meet housing and employment targets in the draft East Subregional Strategy. Under the NSW Government's Strategy Woollahra must demonstrate through its new LEP a capacity to accommodate 2,900 additional dwellings and 300 additional job opportunities by 2031. Changes to the current planning controls may be needed to facilitate this housing growth.
- The rigidity of the Standard Instrument to accommodate a translation approach. The Department of Planning has established numerous requirements and directions on how Council must use and apply the Standard Instrument. In some instances these may have the effect of forcing policy changes on Council, or approaching planning matters in a way that is different to the approach provided under the current WLEP 95. The Department also restricts the non-template content that Council can propose in its draft LEP to address planning matters in the WLEP 95 but not included in the Standard Instrument.

The Department of Planning has significant influence in the preparation of Council's new LEP, and the draft LEP cannot be placed on exhibition or gazetted unless the DoP is satisfied with it. Council's planning officers are engaging with DoP officers on an ongoing basis. It is hoped that issues and concerns can be identified and resolved earlier in the process, and will not prolong the DoP's decision making stages.

However, it is also important to note that because the Standard Instrument is relatively new, both Council and the DoP are learning about its nuances and limitations. It may be that Council's planners raise issues or questions that the DoP have not before contemplated. In such circumstances responses from the Department can be delayed or even inconsistent. This is not ideal but is a practical reality. Hence delays in preparing and progressing the draft LEP will be inevitable and sometimes difficult to predict.

Councillors' involvement in preparing the new principal LEP

Council's support, interest and involvement in preparing the new LEP is important as the LEP will be the primary instrument that guides development over the 7-10 year life of the LEP.

To facilitate Councillors' involvement, the preparation of the draft LEP will be overseen by the Strategic Planning Working Party. The Working Group will be the primary forum for Councillors to regularly meet with Council's planners to discuss strategic planning issues and inform the preparation of the new LEP.

The Working Party comprises the Mayor and 7 other Councillors; however all Councillors are welcome and encouraged to attend the meetings, as the preparation of the new principal LEP is a key planning project for the whole of Council.

Working Party meetings will be held approximately every 2 months. The first meeting involving this newly appointed Council will be held in November 2008. It will provide Councillors with an introduction to the operation of the Standard Instrument, including its potential limitations, restrictions and impacts, as well as the opportunity for each Councillor to broadly identify the key planning issues important to them.

Future Working Group meetings will be held in February 2009, April 2009 and May 2009 to discuss matters such as—

- Land use zones and land use tables, including proposed changes;
- Proposed rezonings, including how the dwelling and employment targets under the draft East Subregional Strategy can be achieved;
- Local planning provisions, including how the draft LEP will address sustainability.

Conclusion

The preparation of Woollahra's new principal LEP is a major project for Council as the new LEP will guide development over the 7-10 year life of the LEP. Councillors are encouraged to inform the preparation of the new LEP through their support, interest and involvement in the Strategic Planning Working Party.

Allan Coker
Director Planning and Development

Chris Bluett
Manager Strategic Planning

Jacquelyne Jeffery
Team Leader Strategic Planning

ANNEXURE:

1. Key steps and proposed timeframe for making the principal LEP

ANNEXURE 1: Key steps and proposed timeframe for making the principal LEP

The table on the following pages sets out a summary of work to be undertaken in preparing the new principal LEP.

In particular, the table identifies the Statutory LEP making process; i.e. those steps set out in the *Environmental Planning and Assessment Act 1979* (the Act) that must be undertaken by Council when preparing a new LEP.

Comments to the left of the table identify research, investigation and consultation initiatives coordinated by Council's strategic planners that are going throughout the process and inform the preparation and direction of the new LEP.

The table also includes the current status of the work and timeframes for completing.

Various stages of the work will run concurrently.

It is expected that the LEP will be gazetted by August 2010.

However, the listed stages may vary or increase as the project advances. Timeframes are also established on certain assumptions, including matters beyond Council's direct control such as: issues arising from the public consultations stage, and timely consideration of the draft LEP by the Department of Planning (DoP), Parliamentary Counsel (PC) and the Minister for Planning.

These may affect the timeframes, notwithstanding it is expected that the DoP's timeframe of March 2011 will be met.

Research, investigation and consultation initiatives ongoing throughout the process

Compare Standard Instrument with Woollahra LEP 1995 to understand scope of change in translating Woollahra LEP 1995 to the Standard Instrument.

