



Strategic & Corporate Committee

Agenda: *Strategic & Corporate Committee*

Date: *Wednesday 4 April 2007*

Time: *6.00 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).

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

Note: This Committee to function on the basis of referral with considerations to encompass functions and responsibilities from any other Committee.

Principal Considerations:

- Municipal Strategy
- Objectives Setting
- Policies and Codes Development
- Corporate Management
- Corporate Planning
- Woollahra Planning
- Community Services

Committee Membership:

- All Councillors

Quorum:

- The quorum for a committee meeting is 8 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

29 March 2007

To: The Mayor, Councillor Keri Huxley, ex-officio
Councillors Anthony Boskovitz
John Comino
Claudia Cullen
Christopher Dawson
Marcus Ehrlich
Tanya Excell
Wilhelmina Gardner
Julian Martin
Andrew Petrie
Geoff Rundle
Isabelle Shapiro
David Shoebridge
Fiona Sinclair King
John Walker

Dear Councillors

Strategic & Corporate Committee Meeting – 4 April 2007

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Strategic and Corporate Committee** to be held in the **Committee Rooms, 536 New South Head Road, Double Bay, on Wednesday 4 April 2007 at 6.00 pm.**

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 Submitted to the Council for Decision with Recommendations from this Committee

R1	Expressions of Interest for Kiaora Lane Carpark – 1133.G WP	1
----	-------------------------------------------------------------	---

Item No: R Recommendation to Council
Subject: Expressions of Interest for Kiaora Lane Carpark
Author: Margaret Zulaikha - Team Leader Urban Design
Allan Coker – Director Planning and Development
File No: 1133.G WP
Reason for Report: To respond to the Council resolution of 26 February 2007 regarding expressions of interest for the Kiaora Lands site.

Recommendation:

1. That Council decide whether or not it wants to proceed with an Expressions of Interest process for the Development of the Kiaora Lane Car Park and associated lands, Double Bay.

1.0 Background

In response to a development proposal from Woolworths, Council has recently considered two separate reports that relate to the Kiaora Lands site in Double Bay. The report to the Corporate and Works Committee on 19 February 2007 addressed the issues associated with Council entering into direct negotiations with Woolworths. This report is attached as **annexure 1**. Council resolved on 26 February 2007 in the following terms:

1. *That Council agree to discussions with Woolworths in relation to Council's Kiaora Lands site.*
2. *That direct negotiations with Woolworths be deferred until Council can determine whether or not the Woolworths scheme will satisfy the guidelines and principles set out by the ICAC in its publication, Direct Negotiations: Guidelines for Managing Risks in Direct Negotiations (May 2006), including whether or not the scheme will deliver best value for money.*
3. *That a further report be presented to the working party on how the process should be managed to comply with ICAC and Public Private Partnerships Guidelines including criteria for determining best value for money.*
4. *That a copy of this report be provided to the Department of Local Government.*
5. *That Staff provide a prompt report on:*
 - *Potential and process for an Expression of Interest for the development of the Kiaora Lands site.*
 - *The possible content of an EOI including the desired public benefit and urban design outcome for the site.*
 - *How the Kiaora Lands project fits in with the overall strategy for Council's property portfolio.*

The report to the Urban Planning Committee on 26 February 2007 (deferred from the Urban Planning Committee on 12 February 2007) provided a planning and urban design assessment of the Woolworths scheme. This report is attached as **annexure 2**. In relation to this matter Council resolved on 12 March 2007 as follows:

1. *That any further consideration of traffic issues associated with the Woolworths proposed DA be deferred until following the Strategic and Corporate Committee meeting which will consider the future use of Council's Kiaora lands.*
2. *That a further report be prepared that includes the alternative processes available to obtain other adjoining parties interest in the development of Council's land, including this process running parallel with the consideration of the Woolworths proposal.*
3. *That a report be prepared that identifies appropriate land uses for the properties on Kiaora Road that formed part of the approved Kiaora Lands scheme, excluding 1 Kiaora Road.*
4. *That the Strategic and Corporate Committee meeting be held within 28 days.*

This report responds to those parts of the above resolutions in **bold** type:

- Item 5 of the Council resolution of 26 February 2007 that relates to a consideration of an Expression of Interest process, and
- Items 2 and 3 of the Council resolution of 12 March 2007 which again requests an investigation of alternative processes for the development of Council's Kiaora Lands site.

2.0 Potential for an Expression of Interest

The report to the Corporate and Works Committee on 19 February 2007 (**Annexure 1**) considered the circumstances that may justify Council entering into direct negotiations, how direct negotiations should be managed and alternatives to direct negotiations. The specific advantages and disadvantages of an EOI process were not fully canvassed. However, the advantages of an EOI process can be summarised as follows:

- It opens up the process and provides a fair chance for other firms to put forward alternative proposals
- It is open and transparent and better avoids the perception that Council might be involved in negotiations with a party that may not be placed to deliver the best outcome
- It is more difficult for private interests (such as Woolworth's desire for a new supermarket) to influence the outcome.

