



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 8 March 2004*

Time: *6.00pm*

Outline Of Meeting Protocol & Procedure:

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

Delegated Authority (“D” Items):

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below:

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

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

Committee Membership:

6 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

4 March 2004

To: The Mayor, Councillor John Comino, ex-officio
Councillor L Berger (Chair)
V Corrigan
S Crawford
C Dawson
M Watts
C Wrublewski

Dear Councillors

Urban Planning Committee Meeting – 8 March 2004

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Monday 8 March 2004 at 6.00pm.**

Gary James
General Manager

Meeting Agenda

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

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 9 February 2004	1
----	--	---

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

R1	Section 94 Contributions Plan 2002 – 136.G	2
R2	Repeal of Woollahra Development Control Plan for Access to & within buildings, 1995 – 1064.G Amend 45	72

Item No: D1 Delegated to Committee
Subject: **CONFIRMATION OF MINUTES OF MEETING HELD ON 9 FEBRUARY 2004**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 9 February 2004 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 9 February 2004 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R Recommendation to Council
Subject: SECTION 94 CONTRIBUTIONS PLAN 2002
Author: Anita Lakeland, Team Leader Strategic Planning
File No: 136.G
Reason for Report: 1. To gain Council's approval for the annual indexation of contribution rates in the Woollahra Section 94 Contributions Plan 2002.
2. To provide a response and update on the progress of actions resulting from Council's resolution of 10 March 2003.

Recommendation:

1. That Council approve the annual indexation of contribution rates and minor typographical corrections in the Woollahra Section 94 Contributions Plan 2002, as outlined in the report to the Urban Planning Committee meeting on 8 March 2004.
2. That Council note the response and progress on the actions resulting from Council's resolutions of 10 March 2003.

1. Background

At its meeting on 10 March 2003 Council resolved:

1. *That Draft Woollahra Section 94 Contributions Plan 2002 as contained in annexure 4 of the report to the Urban Planning Committee meeting on 24 February 2003 be approved.*
2. *That further investigation and reporting be undertaken on the possible inclusion in Woollahra Section 94 Contribution Plan 2002 of contributions:*
 - (a) *for library facilities, including the purchase of books – to be investigated in conjunction with the Kiaora Lands project*
 - (b) *from schools, including residential schools*
 - (c) *for works on roads and other infrastructure as a consequence of damage and deterioration from new development and other demands created by new development.*
 - (d) *for civic improvement works in the neighbourhood centres – to be investigated in conjunction with the neighbourhood centres urban design project.*
3. *That investigation of supplementary funding for civic improvement works in the Rose Bay and Double Bay Commercial Centres, including special business rates and general rates, be undertaken as part of item 5 of the Council's decision of 16 December 2002 regarding the review of the commercial (business) rating structure.*
4. *That the Department of Strategic Planning be required to present a report to the Urban Planning Committee investigating alternative contribution rates based on both numbers of bedrooms and dwelling size area.*

A copy of the approved Woollahra Section 94 Plan 2002 (the Plan) is contained in **Annexure A**.

2. Proposed amendments to Woollahra Section 94 Contributions Plan 2002

2.1 Statutory framework

Clause 32 in Division 4- Amendment and repeal of contributions plans, of the Environmental Planning and Assessment Regulation 2000 (the Regulation) states that Council may make the following amendments to contributions plans without the need to prepare a new plan:

- (a) minor typographical corrections
- (b) changes to rates set out in the plan to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as Consumer Price Index)
- (c) the omission of details concerning works that have been completed.

It is proposed to amend the Plan under the provisions of clause 32 of the Regulation in the following manner:

- alter the contribution rates to reflect annual variations to the indexed figures;
- correct a minor typographical anomaly in the formula calculation to clause 4.8.4 of the Plan; and
- correct minor typographical anomalies to clarify the Plan's interpretation.

2.2 Annual Indexation of Contribution Rates

The Plan commenced on 31 March 2003 and has now been in effect for almost 12 months. The Plan provides for the annual indexation of contribution rates on the Plan's anniversary. The indexation of contribution rates ensures that the value of the monetary contributions is not eroded over time by increases in construction costs, including the cost of materials and labour, and by the capital costs associated with the administration of the Plan.

Clause 3.13 Indexation of contributions of the Plan contains a formula to be used in calculating the indexed contribution rates. The formula relies on a number of factors, which determine the indexation rate, including the consumer price index, average weekly earnings and the building materials price index.

Using the formula contained in clause 3.13 of the Plan and information obtained from the Australian Bureau of Statistics, it is proposed to increase the capital works costs and administration costs contained in the current Woollahra Section 94 Contributions Plan 2002 by 5.2 %. The increased rates will take effect immediately from the date of the Council's resolution.

A copy of the Plan with the new contribution rates is contained in **Annexure B**.

