



# Urban Planning Committee

**Agenda:** *Urban Planning Committee*

**Date:** *Monday, 30 August 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:**

7 Councillors

## **Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

26 August 2004

To: The Mayor, Councillor Rundle, ex-officio  
Councillor David Shoebridge (Chair)  
Anthony Boskovitz  
John Comino  
Christopher Dawson  
Keri Huxley  
Julian Martin  
Isabelle Shapiro

Dear Councillors

### **Urban Planning Committee Meeting – 30 August 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 30 August 2004 at 6.00pm.**

Gary James  
General Manager

## Meeting Agenda

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
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 August 2004	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Stormwater Development Control Plan – 19.G	2
R2	Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39) – Acid Sulfate Soils – 1064.G (Amend 39)	55
R3	Draft Woollahra LEP 1995 (Amendment No. 52) – 1064.G Amend 52 (Copies previously distributed to Councillors)	79

**Item No:** D1 Delegated to Committee  
**Subject:** **CONFIRMATION OF MINUTES OF MEETING HELD ON 9 AUGUST 2004**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 9 August 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 August 2004 be taken as read and confirmed.

Les Windle  
Manager - Governance

**Item No:** R1 Recommendation to Council  
**Subject:** **STORMWATER DEVELOPMENT CONTROL PLAN**  
**Author:** Myl Senthilvasan - Asset Management Engineer - Drainage  
**File No:** 19 G  
**Reason for Report:** To present proposed Development Control Plans for Stormwater and Flooding and recommend that they be exhibited for public consultation.

**Recommendation:**

1. THAT the Draft **Stormwater Drainage Management DCP** and the Draft **Flood Risk Management DCP** be placed on public exhibition for not less than 28 days.
2. THAT a further report be prepared addressing any submissions received during the exhibition period.

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**Background:**

Woollahra Council presently doesn't have development control plans (DCPs) for stormwater management or flood risk management, but relies on a Stormwater Code, assessment of development applications, advice to applicants and conditions of consent to achieve our stormwater and flooding objectives. In order to provide guidance and greater certainty on all aspects of stormwater and flood risk management within Woollahra, stormwater DCPs are being developed, the first two of which are the subject of this report.

The areas comprising Woollahra Municipality have been established at various stages since the end of the 19<sup>th</sup> century. The existing Council stormwater system was designed in periods when less was understood about stormwater management and urban development was less intensive.

Council has a responsibility to manage stormwater. The purpose of the new series of DCPs is to clearly communicate Council's requirements for the management of stormwater so as to:

- facilitate the consistent and timely merit-based assessment of development applications,
- provide certainty for the long-term viability of stormwater management measures employed in Woollahra,
- facilitate attractive, ecologically sustainable and affordable development that is compatible with the surrounding built and natural environments,
- ensure the long-term viability of natural watercourses in Woollahra and beyond, and
- enhance the quality of life in Woollahra.

**The new series of Stormwater DCPS**

Four stormwater DCPS are planned. Two have been prepared to date:

1. **Stormwater Drainage Management DCP**– this DCP provides detailed control measures regarding stormwater management which include stormwater disposal from private properties, on-site stormwater detention, drainage easements, rainwater tanks and connection to a Council drainage system. This DCP will replace Council's existing Private Stormwater Code. It is complete and ready for public consultation.

2. **Flood Risk Management DCP**– this DCP provides detailed control measures regarding development of flood prone lands or lands subject to inundation from high water levels in Sydney Harbour. It is complete and ready for public consultation.
3. **Proposed Stormwater Quality Management DCP** – this DCP will provide detailed control measures regarding stormwater quality. Research and a preliminary draft are under way and currently Council consults with other Councils. It is proposed that this DCP will be completed by March 2005.
4. **Proposed Geotechnical and Hydrogeological Management DCP** – this DCP will provide detailed control measures regarding proposed works below the level of the existing ground. Guidelines have been adopted and are available to the public, however, the guidelines have not yet been formatted into a DCP. Work on this DCP is under way. It is proposed that this DCP will be completed by March 2005.

Copies of the Stormwater Drainage Management DCP and the Flood Risk Management DCP have been circulated separately.

### **Stormwater Drainage Management DCP**

This DCP is designed to replace the existing Private Stormwater Code, which was last updated in February 1990.

It details Council's requirements regarding stormwater disposal, on-site stormwater detention, rainwater tanks, private drainage easements and connection to the Council system. This information is important to persons wishing to undertake the development of land in Woollahra. By providing Council's requirements clearly, it will enable stormwater management to be designed as part of a development proposal, rather than as an "add-on" at the end. It eliminates the ambiguities and inconsistencies arising from the existing Private Stormwater Code. It will also reduce the likelihood of disputes arising because Council's requirements are considered unclear.

Council's standard conditions of consent for stormwater are currently very long and comprehensive. Several conditions are over a page in length as they must express all of the requirements not currently covered by the existing Private Stormwater Code. Once this DCP is adopted the standard conditions for stormwater will be reviewed and simplified. The new conditions will simply state that the development proposal must comply with the requirements of the DCP.

