



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 17 December 2007*

Time: *7.00pm*

Woollahra Municipal Council

Notice of Meeting

13 December 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 – 17 December 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 17 December 2007 at 7.00pm.**

Gary James
General Manager

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Leave of Absence

Item No: 1
From: Councillor Shapiro
Reason for Report: Seeking leave of absence for all meetings of the Council and its Committees from Wednesday 2 January 2008 to Friday 25 January 2008 inclusive.

Recommendation:

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Isabelle Shapiro for the period Wednesday 2 January 2008 to Friday 25 January 2008, inclusive.

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 3 December 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Budget Strategy**
Author: Don Johnston, Manager Finance
File No: 331G 2008/2009
Reason for Report: To provide the Committee with an overview of the continuing issues facing Council in preparing the 2008/2009 Budget and to propose a strategy for its preparation.

Recommendation:

That the 2008/09 Draft Budget be prepared on the following basis:

1. The key objectives of the budget strategy be to continue to:
 - attempt to, as far as possible, absorb the external impacts on Council's budget;
 - grow the amount of capital funding available from the operating budget;
 - maintain and enhance service delivery from the operating budget; and
 - fund the identified capital works program, including the infrastructure renewal strategy;
2. While endeavouring to achieve the key objectives, the 2008/2009 draft operating budget incorporate:
 - taking up the full amount of the general rate variation;
 - increasing fees and charges by at least the CPI;
 - providing for a 3.5% increase in salaries and wages (effective from the beginning of November) discounted by a 5% vacancy factor;
 - fully funding the increase in employee leave entitlements;
 - budgeting for the full withdrawal of the superannuation 'holiday';
 - repayment of the \$6.525m streetscapes program loan funded from the loan repayments reserve and \$40,000 from s94A levies.
3. The capital budget should be prepared to include:
 - an increase in Council's commitment to infrastructure renewal of at least the amount of the rate increase;
 - a \$960,000 program of works funded by section 94A levies;
4. That the internal working documents be updated for the 2008/2009 draft budget and reviewed by Council in conjunction with the cuts identified by Directors
5. That a further report be prepared on funding Council's leave liability to an optimum level of 40% canvassing an allocation from working funds as part of achieving the strategy.

Item No: R2 Recommendation to Council
Subject: **Tender for the Supply of Pavers**
Author: Joe Cavagnino – Purchasing Coordinator
File No: Tender 07/14
Reason for Report: The supply term contract for the acquisition of the “Double Bay Pavers”

Recommendation:

1. That Council enter into a Schedule of Rates contract for 36 months with Sam the Paving Man for the supply of pavers for the Double Bay public domain improvement works program.
 2. That successful and unsuccessful tenderers be advised accordingly.
-

Item No: R3 Recommendation to Council
Subject: **Proposed Creation of a new easement for stormwater drainage, 9A Cooper Park Road, Bellevue Hill.**
Author: Anthony Sheedy, Property Officer
File No: 620.G
Reason for Report: To seek Council’s endorsement for creation of a stormwater easement in favour of the owner of 72 Bellevue Rd, Bellevue Hill.

Recommendation:

- A. That Council agree to the granting of a new easement for stormwater drainage by transfer to the owner of 72 Bellevue Rd, Bellevue Hill as favouree in respect of a 1.575 metre wide portion of 9A Cooper Park Rd; subject to (B).
 - i) The owner of No 72 paying \$10,000 plus GST in compensation to Council.
 - ii) The owner of No 72 to financially compensate Council for all its costs based on a notional 375 mm stormwater pipe installation, including valuation, legal fees, surveyor fees, and any other unspecified costs related to the proposal.
 - B. That the Common Seal of Council be affixed to the 88B Conveyancing Act 1919 instrument for creation of the easement; subject to certification from Council’s solicitors that the document protects the Council’s interests.
-

Item No: R4 Recommendation to Council
Subject: **Minutes of the Floodplain Risk Management Committee (FPRMC) Meeting held on Thursday 8 November and recommendations**
Author: Myl Senthilvasan - Asset Management Engineer (Drainage)
File No: 626.G Committee
Reason for Report: To report on the outcomes of the Floodplain Risk Management Committee meeting, held Thursday, 8 November 2007, and recommend further actions.

