



# Ordinary Council Meeting

**Agenda:** *Ordinary Council Meeting*

**Date:** *Tuesday 29 January 2008*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

24 January 2008

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 – 29 January 2008**

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 Tuesday 29 January 2008 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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4. Late Correspondence	
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7. Public Forum	
8. General Manager’s Report	Nil
9. Reports of the Committees	
9.1 Corporate & Works Committee	21 January 2008
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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 21 January 2008 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Saber and Rowe Street – Road Reconstruction Project**  
**Author:** Joe Cavagnino – Purchasing Coordinator  
**File No:** Tender No 07/20  
**Reason for Report:** To recommend to Council the acceptance of a Tender

**Recommendation:**

- A. That Council enter into a Contract with Ozpave (Aust) Pty Ltd for the Saber and Rowe Street Road Reconstruction project for the sum of \$188,637.55 (excluding GST).
- B. That successful and unsuccessful tenderers be advised accordingly.
- C. That in order to fully fund the project, \$36,815 be transferred from the Road Infrastructure Project at Brown Street, Paddington.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Reallocation of Funds For Community Services Activities**  
**Author:** Kylie Walshe  
**File No:** 126.G  
**Reason for Report:** To request a reallocation of unspent funds by Holdsworth Community Centre to community organisations in the form of community grants.

**Recommendation:**

That the allocation of unspent funds be deferred until the further report from the Director of Community Services on the revised policy on the allocation of funds for community grants.

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**Item No:** R3 Recommendation to Council  
**Subject:** **Gurner Lane Footpath Widening**  
**Author:** Warwick Hatton – Director, Technical Services  
**File No:** 211  
**Reason for Report:** For the Committee to consider the Gurner Lane footpath widening proposal.

**Recommendation:**

- A. That the proposal for footpath widening in Gurner Street as detailed in Annexure 1 of this report be adopted.
  - B. That the Department of Education's offer to transfer ownership of the affected section of land to Woollahra Council without cost be accepted and the necessary steps to effect the transfer be initiated.
  - C. That a further report be provided detailing the actions to be taken to effect the transfer of the land.
  - D. That these works be funded from residual funds from the deferred O'Sullivan Rd project.
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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 21 January 2008 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** 2 Oxford Street, Woollahra – Alterations and additions to the light Brigade Hotel, including creation of an external smoking area on the Oxford Street frontage, changes to windows and internal refurbishment – 4/6/07  
**Author:** Belinda Thomas – Assessment Officer  
**File No:** DA359/2007  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Huxley.

**Recommendation:**

THAT the Council, as the consent authority, defer consideration of Development Application No. 359/2007 for alterations and additions to the Light Brigade Hotel, including creation of an external smoking area on the Oxford Street frontage, changes to windows and internal refurbishments on land at 2 Oxford Street Woollahra.

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**Item No:** R2 Recommendation to Council  
**Subject:** **40-41 Olola Avenue, Vacluse – Alterations and additions to the existing garage – 12/7/07**  
**Author:** Larissa Northridge – Senior Assessment Officer  
**File No:** DA458/2007  
**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 the Council, as the consent authority, refuse development consent to Development Application No. 458/2007 for addition to existing two-storey garage on land at 40-41 Olola Avenue Vacluse, for the following reasons:

**1. Aim and Objectives of Woollahra LEP 1995**

The proposal is considered contrary to the following objective of Woollahra LEP 1995:

- 2(2)(k)(iii) relating to impact of new development upon the public environment.

**2. Height of Ancillary Structures**

The proposed development does not comply with the maximum height for ancillary development, contrary to C5.2.4 of the Woollahra Residential Development Control Plan, 2003. This results in an unreasonable sense of enclosure and is detrimental to the visual amenity of the northern adjoining property.

**3. Number of Storeys**

The proposed development does not comply with C4.13.5.3 of the Woollahra Residential Development Control Plan, 2003 in that the maximum number of storeys has been exceeded. This results in a development that is inconsistent with the bulk and scale of surrounding development.

**4. Setbacks**

The proposed development does not comply with the minimum side boundary setbacks contrary to C5.2.5 of the Woollahra Residential Development Control Plan, 2003. This results in an unreasonable sense of enclosure and is detrimental to the visual amenity of the northern adjoining property.