The following topics are addressed in the Stormwater Management DCP:

- **What Council requirements are for the disposal of stormwater.** A water management plan details all of the aspects of soil and water management on the site and is required for minor alterations and additions to all development types. A more detailed stormwater management plan is required when a new stormwater system is proposed as part of the development.
- **When on-site detention is required.** On-site detention is required when the area of development work exceeds 40m<sup>2</sup>, except in the cases of sites directly discharging to Sydney Harbour, or where the site area is less than 500m<sup>2</sup>. Some sites affected by flooding are also exempt. The vast majority of development proposals received by Council, however, must include on-site detention in order to meet Council's requirements.

- **How to design a complying on-site detention system.** A table is provided showing the volume of storage required based on area and the permissible rate of discharge for stormwater from the site following a storm event. Technical guidelines are provided in detail for the stormwater practitioner.
- **How to connect your stormwater to the Council system.** All stormwater drainage connecting to the Council system must be by gravity.

Council will not approve “pump-out” systems, except for additions and alterations to single dwellings when attempts to obtain an easement have been unsuccessful. Council will not approve pump systems for other development types. Pump systems are often poorly maintained, move run-off from one catchment to another and rely on power which may fail during heavy storm events. The consequence of pump failure can be serious for downstream neighbours.

Infiltration (absorption) systems are not acceptable and will not be approved. The sandstone substratum in Woollahra means most soils are unsuitable for absorbing stormwater run-off. The run-off percolates above ground further downstream causing a nuisance for others. In the lower areas where the water table is normally high, providing a suitable infiltration structure would be difficult. Further the long-term effectiveness of infiltration depends on good maintenance. As these devices would be on private properties it would be very difficult to control.

Discharge of stormwater to the sewer is not acceptable. It is illegal and results in sewer surcharge after heavy rain.

The DCP details how to connect to an existing private drainage system, to Sydney Harbour (with permission) or to the Council system (at the kerb, in-ground or in a drainage reserve).

- **How to obtain a private drainage easement.** The DCP describes the process involved when you need to obtain a private drainage easement in order to achieve gravity drainage. For all new developments, including single dwellings, gravity drainage is mandatory and the applicant must acquire an easement. Council will not approve a pump solution or other non-gravity solution as a substitute for non-acquisition of the easement. The development consent will not be operative until documentary evidence of the registration of the easement has occurred.
- **Whether building can occur near or over a Council drainage line or easement.** New buildings are not permitted over Council drainage lines or drainage easements. The development proposal must be modified or the Council drainage line satisfactorily diverted. The DCP details the information that must be provided to Council before a diversion is permitted. Similarly, buildings may be constructed adjacent to Council drainage easements provided satisfactory technical information, as detailed in the DCP, is provided to Council for consideration to ensure that Council’s drainage system is protected.

### **Recommendation:**

It is recommended that the draft Stormwater Drainage Management DCP be placed on exhibition for public consultation. The DCP will also be circulated to industry practitioners for comment.



## **Flood Risk Management DCP**

This is Council's first Flooding DCP. To date, properties are being identified as flood liable only though the development assessment process when Council requires as a condition of consent that the applicant prepare studies and design solutions. There has been no document available for the public to refer to prior to DA lodgement.

Some applicants have contacted Council to discuss flooding before preparing their development proposal. Many have, however, been dismayed to discover the need for and impact of flood protection only during the processing of their application. This is an unsatisfactory situation. To address this problem, Council's requirements for flood risk management will be clearly conveyed to the public through this DCP.

The DCP will include a map of the Woollahra area, identifying properties where a Flood and/or Overland Flow assessment will be required in support of a development application. This map does not define flood liable areas but will enable flood protection measures to be designed as an integral part of a development proposal, not as an "add-on" at the end. It will also reduce the likelihood of disputes arising because Council's requirements are considered to be unclear.

The following topics are discussed in the Flood Risk Management DCP:

- **The consideration of flood risk required for a DA.** The DCP identifies three types of flooding, mainstream flooding, local overland flooding and foreshore inundation, and how to determine if a particular property is potentially affected by any of these.
- **What to do if a property is considered potentially affected.** A flood and/or overland flow assessment will be required. The scope of the assessment will depend on the extent of the flood hazard, the nature of the proposed works, the nature of the local catchment and the potential impact of the proposed works on other floodplain users.
- **What must be included in the Flood and/or Overland Flow Assessment.** The DCP describes the technical information required for the practitioner to undertake the assessment.

### **Recommendation:**

It is recommended that the draft Flood Risk Management DCP be placed on exhibition for public consultation. The DCP will also be circulated to industry practitioners for comment.

### **Proposal:**

The draft Stormwater Drainage Management DCP and Flood Risk Management DCP are ready for public consultation. It is recommended that Council embark upon a 42 days period of public consultation, including 28 days on exhibition and a further 14 days for submissions to be lodged. This procedure is similar to that used for Council's Community Land Plans of Management. The DCPs will be available on Council's website for all interested persons to download, and printed copies will be available for purchase. During that time it is proposed that a workshop on the two DCPs will be held for consultants, developers, practitioners and interested Councillors. The workshop will be chaired by Council staff and provide a forum for technical discussion. Both the public consultation period and the workshop will be advertised in the Wentworth Courier.

Following the period of public consultation another report will be made to Council on submissions received during the exhibition period and recommending adoption of the two DCPs, with any amendments considered necessary.

