

# Development Control Committee Minutes

Monday 7 May 2007

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# Development Control Committee Minutes

**Minutes of the Meeting held on  
Monday 7 May 2007 at 6.00pm**

Present: The Mayor, Councillor Keri Huxley, ex-officio  
Councillors Claudia Cullen (Chair)  
Anthony Boskovitz  
Tanya Excell  
Andrew Petrie  
Geoff Rundle

Staff: A Coker (Director – Planning & Development)  
B Daintry (Manager – Development Control)  
N Economou (Team Leader)  
George Fotis (Team Leader)  
Gary James (General Manager) (Part D2)  
Merle Karp (Team Leader – Governance)  
Tim Tuxford (Manager – Compliance) (D2)

Session One: 6.01pm to 9.55pm

Also in Attendance: Councillor Wilhelmina Gardner (D2)  
Ms Olga Hancock (Solicitor – Deacons) (D2)  
Mr Jeremy Bingham (Senior Partner – Deacons) (D2)

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## Leave of Absence

Leave of Absence previously granted by Council: Councillor John Comino and Councillor Christopher Dawson

Apologies: Nil

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## Late Correspondence

Late correspondence was submitted to the committee in relation to Items: D2, D3, D4 & D5

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## Declarations of Interest

The Mayor, Councillor Huxley declared a non-pecuniary interest in item D2 (18 Tivoli Avenue, Rose Bay) as Mr Camuglia an objector was a donor to the Liberal Party and Mr John Hancroft a consultant who worked on behalf of the objector Mr Camuglia was a person who is known to the Mayor.

Councillor Boskovitz declared an interest in item D2 (18 Tivoli Avenue, Rose Bay) as he advised that he believes that Mr Camuglia may have contributed to the Liberal Party campaign but that he did not believe that he had a conflict of interest.

Councillor Petrie advised that he did not have a conflict of interest in item D2 (18 Tivoli Avenue, Rose Bay) as he had no knowledge of any contribution to the campaign of the Liberal Party that may have been made by Mr Camuglia.

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**Note:** Item R1 (DA 29/2005 – 37 Wunulla Road, Point Piper – Demolition of existing dwelling & construction of a new part 2/part 3 storey residence & the refurbishment of the pool deck level – 27/1/2005) was considered after Item D5 and before D6.

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**Items Decided by this Committee using its Delegated Authority (Items D1 to D6)**

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**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 23 April 2007**  
**Author:** Les Windle, Manager - Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 23 April 2007 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.

**(Boskovitz/Petrie)**

**Resolved:**

That the Minutes of the Development Control Committee Meeting of 23 April 2007 be taken as read and confirmed.

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**D2 DA 407/2005 - 18 Tivoli Avenue, Rose Bay – Merit Assessment – Without Prejudice Plans**

**Note:** In accordance with Council's meeting procedures and policy this matter has been called to Full Council by Councillor Rundle for the reason that in the course of the deliberations on the subject matter policy decisions may need to be made that should be determined by the Full Council. **(See item R2)**

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**D3 DA 750/2005 – 779 New South Head Road, Rose Bay – Unauthorised erection of two signs – 2/12/2005**

**Note:** Late correspondence was tabled by John Travas - Rose Bay Residents Association (2 items).

**Note:** Mr John Cody, Planning Consultant for the applicant and a representative of the Rose Bay Residents Association addressed the meeting.

**(Rundle/Petrie)**

**Resolved:**

That consideration of Development Application No. 750/2005 – 779 New South Head Road, Rose Bay – Unauthorised erection of two signs be deferred to enable Council staff to provide Councillors with clarification as to what approvals have previously been given to all other signs in the Rose Bay Business Centre and for the matter to return to the Development Control Committee in 14 days to be heard as item D2 on the Agenda for the meeting of 21 May 2007.

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**D4 DA554/2006 – 599-601 New South Head Road & 1 Cranbrook Road, Rose Bay – Demolition of two existing hotel buildings at 599-601 New South Head Road & the dwelling-house at 1 Cranbrook Road & erection of a part 2 & part 4 storey residential care facility consisting of 71 bedrooms (80 beds) – 30/8/2006**

**Note:** Late correspondence was tabled by Tim & Anne Marie Casey & John Travas - Rose Bay Residents Association.

**(Rundle/Petrie)**

**Resolved:**

That consideration of DA554/2006 – 599-601 New South Head Road & 1 Cranbrook Road, Rose Bay – Demolition of two existing hotel buildings at 599-601 New South Head Road & the dwelling-house at 1 Cranbrook Road & erection of a part 2 & part 4 storey residential care facility consisting of 71 bedrooms (80 beds) be deferred to enable any Objectors a further 14 days to obtain clarification of any matters about which they may have concerns and for the matter to return to the Development Control Committee meeting on 21 May 2007.