**5. Visual and Acoustic Privacy**

The siting and proximity of the proposed new balconies and decks will have an adverse impact on the visual and acoustic privacy of habitable rooms and private open space of the northern adjoining property, contrary to O5.8.1 of the Woollahra Residential Development Control Plan, 2003.

**6. Public Interest**

The proposal is not considered to be in the public interest.

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## 9.3 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 17 December 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **Public Car Parking in the Double Bay Commercial Centre - Proposed amendments to Woollahra Section 94 Contributions Plan 2002 and Woollahra DCP for Off-Street Car Parking Provision and Servicing Facilities**

**Author:** Chris Bluett - Manager Strategic Planning

**File No:** 136.G

**Reason for Report:** To respond to a decision of the Council made on 26 November 2007 regarding proposed changes to the Woollahra Section 94 Contributions Plan 2002 and Woollahra DCP for Off-street Car Parking Provision and Servicing Facilities, both or which relate to public car parking in the Double Bay Commercial Centre.

**Recommendation:**

- A. That a draft development control plan be prepared to amend Woollahra Development Control Plan for Off-street Car Parking Provision and Servicing Facilities by removing the requirement for additional off-street car parking and the requirement for a contribution under Woollahra Section 94 Contributions Plan 2002 for development involving a change of use in the Double Bay Commercial Centre, unless the proposed development will result in a net increase in gross floor area.
- B. That a draft development control plan be prepared to amend the Double Bay Commercial Centre Development Control Plan by including references which have the effect of allowing exemptions for off-street car parking provision and car parking section 94 contributions for certain development proposals, including change of use proposals, described in the Development Control Plan for Off-street Car Parking Provision and Servicing Facilities and the Woollahra Section 94 Contributions Plan 2002.
- C. That a draft contributions plan be prepared to amend Woollahra Section 94 Contributions Plan 2002 by:
  - (i) reducing the contribution for car parking in the Double Bay Commercial Centre from \$38,496 per space to \$27,325 per space,
  - (ii) making consequential changes to the Contributions Plan, including changes to the following clauses:
    - (a) clause 2.1 (schedule of contribution rates) - change contribution rate
    - (b) clause 2.2 (works schedule) – update the total cost figure for providing additional public parking in the Cross Street Car Park and the staging for the works
    - (c) clause 3.3 (land and development to which plan applies) – identify the exemption for change of use proposals and provide a cross reference to the Car Parking DCP

- (d) clause 4.7.2 (additional public facilities), clause 4.7.3 (apportionment of costs) and clause 4.7.4 (contribution calculations) –update the total cost figure for providing additional public parking in the Cross Street Car Park; insert the new contribution rate; and note the exemption for change of use proposals.

- D. That a meeting of the Strategic Planning Working Party be convened in late January/early February 2008 to consider part D of the Council Resolution of 26 November 2007 referred to in the report by the Manager Strategic Planning to the Urban Planning Committee meeting on 17 December 2007 and that the further investigation into the provision of parking in Double Bay include a review of the application of the Section 94 Contributions Plan generally.
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**Item No:** R2 Recommendation to Council  
**Subject:** **Draft Woollahra LEP 1995 (Amendment No.60) - Neighbourhood Centres and William Street Paddington**  
**Author:** Chris Bluett - Manager Strategic Planning  
**File No:** 1064.G (Amendment 60)  
**Reason for Report:** To inform the Council of advice from the Parliamentary Counsel and Department of Planning.  
To modify the Council's decision of 29 October 2007.

**Recommendation:**

That the matter be deferred for further consideration of amending Clause 14 (Schedule 2, Development for certain additional purposes) to require the upper floor of the premises to be used primarily for residential purposes.

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## 9.4 Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 17 December 2007 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Proposed Community Garden at Trumper Park and Community Garden Policy.**  
**Author:** Paul Fraser - Parks and Recreation Coordinator  
**File No:** 1208.G  
**Reason for Report:** To report to Council the outcome of the public notification period for the Community Gardens Policy and the proposed Trumper Park Community Garden.

