

Council Meeting

Monday 13 October 2008

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Items Determined Under Delegated Authority by Council Committees

The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

Corporate & Works Committee Meeting held on Monday 7 October 2008

- D1 Election of Deputy Chairperson
- D2 Confirmation of Minutes of Meeting held on 1 September 2008
- D3 Political Donation and Gift Disclosures and Requirements of General Managers to Report Matters to The Director General Department of Local Government
- D4 Matters to be Considered by Council During the Next 12 months
- D5 Disclosure of Interest Returns by Councillors and Designated Persons
- D6 Monthly Financial Report – August 2008
- D7 Queens Ave, Vaucluse - Proposed Action to Regularise Encroachments on the Road Reserve – (See Item R3)

Development Control Committee Meeting held on Monday 7 October 2008

- D1 Election of Deputy Chairperson
- D2 Confirmation of Minutes of Meeting held on 1 September 2008
- D3 Recording of Voting on Planning Matters – 1191.G (See Item R2)
- D4 Political Donation & gift disclosures & requirements of General Managers to report matters to the Director General Department of Local Government – 1191.G
- D5 DA238/2008 – 57 New South Head Road, Vaucluse – Alterations & additions comprising of new swimming pool with storage area below, removal of a vehicular access & landscaping works – 28/4/2008
- D6 DA926/2001 Part 4 – 62 Drumalbyn Road, Bellevue Hill – Section 96 Application Proposed external modifications – 2/5/2008
- D7 DA263/2007 Part 3 – 62 Wunulla Road, Point Piper – Section 96 Application – Proposed modification to basement carpark, swimming pool & the building – 22/4/2008
- D8 DA77/2002 Part 4 – 60A Wunulla Road, Point Piper - Section 96 Application - Proposed modification including new photovoltaic collectors to roof, new window & changes to boundary wall – 12/3/2008
- D9 DA130/2008 – 156 Edgecliff Road, Woollahra – Construct new retail/commercial building with basement car parking – 14/3/2008
- D10 DA798/2007 – 163 Victoria Road, Bellevue Hill – Demolition of an existing residential flat building & erection of a new residential flat building consisting of 3 units & 6 off-street car parking spaces – 30/11/2007
- D11 DA663/2002 Part 2 – 600-612 New South Head Road, Rose Bay (Tingira Reserve beach frontage) – Section 96 Application – Proposed modification to the numbers of water craft for hire, changes to the permissible storage area on the beach & the placement of additional ancillary structures on the beach & reserve – 16/5/2008
- D12 Register of Current Land and Environment Court Appeals for Development Applications
- D13 DA753/2007 – 1B New Beach Road, Darling Point – Use of the existing T-heads at arms A,B,C & D for the berthing of vessels – 19/11/2007

Urban Planning Committee Meeting held on Monday 8 September 2008

- D1 Confirmation of Minutes of Meeting held on 25 August 2008

Community & Environment Committee Meeting held on Monday 8 September 2008

- D1 Confirmation of Minutes of Meeting held on 25 August 2008
- D2 Woollahra Traffic Committee Minutes 2 September 2008
- D3 Woollahra Traffic Committee Extraordinary Meeting Minutes 29 August 2008



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 13 October 2008 at 8.00pm.**

Present: His Worship The Mayor, Councillor Andrew Petrie ex-officio
Councillors Anthony Boskovitz
Sean Carmichael
Peter Cavanagh
Lucienne Edelman
Nicola Grieve
Chris Howe
Isabelle Shapiro
David Shoebridge
Susan Wynne
Malcolm Young
Toni Zeltzer

Staff: A Coker (Director – Planning & Development)
G Clarke (Director – Corporate Services)
W Hatton (Director – Technical Services)
G James (General Manager)
K Walshe (Director – Community Services)
L Windle (Manager – Governance)

Also in Attendance: Nil

Confirmation of Minutes

(Boskovitz/Shapiro)

- 1/18** THAT the Minutes of the Council Meeting held on 8 September 2008 be taken as read and confirmed.

