



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 26 May 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

22 May 2008

To: His Worship The Mayor, Councillor Geoff Rundle, ex-officio
Councillors John Comino (Chair)
 Claudia Cullen (Deputy Chair)
 Christopher Dawson
 Wilhelmina Gardner
 Keri Huxley
 Julian Martin
 David Shoebridge

Dear Councillors

Urban Planning Committee Meeting – 26 May 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 26 May 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	Confirmation of Minutes of Meeting held on 12 May 2008	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Draft Woollahra LEP 1995 (Amend 60) – William Street, Paddington – 1064.G (Amend 60)	2
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Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 12 May 2008**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 12 May 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 12 May 2008 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **Draft Woollahra LEP 1995 (Amend 60) - William Street Paddington**
Author: Chris Bluett - Manager Strategic Planning
File No: 1064.G (Amend 60) - William Street, Paddington
Reason for Report: To respond to a decision of the Council made on 25 February 2008 deferring the William Street provisions from Draft Woollahra LEP 1995 (Amendment No.60)
To present a draft LEP and draft DCP provisions for William Street Paddington
To obtain a decision of the Council to prepare a draft LEP and draft DCP.

Recommendation

- A. That a draft local environmental plan be prepared incorporating the matters deferred from Draft Woollahra LEP 1995 (Amendment 60).
- B. That a draft development control plan be prepared to amend the Paddington Heritage Conservation Area DCP based on the proposed provisions contained in **annexure 5** of the report to the Urban Planning Committee meeting on 26 May 2008.

Background

On 17 December 2007 and 11 February 2008 the Urban Planning Committee considered reports on proposed statutory controls allowing additional uses in William Street Paddington (**annexures 1 and 2**).

The Council's decision of 25 February 2008 was:

- A. That the William Street Paddington provisions be deferred from Draft Woollahra LEP 1995 (Amendment No.60) under section 68 (5) of the *Environmental Planning and Assessment Act 1979* and included in a separate draft local environmental plan, with proposed item [14] Schedule 2 – Development for certain additional purposes - being amended to read:

Land known as Nos. 12 to 42, Nos. 48 to 94, Nos. 3 to 43 and Nos. 45 to 63 William Street, Paddington – fashion shops, shoe shops, jewellery shops, health and beauty shops within the ground floor of the building. The upper floor may only be used for residential purposes.

- B. That Draft Woollahra LEP 1995 (Amendment No.60), excluding the deferred matters, be submitted to the Department of Planning for approval by the Minister for Planning subject to the following amendment:

Item [13] Schedule 1, definition of “restaurant” being amended by omitting the definition and inserting instead:

restaurant means a building or place, the principal purpose of which is the provision of food or food and beverages to people for consumption on the premises and that may also provide takeaway meals.

- C. That the William Street Paddington provisions of the Draft LEP containing the deferred William Street Paddington provisions be exhibited concurrently with an amendment to the Paddington DCP containing specific controls for the William Street properties.

This report responds to items A and C of the Council’s decision. Before preparing this report we sought advice from the Department of Planning on statutory and administrative processes for dealing with deferred matters. This was necessary in view of the new processes established by the Department under the Planning Reform system.

Proposed draft LEP

A draft LEP has been prepared using the terms set out in the Council’s decision of 25 February 2008 (**annexure 3**). The Council’s intention is to restrict the type of businesses and their location within a building. There are two issues that the Committee should consider about the proposed additional use provision.

- (i) The provision has the potential to conflict with the operation of clause 30 of Woollahra LEP 1995. This clause allows, with consent, a range of non-residential uses in buildings which are not zoned for business purposes and which are located in a heritage conservation area. For clause 30 to apply, the existing buildings must meet certain criteria. The buildings must have been originally constructed as non-residential premises or legally converted. A copy of clause 30 is attached as **annexure 4**. A number of properties in William Street are of a non-residential design and are likely to have the benefit of clause 30. The relationship of clause 30 to the proposed additional use provisions is not clear in so far as to indicate which takes precedence. It was not intended that the operation of clause 30 be overridden by the additional use provisions. Therefore, the drafting of the additional use provisions needs to be clarified to ensure that the operation of clause 30 prevails in certain cases.