**Recommendation:**

- A. That the Community Garden Policy (Annexure 4) be adopted.
  - B. That the exhibited site for the Community Garden at Trumper Park be adopted.
  - C. That the Mayor nominate two Councillors to participate in a Community Garden Steering Group to oversee the formation of the Association.
  - D. That one representative each from the Paddington Society and Holdsworth Community Centre, a resident from Cameron or Thorne Street and one of the Joyners be invited to participate in the Community Garden Steering Group.
  - E. That, once the Community Garden Association is formed, Council enter into a 12 month Licence/User Agreement with the Association.
  - F. That Council authorise the General Manager to execute all necessary documentation including affixing of Council's seal.
  - G. That, as part of the December 2007 quarterly budget review, a report be provided on funding the \$45,000 to allow the Garden to be set up and commence operation; works to be funded to comprise perimeter fencing and garden bed establishment, including some beds to be accessible for members with impaired mobility.
  - H. That, prior to the conclusion of the 12 month Licence/User Agreement, a report be submitted for Council's consideration outlining the results of the garden's management and recommendations for its future management.
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## Notices of Motion

**Item No:** 1  
**From:** Councillor Shoebridge  
**Date:** 14 December 2007  
**File No:** 900.G

THAT Council use its current stock of bottled water, then end its use of bottled water.

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**Item No:** 2  
**From:** Councillor Petrie  
**Date:** 11 January 2008  
**File No:** 900.G

THAT, having regard to recent publicity in relation to the use and cost of bike lanes elsewhere, a report be submitted to the Corporate and Works Committee canvassing the cost of the construction and implementation of bike plans in the Woollahra Municipality up to date, estimates of any stages yet to be constructed, estimates of the number of users and any appropriate comment as to the visual impacts as a consequence of signage and road marking.

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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 17 December 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 17 December 2007 are as follows:

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**Councillor Comino asking:**

What is the nature of the more extensive works (now notified to Councillors and in last weeks Wentworth Courier) to the concrete balustrade at Rose Bay Promenade that will now delay completion till at least February 2008?

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**Director Technical Services in response:**

The more extensive works are simply additional repair works greater in scope than were originally envisaged but the same in nature and it is not, strictly speaking, the additional repair works which are delaying the overall completion date. It is more to do with the initial stages of the work where a great number of tree roots and underground services had to be worked around.

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**Councillor Comino asking:**

In respect to Council's beach cleaning contracts, when will Council conduct a review of the current contracts, particularly having regard to:

- (a) techniques used for beach cleaning,
- (b) impact of mechanical compaction on ecology,
- (c) impact of mechanical aeration on sand loss,
- (d) effective recovery and removal of hypodermic needles, glass fragments etc?

**Director Technical Services in response:**

In respect to Council's current Beach Cleaning practices:

- (a) There are 2 full time staff employed in the Parks and Street Trees section of Council who undertake beach cleaning on a rotating schedule. Due to access difficulties their function is predominantly completed manually, using tools such as rakes and shovels. In addition to this, Council's backhoe operator supports the beach cleaning with respect to the clearing sand build up at beach stormwater outlets at 3 locations, that is: Caledonian Road, Rose Bay; Rose Bay Park, Rose Bay; and Gibsons Beach, Watsons Bay. This is completed on a rotating schedule of once per fortnight, dependant on tides and weather. The technique using the mechanical excavator is to remove surface build up of sand at stormwater outlets and redistribute the sand cleared evenly across the beach away from the outlet. Approximately once every three occasions there may be need to arrange for a truck to dispose of surface organics such as leaf litter prior to the redistribution of sand.
- (b) The impact of mechanical compaction on the ecology has not been measured. The use of machinery is limited to 3 specific locations (as above) and only where clear access is available and sand excavation is restricted to an area directly in front of stormwater outlets. As such the effect on the ecology is considered minimal.
- (c) The impact of mechanical aeration on sand loss has not been measured. The use of machinery is limited to 3 specific locations (as above) and only where clear access is available and sand excavation is restricted to an area directly in front of stormwater outlets. Further no sand is removed from the beach, it is redistributed to other areas of the beach away from the stormwater outlet. As such the effect on the aeration on sand loss is considered negligible.
- (d) Effective recovery of hypodermic needles, glass fragments etc is measured in part. Our beach cleaning staff use manual methods keep records on the frequency, time spent, volume of material that is cleaned and note any sharps that are cleaned. At the moment this information is collected in hardcopy format and filed. Statistics can be generated from these records. They report that over the last 12 months they have disposed of 1 hypodermic needle on 4 separate occasions. Currently their reports do not provide a breakdown of litter into % organic litter, % litter or glass. Further, the backhoe operator reports that no needles have ever been observed and that any glass or glass bottle fragments are removed manually prior to the redistribution of sand.