### Proposed Timeframe

No	Item	Target Date to complete
1	Report to Urban Planning Committee recommending public exhibition	Committee Meeting 30 August 2004
2	Report to Council	13 September 2004
3	Period of Public Consultation.	September- October 2004
4	Workshop for Consultants, Developers and interested Councillors	Mid October 2004
5	Assess comments from the public consultation	November 2004
6	Report to Committee then Council on results of public consultation	November 2004
7	Amend DCPs to include any amendments arising from Council consideration, and Council's resolution for adoption	December 2004
8	Printing and uploading into the Council website	December 2004

### Identification of Income & Expenditure:

Costs associated with the proposed public consultation will be met by allocations from the 2004-2005 operational budget. Income will be received from the sale of the new documents.

### Conclusion:

Council currently does not have DCPs for the management of stormwater or flood risk but relies on a Stormwater Code, assessment of development applications, advice to applicants and conditions of consent to achieve our stormwater and flooding objectives. The new DCPs aim to improve the management of stormwater and flood risk and streamline the approval process in Council.

It is therefore recommended that the draft Stormwater Drainage Management DCP and the draft Flood Risk Management DCP be placed on public exhibition.

Myl Senthilvasan  
Asset Management Engineer - Drainage

Warwick Hatton  
Director Technical Services

### Annexure:

1. Draft Stormwater Drainage Management DCP –Public exhibition copy–dated 23/08/04
2. Draft Flood Risk Management DCP–Public exhibition copy–dated 23/08/04

**Item No:** R2 Recommendation to Council  
**Subject:** **DRAFT WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995 (AMENDMENT NO. 39) - ACID SULFATE SOILS**  
**Author:** George Losonci - Senior Strategic Planner  
**File No:** 1064.G (Amend 39)  
**Reason for Report:** To report on the public exhibition of Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39)

**Recommendation:**

- A. THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39) as amended, and contained in **Annexure 3** of the report to the Urban Planning Committee meeting of 30 August 2004, be referred to the Department of Infrastructure, Planning and Natural Resources for approval by the Minister and for gazettal subject to any legal drafting alterations requested by Parliamentary Counsel.
- B. THAT the proposed amendments to the Woollahra Exempt and Complying Development DCP include an alteration to the general criteria for exempt and complying development relating to acid sulfate soils as outlined in the report to the Urban Planning Committee meeting of 30 August 2004.

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**1. Background**

On 3 May 2004, the Urban Planning Committee considered a report regarding the preparation of a draft LEP to address the issue of potential acid sulfate soils.

Council, at its meeting on 17 May 2004, resolved the following:

*THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39) as contained in **Annexure 2** of the report to the Urban Planning Committee meeting on 3 May 2004 and the accompanying map, be exhibited in the manner required by the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.*

**2. Preparation of Draft Woollahra LEP 1995 (Amendment No. 39) for exhibition**

After the Council's decision of 17 May 2004, preparation of the Draft LEP for exhibition purposes 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 *Environmental Planning and Assessment Act 1979* (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 a draft LEP. Section 62 also requires that the Council consult with the adjoining council, where a draft LEP applies to land on a local government boundary. Consultation was undertaken with the following authorities:

- Department of Infrastructure, Planning and Natural Resources
- Waverley Council
- City of Sydney Council (southern Sydney region and city region)
- Waterways Authority

The City of Sydney Council and Waverley Council advised that they have no objection to the preparation of the Draft LEP. The City of Sydney Council is preparing a similar draft LEP and has requested that further consultation be maintained during the progression of this project to ensure consistency of provisions within the respective draft plans.

Consistency with LEPs from other councils will be maintained as the Draft LEP has been based on recently gazetted LEPs, the model LEP contained within the Acid Sulfate Soils (ASS) Manual, and the ASS Risk Maps.

No other submissions were received in response to the s.62 consultations.

## **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 using the 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.

Direction “C1 Acid Sulfate Soils” applies when a council prepares a draft LEP that will apply to land having a probability of containing acid sulfate soils, as shown on ASS risk maps produced by the Department of Land and Water Conservation. The objective of direction C1 is “to ensure that any use of land that is mapped as having a probability of containing acid sulfate soils will not result in significant environmental impacts”.

Specific requirements of this direction are summarised as follows:

1. Council must consider the ASS planning guidelines when preparing a draft LEP.
2. Provisions in a draft LEP must be consistent with the model LEP as shown in the ASS planning guidelines.
3. Consideration must be given to ASS when rezoning land.

The Draft LEP has provisions referring specifically to the ASS planning guidelines and has been based on the model LEP. Consequently, in the course of preparing the Draft LEP, consideration has been given to the relevant section 117 directions as required by the Act.

### **3. Public exhibition**

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, 16 June 2004 to Friday, 16 July 2004. A copy of the exhibited Draft LEP is attached as **Annexure 1**.

Together with the AO sized municipal-wide Draft LEP map, the exhibition included a series of A3 maps at a scale which showed property details (including lot and deposited plan numbers) for easy interpretation. In addition, the Draft LEP and map were available for viewing on Council’s website.

An information brochure outlining the type of development and works that may trigger the need for ASS assessment was available for the public. The Council’s DA Guide, which provides assistance with the preparation and lodgement of DAs, has also been amended to refer to acid sulfate soils.

#### **3.1 Advertising and notification**

Details of the exhibition were notified in the Wentworth Courier editions of 16 June, 23 June, 30 June, 7 July and 14 July 2004.

### **4. Summary of submissions**

One submission regarding the Draft LEP was received in response to the exhibition. The submission from the Vaucluse Progress Association (**Annexure 2**) raised a number of issues, each of which is addressed below.

