



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 12 November 2007*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

8 November 2007

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

Dear Councillors

### **Council Meeting – 12 November 2007**

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 12 November 2007 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

		Page
1.	Confirmation of Minutes – Ordinary Meeting	29 October 2007
2.	Leave of Absence and Apologies	Nil
3.	Declarations of Interest	
4.	Late Correspondence	
5.	Petitions Tabled	
6.	Mayoral Minute	Nil
7.	Public Forum	
8.	General Manager’s Report	Nil
9.	Reports of the Committees	
9.1	Corporate & Works Committee	5 November 2007
R1	2007/2008 Budget Review for the Quarter ended 30 September 2007	1
R2	Release of Covenant Registered on Title (K804544), 25A Fitzwilliam Road, Vacluse	
R3	Civil Construction of Minor Works Under Council Supervision – Schedule of Rates	
R4	Investments Update	
9.2	Development Control Committee	5 November 2007
R1	419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of George’s Restaurant to a Hotel & the use of level 3 of The Golden Sheaf Hotel as offices – 30/8/2006	3
R2	112 Wolseley Road, Point Piper – Section 96 Application Proposed Modification including Conditions of consent to allow removal of trees required to be retained & their replacement with new plantings – 30/5/2007	
R3	116 Queen Street, Woollahra – Alterations & additions to accommodate new 3 <sup>rd</sup> level for offices – 20/3/2007	
9.3	Urban Planning Committee	29 October 2007
R1	Draft Paddington Heritage Conservation Area Development Control Plan ( <b>Submitted to Council 29 October 2007 as a Matter of Urgency</b> )	Nil
9.4	Community & Environment Committee	29 October 2007
10.	Rescission Motion	Nil
11.	Notices of Motion	6
12.	Questions without Notice	7

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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 5 November 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** 2007/2008 Budget Review for the Quarter ended 30 September 2007  
**Author:** Michelle Phair – Team Leader Financial Services  
**File No:** 331.G  
**Reason for Report:** To report on the review of the 2007/2008 Budget for the quarter ended 30 September 2007

**Recommendation:**

A. THAT the report be received and noted and the variations to the Budget be adopted.

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**Item No:** R2 Recommendation to Council  
**Subject:** Release of Covenant Registered on Title (K804544), 25A Fitzwilliam Road, Vacluse  
**Author:** Anthony Sheedy, Property Officer  
**File No:** 167.25A  
**Reason for Report:** To give consideration to the release of registered covenant (K804544) in respect of 25A Fitzwilliam Rd, Vacluse.

**Recommendation:**

A. That Council consent to a variation of the covenant K804544 in terms of not exceeding the current building footprint with respect to 25A Fitzwilliam Road, Vacluse being lot 10 DP 55431; subject to receipt by Council of the written evidence of consensus between the owners of 25A Fitzwilliam Rd and all owners of properties which benefit from the covenant.

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**Item No:** R3 Recommendation to Council  
**Subject:** **Civil Construction of Minor Works Under Council Supervision –  
Schedule of Rates**  
**Author:** Joe Cavagnino – Purchasing Coordinator.  
**File No:** Tender No 07/12  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Schedule of Rates contract with the following contractors for the categories of Minor Works specified:

***Category - Minor Concrete Works***

Kingston Civil Pty Ltd, Merko Services Pty Ltd, Ally Property Services, Sydney Civil Pty Ltd

***Category – Minor Asphalt Works***

Bernipave Pty Ltd, Kingston Civil Pty Ltd, Sydney Civil Pty Ltd, Merko Services Pty Ltd

***Category - Minor Paving Works***

Bernipave Pty Ltd, Chrisos Pty Ltd, Ally Property Services, NSW Civil Constructions

***Minor Stormwater Pipes and Pit Works***

Merko Services Pty Ltd, Kingston Pty Ltd, Ally Property Services, Chrisos Pty Ltd

- B. That successful and unsuccessful tenderers be advised accordingly.