Adopted

(Shapiro/Boskovitz)

- 2/18** THAT the Minutes of the Extraordinary Council Meeting held on 1 October 2008 be taken as read and confirmed.

Adopted

Leave of Absence

(Shoebridge/Shapiro)

- 3/18** That leave of absence for all meetings of the Council and its Committees be granted to Councillor Ian Plater for the period 13 October 2008 to 13 October 2008, inclusive.

Adopted

(Shoebridge/Shapiro)

- 4/18** That leave of absence for all meetings of the Council and its Committees be granted to Councillor Susan Jarnason for the period 13 October 2008 to 25 October 2008, inclusive.

Adopted

(Shoebridge/Shapiro)

- 5/18** That leave of absence for all meetings of the Council and its Committees be granted to Councillor Greg Medcraft for the period 13 October 2008 to 4 November 2008, inclusive.

Adopted

Apologies

Nil

Declarations of Interest

Nil

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Tuesday 7 October 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: 3 Queens Ave, Vaucluse - Proposed Road Closure and Sale
Author: Anthony Sheedy - Property Officer
File No: 374.3 and 1220.G
Reason for Report: To give consideration to the closure and subsequent sale of unmade roadway adjoining the property.

(Cavanagh/Shapiro)

6/18 Resolved without debate:

- A. That the matter be deferred to the next meeting.
- B. That the resident in Queens Avenue, Little Queens Avenue and Vaucluse Road be notified of the proposal.
- C. That the site be inspected at 5.00pm prior to the next Committee Meeting.

Item No: R2 Recommendation to Council
Subject: Statutory Review of Policy - Payment of Expenses and Provision of Facilities to The Mayor, Deputy Mayor and Councillors Policy
Author: Les Windle - Manager Governance
File No: 18.G
Reason for Report: For Council to fulfil its statutory requirement to review and publicly exhibit a proposed policy for the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors

(Cavanagh/Shapiro)

7/18 Resolved without debate:

- A. THAT Council's current Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors Policy as contained in Annexure 2 of the report to the Corporate and Works Committee meeting on 7 October 2008 be placed on public exhibition for a period of not less than 28 days as Council's proposed policy for the ensuing twelve months.
- B. THAT a further report be submitted to the Committee at the conclusion of the exhibition period.

Item No: R3 Delegated to Committee
Subject: **Queens Ave, Vacluse - Proposed Action to Regularise Encroachments on the Road Reserve**
Author: Anthony Sheedy - Property Officer
File No: 374. & 1220.G
Reason for Report: To recommend actions for the management of encroachments in Queens Avenue, Vacluse

In accordance with Council's meeting procedures and policy this matter is referred to full Council by Councillor Shoebridge for the reason it proposes to alienate a substantial portion of public land in a prime harbourside location that should be preserved for the public domain.

Motion moved by Councillor Shoebridge
Seconded by Councillor Grieve

That the encroachments in Queens Avenue Vacluse be the subject of a site inspection prior to the Corporate and Works Committee Meeting on Monday 20th October 2008.

Amendment moved by Councillor Boskovitz
Seconded by Councillor Carmichael

That the recommendation from the Corporate and Works Committee be adopted.

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

8/18 Resolved:

That the encroachments in Queens Avenue Vacluse be the subject of a site inspection prior to the Corporate and Works Committee Meeting on Monday 20th October 2008.

Development Control Committee

Items with Recommendations from the Committee Meeting of Tuesday 7 October 2008 Submitted to the Council for Determination

- Item No:** R1 Recommendation to Council
- Subject:** **1B New Beach Road, Darling Point – Use of the existing T-Heads at Arms A,B,C & D for the Berthing of Vessels – 19/11/2007**
- Author:** Larissa Northridge – Senior Assessment Officer
- File No:** DA753/2007
- Reason for Report:** In accordance with Council's meeting procedures and policy this matter has been called to full Council by Councillor Shoebridge for the following reasons:
1. Substantial marina development on the harbour with significant public interest.
 2. The preservation of the harbour is a matter appropriately dealt with by Full Council.