Identifying and investigating key policy changes and gaps.

Engaging with Council staff and the DoP.

Meetings with Strategic Planning Working Party to facilitate Councillor input to preparing the draft LEP.

Council reports prepared on key policy issues and changes, such as how to meet the required dwelling target under the draft Subregional Strategy.

Statutory LEP making process under the <i>Environmental Planning and Assessment Act 1979</i> (the Act)			
Stage	Purpose	Comments	Status and timeframes
1	Decision to prepare draft LEP (section 54(1))	Council resolution of 26 November 2007.	Completed
2	Notice of decision to the Department of Planning (DoP) (section 54(4))	Council informed the Director-General (DG) of the decision to prepare the draft LEP by letter dated 4 December 2007, as required under section 54(4) of the Act. This included response to the evaluation criteria required by the LEP Review Panel.	Completed
3	Environmental study (section 57)	DoP advised by letter dated 21 December 2007 that Council can proceed with preparing the draft LEP, and that an LES is not required. Notwithstanding, Council must prepare background studies and investigations, as relevant, to provide an evidence base for policy positions reflected in the draft LEP. For example, residential market and housing strategy review work has commenced.	Background studies and investigations ongoing
4	Consult with public authorities, including neighbouring councils, and other persons as may be determined (section 62)	To allow input by public authorities and others to the preparation of the LEP. State agencies and statutory authorities, adjoining local Councils, as well as school and church organisations, were notified by letters dated July- August 2008.	Consultation ongoing
5	Submit draft LEP to Department of Planning (section 64)	Draft LEP reported to Council prior to the draft LEP being submitted to the DoP under section 64. Council submits the draft LEP to the DG together with supporting information, and statement specifying the public authorities and other entities Council consulted under section 62 of the Act. DoP and Council's planners meet to discuss matters in the draft LEP, particularly any matters the DoP may identify as requiring amendment prior to exhibition. The draft LEP is also likely to be reviewed by the LEP Review Panel to determine if a section 65 certificate should be issued with or without conditions for amendment.	June 2009
6	Certification for exhibition by Director-General, Department of Planning (section 65)	DG issues certificate certifying the draft LEP may be publicly exhibited in accordance with section 66 of the Act. DoP LEP Review Panel involved at this stage and provides advice to the DG. Assume—DoP issues the section 65 certificate within 4 months.	October 2009

**Research, investigation
and consultation
initiatives ongoing**

*Continue to engage with
Council staff and the DoP.*

*Meetings with Strategic
Planning Working Party to
discuss key issues raised
during the consultation
period and any proposed
changes to the draft LEP, as
exhibited, in response to
submissions.*

*Reports to Council, as
required.*

*Administrative steps, within
Council, to prepare for the
commencement of the new
planning controls.*

Statutory LEP making process under the Environmental Planning and Assessment Act 1979 (the Act)			
Stage	Purpose	Comments	Status and timeframes
7	Public exhibition of draft LEP (section 66)	Exhibit draft LEP. Exhibition period will be longer than the minimum statutory requirement of 28 days because this is a new principal LEP exhibition and significant policy for Council. Assume—Exhibition for at least 8 weeks.	October 2009 – January 2010
8	Consideration of submissions (section 68)	Council considers a report on the submissions received during the exhibition process and identifies any amendments to the draft LEP. A public hearing may also be held, if required. Council approves draft LEP for the purpose of submitting the draft LEP to the DoP under section 68(4) of the Act.	March 2010
9	Parliamentary Counsel (PC) opinion (Note Stages 9 and 10 considerations likely to occur concurrently)	PC provides opinion that draft LEP may legally be made by the Minister for Planning. Advice from the PC is normally limited to matters of legal drafting, but may contain conditions requiring further consideration by Council. Assume—PC provide advice within 3 months.	June 2010
10	Report by the Director-General to the Minister (section 69)	Council submits detailed report on the exhibition process, including consideration of submissions, to the DoP subregional branch. DoP and Council's planners further discuss the draft LEP, particularly matters the DoP identify as requiring amendment. The draft LEP also likely to be reviewed by the LEP Review Panel. If satisfied, the DG then furnishes a report to the Minister stating that the draft LEP can be made, with or without amendment. Assume—DG finalises section 69 report within 3 months.	June 2010
11	Gazettal	Minister gazettes LEP. Assume—Minister signs LEP and LEP published in Government Gazette within 2 months.	August 2010