Recommendation:

- A. That the minutes of the FPRMC meeting, 8 November 2007, be noted.
 - B. That Council adopt the Double Bay Catchment Flood Study prepared by Bewsher Consulting Pty Ltd.
 - C. That Council proceed to prepare a Floodplain Risk Management Study and Floodplain Risk Management Plan for the Double Bay Catchment subject to availability of further funding for these studies.
 - D. That Council commence with the Rushcutters Bay Catchment Floodplain Risk Management Study and Plan with the available funds.
 - E. That Webb McKeown & Associates Pty Ltd be commissioned to complete the Rushcutters Bay Catchment Floodplain Risk Management Study and Plan.
 - F. That Council continue to pursue grant funding from the NSW State and/ or the Commonwealth Governments for this project.
 - G. That Council renew membership of the Floodplain Risk Management Committee by calling expression of interest from community representatives and individuals.
 - H. That Council request the current members of the committee to continue to be in the Floodplain Risk management Committee.
 - I. That Council thank the current members of the Committee for their assistance and participation.
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9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 10 December 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Drill Hall Accommodation Request**
Author: Jo Jansyn, Cultural Development Coordinator
File No: 787.G Drill Hall
Reason for Report: Proposal submitted for use of additional space by Critical Path at Drill Hall, Sir David Martin Reserve, Rushcutters Bay

Recommendation:

1. That the proposal for use of the Workshop Room in Drill Hall by Critical Path for the purpose of a video archive and video edit suite be endorsed.
2. That fees associated with hire of the Workshop Room be waived in return for a community benefit program associated with Critical Path's proposed use of the space.
3. That an agreement for an initial twelve month period expiring 31 December 2008 for use of the Workshop Room by Critical Path be formalised, and delegated to the General Manager for final approval.

Item No: R2 Recommendation to Council
Subject: **Fernleigh Avenue, Rose Bay – Road Reconstruction Project**
Author: Joe Cavagnino – Purchasing Coordinator
File No: Tender No 07/19
Reason for Report: To recommend to Council the acceptance of a Tender

Recommendation:

- A. That Council enter into a Contract with Tropic Asphalts for the Fernleigh Avenue Rose Bay Road Reconstruction project for the sum of \$246,181.40 (excluding GST).
 - B. That successful and unsuccessful tenderers be advised accordingly.
-

Item No: R3 Recommendation to Council
Subject: **Holdsworth Community Centre - Annual Acquittal 2006/07**
Author: Kylie Walshe
File No: 126.G
Reason for Report: To report the annual acquittal of the funds provided to Holdsworth Community Centre for 2006/07 and the quarterly report for July - September 2007.

Recommendation:

- A. The Council note the financial performance of Holdsworth Community Centre in 2006/07.
- B. That Council agree to the revote of \$38,000 unspent operational funding provided to Holdsworth Community Centre in 2006/07, to be expended on the items requested.
- C. That consideration of requests 1 and 2 for reimbursement of Workers Compensation insurance and depreciation be deferred to later in the year when the financial position is clearer
- D. That a further report be presented to Council in early 2008 regarding opportunities for the reallocation of unspent operational funding provided to Holdsworth Community Centre in 2006/07.
- E. That Council note the quarterly report for Holdsworth Community Centre for the quarter ending 30 September 2007.

Item No: R4 Recommendation to Council
Subject: **Trumper Park Tennis Court Lease Tender 07/013**
Author: Warwick Hatton – Director Technical Services
File No: Tender 07/013
Reason for Report: To report on options available to Council with respect to the tenders for the lease of the Trumper Park Tennis Courts

Recommendation:

- A. That, having regard to all the circumstances, it appears to not be most advantageous to the Council to accept any of the tenders in their current form and, therefore, that Council resolve not to accept any of the tenders and invite, in accordance with clause 167 of the Local Government (General) Regulation, fresh tenders based on the same or difference details.
- B. That until such time a decision is reached on the granting of a lease for the Trumper Park Tennis Courts, the information contained in this report and in the current tenders be treated as Commercial In Confidence.
- C. That the fresh tenders are to be assessed by an assessment panel of members not including any of the original panel.

