



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday, 31 October 2005*

Time: *5.30 pm*

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

27 October 2005

To: The Mayor, Councillor Andrew Petrie, ex-officio
Councillors Keri Huxley (Chair)
 John Comino
 Christopher Dawson
 Wilhelmina Gardner
 Geoff Rundle
 Isabelle Shapiro
 David Shoebridge

Dear Councillors

Urban Planning Committee Meeting – 31 October 2005

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Monday 31 October 2005 at 5.30 pm.**

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 10 October 2005	1
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Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Rose Bay Promenade – 663.G	2
R2	Draft Standard Instrument (Local Environmental Plans) Order 2005 – 696.G	9

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 10 October 2005**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 10 October 2005 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Urban Planning Committee Meeting of 10 October 2005 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: R1 Recommendation to Council
Subject: **Rose Bay Promenade**
Author: David Sheils - Manager Public Open Space
File No: 663.G
Reason for Report: To respond to a Council resolution concerning the Rose Bay Promenade design.

Recommendation:

- A. That four design options for the Rose Bay Promenade balustrade be presented to a public forum to be held at 6 pm 6 December 2005 in the Committee Room, being:
- the DA proposal;
 - the DA proposal with small balconies deleted;
 - an open balustrade;
 - restore and upgrade the wall as originally constructed.
- B. That the Mayor nominate a chairperson for the forum.
- C. That the matter be referred to full Council as a Matter of Urgency to endorse the proposed public forum.

Background:

In consideration of a report (Annexure 1) prepared following a Councillor workshop on the proposed treatment of the Rose Bay Promenade balustrade, the Corporate and Works Committee resolved at its meeting of 17 October 2005:

- “A. A report to be provided to the Urban Planning Committee meeting to be held on 31 October 2005 to consider which design options are preferred by the Councillors, and be referred to full Council on 31 October 2005 as a Matter of Urgency.*
- B. That a public forum be held on 5 December 2005 regarding the Rose Bay Promenade balustrade treatment and that it be publicly advertised.*
- C. That four design options be prepared for the public forum being:*
- the DA proposal with more grass;*
 - the DA proposal with small balconies deleted and more grassed area;*
 - an open balustrade with more grassed area;*
 - restore and upgrade the wall as originally constructed.*
- D. That the Mayor nominate a chairperson for the forum.*
- E. That a panel of experts be available at the public meeting, comprising the Director of Planning and Development, the Director of Technical Services and a heritage expert.”*

In preparation for the public forum, display material for each design option is being prepared at the time of drafting this report and will be on display in the Committee Room for Councillors from 5:00pm. A brief description of each design option will be presented to the Urban Planning Committee. All options include extended grassed areas as resolved by the Corporate and Works Committee.

An approach is also being made to an independent heritage expert to review the four design options. This expert will be requested to attend the public forum.

A brief overview of each design option is provided in the table (Annexure 2). All alternatives shown exclude the cycle way (estimated cost \$1.2m) as this element is presently unfunded, and allow for only one marine deck/dinghy storage based on the advice from NSW Maritime (see Annexure 1).

Council has allocated \$1.7m in this year's budget for the promenade (pedestrian footway and associated structure and landscaping), plus \$1m to be drawn from loan funds for the works to the balustrade (belvederes and lighting) and the marine deck/dingy storage. We have received an offer of a grant for \$65,000 from the State government which was the subject of a separate report to Corporate and Works Committee 17 October 2005.

The Corporate and Works resolution of 17 October 2005, nominated the public forum be held on 5 December 2005. However, it is brought to Council's attention that this date is in conflict with the Development Control and Corporate and Works Committee meeting scheduled for the same evening. Therefore, an alternative date of 6 December at 6 pm is proposed.

Note:

All Councillors will be able to view the four design options which will be on display in the Committee Room from 5:00pm.