A review of our beach cleaning practices (as described above) is being completed by our Sustainability Projects section and is 90% complete. It is anticipated that a report on this review will be prepared together with recommendations in March 2008. This report will include

recommendations for improvement of the existing foreshore cleaning program and reporting mechanisms.

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**Councillor Comino asking:**

What is the purpose of the brick building structure near the south eastern corner of Lyne Park, opposite the Tennis Centre?

**Director Technical Services in response:**

The brick building on the south eastern corner of the Tennis Centre is part of the Tennis Centre lease. It is currently used for storage by the tennis centre.

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**Councillor Comino asking:**

Can it be returned to use as a public toilet?

**Manager Parks and Street Trees in response:**

The brick buildings next to the Lyne Park tennis courts are part of the tennis centre lease and are used by the tennis centre for storage. There are public toilets nearby in Lyne Park, which it is proposed to upgrade with the conversion of part of the building to a cafe.

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**Councillor Huxley asking:**

Would staff provide a written update on the progress of the investigation into to role of the Private Certifier on 20a, 20b and 18 Tivoli Avenue, Rose Bay?

**Manager Compliance in response:**

Pursuant to the Building Professional Act 2005, a formal complaint has been lodged with the Building Professionals Board against the accredited certifier and Principal Certifying Authority for 18, 20A and 20B Tivoli Avenue Rose Bay on 8 January 2008.

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**Councillor Huxley asking:**

When will the Legal Committee meet to review the performance and status of Council's agreements with the preferred law firms?

**Director Planning and Development in response:**

Following consultation with the Chair of the legal committee a meeting of the legal committee will be scheduled in early February 2008.

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**Councillor Huxley asking:**

Will staff please investigate the drinks and glasses being left outside hotels in Paddington?

**Manager Compliance in response:**

As this matter relates to the operation of Hotels pursuant to their applicable liquor licenses, the matter has been reported to the Licensing Police Supervisor for the Rose Bay Local Area Command. The Licensing Police Supervisor has informed Council that the issue has recently been raised with publicans through the Rose Bay/Paddington Local Area Liquor Accord. The matter will continue to be monitored and if required, further discussions will take place with the Licensing Police.

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**Councillor Huxley asking:**

Would Technical Services staff please investigate removing the loading zone outside Andrea Conolly's Salon in the lane beside the Cosmo?

**Traffic Engineer in response:**

Matter to be considered by the Traffic Committee at its meeting to be held in March, 2008.

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**Councillor Huxley asking:**

When will the Strategic Planning Working Party next meet?

**Director Planning and Development in response:**

It won't be until the New Year. I will confer with the Mayor and members of the Working Party as to a suitable date, sometime in January.

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**Councillor Martin asking:**

Re the White City North/South pedestrian pathway.

Has there been any progress in negotiations with the parties to effect the reinstatement of the pathway in time for the completion of the Sydney Grammar playing field works?

**Director Planning and Development in response:**

The short answer to that is no. I am keeping you up to date on progress on that issue through the Councillor Bulletin.

**Councillor Martin asking:**

Do you know when you might have some progress as time is moving on?

**Director Planning and Development in response:**

I have reported that the Sydney Rail Corporation is favourably disposed to furthering discussions with Council in relation to public access. They have asked for a concept plan to be prepared. I need to follow that up with my colleagues as to the state of play with the concept plan. They have indicated they are not prepared to have further discussions with us until we've been able to prepare that plan.