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**D5 DA423/2005 – 1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006**

**Note:** In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the recommendation of the Development Control Committee (Refusal) to the Officer's recommendation (Approval). **(See item R3)**

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**D6 Register of Current Land and Environment Court Appeals for Building and Development Applications**

**Note:** Item D6 was considered after R1.

**(Petrie/Excell)**

**Resolved:**

THAT the attached register of current Land and Environment Court Appeals for Building and Development Applications be received and noted.

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**Items with Recommendations from this Committee  
Submitted to the Council for Decision (Items R1 to R2)**

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**R1 DA29/2005 – 37 Wunulla Road, Point Piper – Demolition of existing dwelling & construction of a new part 2/part 3 storey residence & the refurbishment of the pool deck level – 27/1/2005**

**Note:** Item R1 was considered after Item D5 and before D6

**Note:** Mr Anthony Betros, Planning Consultant on behalf of three of the objectors, addressed the meeting.

**(Boskovitz/Cullen)**

That the Committee enter into “Closed Session” with the press and public excluded to consider the report on the Confidential Agenda and memorandum of advice prepared by Deacons in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

**ADOPTED**

**“Closed Session”**

**Note:** The Committee discussed the report on the Confidential Agenda and the memorandum of Advice prepared by Deacons.

**(Rundle/Petrie)**

**The following Motion was moved and adopted in Closed Session:**

THAT in relation to the appeal lodged with the Land and Environment Court against the Council’s determination to refuse development application Development Application No. 29/2005 for demolition of existing dwelling and construction of a new part 2/part 3 storey residence and the refurbishment of the pool deck level on land at 37 Wunulla Road, Point Piper, the following is recommended:

1. Council maintain its refusal and defence to these proceedings.
2. The confidential report and advice remain confidential for a period of 6 months or until the completion of the proceedings, whichever occurs last.

**(Rundle/Petrie)**

That the Committee move into Open Session in order to adopt its recommendation to Council.

**Adopted**

**“Open Session”****(Rundle/Petrie)****Recommendation:**

THAT in relation to the appeal lodged with the Land and Environment Court against the Council's determination to refuse development application Development Application No. 29/2005 for demolition of existing dwelling and construction of a new part 2/part 3 storey residence and the refurbishment of the pool deck level on land at 37 Wunulla Road, Point Piper, the following is recommended:

1. Council maintain its refusal and defence to these proceedings.
2. The confidential report and advice remain confidential for a period of 6 months or until the completion of the proceedings, whichever occurs last.

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**R2 DA407/2005 – 18 Tivoli Avenue, Rose Bay - Merit Assessment - Without Prejudice Plans**

**Note:** In accordance with Council's meeting procedures and policy this matter has been called to Full Council by Councillor Rundle for the reason that in the course of the deliberations on the subject matter policy decisions may need to be made that should be determined by the Full Council.

**Note:** The Mayor, Councillor Huxley declared a non-pecuniary interest as Mr Orazio Camuglia an objector was a donor to the Liberal Party and Mr John Hancroft a consultant who worked on behalf of the objector, Mr Camuglia, was a person who is known to the Mayor.

**Note:** Councillor Boskovitz declared an interest as he stated that he believes that Mr Camuglia may have contributed to the Liberal Party campaign but that he did not believe that he had a conflict of interest.

**Note:** Councillor Petrie advised that he did not have a conflict of interest in this matter as he had no knowledge of any contribution to the campaign of the Liberal Party that may have been made by Mr Camuglia.

**Note:** Late correspondence was tabled by Councillor Geoff Rundle, Bob Ternes - Ebsworth & Ebsworth Lawyers, Patrick Holland - Minter Ellison Lawyers, Alvin Blumenthal, Michael Rolfe – Sydney Harbour & Foreshores Committee, Raffaele Garofano, Diana Mullins, Elizabeth Briger, Mark Anthony Vincezo, Ray Pillion – Troppa Trading, Paola Garcia, Ashlyn Barnes, Lee Conlon, David O'Donnell - Mallesons Stephen Jaques (2 items), Mark Herron, Orazio Camuglia

**Note:** Mr David O'Donnell, Solicitor – Mallesons Stephen Jacques on behalf of objectors, Mr & Mrs B Potts of 12 Tivoli Avenue, Rose Bay, Mr O Camuglia, objector, of 2/14 Tivoli Avenue, Rose Bay, Mr Bob Ternes, Solicitor – Ebsworth & Ebsworth Lawyers, on behalf of objector, Mr O Camuglia of 2/14 Tivoli Avenue, Rose Bay, Mrs Maureen Clarke on behalf of the Rose Bay Residents Association, Mr Julian Knights, objector of 14 Dumaresq Road, Rose Bay, Mrs Jennifer Stricker, objector of 22 Tivoli Avenue, Rose Bay and Mr Tim Hale, Senior Counsel for the applicant addressed the meeting.