2.3 Typographical corrections

Two types of typographical corrections are proposed:

1. A minor amendment to the example for calculating civic improvement contributions in Double Bay.
2. Those clarifying contributions from residential development towards Municipal – wide recreation facilities which will improve interpretation.

2.3.1 Municipal recreation contributions

The Plan currently contains notes advising that residential development in the Double Bay and Rose Bay Centres is liable for a recreation contribution and a civic improvement contribution. To assist with the interpretation it is recommended that the following alterations be made:

- Include the words “Municipal – wide” in association with the reference to the recreation contribution.
- Repeat the note in clause 2.1 – Schedule of contribution rates and in the calculation example for civic improvements shown in clause 4.8.4 – Calculation of contributions.

2.3.2 Calculating civic improvement contributions in Double Bay

The Plan includes formulas which demonstrate how the contribution rates have been derived. It also provides examples of how to calculate the amount payable for certain development scenarios. In the formulas, the contribution rate for additional dwellings is a pre-calculated figure which multiplies the occupancy rate of the dwelling by the per person \$ rate, rounded up to the nearest dollar.

The example shown in section 4.8.4 on page 25 of the Plan for civic improvement contributions does not use the pre-calculated figure which causes a slight anomaly in the final calculation. It is therefore proposed to amend this anomaly to provide consistency in the method used in the example calculations.

3. Response to Council meeting on 10 March 2003 resolutions 2 & 4

At its meeting on 10 March 2003, the Council resolved that further investigation be carried out on the application of section 94 in Woollahra for additional types of development provided below.

- *Contributions for library facilities, including the purchase of books – to be investigated in conjunction with the Kiaora Lands project*

Should development consent be granted for the Kiaora Lands project, the capital cost for the library fitout and books will be further investigated. A report will then be submitted to Council on funding options, including the use of section 94 contributions.

- *Contributions from schools, including residential schools*

For the purpose of residential development, clause 3.3 of the Plan specifically requires contributions to be made by any development that will result in a net increase in dwellings or dwelling houses. Residential accommodation associated with schools does not result in an increase in dwelling numbers, and is therefore not subject to contributions under the Plan. Retail, commercial and other business development within Double Bay and Rose Bay commercial centres are also levied, but exclude schools or other educational uses.

A nexus must be established to show a direct relationship between the demand created by a new development (increased population) for additional public amenities and facilities and the provision of those amenities and public services to meet that demand. In terms of the range of contributions currently levied in Woollahra, recreation facilities would be the only potential facilities for which a contribution could be sought from schools. Schools that currently use Council's recreation facilities, including sports facilities, already pay a fee for use during and outside of normal school hours. In order to include schools and accommodation associated with schools in the Plan, a nexus would need to be established to demonstrate that the additional on-site accommodation and population created demand for additional Council's facilities, beyond the existing capacity.

Further research will be required to establish whether other councils have considered the levying of schools and associated residential accommodation, and how nexus can be identified and established.

- *Contributions for works on roads and other infrastructure as a consequence of damage and deterioration from new development and other demands created by new development.*

A submission made to the 2003 Local Government Association Conference included the following recommendation:

That the Association resolve to make representation to the NSW Government seeking amendments to section 94 of the Environmental Planning & Assessment Act 1979 to permit the levying of contributions for the maintenance, repair, replacement and upgrade of public infrastructure subject to stress and deterioration from age, as a result of increased demands through redevelopment and particularly increased densities in urban environments.

SSROC made a submission to the Section 94 Contributions and Development Levies Taskforce, which included the following recommendation:

Under existing guidelines councils can only levy for the capital cost of new facilities and service. Maintenance and repair costs are often substantial and councils should be able to levy for those life cycle costs associated with the provision of infrastructure as well as capital costs.

Given the issues with establishing nexus for this type of contribution, and possible legal constraints under the current structure of section 94, it is considered preferable to await the response from the Taskforce before proceeding with investigations.

- *Contributions for civic improvement works in the neighbourhood centres – to be investigated in conjunction with the neighbourhood centres urban design project.*

The neighbourhood centres studies will be commencing this financial year. During the preparation of the studies, civic improvements may be identified. Should civic improvements be identified to be included in the Section 94 Plan a report will be submitted to Council to amend the plan accordingly.

- *That the Department of Strategic Planning be required to present a report to the Urban Planning Committee investigating alternative contribution rates based on both numbers of bedrooms and dwelling size area.*

Under section 94 population growth is the key determinant in justifying an increased demand for services and facilities, and therefore the levying of contributions.

The monetary contributions contained in the Plan for residential development are based in part on a per person \$ rate. This rate is used to calculate the contributions payable for each dwelling size, depending on bedroom numbers and occupancy rates. For example, the contribution for a one bedroom unit equals the occupancy rate of 1.3 persons x \$ per person rate.