9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 3 December 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: 33 Elizabeth Street, Paddington – Alterations & Additions to existing Hotel – 28/9/2006
Author: Thomass Wong – Senior Assessment Officer
File No: DA663/2006
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:

THAT the Council, as the consent authority, refuse development consent to Development Application No. 663/2006 for alterations and additions to existing hotel on land at 33 Elizabeth Street Paddington, for to the following reasons:

1. Intensification of use
 2. Significant increase of public floor space
 3. Significantly increased patronage in a close urban environment
 4. Potential for even more intensive use by a future occupant
 5. Increased social impacts on adjoining residents
 6. Increased noise impact on neighbouring properties
 7. Traffic issues
-

9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 10 December 2007 Submitted to the Council for Determination

- Item No:** R1 Recommendation to Council
- Subject:** **4-8 Patterson Street, Double Bay – Review of Prospects of Success – Demolition of 3 dwellings & Construction of 7 townhouses with underground parking & Associated landscaping – 23/10/2006**
- Author:** Joseph La Posta – Senior Assessment Officer
- File No:** DA734/2006
- Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is submitted to Council as the refusal was previously determined by Council.
- Note:** Having regard to the urgency of this matter the Committee authorised the Mayor and General Manager to obtain and give consideration to further legal advice with a view to resisting the appeal
-

Item No: R2 Recommendation to Council

Subject: **47 Russell Street, Vaucluse – Demolition of existing residential flat building & construction of a new 3 storey residential flat building comprising 2x3 & 2x2 bedroom apartments & basement parking for 6 vehicles – 11/10/2007**

Author: David Booth – Senior Assessment Officer

File No: DA660/2007

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:

That Council, as the consent authority, refuse development consent to Development Application No. 660/207 for demolition of existing residential flat building and construction of new 3 storey residential flat building comprising 2 x 3 and 2 x 2 bedroom apartments and basement parking for 6 vehicles on land at 47 Russell Street, Vaucluse for the following reasons:

1. Excessive FSR in building bulk;
2. Overshadowing of neighbouring residents;
3. Poor solar access and ventilation to the rear of the development;
4. Lack of appropriate setbacks especially to the cliff face;
5. Inappropriate present (sic) of a 3 storey development in a 2 storey residential precinct;
6. Unreasonable sense of enclosure in relation to the adjoining residents;
7. Unreasonable impact on No 49 Russell Street, as a potential heritage item;
8. Non-compliance with the car-parking DCP;
9. Excessive height;
10. Lack of deep soil and excavation beyond the building footprint;
11. The potential impact of the excavation on the cliff face, and
12. The lack of certainty of the material provided by the applicant on the relationship of the height of the building to the height of the cliff.

9.3 Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 26 November 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **The Work of John R Brogan (Architect) in the Woollahra Municipality and 17 Ian Street, Rose Bay**
Author: Jodi Ayre, Strategic Heritage Officer
File No: 1080.G [BH]
Reason for Report:

1. To respond to the Council decision made on 9 October 2006 regarding the work of John R Brogan in the Municipality.
2. To respond to the Council decision made on 13 December 2004 deferring the consideration of the heritage significance of 17 Ian Street Rose Bay, to allow for further information.
3. To obtain a decision to list 17 Ian Street Rose Bay as a heritage item.

Recommendation:

- A. THAT the report on the work of John R Brogan within the Woollahra Municipality be received and noted.
 - B. THAT no further action be taken in relation to listing 17 Ian Street, Rose Bay as a heritage item in the Woollahra Local Environmental Plan 1995.
-

Item No: R2 Recommendation to Council
Subject: **Centre Management - Double Bay**
Author: Allan Coker, Director Planning and Development
File No: 1178 & 1179.G
Reason for Report: To update Council on the current position in relation to centre management for Double Bay and to make recommendations on how the matter should be progressed.

Recommendation:

1. That Council support the establishment of a *Double Bay Centre Management Working Party* with a specific charter to oversight the preparation of the documentation required for centre management, including:
 - the rules for the Incorporated Association
 - the Memorandum of Understanding between Council and the persons who will form the Association
 - the proposed service agreement for maintenance
 - the business plan
 - committee membership of the Association for its first year.
-

2. That the working party consist of 2 Councillors, The Director of Planning, 3 business community members and consultant Jo Kelly.
3. That the working party be wound up immediately following the commencement of operation of the Incorporated Association.
4. That the documents required for incorporation, the service level agreement and the memorandum of understanding be the subject of a report to the Urban Planning Committee and consideration by Council where required, prior to lodgement with the Department of Fair Trading.
5. That following commencement of the operation of the Incorporated Association and subject to 4 above, Council agree to set aside its funds, up to \$200,000 for use by the Incorporated Association on a \$ for \$ basis as those funds are contributed by the business community of Double Bay and be released based on an agreed program.
6. That Council defer the request for a further year's funding and the issue of a rates levy commencing 1 July 2009 until the Incorporated Association has been established and has operated for a period of 6 months.