**(Huxley/Rundle)**

That the Committee resolved into “Closed Session” with the press and public excluded to consider legal advice prepared by Deacons and to hear from Mr Jeremy Bingham, Council’s solicitor in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

**Adopted**

**“Closed Session”**

**Note:** The Committee discussed the legal advice prepared by Deacons.

**(Huxley/Boskovitz)**

That the Committee resolved to go back into Open Session.

**Adopted**

**“Open Session”**

**(Rundle/Petrie)**

**Recommendation:**

That:

1. This matter be referred to a site inspection meeting to be held at 8.00am on Wednesday 9 May 2007 and site poles which have been certified by a registered surveyor be erected on site prior to the commencement of the meeting.
2. The site inspection be adjourned after visiting the site and be reconvened at 5.00pm on Monday 14 May 2007 at 5.00pm in order to formulate a recommendation to the Council Meeting to be held at 8.00pm on Monday 14<sup>th</sup> May 2007.
3. The confidential report and advice remain confidential for a period of 6 months or until the completion of the proceedings, whichever occurs last.

**R3 DA423/2005 – 1-3 Prospect Street, Paddington – Section 82A Review of refusal – 17/11/2006**

**Note:** In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the recommendation of the Development Control Committee (Refusal) to the Officer's recommendation (Approval).

**Note:** Late correspondence was tabled by Larissa Northridge – Senior Assessment Officer.

**(Huxley/Excell)**

**Motion moved by Councillor Huxley  
Seconded by Councillor Excell**

That the application be refused for the reasons it was originally refused on 8 May 2005 with a further reason added being that the only change proposed by the applicant is a reduction in the roof height of twelve to thirteen inches and the introduction of shingles.

**Amendment moved by Councillor Petrie  
Seconded by Councillor Boskovitz**

That the Officer's recommendation that is before the meeting be approved.

**The Amendment was put and lost.  
The Motion was adopted**

**(Excell/Huxley)**

**Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

THAT Council, as the consent authority, refuse development consent to Development Application No. DA423/2005/1 for alterations to existing brick cottages & construction of two storey rear addition on land at Nos. 1 to 3 Prospect Street, Paddington, for the following reasons:

1. The proposal is not considered satisfactory as the only changes to the original proposal is a reduction in the roof height by twelve to thirteen inches with the introduction of shingles which the Committee did not consider to be a sufficient or appropriate response or change.
2. The proposal is not considered satisfactory under the provision of Clause 27 of the Woollahra Local Environmental Plan 1995.
3. The proposal does not comply with the objectives of maximum building height development standards prescribed in Clause 12AA of the Woollahra Local Environmental Plan 1995.
4. The proposal does not comply with Objective O1 and Guideline G1 under Part 5.1.1 – Street Frontages, of the Paddington Development Control Plan.

5. The proposal does not comply with Objectives O2 and O3 and Guidelines G1, G3 and G5 under Part 5.1.3 – Rear Elevations and Yards, of the Paddington Development Control Plan.
6. The proposal does not comply with Guidelines G1, G3 and G4 under Part 5.1.6 – Landscaping and Private Open Space, of the Paddington Development Control Plan.
7. The proposal does not comply with Objectives O1, O2 and O5 and Guidelines G1, G2, G3 and G4 under Part 5.1.7 – Building Height, Bulk and Scale, of the Paddington Development Control Plan.
8. The proposal does not comply with Guidelines G4 under Part 5.2.3 – Windows, Doors and Shutters, of the Paddington Development Control Plan.
9. The proposal does not comply with Objectives O2 and O3 and Guideline G1 under Part 5.3 – Building Type, of the Paddington Development Control Plan.
10. The proposal is not in the public interest.

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There being no further business the meeting concluded at 9.55pm.

***We certify that the pages numbered 857 to 866 inclusive are the Minutes of the Development Control Committee Meeting held on 7 May 2007 and confirmed by the Development Control Committee on 21 May 2007 as correct.***

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**Chairperson**

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**Secretary of Committee**