**Motion moved by Councillor Howe
Seconded by Councillor Shoebridge**

- A. THAT the Council resolve to defend the appeal vigorously against Council's refusal of consent to Development Application No. 753/2007 for the use of the existing T-heads at arms A, B, C and D for the berthing of vessels on land at 1B New Beach Road, Darling Point and to clarify the reasons for refusal as follows:
1. The proposed new berths would have an unacceptable impact on navigation of the fairway, contrary to Clause 17 and 24 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) 2005 and Clause 4.2 and 4.7 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) Development Control Plan, 2005.
 2. The use of the proposed new berths would be in conflict with the operation of the adjoining sailing school.
 3. The proposed development would have a detrimental impact on the visual amenity of the harbour and would contribute to the visual clutter within Rushcutters Bay, contrary to Clauses 13, 14, 17 and 25 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and Clause 4.7 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) Development Control Plan, 2005.
 4. That marina development at Rushcutters Bay is currently excessive and that the proposal represents an incremental expansion which exacerbates the existing unacceptable intensity of marina activity.
 5. That the marina is inadequately provided with off-street parking and that the proposed development does not provide an effective increase in off street parking to satisfy likely demand of the expanded use.
 6. That the peak parking demand associated with the expanded use will give rise to unacceptable impacts in the vicinity of the site in relation to increased parking congestion and traffic generation having regard to the highly congested traffic and parking conditions which exist in the locality.

7. That the proposal compromises the public amenity of the waterways and does not benefit the general and boating public contrary to the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.
8. The issues raised by the objectors during the course of the Development Control Committee meeting on Tuesday 7th October 2008.

B. THAT in accordance with Council's policy on confidentiality, the confidential report and legal advice remain confidential for a period of six (6) months or until the conclusion of the appeal, which ever occurs last.

(Boskovitz/Shoebridge)

9/18 THAT the Council resolve to enter into closed session with the press and public excluded to consider the confidential legal advice on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Adopted

Note: The Council discussed the confidential legal advice.

(Shoebridge/Grieve)

10/18 THAT the Council move into "Open Session".

Adopted

(Howe/Shoebridge)

11/18 Resolved:

- A. THAT the Council resolve to defend the appeal vigorously against Council's refusal of consent to Development Application No. 753/2007 for the use of the existing T-heads at arms A, B, C and D for the berthing of vessels on land at 1B New Beach Road, Darling Point and to clarify the reasons for refusal as follows:
1. The proposed new berths would have an unacceptable impact on navigation of the fairway, contrary to Clause 17 and 24 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) 2005 and Clause 4.2 and 4.7 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) Development Control Plan, 2005.
 2. The use of the proposed new berths would be in conflict with the operation of the adjoining sailing school.
 3. The proposed development would have a detrimental impact on the visual amenity of the harbour and would contribute to the visual clutter within Rushcutters Bay, contrary to Clauses 13, 14, 17 and 25 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and Clause 4.7 of the Sydney Region Environmental Plan (Sydney Harbour Catchment) Development Control Plan, 2005.
 4. That marina development at Rushcutters Bay is currently excessive and that the proposal represents an incremental expansion which exacerbates the existing unacceptable intensity of marina activity.
 5. That the marina is inadequately provided with off-street parking and that the proposed development does not provide an effective increase in off street parking to satisfy likely demand of the expanded use.

6. That the peak parking demand associated with the expanded use will give rise to unacceptable impacts in the vicinity of the site in relation to increased parking congestion and traffic generation having regard to the highly congested traffic and parking conditions which exist in the locality.
 7. That the proposal compromises the public amenity of the waterways and does not benefit the general and boating public contrary to the provisions of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.
 8. The issues raised by the objectors during the course of the Development Control Committee meeting on Tuesday 7th October 2008.
- B. THAT in accordance with Council's policy on confidentiality, the confidential report and legal advice remain confidential for a period of six (6) months or until the conclusion of the appeal, which ever occurs last.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Recommendation

Against the Recommendation

Councillor Boskovitz
Councillor Carmichael
Councillor Edelman
Councillor Wynne
Councillor Cavanagh
Councillor Howe
Councillor Zeltzer
Councillor Shapiro
Councillor Grieve
Councillor Young
Councillor Shoebridge
Councillor Petrie

Nil

12/0

Item No: R2 Recommendation to Council
Subject: **Recording of Voting on Planning Matters**
Author: Les Windle – Manager - Governance
File No: 1191.G
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 to the Officer’s recommendation.