- (i) **The proposed amendment to clause 25B(1) only has application to exempt development. It may be useful to make the treatment of complying development clearer. Existing reference to ASS in the Exempt and Complying Development DCP is much removed from specific concerns treated in the LEP.**

*Response*

The issue can be addressed by making the following minor alteration to clause 25B(2).

- (2) Development listed as complying development in *Woollahra Development Control Plan - Exempt and Complying Development*, as approved by the Council on 10 April 2000 is **complying development** if:
  - (a) it is local development of a kind that can be carried out with consent on the land on which it is proposed, and
  - (b) it is not an existing use, as defined in section 106 of the Act, and
  - (c) it is not development that requires consent under clause 25D.

A copy of the altered Draft LEP is attached (**Annexure 3**).

Minor amendments should also be made to the DCP for Exempt and Complying Development in order to improve the cross-referencing between the LEP acid sulfate soils provisions and those in the DCP. These are being done, in part, under a current draft DCP, which will soon be placed on public exhibition. To provide consistency between the LEP and DCP, it is recommended that a similar clause to 25B(2)(c) be included in the DCP for both exempt and complying development criteria. This can be dealt with as a submission by staff to the exhibited draft DCP.

- (ii) **The terms under which Council would expect to issue certification relating to preliminary assessments under draft Clause 25D(4) should be open to public comment prior to adoption and then should be publicly accessible. It is unclear whether these terms and the procedure will be incorporated in the proposed information brochure foreshadowed in the report to the Urban Planning Committee on 24 February 2003.**

*Response*

Proposed clause 25D in the Draft LEP introduces the provisions relating to the development on land identified on the ASS planning map. Clause 25D(4) lists the circumstances where consent for certain work would not be required. This occurs where:

- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Manual* has been given to Council, and
- (b) the Council has provided written advice to the person proposing to carry out the works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an Acid Sulfate Soils Management Plan prepared in accordance with the *Acid Sulfate Soils Manual*.

A preliminary assessment must be prepared by a suitably qualified person and must also be prepared in accordance with the provisions of the Acid Sulfate Soils Manual published by the State Government.

It is the responsibility of the Council to be satisfied that the preliminary assessment has been carried out in accordance with the requirements of the ASS Manual. The steps for assessment in the ASS Manual are a standardised method intended for use across the State. The Manual can be available for viewing by the public if requested. However, the Manual is not open for review or comment through the Draft LEP process. Any review would be initiated by DIPNR as a separate process. An ASS preliminary assessment or management plan submitted with a development application would form part of the public exhibition material for the application and would be open to comment by the public at that time.

The information brochure was prepared for the Draft LEP exhibition. Its purpose was to explain the Draft LEP provisions and the steps following exhibition. The brochure did not provide information on the detailed scientific criteria to be used in the review of preliminary assessments and management plans.

No alteration is considered necessary in response to this point of the submission.

- (iii) **The classification of land in the vicinity of Camp Cove Reserve which was once a tidal lagoon and is identified as Class 2, is queried. A Class 1 allocation may have been expected. Assuming that the map was expertly compiled by the (then) Department of Land and Water Conservation, we imagine the proposed classification is supportable.**

*Response*

The ASS Planning Map has been prepared using information received from the Department of Land and Water Conservation (DLWC). The submission acknowledges that if the ASS map was compiled by DLWC, then the proposed classification should be supported.

No alteration is considered necessary in response to this point of the submission.

## **5. 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.

## **6. Identification of income and expenditure**

There are no budgetary implications. All costs associated with the preparation and exhibition of the Draft LEP are accounted for in the 2003/2004 and 2004/2005 budgets.

## **7. Conclusion**

Preparation of the Draft LEP has been undertaken in the manner required by the Act and the Regulation. Consideration has been given to the one submission received and as a consequence one alteration to the Draft LEP is recommended.

It is recommended that the altered Draft LEP (**Annexure 3**) 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 PLANNER**

### **Annexures:**

- 1.** Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39), as exhibited.
- 2.** Submission from The Vaocluse Progress Association dated 22 June 2004.
- 3.** Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39), as altered.

**Item No:** R3 Recommendation to Council  
**Subject:** **DRAFT WOOLLAHRA LEP 1995 (AMENDMENT NO. 52)**  
**Author:** Libby Maher, Strategic Heritage Officer  
**File No:** 1064 G Amend 52  
**Reason for Report:** To report on the public exhibition of Draft Woollahra Local Environmental Plan 1995 (Amendment No. 52).

**Recommendation:**

- A. THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 52), as altered and as contained in **Annexure 6** of the report to the Urban Planning Committee meeting of 30 August 2004, be referred to the NSW Heritage Office and then to the Department of Infrastructure, Planning and Natural Resources for approval by the Minister and for gazettal.
- B. THAT the amended heritage inventory sheets shown in **Annexure 5** of the report to the Urban Planning Committee meeting of 30 August 2004, be adopted by Council and used in the assessment of development applications for those subject properties.
- C. THAT the Royal Sydney Golf Club House and grounds within the immediate curtilage of the club house be nominated to the Heritage Council of NSW for inclusion on the State Heritage Register as an item of State significance.

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**1.0 Background**

On 20 October 2003, Council's Urban Planning Committee considered a report regarding a proposal for the heritage listing of numerous properties throughout the Woollahra local government area, the creation of a number of heritage item groups and for the creation of a heritage conservation area in Darling Point. The report to the Committee recommended that a draft LEP be prepared. A copy of that report is attached as **Annexure 1**.