Item No: R3 Recommendation to Council
Subject: **Paddington Heritage Conservation Area Development Control Plan - Controls for Lofts over garages**
Author: Chris Bluett - Manager Strategic Planning
File No: 899.G
Reason for Report: To respond to a decision of Council on 29 October 2007
To obtain Council's agreement to new controls for the Paddington Heritage Conservation Area DCP

Recommendation:

- A. THAT the matter of the controls for lofts over garages in the Paddington Heritage Conservation Area DCP be deferred and referred to the Paddington DCP Working Party for consideration.
- B. THAT the Royal Australian Institute of Architects be requested to nominate a registered architect, practicing in the Woollahra Municipality, to be a member of the working party for this project.
- C. THAT the working party meet prior to early February 2008 to consider the matter.
- D. THAT the recommendations from the working party be referred back to the Urban Planning Committee for consideration.

9.4 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 26 November 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **The Way Forward : Woollahra Library and Information Services Strategic Plan**
Author: Vicki Munro, Manager, Library and Information Services
File No: 48.G (Strategic)
Reason for Report: To present to Council the outcomes of The Way Forward: Woollahra Library and Information Services Strategic Plan and to seek Council's principle endorsement of the Strategy.

Recommendation:

1. That Council endorse in principle the strategies outlined in The Way Forward: Woollahra Library and Information Services Strategic Plan 2007.
 2. That Council actively pursue opportunities to relocate the Central Library into the Double Bay Town Centre.
-

Notices of Motion

Item No: 1
From: Councillors Cullen & Comino
Date: 19 November 2007
File No: 900.G

That a report be provided on progress with the “Lyne Park” bus shelter design and on how the design of the “Towns Road” style bus shelters, where installed on slopes, could be modified to provide better protection against surface run-off and “wet feet”.

Item No: 2
From: Councillors Excell & Shoebridge
Date: 26 November 2007
File No: 900.G

That Council, noting the clear scientific evidence of human induced climate change caused by global warming and the increasing concentrations of carbon dioxide and other greenhouse gasses in our atmosphere, and recognising the substantial potential affects of climate change on our local environment:

Calls for a permanent working group or committee to be established by Council to meticulously assess and adapt to the potential and real affects of climate change in Woollahra over the course of the 21st century
And that

The *committee working group* address what concrete steps Council can take, both in relation to its own operations and in relation to its regulatory capacity to reduce the greenhouse gas emissions of both Council and the municipality generally.

2. That in its assessment the Committee/Working Group takes into consideration:
 - a. The expected rise of sea levels in accordance with internationally recognised scientific predictions;
 - b. The loss of coastal land including our harbour beaches from rising sea levels and storm surges;
 - c. The exposure of large sections of low lying coastal areas in Woollahra, namely Double Bay, Rose Bay and Watsons Bay to rising sea levels and storm surges-
 - d. The potential increase in ground water levels in Double Bay and Rose Bay from rising sea levels noting the existing evidence that ground water levels in the municipality do rise and fall with tidal levels;
 - e. The effect on our municipality of increasingly severe weather patterns including flooding, drought and storm surge damage;
 - f. The potential areas of future expense to council and local residents of steps required to mitigate the affects of climate charge including remedial drainage works, relocation or alteration of low lying housing and public land, beach remediation, sea wall extensions and maintenance and alteration housing stock.
3. *That recommendations for action by the committee/working group be sent to the relevant committee for approval.*

Item No: 3
From: Councillors Huxley & Martin
Date: 5 December 2007
File No: 900.G

That the Council's delegations relating to the determination of development applications be amended to provide that development applications for hotels be determined by the Development Control Committee.

And that discretionary consent be permitted, by staff, with regard to minor internal changes such as, positioning of airconditioning units, minor internal modifications to toilets, kitchens and the like and that do not have heritage impacts, external works, and any impacts on public amenity.

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 26 November 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.