David Sheils
Manager Public Open Space

Warwick Hatton
Director Technical Services

Annexures:

1. Corporate and Works Report 17 October 2005
2. Overview of design proposals.

Design Proposal	Cost Estimate	Heritage Impact	DA implication
DA proposal with more grass	Promenade construction including small balconies \$1,700,000 One marine deck / dinghy storage \$310,000 Lighting and belvederes \$310,000 Restoration of existing balustrade (partial) \$100,000 Total \$2,420,000	The DA proposal has been assessed by an independent heritage consultant as part of the development assessment.	DA design has been assessed and was referred to the Development Control Committee on 25 July 05, with a recommendation for approval with conditions. The addition of more grass can be conditioned with the consent. The marine deck/dinghy storage will require to be included in the development consent.
DA proposal with balconies deleted more grass	Promenade construction \$1,600,000 Marine deck / dinghy storage \$310,000 Lighting and belvederes \$310,000 Restoration of existing balustrade (partial) \$100,000 Total \$2,320,000	Minor change. Less intervention of the balustrade.	The design modification represents a minor change and could be conditioned with the consent. The marine deck/dinghy storage will require to be included in the development consent.
An open balustrade with more grass area	Promenade construction \$1,600,000 Demolition of existing balustrade and construction of new open style railing \$950,000 Marine deck / dinghy storage \$310,000 Lighting and belvederes \$310,000 Total \$3,170,000	Represents a significant change and will require assessment.	The design represents significant change and will need to be re-exhibited.
Restore and upgrade the wall as originally constructed	Promenade construction \$1,600,000 Marine deck / dinghy storage \$310,000 Lighting and belvederes \$135,000 Restoration of existing balustrade (full) \$200,000 Total \$2,245,000	Retains heritage item with no impact.	Only the marine deck/dinghy storage will require development consent.

Item No: R2 Recommendation to Council
Subject: **Draft Standard Instrument (Local Environmental Plans) Order 2005**
Author: Anita Lakeland - Team Leader Strategic Planning
File No: 696.G
Reason for Report: To report on the Draft Standard Instrument (Local Environmental Plans) Order 2005. To gain endorsement for the submission in response to the Draft Instrument.

Recommendation:

1. That Council endorse the submission in response to the *Draft Standard Instrument (Local Environmental Plans) Order 2005* as contained in Annexure B to the report to the Urban Planning Committee on 31 October 2005 and forward it to the Department of Planning.
2. That the matter be referred to Council as a matter of URGENCY.

1.0 Background:

In 2003 the then Minister for Infrastructure, Planning and Natural Resources (the Minister) commissioned a number of taskforces to review parts of the planning system. These taskforces identified which aspects of the planning system needed reform and recommended options. The reviews covered:

- Plan making
- Local development assessment
- Developer contributions for local infrastructure (s94)
- Major assessments and infrastructure
- State environmental planning policies (SEPPs)
- Minister's consent role
- Master plans
- Housing for older people and people with a disability

On 30 September 2004 the Minister announced a reform package for the New South Wales planning system.

Within the context of the planning instrument reforms, DIPNR released a discussion paper entitled '*Standard Provisions for Local Environmental Plans in NSW*' in September 2004. A submission was made to this discussion paper and reported to Council on 1 November 2004.

On 30 September 2005 the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005* commenced. A report was presented to the Urban Planning Committee meeting on 27 June 2005 explaining this Act. Amongst other things, this Act amended Part 3 – Environmental Planning Instruments to include *Section 33A – Standardisation of local and other environmental planning instruments*. This section allows the Governor, by order published in the Gazette, to prescribe the standard form and content of local environmental plans or other environmental planning instruments.

In response to this new section 33A and following on from the discussion paper, the Department of Planning has now released the *Draft Standard Instrument (Local Environmental Plans) Order 2005* (draft Instrument) for public comment. This is attached as **annexure A**. The public exhibition of the Draft Instrument ends on 31 October 2005, however, submissions will be accepted until 4 November 2005. For this reason, the committee's recommendation will need to be submitted to Council as a matter of urgency on 31 October 2005.