Council, at its meeting of 3 November 2003, resolved the following:

- 1. *THAT a draft local environmental plan be prepared to amend Woollahra Local Environmental Plan 1995 in the following manner:*

- (i) by including the following properties as heritage items in Schedule 3:*

<i>Annandale Street,</i>	<i>Darling Point</i>	<i>8</i>	<i>'Balgowan', house and grounds</i>
<i>Balfour Road, and grounds</i>	<i>Rose Bay</i>		<i>'St Bernard Hall', residential flat building</i>
<i>Balfour Road, outside properties within road reservation,</i>	<i>Rose Bay</i>	<i>13-31 18-36</i>	<i>Avenue of Plane trees and Fig trees</i>
<i>Balfour Road, grounds</i>	<i>Rose Bay</i>	<i>19</i>	<i>'Wycombe', residential flat building and</i>
<i>Balfour Road,</i>	<i>Rose Bay</i>	<i>21</i>	<i>Residential flat building and grounds</i>
<i>Balfour Road,</i>	<i>Rose Bay</i>	<i>23</i>	<i>Residential flat building and grounds</i>



<i>Balfour Road, grounds</i>	<i>Rose Bay</i>	<i>25</i>	<i>'Springfield', residential flat building and grounds</i>
<i>Carthona Avenue,</i>	<i>Darling Point</i>	<i>2</i>	<i>'Neidpath', house and grounds</i>
<i>Darling Point Road</i>	<i>Darling Point</i>	<i>14a</i>	<i>'Barbiston', residential flat building, grounds and sandstone wall to street</i>
<i>Darling Point Road,</i>	<i>Darling Point</i>	<i>28</i>	<i>House and grounds</i>
<i>Eastbourne Road,</i>	<i>Darling Point</i>	<i>7</i>	<i>House and grounds</i>
<i>Eastbourne Road,</i>	<i>Darling Point</i>	<i>23</i>	<i>'Chiltern', house and grounds</i>
<i>Goomerah Crescent</i>	<i>Darling Point</i>	<i>9</i>	<i>Sandstone retaining walls, balustrade and stone stair to the former house 'Denholm'</i>
<i>Greenoaks Avenue,</i>	<i>Darling Point</i>	<i>10</i>	<i>'Glenires', house and grounds</i>
<i>Kent Road, within road reservation</i>	<i>Rose Bay</i>	<i>all</i>	<i>Fig trees, Eucalypts, palms and Jacarandahs</i>
<i>Kent Road,</i>	<i>Rose Bay</i>	<i>4a</i>	<i>'Fermoyle', residential flat building and grounds</i>
<i>Kent Road,</i>	<i>Rose Bay</i>	<i>16</i>	<i>'Sherland Lodge', house and grounds</i>
<i>Kent Road,</i>	<i>Rose Bay</i>	<i>17</i>	<i>'Samares', house and grounds</i>
<i>Kent Road,</i>	<i>Rose Bay</i>	<i>19</i>	<i>'The Knoll', house and grounds</i>
<i>Kent Road, grounds</i>	<i>Rose Bay</i>	<i>20</i>	<i>'Tudor House', residential flat building and grounds</i>
<i>Kent Road,</i>	<i>Rose Bay</i>	<i>32</i>	<i>Rose Bay House and grounds</i>
<i>Latimer Road,</i>	<i>Bellevue Hill</i>	<i>1</i>	<i>'Phillip Court' residential flat building and grounds</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>14</i>	<i>'Wyralla', house, grounds and sandstone retaining wall to Mona Lane</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>15</i>	<i>Semi-detached house, grounds, and sandstone retaining wall to street</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>16</i>	<i>'Mindarraba', house, grounds and sandstone retaining wall to Mona Lane</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>17</i>	<i>Semi-detached house, grounds and sandstone retaining wall to street</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>18</i>	<i>'Brereton', former house, grounds sandstone retaining wall to Mona Lane</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>20</i>	<i>'Winburn', house and grounds sandstone retaining wall to Mona Lane</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>21</i>	<i>'Greycliffe Flats', house, grounds and sandstone retaining wall to street</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>23</i>	<i>'Greycliffe Flats', house, grounds and sandstone retaining wall to street</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>25-7</i>	<i>'The Grange', residential flat building, grounds and brick retaining wall to street</i>

<i>Mona Road,</i>	<i>Darling Point</i>	<i>36a</i>	<i>'Gwelo', former house and grounds</i>
<i>New South Head Rd,</i>	<i>Rose Bay</i>	<i>633</i>	<i>'Murong', house and grounds</i>
<i>O'Sullivan Road,</i>	<i>Rose Bay</i>	<i>51-55</i>	<i>Former service station and grounds</i>
<i>O'Sullivan Road,</i>	<i>Rose Bay</i>	<i>75</i>	<i>'Avoca', house and grounds</i>
<i>O'Sullivan Road,</i>	<i>Rose Bay</i>	<i>79</i>	<i>'Darnley', residential flat building and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>97</i>	<i>'Avalon', residential flat building and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>101</i>	<i>'Beresford Court', residential flat building and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>285</i>	<i>Residential flat building, shops, garage and grounds</i>
<i>Oswald Lane,</i>	<i>Darling Point</i>	<i>10</i>	<i>'Thanet', house, grounds, sandstone retaining walls</i>
<i>Salisbury Road,</i>	<i>Rose Bay</i>	<i>23</i>	<i>'Simcha', house and grounds</i>
<i>Yarranabbe Road,</i>	<i>Darling Point</i>	<i>5-9</i>	<i>Former house and grounds</i>
<i>Yarranabbe Road,</i>	<i>Darling Point</i>	<i>12-14</i>	<i>House and grounds</i>