(Howe/Shapiro)

12/18 Resolved without debate:

- A. THAT the information be noted.
 - B. THAT the Council staff seek legal advice on the application of Section 375A of the Local Government Act 1993 in relation to the requirements to vote on planning matters.
 - C. THAT until the legal advice is received the Development Control Committee record the Councillor voting on all matters before the Committee.
-

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 8 September 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Commercial use of Harbour Foreshore**
Author: Chris Bluett - Manager Strategic Planning
David Sheils – Manager Public Open Space
File No: 900.G
Reason for Report: To respond to adopted notices of motion

(Zeltzer/Shoebridge)

13/18 Resolved:

That the matter be deferred and resubmitted to the Urban Planning Committee for further consideration.

Notices of Motion

Item No: 1
From: Councillors Shoebridge, Grieve and Jarnason
Date: 9 October 2008
File No: 900.G

(Shoebridge/Grieve)

14/18 That in conformity with recent ICAC recommendations from the Wollongong Council inquiry:

1. Council report to Councillors on a monthly basis all Development Application determinations that have been granted SEPP 1 objections; and
2. Publish an up-to-date register of all such developments on its website.
3. That Application Assessment Panel (AAP) reports that involve SEPP 1 objections be identified at the beginning of each report.

Adopted

Questions Without Notice Tabled Answers

Item No: 11
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 8 September 2008 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Motion moved by Councillor Boskovitz

Seconded by Councillor Shapiro

15/18 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Boskovitz asking:

There is still a big commercial tip bin in Black Street, Vaucluse which is causing a dangerous traffic situation in Black Street. Could you please get staff to look into this bin and attempt to remove it whether that be by contacting the owner of the bin or by attempting to contact the resident who has hired it?

Director Planning and Development in response:

We will deal with that under our policy in relation to waste containers.

Councillor Boskovitz asking:

When will copies of the Court judgements in the cases of:

1. Grand National Hotel, Paddington
2. St Peter's Church, Watsons Bay

be circulated to Councillors?

Director Planning and Development in response:

Court orders have been issued but I don't think the Court judgements on either of those cases are yet available but we will distribute them as soon as they become available.

Councillor Boskovitz asking:

Will you obtain from the Director of Planning Services at North Sydney Council details of the constitution and operation of their Legal Services Committee, in particular its role and effectiveness in maintaining appeals?

Director Planning and Development in response:

Yes.

Councillor Boskovitz asking:

A number of boats have been parked in Albemarle Avenue which adversely affect the safety of children who are entering and leaving Rose Bay Public school. Could Council staff please investigate these boats parked along Albemarle Avenue and check whether they are appropriately registered?

Director Planning and Development in response:

Yes, we will.

Councillor Boskovitz asking:

What are the rules for the use of Council's logo by external organisations?

Director Corporate Services in response:

The Council only approves the use of the Council logo where it supports or endorses the event or activity for which the logo is to be used.

Councillor Boskovitz asking:

What approval is required to use the Council logo?

Director Corporate Services in response:

They would have to make a request to Council.

Councillor Boskovitz asking:

Has The Greens been given approval to use the Council logo on their website?

Director Corporate Services in response:

On notice.

Councillor Boskovitz asking:

Can the General Manager write requesting that they give an explanation as to how the use of the Council logo on their website benefits the community?

General Manager in response:

I am not sure it would be appropriate to ask for an explanation from them. I think that if it was identified to us that the logo was genuinely being used in non compliance, that is it is not a matter that the Council supports or endorses, we would be requesting that it not be used.

