

Council Meeting

Monday 14 April 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 April 2008

- D1 Confirmation of Minutes of Meeting held on 17 March 2008
- D2 CDO Update
- D3 Disclosure of Interest Returns Submitted by New Designated Employees January to March 2008
- D4 104 Hopetoun Avenue, Vacluse - Proposed Road Lease
- D5 790 New South Head Road, Rose Bay - Proposed Road Closure & Sale
- D6 Customer Service and Communication Principal Activity - Draft 2008-2011 Management Plan
- D7 Environmental Works & Infrastructure Program Principal Activity - Draft 2008-2011 Management Plan
- D8 Organisation Support Principal Activity - Draft 2008-2011 Management Plan
- D9 Roads, Traffic and Transport Principal Activity - Draft 2008-11 Management Plan
- D10 Investments Update - (See Item R3)

Development Control Committee Meeting held on Monday 7 April 2008

- D1 Confirmation of Minutes of Meeting held on 17 March 2008
- D2 DA704/2007 – 7 Bulkara Road, Bellevue Hill – New dwelling with swimming pool – 30/10/2007
- D3 DA739/2007 – 1/17A Cooper Park Road, Bellevue Hill – Alterations including extension of courtyard, new landscaping & new fencing – 14/11/2007
- D4 DA606/2005 Part 2 – 54 Kings Road, Vacluse – Section 96 Application – Proposed modification addition of plant room & addition of louvered openings – 12/9/2007 - (See Item R1)
- D5 DA318/2005 Part 2 – 41 Cascade Street, Paddington - Section 96 Application – Proposed modification including modifications to balcony to the rear, reconstruction of shed, deletion of rear deck & modification to rear courtyard layout – 11/1/2008 - (See Item R2)
- D6 DA236/2007 – 794-796 New South Head Road, Rose Bay (Kambala School) – Change of use from the existing DA consent (511/2004) for school boarding & dining facilities to an Early Learning Centre (ELC) with internal & minor external alterations to Council approved plans building envelope – 17/4/2007
- D7 DA442/2007 – 22A Tivoli Avenue, Rose Bay – Alterations & additions to existing dwelling-house, swimming pool & pool terrace – Landscaping works – 5/7/2007
- D8 DA476/2007 – 1 St Michaels Place, Vacluse – Section 82A Review of Refusal – 2/11/2007
- D9 DA1/2007 – 129 Hopetoun Avenue, Vacluse – Demolition of existing residential flat building & construction of new residential flat building including basement parking, new swimming pool, landscaping & site works – 2/1/2007
- D10 Register of Current Land and Environment Court Appeals for Development Applications

Urban Planning Committee Meeting held on Monday 31 March 2008

- D1 Confirmation of Minutes of Meeting held on 10 March 2008

Community & Environment Committee Meeting held on Monday 31 March 2008

- D1 Confirmation of Minutes of Meeting held on 10 March 2008
- D2 Dunbar Anchor - Proposed Maintenance Works
- D3 Harbour Foreshore Cleaning Project
- D4 Community Services Principal Activity - Draft 2008-2011 Management Plan
- D5 Natural Environment Principal Activity - Draft 2008-2011 Management Plan
- D6 Parks & Public Space Principal Activity - Draft 2008-2011 Management Plan



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 14 April 2008 at 8.00pm.**

Present: His Worship the Mayor, Councillor Geoff Rundle
Councillors Anthony Boskovitz
John Comino
Claudia Cullen
Christopher Dawson
Tanya Excell
Wilhelmina Gardner
Keri Huxley
Julian Martin
Andrew Petrie
Isabelle Shapiro
David Shoebridge

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

(Martin/Petrie)

- 1/6 THAT the Minutes of the Council Meeting held on 31 March 2008 be taken as read and confirmed.

Adopted

Leave of Absence

- 2/6 (Shapiro/Petrie)

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Tanya Excell for the period Tuesday 15 April 2008 to Friday 25 April 2008 inclusive.

Adopted

Apologies

(Shapiro/Petrie)

- 3/6 Apologies were received and accepted from Councillors Marcus Ehrlich, Fiona Sinclair King and John Walker and Leave of Absence granted.

Adopted

Declarations of Interest

Councillor Chris Dawson declared a pecuniary interest in Corporate and Works Committee item R3 (Investment Update) as his wife is a Partner in the law firm Clayton Utz. Councillor Dawson vacated the Chamber for the item and did not participate in the debate or vote on the matter.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 7 April 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: Fisher Ave Vacluse Drainage Works
Author: Joe Cavagnino, Purchasing Coordinator
File No: Tender No 07/09
Reason for Report: To recommend to Council the acceptance of a Tender

(Petrie/Boskovitz)

4/6 Resolved without debate:

- A. That Council enter into a Contract with Eco Civil Constructions Pty Ltd) for Fisher Avenue Drainage Works) for the sum of \$185,780.35 (excluding GST).
- B. That successful and unsuccessful tenderers be advised accordingly.

Item No: R2 Recommendation to Council
Subject: Energy Performance Contract
Author: Rebecca Peacock – Environmental Protection Coordinator
File No: Tender 07/06
Reason for Report: Outcome of the Detailed Feasibility Study of Council sites and recommendation to enter into an Energy Performance Contract.

Note: Late correspondence was tabled at the meeting from Council's Environmental Protection Coordinator, Rebecca Peacock.