The current Plan is based on the best practice model outlined in the *Section 94 Contributions Manual* produced by the then Department of Urban Affairs and Planning. This manual states that typical measures of demand should be calculated per head of expected population or per dwelling type (based on bedroom numbers). An example calculation demonstrates that the contribution rate per head of population can be converted to a rate per dwelling based on a factor of average dwelling occupancy for each dwelling type. The occupancy rates must be reliable and realistic. The Manual identifies that it is only common practice to use a square metre size calculation for non-residential forms of development. The Plan adopts this approach.

The occupancy rates adopted in the Plan are derived from the 2001 ABS Census data and are characteristic of current occupancies for each dwelling type in Woollahra. The occupancy rates provided by the ABS are derived from a standard and common statistical source using a standard method of data collection. This data provides a consistent basis from which assumptions on population growth and demand can be established across councils.

Given that Woollahra currently adopts the recognised standard method for calculating contribution rates, it would be difficult to demonstrate that larger floor areas in dwellings result in a higher occupancy rate and increased demand for facilities and services. For example, it would be difficult to prove that a one bedroom unit having a floor area of 90 sqm, made up of a larger bedroom and living area, had a greater occupancy rate (1.3 persons) than a one bedroom unit having a smaller floor area of 50 square metres.

It is therefore recommended that Council continue with the current method for calculating contribution rates for residential development as contained in the Plan.

Conclusion

The Regulations provide for the amendment of section 94 plans to reflect annual variations to the indexed figures adopted by the Plan and to make minor typographical corrections, without the making of another plan. The Plan provides a formula from which the contributions can be indexed. It is recommended that Council approve the annual indexation of contribution rates and minor corrections as outlined in this report.

It is further recommended that Council note the response to the resolutions arising from Council's meeting on 10 March 2003, as outlined in this report.

Anita Lakeland
Team Leader Strategic Planning

Chris Bluett
Manager Strategic Planning

Annexures:

- A Woollahra Section 94 Contributions Plan 2002
- B Woollahra Section 94 Contributions Plan 2002, with amendments

Item No: R2 Recommendation to Council
Subject: **Repeal of Woollahra Development Control Plan for access to and within buildings, 1995**
Author: Anita Lakeland - Team Leader, Strategic Planning
File No: 1064.G Amend 45
Reason for Report: To obtain a decision from Council to repeal the Woollahra Development Control Plan for Access to and Within Buildings, 1995

Recommendation:

1. That under section 22 of the *Environmental Planning and Assessment Regulation 2000* Council resolve to repeal the Woollahra Development Control Plan for Access to and Within Buildings, 1995.
2. That under section 23 of the *Environmental Planning and Assessment Regulation 2000* a public notice be placed in the newspaper notifying of Council's intent to repeal the Woollahra Development Control Plan for Access to and Within Buildings, 1995 and following this, a notice of repeal be placed in the newspaper.

Background

In 1995 Council approved the Woollahra Development Control Plan for Access to and Within Buildings (the DCP). The DCP is still in effect and currently sets down the design requirements of buildings for the purpose of making buildings accessible and useable.

The design requirements in the DCP were derived from *Ordinance 70 and Specification No. 9 – Access and Facilities for Disabled People – of the NSW Local Government Act 1919*, as amended. The introduction of the Building Code of Australia in 1996 superseded these requirements, and as such, they are no longer relevant. In addition, the recent commencement of the Access Development Control Plan has also made the DCP redundant.

Access Development Control Plan

At its meeting of 9 February 2004 Council resolved, in part:

- B. That Draft Access Development Control Plan, as contained in annexure 4 of the report to the Urban Planning Committee meeting on 27 January 2004, be approved and come into effect when a public notice of Council's approval is placed in the newspaper.*

Following that decision a public notice was placed in the Wentworth Courier on 18 February 2004 notifying of Council's decision and the commencement of the Access Development Control Plan. The Access Development Control Plan refers to the relevant Australian Standards for access and adaptable housing contained in the Building Code of Australia.

Repeal of Woollahra Development Control Plan for Access to and Within Buildings

To ensure there is no confusion with regard to which plan applies to development applications, it is necessary for the Woollahra Development Control Plan for Access to and Within Buildings, 1995 to be repealed.

Section 22 of the *Environmental Planning and Assessment Regulation 2000*, provides for the repeal of development control plans by public notice. Before repealing the DCP the Council must give public notice of its intent to repeal the DCP and of its reasons for doing so. This must take place fourteen days prior to the notice of repeal being published. The repeal takes effect on the date of the notice of repeal.

Conclusion

The introduction of the Building Code of Australia in 1996 and the recently approved Access Development Control Plan have made the Woollahra Development Control Plan for Access to and Within Buildings, 1995 an outdated and irrelevant document. It is therefore recommended that Council repeal the DCP by public notice.

Anita Lakeland
Team Leader Strategic Planning

Chris Bluett
Manager Strategic Planning