The main disadvantage with an EOI process is that it is slower and more complex, and will not necessarily achieve a different or better outcome than direct negotiations with Woolworths. In our report to the Corporate and Works Committee on 19 February 2007 we advised:

“Council tested the market with an expressions of interest (EOI) process for the development of the car park sites in 2001 and on the basis of the submissions received, determined that the Woolworths/Solotel proposal could best meet Council's needs. It could be argued that the current Woolworths proposal would also satisfy those needs and that a repetition of the EOI process is unlikely to produce a better result. This is because Woolworth's land holdings on New South Head Road are immediately adjacent to the Council's car park sites, and their proposal is likely to be the only one that has the potential to provide a new supermarket, specialty shopping and new pedestrian connections to New South Head Road. Direct negotiations with Woolworths would result in a simpler and faster outcome than one involving public tender or another EOI process potentially involving other land owners. The current reported poor trading conditions in Double Bay and a desire to move quickly with a scheme that will have positive flow on economic benefits to the centre is another factor that can be taken into consideration”.

In 2000, when considering the best means of proceeding with the development of Council's land we sought the advice of the Independent Commission Against Corruption (ICAC) regarding probity and accountability aspects of Council's participation and management of the proposal. The ICAC identified that in such a proposal we have to exercise a dual role of a landowner and consent authority. This would oblige us to act in a manner that protects our proprietary interests and difficulties may arise as these considerations need to be balanced with our role as consent authority for development on land we own. The ICAC also indicated at that time that concerns could arise out of the direct negotiation aspect of the proposal. These were based on the possibility that such negotiations could reduce opportunities for *all* interested parties to participate in commercial ventures together with opportunities being reduced for us to consider alternative outcomes for the land. For these reasons, the ICAC asked that we consider the following before committing ourselves to a particular proposal:

1. We should, at the outset, provide the opportunity for *all* interested parties to participate in the proposed scheme by inviting expressions of interest in respect of proposals for the development of our land.
2. Before committing to a course of action or approving any application we should participate in a community consultation process by calling for community feedback on any proposed development. All objections must be considered and all decisions should be documented, with reasons, for decisions to ensure transparency.
3. An 'arms length' approvals process would need to be put in place to address perceived or real issues of partiality. This could be achieved by asking third parties to carry out the assessment functions relating to the proposal. Further, it should be indicated that our participation in a proposal does not commit us to granting any approvals.
4. Our internal processes should have in-built probity orientated safeguards rather than relying on third party probity auditors.

These guidelines are also relevant to the current situation.

In summary, the advantages of an EOI process are:

- It opens up the process and provides a fair chance for other firms to put forward alternative proposals
- It is open and transparent and better avoids the perception that Council might be involved in negotiations with a party that may not be placed to deliver the best outcome
- It is more difficult for private interests (such as Woolworth's desire for a new supermarket) to influence the outcome.

In summary, the disadvantages of an EOI process are:

- We have already been through an EOI process and know that Woolworths, with its strategic land holdings on New South Head Road and Patterson Street, is the party most likely able to deliver the best outcome and value of money
- It will take at least 3 months and considerably delay the process, possibly beyond the term of the current council
- A process of direct negotiations can be managed in a way, in accordance with ICAC guidelines, to ensure public accountability and transparency.

3.0 The Expression of Interest Process

If Council resolves to seek Expressions of Interest for the development of the Kiaora Lane carpark and adjoining lands, the process would involve the following steps:

3.1 Content of an EOI

Council's resolution of 26 February 2007 asks us to report on the possible content of an EOI. It would need to include our aims and objectives for the development of the site, a site description, the relevant planning controls, registration requirements, the proposed commercial arrangements and information we require from proponents such as financial capacity, experience and methodology used to develop a proposal. The EOI document would need to clearly indicate that we are not committed to any redevelopment of our lands, to their sale or lease, or to the approval of any proposal. An indicative EOI document is attached as **Annexure 4**. The objectives in the draft document are largely derived from the listed objectives for the Kiaora Lands site in *Appendix 2* of the Double Bay Centre DCP.

An information package would be assembled that would include the EOI document, a site survey and aerial photographs of the site and Double Bay.

3.2 Advertisement of the EOI

Expressions of Interest would be sought by advertising in the *Financial Review* and *Sydney Morning Herald* over a four week period.

3.3 Assessment of submissions

The submissions would be assessed against the principles and objectives in the Double Bay Centre DCP. To ensure transparency and impartiality we would need to engage the services of an external agency such as the Government Architects Office. In the past, we have engaged the Urban Design Advisory Service (UDAS) to provide an assessment of EOI submissions, but these services are no longer provided by the Department of Planning.

The assessment process may provide the opportunity for submitters to give a personal presentation of their schemes.

3.4 Council decision

The EOI process is likely to result in a variety of different development options with varying degrees of public benefit. Whether Council decides to proceed or not to proceed would depend on the merit and public benefit of what is proposed. If it transpires that no suitable proposal is received the expressions of interest process need go no further. However, it is possible that the process may result in the submission of an appropriate scheme that will preserve and enhance public parking to meet both existing and future needs and result in significant improvements to the quality of the public domain. If this is the case, Council may then decide how it might proceed to implementation.