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**Item No:** R4 Recommendation to Council  
**Subject:** **Investments Update**  
**Author:** Don Johnston, Manager Finance  
Michelle Phair, Team Leader Financial Services  
**File No:** 389.G  
**Reason for Report:** To update the Committee on Council's CDO investments.

**Recommendation:**

That Council authorise a Committee made up of not more than 4 Councillors (appointed by and including the Mayor and the Chairman of the Corporate and Works Committee), in consultation with an independent investment advisor, Council's Financial Controller and the General Manager, such Committee to have the following responsibilities and powers:

1. To meet as necessary to make decisions on sale of CDO's (including by telephone backup).
2. To make urgent determinations (where appropriate) on sale of CDO's and to instruct staff to implement such determination, on an urgent basis.
3. To report on it's decisions and outcomes to the Corporate and Works Committee and Council.

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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 5 November 2007 Submitted to the Council for Determination

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- Item No:** R1 Recommendation to Council
- Subject:** **419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of George’s Restaurant to a Hotel & the use of level 3 of The Golden Sheaf Hotel as offices – 30/8/2006**
- Author:** Simon Taylor - Assessment Officer
- File No:** DA555/2006
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Petrie reason being the importance of the matter should be considered by the Council as a whole.

**Recommendation:**

1. THAT Council seek further confidential advice from HWL Solicitors and that this advice be provided as late correspondence to the Council meeting on 12 November 2007.
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**Item No:** R2 Recommendation to Council

**Subject:** **112 Wolseley Road, Point Piper – Section 96 Application Proposed Modification including Conditions of consent to allow removal of trees required to be retained & their replacement with new plantings – 30/5/2007**

**Author:** John Saszczak - Assessment Officer

**File No:** DA320/2004 Part 2

**Reason for Report:** In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee's recommendation (refusal) to the Officer's recommendation (approval).

**Recommendation:**

- A. THAT Council refuse Development Application No. 320/2004 Part 2 for Section 96 Modification on land at 112 Wolseley Road Point Piper, for the following reasons:
1. The removal of the mature trees is considered unacceptable.
  2. The removal of the mature trees would eliminate the softening impact provided by the trees in front of the building façade facing Sydney Harbour.
  3. The proposed trees may adversely affect views from No. 110 Wolseley Road to the North & North East.
  4. The proposed trees may overshadow adjoining properties.
  5. The retention of the trees was an essential element of the original consent DA320/2004.
- B. THAT Council's Trees Officer inspect the subject property and document and record the condition of the remaining and surviving trees. Further, that Council's Trees Officer detail which trees require to be retained by development consent DA320/2004, have been unlawfully removed.
- C. THAT the Manager Compliance take appropriate action in accordance with Council's Enforcement Policy.
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**Item No:** R3 Recommendation to Council  
**Subject:** **116 Queen Street, Woollahra – Alterations & additions to accommodate new 3<sup>rd</sup> level for offices – 20/3/2007**  
**Author:** Joseph La Posta – Senior Assessment Officer  
**File No:** DA166/2007  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the Officer’s recommendation (approval).

**Recommendation:**

- A. THAT the Council, refuse Development Application No.166/2007 for alterations and additions to accommodate new third level for offices on land at 116 Queen Street, Woollahra, subject to the following reasons:
1. The intensification of use is considered unsatisfactory and unacceptable having regard to the cumulative impact of successive previous consents and the additional floor area proposed.
  2. The Council is satisfied given the history of complaints by residents adjoining the hotel in relation to traffic impacts, parking impacts, noise impacts and anti-social behaviour, that it is not in the public interest to permit any further intensification of use or any increase in occupiable floor area.
  3. The failure of the applicant to demonstrate through the provision of current traffic and parking reports, that the intensification of use would not have an adverse impact upon traffic and parking.
- B. THAT the Manager Compliance carry out an audit for Compliance with development consents already issued. Including, but not limited to, the use of balcony areas, obstruction of fire escapes and doors, noise nuisances and compliance with any Place of Public Entertainment approval (POPE).
- C. THAT Staff by memorandum, supply Councillors with a copy of any Place of Public Entertainment approval (POPE) for the subject premises.
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## Notices of Motion

**Item No:** 1  
**From:** Councillor Shoebridge  
**Date:** 29 October 2007  
**File No:** 900.G

That a report be brought to Urban Planning Committee considering amendment to all Heritage Conservation Area, DCP's that encourage the installation of solar electricity and solar hot water panels and in particular that do not provide blanket opposition to the installation of solar panels simply because they can be seen from the public domain.