A further issue may arise from the operation of the additional use provisions and clause 30. Where development consent is granted under the additional use provisions, and the proposal also involves alterations, it is arguable that the premises then falls into the building type described in clause 30(1). As such, the nature of land uses available to the premise is expanded.

In order to remove the potential conflict with clause 30 and retain the intent of the additional use provisions, we recommend the inclusion of two sentences:

The provisions of clause 30 prevail for those William Street properties that satisfy the criteria of clause 30 prior to the commencement of these additional use provisions.

The provisions of clause 30 do not operate for the William Street properties that gain consent under these additional use provisions.

- (ii) Constraining the upper floor of terrace houses to residential usage may raise functional issues which could lead to illegal occupations. Because of economic considerations, there is a strong possibility that an upper floor would be used for non-residential purposes where a property was leased by a business operator who did not wish to reside on the premises. Whilst the onus is on owners and applicants to comply with planning law and any conditions of development consent, the Council must be in a position to enforce its legal and policy framework. The draft LEP provisions, as they now stand, would impose additional enforcement requirements on the Council's limited resources.

We note that similar issues were debated in the early 1990s when consideration was given to rezoning properties along Oxford Street Paddington for business purposes. At that time, the Council had initially considered restricting non-residential uses to ground floor levels but eventually adopted an approach which left the options of use to the market. That is, the upper floor of a premises could be used for either non-residential or residential purposes.

Proposed draft DCP

A draft set of provisions for William Street has been prepared (**annexure 5**). These provisions will form the basis of a minor amendment to the recently approved Paddington Heritage Conservation Area DCP 2008. The amending provisions, which will be inserted as an annexure to the Paddington HCA DCP, are set out in four sections:

- (i) Historical overview
- (ii) Street character
- (iii) Objectives
- (iv) Controls
 - character
 - advertising and display of goods
 - security

Cross referencing is provided to relevant clauses in the Paddington DCP. These clauses include:

- 4.1.1 – Principal building form and street front zone of significant buildings
- 4.2.3 – Windows, doors, shutters and security
- 4.2.4 – Verandahs and balconies
- 4.2.8 – Materials, finishes and details
- 4.2.9 – Exterior colours
- 4.2.10 – Advertising signs on buildings
- 4.3.7 – Commercial retail and industrial buildings

The William Street provisions will prevail over other provisions in the Paddington DCP to avoid contradiction.

Next steps

The attached draft LEP (**annexure 3**) and amendment to the Paddington HCA DCP 2008 will be exhibited concurrently for a minimum period of 28 days. Property owners in and adjoining William Street will be notified and invited to make a submission. A report on submissions will be prepared for the Committee's consideration after the exhibition.

Identification of income and expenditure

Costs associated with the preparation and exhibition of the Draft LEP and amending DCP provisions can be met by allocations from the 2007-2008 and 2008-2009 budgets.

Conclusion

Land use and other development controls for William Street, Paddington, have been prepared to make permissible and regulate a range of low-key uses for nominated properties. These controls will act in conjunction with current controls in Woollahra LEP 1995 and the recently approved Paddington HCA DCP.

In light of issues raised in this report about regulating the use of terrace houses and their adaptation for mixed occupation, we suggest that the Committee consider the proposed restrictions on upper floor areas.

A recommendation has been prepared to facilitate the statutory process in preparing the LEP and DCP amending documents. The primary content of the Draft LEP may be added to the recommendation following discussion of the matter by the Committee.

Chris Bluett
Manager Strategic Planning

Allan Coker
Director Planning and Development

ANNEXURE

1. Report to Urban Planning Committee 17 December 2007
2. Report to Urban Planning Committee 11 February 2008
3. Draft LEP for William Street additional uses
4. Clause 30 – Woollahra LEP 1995
5. Draft DCP provisions for William Street properties