(ii) by amending the current description of 15 Eastbourne Road in Schedule 3 to read:

<i>Eastbourne Road,</i>	<i>Darling Point</i>	<i>15</i>	<i>Cook Pine, 'Kendall Lodge', house and grounds</i>
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(iii) by including the following properties as heritage item groups:

<i>Balfour Road,</i>	<i>Rose Bay</i>	<i>19,21, 23,25</i>	<i>Residential flat buildings and grounds</i>
<i>Latimer Road,</i>	<i>Bellevue Hill</i>	<i>1</i>	<i>'Phillip Court' residential flat building grounds;</i>
<i>and</i>			
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>101</i>	<i>'Beresford Court', residential flat building and grounds</i>
<i>O'Sullivan Road,</i>	<i>Bellevue Hill</i>	<i>101</i>	<i>'Beresford Court', residential flat building and grounds;</i>
<i>and</i>			
<i>Latimer Road,</i>	<i>Bellevue Hill</i>	<i>1</i>	<i>'Phillip Court', residential flat building and grounds</i>
<i>Mona Road,</i>	<i>Darling Point</i>	<i>15</i>	<i>Semi-detached house, grounds, and sandstone retaining wall to street;</i>
<i>and</i>			
<i>Mona Road,</i>	<i>Darling Point</i>	<i>17</i>	<i>Semi-detached house, grounds and sandstone retaining wall to street</i>
<i>Darling Point Road</i>	<i>Darling Point</i>	<i>54</i>	<i>Gateposts to former house Denholm,</i>
<i>and</i>			
<i>Goomerah Crescent</i>	<i>Darling Point</i>	<i>9</i>	<i>Sandstone boundary walls, balustrade and stone stair to former house Denholm;</i>
<i>and</i>			

*Yarranabbe Road                      Darling Point    28            House*

(iv) *by including the following properties and land in a heritage conservation area:*

*Loftus Road,            Darling Point    2*  
*Loftus Road,            Darling Point    4*  
*Mona Road,             Darling Point    38a*  
*Mona Road,             Darling Point    38b*

*as shown on the map labelled 'Darling Point Inter-war Flats Heritage Conservation Area' within the report of the Strategic Heritage Officer to the Urban Planning Committee meeting on 20 October 2003.*

2. *THAT the Woollahra Council Heritage Inventory Sheets for each property nominated in 1 above be forwarded to the NSW Heritage Council for their information.*
3. *THAT the Potential Heritage Conservation Area Studies for Kent Road Rose Bay and the Balfour Road Area Rose Bay prepared by Noel Bell Ridley Smith and Partners Pty Ltd, be adopted. These documents, with the exception of the preliminary DCP sections, are to be used in the assessment of development applications for the properties referred to in those reports.*
4. *THAT the individual heritage inventory sheets for those properties in Darling Point prepared by Mark Robinson, Architect, Town Planner, Heritage Specialist be used in the assessment of development applications for those properties.*
5. *THAT the individual heritage inventory sheet prepared by INHERITage, be used in the assessment of development applications for 285 O'Sullivan Street, Bellevue Hill.*
6. *THAT the Inter-war Residential Flat Buildings conservation study prepared by INHERITage, for the properties in Rose Bay Garden Estate and Aston Gardens be adopted and used in the assessment of development applications for those properties within the Rose Bay Garden Estate and Aston Garden Heritage Conservation Areas.*
7. *THAT the individual heritage inventory sheets prepared by Council's heritage officer be used in the assessment of development applications for the following properties: 38a, 38b Mona Road and 2, 4 Loftus Road in the Darling Point Inter-war Flats Heritage Conservation Area, 7 Eastbourne Road, Darling Point; and 9 Goomerah Crescent, Darling Point.*
8. *THAT the following property be nominated to the Heritage Council of NSW for inclusion on the State Heritage Register as an item of state significance after consultation with the property owner:*  

*New South Head Road, 701    Rose Bay    Royal Sydney Golf Club House and grounds within the immediate curtilage of the club house as defined by the conservation management plan prepared by Noel Bell Ridley Smith and Partners dated July 2001.*
9. *THAT the owners of those properties listed in 1 above be advised of the Council's decision and informed of the opportunity to participate in the public consultation process associated with the exhibition of the draft LEP.*

## **2.0 Issues prior to exhibition of Draft Woollahra LEP 1995 (Amendment no. 52)**

### **2.1 No. 15 Eastbourne Road, Darling Point**

The recommendation to the Urban Planning Committee on 20 October 2003, incorrectly described No. 15 Eastbourne Road, Darling Point as a heritage item with the description:

*Eastbourne Road, Darling Point 15 Cook Pine, 'Kendall Lodge', house and grounds*

No. 15 Eastbourne Road, 'Kendall Lodge' is a proposed heritage item, not currently listed in schedule 3 of Woollahra LEP 1995. The Cook Pine is located on another heritage property at No. 23 Eastbourne Road. The error was found immediately after the Council's resolution of 3 November 2003 and prior to the exhibition period commencing. Consequently, the proposed amendment to Woollahra LEP 1995 regarding the property was omitted from the exhibited copy and the owner notified accordingly.