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**Item No:** 2  
**From:** Councillors Martin, Huxley and Shoebridge  
**Date:** 8 November 2007  
**File No:** 900.G

That a report be brought to the appropriate committee reviewing and advising the appropriate area for notification of development applications regarding hotels in the Municipality. The report should note in particular the recent experience of the Woollahra Hotel DA, where many residents who regarded themselves as affected, were outside the notification zone.

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**Item No:** 12  
**Subject:** Questions Without Notice  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q01  
**Reason for Report:** To provide a response to Questions without Notice from Council Meeting of 29 October 2007 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

**Recommendation:**

That the responses to previous Questions without Notice be noted.

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**Background:**

The provision for Councillors to ask Questions Without Notice is contained in Section 3 of Council's Code of Meeting Practice which states:

- (1) *As a standard practice, "Questions Without Notice" shall be listed in all agendas of Ordinary Meetings of Council*
- (2) *Questions shall be in writing.*
- (3) *The Mayor shall direct the question to the General Manager or responsible Division Head; or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- (4) *If the answer to a question can be given immediately then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed and the basis upon which the answer is to be provided (whether in writing and direct to the Enquirer, or by means of a report to an appropriate Committee, or otherwise.)*
- (5) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions Without Notice" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions Without Notice should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions Without Notice on 29 October 2007 are as follows:

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**Councillor Boskovitz asking:**

To the Director of Community Services

There has been a gentleman living out of a number of the bus stops along New South Head Road, Vacluse, specifically at the bus stop across from Cambridge Avenue and further along towards the cemetery.

Could we please check whether this gentleman is okay and if he needs any assistance.

**Director Community Services in response:**

Staff have been instructed to investigate and make contact with this person and assist in any way that we can.

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**Councillor Boskovitz asking:**

To the Director of Technical Services

The bus stop on New South Head Road across from Cambridge Ave, Vacluse has been vandalised quite significantly.

Could we send someone out to check on its condition and fix any of the problems that they notice.

**Manager Property & Projects in response:**

This recently refurbished bus shelter, located in Old South Head Road has been inspected by our Building Trades Supervisor and is structurally stable. He advises that two holes have been punched through the ceiling and these will be rectified this week.

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**Councillor Boskovitz asking:**

To the General Manager

With the removal of the old Rose Bay Afloat does a lease of provision of urban services still exist on the site?

**General Manager in response:**

The lease terminated in 2004.

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**Councillor Huxley asking:**

To the Director of Planning and Development

When will the signs on the Rose Bay Car Wash, New South Head Road be coming down, and what is the status of the compliance matters?

**Manager Compliance in response:**

Following the refusal of development application DA 750/2005 for the unauthorised signs associated with the Crystal Car Wash at New South Head Rose Bay, the applicant lodged a building certificate application, BC 122/2007, for the same signs. The building certificate application was refused on 31 August 2007 in accordance with the development application refusal and the matter was immediately referred to Home Wilkinson Lowry Lawyers to commence Class 4 proceedings in the Land & Environment Court to require the removal of the signs.

On 20 September 2007 Crystal Carwash Cafe Pty Ltd lodged a Class 1 appeal to the Land & Environment Court against the Council's refusal of Building Certificate application BC 122/2007 and the matter was set down for an initial call over on 18 October 2007. The Class 1 matter was adjourned until 2 November 2007 to permit the parties the opportunity to discuss if a Court appointed expert should be relied on. Council has opposed this at this time.

With the lodgement of the Class 1 appeal, it has been necessary to hold any future Class 4 proceedings in abeyance.