This report provides a brief overview of the structure and content of the draft instrument and highlights the key issues raised in the submission to the draft Instrument contained in **annexure B**.

2.0 Draft standard Instrument (Local Environmental Plans) Order 2005:

2.1 Draft Instrument structure and content

The structure and format of the draft Instrument is generally logical and is similar to Woollahra LEP 1995. The draft Instrument contains the following parts and key provisions within each part:

Part 1 Preliminary

- This part contains the usual introductory provisions common in all LEPs.
- Councils cannot change the standard clause numbering or change the format.

Part 2 Permitted or prohibited development

Identifies:

- all of the 25 land use zones in the Standard LEP
- standard objectives for development in each zone (local objectives may be added to support but not contradict the standard objectives).
- a Land Use Matrix or Land Use Table which identifies permissible uses (with or without consent) and prohibited uses.
- Exempt and complying development provisions (all development types and criteria to be contained in Schedules 1 and 2 to the LEP).
- Additional permitted uses and additional prohibited uses (provision for adding additional permitted uses on certain land and prohibiting certain uses on land).
- Councils can add land uses to the Land Use Matrix/Table provided that they are in the Dictionary.
- Councils cannot add zones, prohibit uses that are mandated as permissible, or permit uses that are mandated as prohibited.

Part 3 Subdivision

Contains provisions in relation to the subdivision of land.

Part 4 Miscellaneous Provisions

This part contains:

- the planning provisions for consideration in the assessment of development applications.
- mandated compulsory provisions which must be included in all council LEPs (These are state-wide planning provisions and may include provisions contained in existing SEPPs).

- mandated optional provisions which may or may not be included in the LEP depending on the council's planning needs and locational characteristics. (The content of these provisions are mandated across the state, but are optional for councils to include in their LEP).
- other provisions (also known as local provisions) which councils can add to its LEP to reflect local planning issues.
- Councils can, subject to the agreement of the Department of Planning add other provisions, provided that they are justified and not inconsistent with any Mandatory Provisions (for example, a council may transfer its existing rules in terms of policy for telecommunications facilities and sex services premises into its LEP by preparing additional provisions for these land uses).
- Councils cannot add provisions that are inconsistent with the Mandatory Provisions.

Schedule 1 – Exempt Development

This schedule will include the exempt development types and criteria.

Schedule 2 – Complying Development

This schedule will include the complying development types, criteria and conditions of consent.

Schedule 3 – Additional permitted uses

This schedule will include a list of properties and additional permitted uses associated with those properties.

Schedule 4 – Additional prohibited uses

This schedule will include a list of properties where certain uses associated with those properties are prohibited.

Schedule 5 – Classification and reclassification of public land

This Schedule will include a list of sites that are classified and reclassified as operational or community land.

Schedule 6 – Environmental heritage

This schedule will contain the list of heritage items.

Dictionary

- The dictionary contains 240 mandatory definitions.
- Councils can add definitions to the Dictionary to address a local planning issue, where this is not adequately addressed by an existing definition in the Dictionary. The new definition must be justified and drafted in consultation with Parliamentary Counsel.
- Councils cannot add definitions that are adequately addressed by an existing definition in the Dictionary

2.2 Other matters of interest

SEPPs and REPs

The Department of Planning is currently reviewing the existing SEPPs and REPs in order to rationalise the number of instruments. The Standard LEP is designed to be able to incorporate administrative, consent and assessment provisions from SEPPs and REPs in the future.

Of particular note is that LEP Template:

- incorporates SEPP 1 – Development Standards into the LEP Template as the new clause 54 – Exceptions to development standards;
- supersedes the Model Provisions under the Environmental Planning and Assessment Act; and
- includes a provision for the preservation of trees (clause 46) which replaces our tree preservation order.

Ongoing changes to the LEP Template

Section 33A(4) of the Act allows the Minister by order to amend the Standard LEP to automatically update all principal LEPs. This will maintain consistency across all of the new principal LEPs to take into account new government policy, improved best practice and decisions of the Land and Environment Court.