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**Councillor Sinclair King asking:**

Could Howard Tanner, Heritage Architect, be invited to give a presentation to Councillors and residents of the Municipality in early 2008 on the benefits of heritage listing properties and to address further developments that this Council could take to protect unlisted potential heritage properties?

**Director Planning and Development in response:**

We will ask Mr Tanner to give a presentation on this subject.

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**Councillor Sinclair King asking:**

I understand a DA was submitted to Woollahra Council to upgrade the Double Bay Marina. Could Council defer advertising this DA and placing it on public exhibition until after the January holiday period so the maximum number of residents can be informed? Will the same procedures be put in place as per the hearing and information sessions for the Rose Bay Marina DA? Can a true scale model of the marina be requested?

**Director Planning and Development in response:**

In relation to advertising, it being the 17<sup>th</sup> December, it will not be advertised until the new year and that will not take place at least until the 2<sup>nd</sup> and perhaps the 3<sup>rd</sup> week of January. We will ensure there is a broad notification of that development application also bearing in mind it is probably designated development under the Act. As far as the model is concerned, the applicant has informed us that a model will be provided, albeit it is not in our possession at the moment and we have indicated to them that we will not advertise it until the model is here. I understand that the model is likely to be with us in the next few days, if not before Christmas then early in the new year.

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**Councillor Shapiro asking:**

Can Council investigate the use of movable barriers for cafes with outdoor seating on the edge of the pavement? These barriers should be between the seating and the edge of the pavement, thereby improving both safety and amenity.

**Director Technical Services in response:**

Our practice under the Footway Licence Policy is to require tables and chairs to be located adjacent to the building line, not adjacent to the kerb, to protect the safety of cafe patrons. Moveable barriers would offer only token protection. To provide impact protection if struck by a vehicle, barriers would need to be constructed as guard rails or New Jersey kerbs, both of which would be unsightly and would reduce the usable space available on the footpath due to their size and the need to provide clearance behind the kerb.

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**Councillor Shoebridge asking:**

Can we please have someone look at the long-standing footpath blocking vegetation growing from the front of 230 Edgecliff Road and the quite damaged footpath in front of that property?

**Acting Manager Civil Works in response:**

With regards to the vegetation, a request has been sent to the Parks and Street Trees staff (CRMS 302268662), requesting that the overgrowing vegetation be trimmed back to the boundary fence, and that the residents be notified and informed of their responsibility to ensure that the vegetation does not grow into the path.

With regards to the footpath defects: We recently completed footpath grinding in this area to correct two identified defects, and further we have programmed the remaining defect to be reconstructed as part of our programmed maintenance works. We expect to complete this in January 2008.

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**Councillor Petrie asking:**

To the Mayor

I note that today there are reports that at least 3 Councils, including Manly, are considering legal action against Grange/Lehman. Are you aware of these reports?

**Mayor in response:**

No

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**Councillor Petrie asking:**

To the Mayor

You will remember that 4 weeks ago I mentioned to you that there is a group that are offering to fund Councils in a legal action against Grange/Lehman to recover their losses if Councils realised these losses. Will you see this group?

**Mayor in response:**

Yes

**Councillor Petrie asking:**

To the Mayor

When will you respond to Grange/Lehman's letter of at least 3 weeks ago, which terminated their current financial arrangements with Woollahra Council and when will Councillors be informed of the contents of the letter/response?

**Mayor in response:**

There is no response to that letter at the moment as I wrote another letter to the Managing Director last Friday. You can have a copy of that letter but the letter you are asking for has not been written.

**Mayor further in response:**

A copy of the letter was sent to Cr Petrie on 20 December 2007

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**Councillor Petrie asking:**

To the Mayor

You will be aware that Paddington Bowling Club is still trying to buy the lands talking directly to the Minister. Can you write a letter to the Minister pointing out this Council's very strong objections to this occurring?

**Mayor in response:**

As far as I am aware that was a suggestion in the course of evidence before the Commissioner. I have written to the Minister for clarification. I will arrange for you to be provided with a copy along with the attachments.

**Mayor further in response:**

A copy of the letter was sent to Cr Petrie

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Gary James  
General Manager

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**Annexures:**

Nil