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**Councillor Huxley asking:**

To the Director of Planning and Development

Could we have an update on completion of the promenade works and Five Ways?

**Manager Property & Projects in response:**

An update regarding the promenade works will be provided next week and the update for Five Ways will follow soon after.

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**Councillor Huxley asking:**

To the Director of Technical Services

Will Mr Hatton ensure that the bins proposed for Five Ways as the plans stipulate, remain, against the shop alignments?

**Director Technical Services in response:**

The bins to my knowledge are remaining in the same locations.

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**Councillor Petrie asking:**

To the Director of Planning and Development

I notice Councillor Huxley's question. Can you answer whether the Westpac Building as a whole is a sign because the colour is in Westpac Banking Corporation Colours is part of the sign?

**DA Compliance Officer in response:**

The red painted facade existed prior to Westpac acquiring the tenancy. The approved plans for the Westpac fitout indicate the facade is to be painted a blue/grey colour called "Ticking". The Project Manager has confirmed that the fitout has not yet been completed and the facade will be repainted in accordance with the approved plans.

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**Councillor Shoebridge asking:**

To the Director of Planning and Development

I have heard from a number of residents that supporters of Mr Turnbull, the Minister for the Environment, have been regularly handing out helium filled blue balloons that are seen regularly escaping and polluting the environment. Can you please confirm that this practice in a public place is prohibited under environmental regulation and if so what steps will be taken to prevent it occurring in Woollahra in the future?

**Manager Compliance in response:**

Section 149E of the Protection of the Environment Operations Act 1997 restricts the release of balloons that are filled with a gas that is lighter than air. However the restriction relates to the release of 20 or more balloons at or about the same time and not to the distribution of these balloons as promotional material.

The Act states the following;

(1) A person who releases 20 or more balloons at or about the same time is guilty of an offence if the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty (for a corporation or an individual): 10 penalty units.

(2) A person who causes or permits the release (whether by one or more than one person) of 20 or more balloons at or about the same time is guilty of an offence if the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty (for a corporation or an individual): 10 penalty units.

The Act also provides for an 'Aggravated Offence' where 100 or more balloons are released and provides the following exception;

“(4) Subsections (1)–(3) do not apply if:

(a) the balloons are released unintentionally and without negligence.”

It is considered that once the balloons have been accepted by a member of the community, the balloons are then the responsibility of that person, similar to other promotional pamphlets and brochures.

Accordingly, based on the information that is available, no action is warranted by Council.

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**Councillor Petrie asking:**

To the Director of Technical Services

I note that we have two new bike lanes, some in hideous green in Bellevue Road and Victoria Road, Bellevue Hill

What did this work cost?

**Manager Public Infrastructure in response:**

These bike lanes are a part of Council's long term transport strategy and are also contained in the Management Plan. The 'hideous green' is standard use to highlight points of potential hazard (e.g. at intersections) and conforms with National Standards. The cost of these bike routes was Bellevue Road \$33,000 and Victoria Road \$27,000. It should be noted that these costs not only include the cost of changes to linemarking and signposting for the bike lanes, but also include the cost of upgrading signs and lines for vehicle and pedestrian traffic (including new centrelines, lane lines, pedestrian crossing markings and all associated signs).

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**Councillor Petrie asking:**

To the Director of Technical Services

Can we put traffic recording strips on the road to count the number of bikes using it because I have seen not one bike on Bellevue Road and three on Victoria Road in the time the new graffiti on our roads has been in place.

**Manager Public Infrastructure in response:**

The introduction of bike routes is part of Council's Management Plan and is a long term strategy aimed at reducing reliance on motor vehicles and public transport. Low usage at the initial installation of a bike route is normal, however, it is anticipated that usage will increase significantly as the bike route becomes known and as the bike route network develops. (The chicken or the egg scenario). The only accurate method of counting bicycles is by doing a manual count which is labour intensive and therefore costly. It is proposed to do counts in 2008 in combination with a review of the Woollahra Bike Plan.

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Gary James  
General Manager

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**Annexures:** Nil