Councillor Boskovitz asking:

What other mechanisms can Woollahra Council incorporate to protect against the unauthorised use of Council's intellectual property on external websites such as www.woollahragreens.org.au?

Director Corporate Services in response:

On notice.

Councillor Howe asking:

What action is being taken by Council to have the contractor carrying out the improvement works in Double Bay fence off the storage of materials in Guilfoyle Park, particularly the stacking of pallets and pavers close to the public carparks and recreation area in the eastern portion of Guilfoyle Park which are an immediate danger to the public using the area?

Director Technical Services in response:

Action has been taken. The contractor has been asked to remove those compounds and that should have been done today. I will check it tomorrow.

Councillor Zeltzer asking:

I ask Council whether it is possible for each Councillor to have a hard copy of the Local Government Act, the Environmental Planning and Assessment Act and the LEP and the Heritage Act?

General Manager in response:

We would need a Notice of Motion. To provide 15 copies of that would be something like \$1,500 or more per subscription and would involve something like \$45,000. I think it is probably a little bit excessive in terms of the amount of times that those documents are used given that they are available on-line and given that they are referenced in all the reports by staff when they are reporting. If it is the will of the Council to provide that then we would provide them. I would say to any Councillor that if they feel the need to purchase it outright for themselves there are mechanism within the Councillors fees and allowances policy by which we can purchase them as well.

Mayor in further response:

If they are here and made available Councillor Zeltzer, for anybody who wishes to read them, apart from not expending extra money of the ratepayers, wouldn't it be easier for everyone if they were here and available for everybody to read them when they wanted to.

Councillor Shapiro asking:

Can you please organise in-house media training for those Councillors who would like to attend?

General Manager in response:

I am more than happy to arrange that training.

Councillor Shapiro asking:

Are you aware that the first Double Bay Growers Market will be held this coming Saturday, 18th October, 9.00am to 2.00pm and can we please include it in the Mayoral Column to encourage people to support it?

Mayor in response:

It is too late. I would have if I had known but it is too late. We will write about it afterwards but that is not going to help you.

Councillor Shapiro asking:

There was a letter in the Wentworth Courier blaming Council for the unsuitable location of pre-poll voting at the recent election. Can you please respond with a letter explaining to residents that the Electoral Commission is to blame and not Council?

Mayor in response:

I will do that. I will certainly write a letter and as I always do will distribute it to all Councillors.

Councillor Shapiro asking:

Is there a final design for the screening of the carpark at the Cosmopolitan development? The last time I asked this question I was told that the developers were consulting with our Urban Planner. In the montages provided by the developer there is a screening which I think is particularly unattractive and I remember when the original DA was passed the final design of the screening was deferred for further discussion.

Director Planning and Development in response:

The screen has been a matter of concern to staff and we have raised that with the developer but we do not at this point in time have a Section 96 application to modify the screen. We have had a number of meetings with the applicant's designers to encourage them to move to a more aesthetic and more functional design but to date such design has not been submitted to us.

Councillor Grieve asking:

Can the Director Technical Services please advise the progress of the repairs to the bridge on the Water Dragon Walk, Parsley Bay, accessed from Hopetoun Avenue, Vaucluse?

Director Technical Services in response:

On notice.

Councillor Grieve asking:

Could the Director Technical Services provide an update on the progress of the Watsons Bay baths?

Director Technical Services in response:

The Watsons Bay baths Development Application has been lodged and is being assessed.

Councillor Shoebridge asking:

Can we please have an up-to-date briefing on the operation of clauses 7.13 to 7.20 of the Code of Conduct adopted in August 2008, especially as to the definition of significant non-pecuniary conflict of interests that oblige Councillors to absent themselves from voting on matters?

General Manager in response:

That particular aspect of the Code of Conduct is listed for the briefing of Councillors on 23rd October in the combined meeting with Randwick and Waverley.

There being no further business the meeting concluded at 9.23pm.

We certify that the pages numbered 3245 to 3263 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 13 October 2008 and confirmed by Council at the ordinary Meeting of Council on 3 November 2008 as correct.

General Manager

Mayor