The owner of No. 15 Eastbourne Road had previously made a submission to the Urban Planning Committee meeting of 20 October 2003, contesting the significance of the property and providing additional notes regarding the history and subsequent alterations to the property. A site visit to confirm some of these details has not been permitted by the owner to date.

It is recommended that No. 15 Eastbourne Road be added to the next group of draft heritage items that are considered by Urban Planning Committee. Minor amendments to the heritage inventory sheet will be made in response to the owner's submission. The amended sheet will form part of a future report. The next heritage report to the Urban Planning Committee will address the final group of properties associated with the Tanner study.

### **2.2 No. 23 Eastbourne Road, Darling Point, an existing heritage item**

No. 23 Eastbourne Road is currently listed in Woollahra LEP 1995 as:

*Eastbourne Road, Darling Point, 23 Cook Pine*

The house and grounds were listed in Council's resolution of 3 November 2003 as a proposed heritage item described as:

*Eastbourne Road, Darling Point 23 'Chiltern', house and grounds*

The description of the property contained in the resolution of 3 November 2003 was exhibited in Draft Woollahra LEP 1995 (Amendment No. 52).

It is recommended to join the existing and proposed heritage item descriptions and alter the Draft LEP by deleting the original reference to this property in Woollahra LEP 1995 and inserting the following description:

*Eastbourne Road, Darling Point 23 'Chiltern', house, Cook Pine and grounds*

## **3.0 Preparation of Draft Woollahra LEP 1995 (Amendment No. 52)**

After the Council's decision of 3 November 2003, 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.

### **3.1 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.

### **3.2 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 20 October 2003 were sent to the NSW Heritage Office and Waverley Council.

The NSW Heritage Office has responded and raises no objection to the aims and content of the Draft LEP. It suggests that Council be satisfied that the affected properties have sufficient significance to warrant listings. The Heritage Office also requested that the Draft LEP be returned to it for review if alterations occur in response to submissions.

Waverley Council advised that it had no comments to make regarding the Draft LEP.

### **3.3 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.

### **3.4 Section 65 certificate**

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

### **3.5 Consideration of SEPPs, REPs and Ministerial directions**

#### **3.5.1 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.

#### **3.5.2 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 relevant section 117 directions as required by the Act. Direction G.21 – *Conservation of environmental heritage and ecologically significant items and areas* – is relevant. The Draft LEP is consistent with this direction.

#### **4.0 Public exhibition process**

##### **4.1 Exhibition period and location**

The Draft LEP has been 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, 14 January 2004 to Friday, 27 February 2004. A copy of the exhibited Draft LEP is attached as **Annexure 2**.

##### **4.2 Advertising and notification**

Details of the exhibition were notified in the Wentworth courier editions of 14 January, 21 January, 28 January, 4 February, 11 February, 18 February and 25 February 2004.

As required by part 9 of Council's resolution, the owners of those properties proposed to be listed as a heritage item, heritage item group or within a heritage conservation area were informed of Council's decision and invited to participate in the public consultation process associated with the exhibition of the Draft LEP. An information brochure was included with the letter.

#### **5.0 Summary of submissions**

##### **5.1 Public submissions**

Thirteen submissions regarding the Draft LEP were received in response to the exhibition. The majority of the submissions raised individual concerns with the detail contained in the inventory sheets. Five property owners opposed the inclusion of their properties as a heritage item. One opposed the state significance ranking of their property. There were no submissions relating to the proposed heritage conservation area in Darling Point. Summaries of all submissions and the responses to each issue are contained in **Annexure 3**. Copies of the original submissions are contained in **Annexure 4**.

The submissions raised issues or provided comments listed below.

- (i) **Issues regarding the information brochure**  
Content of the brochure was seen to be deficient and misleading [Submission No 4]
- (ii) **Issues regarding the accuracy of the inventory sheets.** This included the accuracy of historical details and the list of alterations and additions to properties. Amended inventory sheets are included as **Annexure 5**.

- 32 Kent Road, Rose Bay [Submission 5].
  - 19 Kent Road, Rose Bay [Submission 7].
  - 16 Kent Road, Rose Bay [Submission 12].
  - 15 Mona Road, Darling Point [Submission 13].
- (iii) **Opposition to listing on the State Heritage Register**
- 19 Kent Road, Rose Bay [Submission 7].
- (iv) **Issues regarding the assessment of heritage significance**
- 9 Goomerah Crescent, Darling Point [Submission 8].
  - 15 Mona Road, Darling Point [Submission 13].
- (iv) **Opposition to the heritage listing of various properties and landscape elements**
- Opposition in principle because of the constraint put on the redevelopment of the land. [Submissions 1, 2, 4]
  - Opposition to listing of Fig trees in Kent Road, Rose Bay [Submission 1]
  - Opposition to listing of 32 Kent Road Rose Bay with preference for listing as a contributory building [Submission 5]
  - Opposition to listing of 9 Goomerah Crescent, Darling Point landscape elements [Submission 8].
  - Opposition to listing of 75 O'Sullivan Road, Rose Bay [Submissions 9, 10,11].
  - Opposition to listing of 12-14 Yarranabbe Road, Darling Point implied [Submission 2].
  - Opposition to listing of 15 Mona Road, Darling Point [Submission 13].
- (v) **General support for the listing of properties**
- Support for listing of 4a Kent Road, Rose Bay [Submission 3]
  - Support for listing of 19 Kent Road, Rose Bay [Submission 7]
  - Support for listing the properties in Darling Point [Submission 6]
  - Support for listing of 16 Kent Road, Rose Bay [Submission 12]
  - Request for heritage listing of the houses at No 27 and 29-31 Kent Road. This issue was the subject of discussion in the report to the UPC of 20 October 2003. [Submission 5]
- (vii) **Issues regarding the development controls for the Kent Road HCA**  
Concerns about the consistent use of development controls in this precinct [Submission 5]
- (viii) **Identification of additional buildings, historical features, open spaces, views and vistas**  
The Darling Point Society made a detailed submission. These items were generally not the subject of the exhibited plan [Submission 6]. Consideration could be given to reviewing the list as proposed heritage items suggested by the Darling Point Society in a future study of Darling Point as part of the 2005/6 Management Plan.