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 26 November 2007 are as follows:

Councillor Comino asking:

Does Council have any bulletins, circulars or other information relating to Minister Sartor's proposed amendments to planning legislation, in particular:

- a. expansion of the categories of exempt and complying development,
- b. measures affecting Councillor consideration and decision making in development control matters?

Director Planning and Development in response:

There has been a lot of speculation in the press about proposed changes to the Environmental Planning and Assessment Act. My advice is that there will be a "White Paper", a discussion paper released before Christmas which will canvass a number of changes to the Act including mandatory introduction of expanded exempt and complying development provisions. When that discussion paper is released we will certainly bring that to Councillors attention, It may be after the reporting cycle but I will certainly pass that on to the Councillors and almost certainly there will be a report to the Urban Planning Committee as soon as possible thereafter.

Director Planning and Development further in response:

The Discussion Paper, "Improving the NSW Planning System" was released by the Minister on 27 November 2007. The paper was circulated to Councillors on 28 November 2007 and will be the subject of a report to the Urban Planning Committee in January 2008.

Councillor Comino asking:

What is Council's policy regarding provision for drainage in the low lying parts of Rose Bay (particularly New South Head Road and the shopping centre) concerning requiring raising of ground floors of buildings in new developments? How does this relate to Council's responsibilities under the Disability Discrimination Act (Commonwealth)?

Director Planning and Development in response:

The matters raised in that question are complex and there are also some legal issues. I think it prudent that I take the question On Notice.

Councillor Comino asking:

What is the current status of the development and unauthorised works at 38 Fitzwilliam Road, Vacluse?

Manager Compliance in response:

Since being directed to stop work, in August 2006, there has been no further work carried out on the site. On 11 April 2007 the owner lodged a building certificate application (BC 67/2007) to ratify the unauthorised work. This certificate was refused by Council at its meeting of 23 July 2007 where it was resolved as follows:

- "1. THAT the Council, as the consent authority, refuse the Building Certificate BC67/2007 – 38 Fitzwilliam Road, Vacluse – New dwelling-house, basement garage and swimming pool involving extensive unauthorised works and that the applicant lodge a new Building Certificate application with accurate survey plans within 14 days and should the applicant fail to lodge the new application within 14 days that our solicitors be instructed to commence Class 4 proceedings in relation to the unauthorised works.
2. THAT any future building certificate applications in relation to 38 Fitzwilliam Road, Vacluse be referred to the Development Control Committee as an R Item for final determination by full Council."

On 6 August 2007 the owner lodged a further building certificate application (BC 163/2007), in response to the above resolution. The application was notified to the adjoining neighbours and is currently being assessed by Council's Development Control staff. The application will be reported to the Development Control Committee's first meeting in January 2008.

Councillor Sinclair King asking:

The proposed removal of abandoned water craft at Rose Bay appears to be in chaos. Three mornings ago when I walked past there were three upright boats in the dinghy storage facility and there seemed to be about 40 boats and kayaks around the base. I am wondering whether the message has got across and if not how are we going to get it across?

Manager Public Open Space in response:

The management of water craft at Rose Bay Park has progressed in three stages.

Stage 1 involved the removal from the beach of 25 catamarans. This process is completed.

Stage 2 involved installing a dinghy storage facility and informing mooring holders of the need to use the facility, or have any craft in the park removed. The storage facility has been installed and permits issued for all storage spaces. We have also placed notices on all dinghies remaining in the park seeking removal by 30 December. After this date any unclaimed dinghies will be removed.

Stage 3 is underway and involves removal of all kayaks. This process commenced in the last week in November following the completion of kayak storage facility located at the northern end of the Park. Like the dinghies, we have placed notices on all kayaks seeking removal by 30 December.

Councillor Cullen asking:

Could you please organise for the Council bus to transport Councillors from the Chambers to Cranbrook School for the Strategic and Corporate Committee Meeting this week and the following?

Mayor in response:

We will arrange for transportation for those Councillors who require it.

Councillor Petrie asking:

Ten days ago I re-opened the fountain at the corner of Oxford and Queen Streets and stated that I would be responsible to keep the re-opened fountain flowing. Guess what? Last Sunday, no water no sparkle and I am getting calls. Why and please get the fountain flowing again?

Manager Parks & Street Trees in response:

The fountain has had a wind sensor installed to minimise water loss on windy days. This sensor malfunctioned over the weekend. The sensor has been repaired.

Gary James
General Manager

Annexures: Nil