An EOI process is a precursor to entering into direct negotiations since its primary function is to open up the process to all parties which may have the capacity to deliver an outcome that the Council wants. It is essentially about determining the party which has the greatest capacity to deliver those outcomes. An EOI process will not determine whether or not Council achieves best value for money since the terms of any commercial and financial arrangements will need to be directly negotiated with the successful party and carefully evaluated using the best independent property valuation and commercial advice available. In determining best value for money a number of matters need to be considered, including but not limited to:

- The direct financial benefit (if any) that may be paid to Council
- Any lease income that might be derived from parking or other uses or development on Council land
- The value of any buildings or facilities that may be provided to Council
- The value of any services that might be provided
- When payments or other benefits are to be made

In addition to the commercial and financial benefits which may be proposed Council should also consider matters such as:

- The extent to which a proposal satisfies our stated environmental planning objectives for the site
- The economic benefit a proposal may have on trading conditions within the Double Bay commercial centre
- Whether a proposal may offer particular social, economic or environmental benefits.

3.5 EOI process running parallel with consideration of the Woolworth's proposal

If Council decides to proceed with an EOI process it is essential that this is managed at arm's length to ensure that Woolworths are not given an unfair advantage and to avoid the perception that Woolworths may be receiving favourable treatment. Therefore, if we proceed with an EOI process we must cut discussions with Woolworths. It will not be possible to run the two processes in parallel with each other since it would not be possible to avoid the potential reality and perception that continuing discussions with Woolworths would unfairly influence the EOI process.

4.0 Council's property portfolio

We are unable to say at this stage how the development of the Kiaora Lands site will fit with the overall strategy for Council's property portfolio. This is because our strategy for Council's property portfolio has not been finalised or adopted by Council and we don't know at this stage what potential uses, including community uses will be achieved on the Kiaora lands site.

However, we do know that a new supermarket is required in Double Bay, that our library facilities are well below standards in terms of layout and floorspace and that our carpark is in need of a substantial improvement. It is possible but we are not certain as to whether or not these outcomes will be achieved on the Kiaora lands site.

Therefore, it is more likely that the outcomes achieved on the Kiaora lands site will inform the property strategy rather than the property strategy informing the outcome on the Kiaora lands site. In these circumstances we see no reason why the Kiaora lands project should be delayed because of the property strategy project.

5.0 Land uses for Kiaora Road properties

Seven properties on Kiaora Road (Nos 1-7) were included in the Kiaora Lands site and as part of the masterplanning process were rezoned from Residential 2(b) to General Business 3(a). Council owns 1 Kiaora Road and the remaining six properties are owned either by Woolworths/Solotel or Solotel. The ownership pattern is illustrated below.



Fig 1 Ownership pattern on Kiaora Road

The rezoning of the Kiaora Road properties facilitated access to the loading dock and underground carpark for the Kiaora Lands site. The site layout dispersed traffic movements thereby minimising impact on the residential streets to the south.

As the Kiaora Lands development proposal has not proceeded, the Urban Planning Committee on 13 February 2006 considered a report on different options for the future planning controls of the Kiaora Lands site, including the properties on Kiaora Road. The report is attached as **Annexure 3**. In relation to the planning controls, Council adopted the Committee's recommendation on 27 February 2007 as follows:

That Council retain the current planning controls for the Kiaora Lands site pending a review of Council's assets and investigation of alternate schemes.

If Council proceeds with the Kiaora lands project there are likely to be similar advantages in terms of traffic movement if the Kiaora Road properties retain their business zonings and are included as part of a development proposal. The report to the Corporate and Works Committee on 19 February 2007 identified that Solotel, another landholder of the Kiaora Road properties, may be interested in working with Council on an alternative proposal for the precinct. As an investigation of alternate schemes has not yet been completed, it is recommended that the existing planning controls for the Kiaora Road properties be retained, until such time as we have fully investigated alternate schemes.

6.0 Conclusion

The development of the Kiaora Lane carpark and adjacent lands presents a unique opportunity to develop a high quality urban environment that would have substantial benefits for the local community. In developing our landholdings in Kiaora Lane, we need to be assured that a preferred scheme will achieve the best environmental planning outcome and the best value for money. It is likely that Woolworths will be best placed, because of its strategic land holdings, to meet these requirements. In these circumstances, there may not be any real advantage in proceeding by way of an EOI process prior to entering into direct negotiations. However, there is at least one other party who is likely to put forward an alternative scheme, and there may be others, if Council proceeds by way of expressions of interest. The advantages and disadvantages of an EOI process are outlined. The preferred method of proceeding is ultimately, one for Council's determination.

Margaret Zulaikha
Team Leader Urban Design

Allan Coker
Director Planning and Development

Annexures:

- | | |
|-------------------|----------------------------------------------------------------------------------|
| Annexure 1 | Report to the Corporate and Works Committee on 19 February 2007 |
| Annexure 2 | Reports to the Urban Planning Committee on 26 February 2007 and 12 February 2007 |
| Annexure 3 | Report to the Urban Planning Committee on 13 February 2006 |
| Annexure 4 | Draft Content for Expressions of Interest Document |