## 5.2 Submissions from Council staff

- (i) **Manager Public Open Space**  
The Manager Public Open Space has examined the material relating to the Kent Road street trees. In view of their condition he recommends that consideration of their listing be deferred pending further investigations as part of the street tree management review. This review will be reported to a future meeting of the Community and Environment Committee.
- (ii) **Strategic Heritage Officer**  
The Strategic Heritage Officer has also reviewed the proposed listing for the Kent Road street trees. She recommends that listing not proceed, noting that the palms and eucalypt trees are not contributory items in a heritage sense and do not date from the key periods of development for the Kent Road Heritage Conservation Area.

It is therefore recommended that the palms and eucalypt trees be deleted from the Draft LEP. The figs and Jacarandas are considered to be of heritage significance. However, having regard to the comment from the Manager Public Open Space, it is recommended that these trees be deleted from the Draft LEP to allow further assessment.

The surviving evidence of the original mansion 'Denholm' and its ground at 9 Goomerah Crescent Darling Point was incorrectly described in the Draft LEP. The description included the stone staircase instead of the rockface. The stone stair is located within the grounds of the heritage listed property at No. 28 Yarranabbe Road, Darling Point. A minor alteration to the Draft LEP description for No. 9 Goomerah Crescent is described in clause 6.2 of this report.

## **6.0 Proposed alterations to the Draft LEP**

In response to submissions received, four alterations are proposed to the exhibited Draft LEP.

### **6.1 Alteration to the description of a proposed heritage item**

A minor alteration is recommended to the description for 4a Kent Road, Rose Bay [Submission 3]. The recommended alteration to the description in the Draft LEP of

*Kent Road, Rose Bay 4a 'Fermoyle', residential flat building and grounds*

is to delete the word 'grounds' and insert 'front fence'. (Refer to **Annexure 3**).

A minor alteration is recommended to the description for 9 Goomerah Crescent, Darling Point. The recommended alteration to the description in the Draft LEP of

*Goomerah Crescent Darling Point 9 Sandstone retaining walls, balustrade and stone stair to the former house 'Denholm'*

is to delete the words 'stone stair' and insert 'rockface'. (Refer to **Annexure 3**).

### **6.2 Deletion of a proposed heritage item**

Detailed submissions regarding the level of significance for 75 O'Sullivan Road, Rose Bay [Submission 9, 10 and 11] are supported after further investigation of the property. The recommended alteration to the Draft LEP is to delete the proposed item.

As discussed above, it is recommended that the proposed listing of the Kent Road street trees be deleted.

## **7.0 Further actions**

### **7.1 State Heritage Register nominations**

The NSW Heritage Office has advised that nominations for the State Heritage Register should occur after gazettal of individual properties.

A meeting was held with the Royal Sydney Golf Club in November 2003 regarding the nomination of the clubhouse and those grounds that are within the immediate curtilage of the clubhouse. The club management generally supported the nomination.



A discussion regarding the nomination of the Broadway Garage at 285 O'Sullivan Road, Bellevue Hill will occur with the owner after gazettal of the item.

## **7.2 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 the Department of Infrastructure, Planning and Natural Resources for the Minister's approval and then gazettal. The Draft LEP will come into effect when a notice is placed in the Government Gazette.

## **8.0 Conclusion**

Preparation of the Draft LEP has been undertaken in the manner required by the Act and the Regulation. Consideration has been given to the submissions and minor alterations are recommended. The alterations respond to submissions and are not considered to be of such magnitude that would warrant re-exhibition of the Draft LEP.

It is recommended that the Draft LEP, as altered, be forwarded to the NSW Heritage Office and then to the Department of Infrastructure, Planning and Natural Resources for gazettal subject to any legal drafting alterations requested by Parliamentary Counsel.

Libby Maher  
Strategic Heritage Officer

Chris Bluett  
Manager Strategic Planning

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## **Annexures**

### **Part 1**

1. Report to the Urban Planning Committee meeting 20 October 2003. The annexures will be available at the meeting.

### **Part 2**

2. Exhibited Draft Woollahra LEP 1995 (Amendment No.52).
3. Summary of submissions.
4. Copy of original submissions.
5. Amended heritage inventory sheets.
6. Altered Draft Woollahra LEP 1995 (Amendment No.52).