It will not affect the local provisions of a council. Standard clause numbering in the Standard LEP will ensure that any amendment by the Minister will not affect the numbering scheme in a council's LEP. The Minister's order that amends the Standard LEP may make provision of a savings or transitional nature as a result of the amendment of the Standard LEP.

Amending LEPs

Once an LEP is made in accordance with the Standard LEP, it can be further amended by a subsequent LEP provided the amendments are consistent with the Standard LEP.

A principal LEP made in accordance with the Standard LEP may be amended by another LEP without compliance with the provisions of Part 3 of the Act in order to do any one or more of the following:

- correct an obvious error in the principal LEP consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error;
- address matters in the principal LEP that are of a consequential, transitional, machinery or other minor nature.

3.0 Submission in response to the draft Instrument

A submission has been prepared in response to the exhibition of the draft Instrument. The structure of the submission has followed the "key questions" requested to be addressed by the Department of Planning. The submission is contained in **annexure B**. A summary of the key issues in the submission are outlined below. It should be noted however, that many of the issues raised in the submission deal with the detail contained in the various development tables, provisions or definitions. The Department has made it clear that the fundamental framework of the draft Instrument will not alter.

3.1 Format and structure

- Suggest renaming of Part 4 Miscellaneous Provisions to “Part 4 – State wide Provisions”.
- Suggest the inclusion of a new Part 5 – “Local Provisions” for inclusion of local planning provisions.
- Suggest alphabetical or more logical order of provisions in Part 4 and contents page.
- Suggest exempt and complying provisions act as enabling clauses with the detailed development types and criteria to be located out of the LEP into a DCP.

3.2 Zones (refer to sections 2.2 of the submission in annexure B and Part 2 of the draft instrument in annexure A)

- Woollahra zoning needs can be met by range of zones.
- Land to be reserved for open space or roads need to be illustrated on the zoning maps with an overlay of hatching or the like. The Recreation zone objectives need to include reference to the reservation of land for open space.
- The absence of a reservation zones for roads is assumed to be covered by the “Special Use-Infrastructure zone”.
- Unclear as to the role and necessity of the “mixed Use zone”. Mixed uses can be included in Business zones as a use and controlled by floor space ratio and height, rather than having a separate zone.
- Unclear whether roads must be zoned.
- Suggested that only the zones applicable to the local area be included in the LEP to avoid unnecessary zoning information and confusion.
- Filming should be excluded as development, as filming is covered through a separated approvals process under the Local Government Act 1993.

3.3 Land use table or matrix (refer to section 2.3 of the submission in annexure B and Part 2 of the draft instrument in annexure A).

- Suggest use of land use table as opposed to matrix. Matrix leaves questions as to the permissibility or prohibition of uses not included in matrix. Land use table better links zone objectives to landuse and is clear on the prohibition or permissibility of all uses in the definition.
- Matrix may be useful tool for in-house planners for quick reference.

3.4 Permitted or prohibited uses in zones (refer to section 2.4 of the submission in annexure B and Part 2 of the draft instrument in annexure A)

Residential zones

- “Places of public worship”, “schools” and “educational establishment” should not be mandatory uses in residential zones due to impacts associated with noise, carparking and traffic and potential expansion into residential areas. These uses should be zoned “Special Uses”.
- “Telecommunications facilities” (that are not low impact) should not be mandatory uses in Residential zones due to health and visual impacts. Should be limited to “low use” open space and commercial areas.
- Support “dual occupancies” as a non-mandatory use in all residential zones.
- There is no clear distinction between “granny flats” and “dual occupancies”. “Granny flats” should not be mandatory in all residential zones unless the definition is amended to specify a maximum floor area size.

Business zones

- “Hotels”, “motels” and “registered clubs” are inappropriate mandatory uses in the “Neighbourhood Business zone” and are uses that serve an area beyond the neighbourhood.
- “Motels” and “Registered clubs” are inappropriate in the Local Centre Zone and should not be mandatory. These uses are better located in the Commercial Core Zone.
- “Liquid fuel depots” and “residential flat buildings” (as a sole use) should be prohibited in the Commercial Core zone. Sole residential uses will erode the commercial role of the centre.

Environmental protection zones

- A number of uses such as “extractive industries”, “dual occupancies” etc. should be prohibited in the Natural Area and Conservation Zone.

Recreation zones

- “Community facilities” and “registered clubs” should be permissible uses in the recreation zones.

3.5 Mapping (refer to **section 2.5 and 2.6** of the submission in **annexure B**)

- Support use of GIS digital maps for specifying standards.
- Confusion exists with proposed maps using cross hatching and diagonal lines etc.
- Suggest separated maps using colours primarily including, heritage map using orange for heritage items and blue line for conservation areas.

3.6 Mandatory provisions (refer to **section 2.7 and 2.8** of the submission in **annexure B** and **Part 4** of the draft instrument in **annexure A**)

- A number of compulsory provisions are not applicable across the state and should be optional for councils to include in their LEPs.
- LEP Template does not contain enabling clauses for a number of characteristics proposed to be mapped. These are foreshore protection areas, scenic protection area and environmentally sensitive land.
- LEP Template has not included SEPP 55 – Remediation of Land provisions.
- Suggest amendment to prohibit granny flats to be subdivided (clause 19(3)(b)).
- Inconsistent terminology with “building height” and the definition (clause 37).
- Suggest no floor space ratio for low density zones where a sliding scale in the DCP would be more appropriate (clause 38).
- Reference to “natural ground level” as the measure for acid sulfate soils requires reviewing to optional reference to “existing ground level” (clause 41).
- Preservation of trees clause should apply to all zones (clause 46).
- Preservation of trees clause should not prohibit the removal, lopping etc. of trees that are heritage items or within heritage conservation areas (clause 46(7)).
- “Aboriginal heritage significance” requires defining (clause 48).
- Land reserved for acquisition for open space or roads should be mapped (clause 50 and 51).
- Councils are required to map flood prone areas, however there is no guidance on what flood event standard must be mapped.
- Clarification of flood related terms is required (clause 53).
- Concurrence of the Director General for “Exceptions to development Standards” clause should be removed (clause 54).

3.7 Definitions (refer to **section 2.9** of the submission in **annexure B** and **The Dictionary** in the draft instrument in **annexure A**)

- The inclusion of definitions should be optional where only relevant definitions are included in the LEP.
- A number of definitions are not used in the LEP.
- Additional definitions are required where terms are used in the LEP and are not defined.
- Issue with the definition of “gross floor area” and what is included in the calculation.

4.0 Conclusion

Support is given to the simplification and the standardisation of local environmental plans across New South Wales. In particular, support is given to the standardisation of definitions and common development provisions which have application on a state wide or common basis.

The format and structure of the Draft Instrument is similar to Woollahra LEP 1995 and the proposed use of mapping of standards such as floor space ratio and height are consistent with our LEP. For this reason, the redrafting of Woollahra’s planning provisions into the standard template format will not considerably alter the general framework that exists. The main task ahead, however, for Council’s planners is in the detailed review of our zones and the landuse permissibility in the context of the standardised and simple zoning and landuse definition system, whilst achieving our desired local planning outcomes.

It is recommended that the submission contained within **annexure B** to this report be submitted to Council as a matter of urgency and forwarded to the Department of Planning as Woollahra Council’s submission to the Draft Instrument.

Allan Coker
Director Planning and Development

Anita Lakeland
Team Leader Strategic Planning

Chris Bluett
Manager Strategic Planning

Annexure:

Annexure A: Draft Standard Instrument (Local Environmental Plans) Order 2005

Annexure B: Woollahra Council Submission to the Exhibition of Draft Standard Instrument (Local Environmental Plans) Order 2005