(Petrie/Boskovitz)

5/6 Resolved:

- A. THAT Council enter into an Energy Performance Contract with Energy Conservation Systems contained as annexure 2 of the report to Corporate and Works Committee meeting on 7 April 2008, and as amended in Clause 2.2 in accordance with the late correspondence presented to Council on 14 April 2008.
- B. That the energy conservation measures be funded from Council's Property Reserve.
- C. That further reports be provided on progress in implementing the energy conservation measures.

Item No: R3 Delegated to Committee
Subject: **Investments Update**
Author: Gary James, General Manager
File No: 389.G
Reason for Report: To update the Committee on Council's investments.

Note: Councillor Chris Dawson declared a pecuniary interest in this item as his wife is a Partner in the law firm Clayton Utz. Councillor Dawson vacated the Chamber for the item and did not participate in the debate or vote on the matter.

Note: Late correspondence was tabled at the meeting from Council's Manager Finance, Don Johnston.

(Huxley/Petrie)

- 6/6** That the Council resolve into closed session to consider the confidential report on Council's investments under the terms of the Local Government Act 1993, Section 10A(2)(g) "*advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege*".

Adopted

"Closed Session"

The Council discussed the confidential recommendation from the Corporate and Works Committee and adopted a motion.

(Petrie/Martin)

- 7/6** That the Council resolve to move back into "Open Session"

Adopted

"Open Session"

(Petrie/Huxley)

- 8/6 Resolved:**

That the decision taken in the Closed Session be endorsed.

Development Control Committee

**Items with Recommendations from the Committee Meeting of Monday 7 April 2008
Submitted to the Council for Determination**

Item No: R1 Recommendation to Council
Subject: **54 Kings Road, Vacluse – Section 96 Application – Proposed modification addition of plant room & addition of louvered openings – 12/9/2007**
Author: Simon Taylor – Senior Assessment Officer
File No: DA606/2005 Part 2
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the officers recommendation (approval).

(Huxley/Shoebridge)

9/6 Resolved without debate:

THAT Council, as the consent authority, refuse to modify the Development Application No. 606/2005 for the demolition of the existing dwelling and construction of new dwelling; landscaping and site works on land at 54 Kings Road Vacluse made under Section 96AA lodged on 12 September 2007, for the following reasons:

1. The proposed development involves extensive unauthorised works.
 2. Inadequate natural ventilation is provided to the habitable areas of the lower ground floor of the building.
 3. Inadequate information has been provided, including the absence of an acoustic report and plans, to enable a proper assessment of the application.
 4. The proposed development results in there being an excessive floor space ratio.
 5. The proposed development results in there being excessive excavation.
 6. The proposed development will adversely impact on the acoustic privacy of 56 Kings Rd.
 7. The proposed development is not in the public interest.
-

Item No: R2 Recommendation to Council
Subject: **41 Cascade Street, Paddington - Section 96 Application – Proposed modification including modifications to balcony to the rear, reconstruction of shed, deletion of rear deck & modification to rear courtyard layout – 11/1/2008**
Author: Caroline Owen - Assessment Officer
File No: DA318/2005 Part 2
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the officers recommendation (approval).

Note: Late correspondence was tabled at the meeting from Barbara Merz & David Grayce and Allen & Pam Smith.

(Huxley/Shoebridge)

10/6 Resolved without debate:

- A. THAT Council, as the consent authority, refuse to modify development consent to Development Application No. 318/2005 part 2 for mixed residential/commercial on land at 41 Cascade Street Paddington, for the following reasons:
- unacceptable proposal for concrete slabs and a steel balustrade to the rear, not compatible with materials recommended in the DCP
 - issues of access and egress
 - unacceptable intensification
 - not in the public interest
- B. THAT the drawing and photographs tabled at the meeting be referred to the Manager of Compliance to investigate the unauthorised works shown in the drawing and photographs.
-

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 31 March 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **98B Bellevue Road, Bellevue Hill**

Author: Susan O'Neill – Strategic Heritage Officer
Chris Bluett – Manager Strategic Planning

File No: 1080 [G] BH

Reason for Report: To respond to the Council decision made on 13 December 2004, deferring the inclusion of 98B Bellevue Rd, Bellevue Hill as a heritage item in Schedule 3 Local Environment Plan 1995, to allow further consideration of objections and reports from the property owner.

**Motion moved by Councillor Shoebridge
Seconded by Councillor Huxley**

That 98B Bellevue Road, Bellevue Hill be listed as a heritage item.

**Amendment moved by Councillor Boskovitz
Seconded by Councillor Comino**

That the recommendation from the Urban Planning Committee to not list 98B Bellevue Rd, Bellevue Hill as a heritage item be adopted.

**The amendment was put and carried.
The Amendment became the Motion.
The Motion was adopted.**

11/6 Resolved:

- A. THAT 98B Bellevue Rd, Bellevue Hill not be listed as a heritage item.
- B. THAT the heritage inventory sheet for 98B Bellevue Rd, Bellevue Hill be amended to include the Council's decision.

Note: A Division was called by Councillors Shoebridge and Petrie

For the Motion

Councillor Boskovitz
Councillor Comino
Councillor Martin
Councillor Dawson
Councillor Shapiro
Councillor Cullen
Councillor Petrie
Councillor Rundle

Against the Motion

Councillor Gardner
Councillor Huxley
Councillor Excell
Councillor Shoebridge

8/4

Community & Environment Committee

**Items with Recommendations from the Committee Meeting of Monday 31 March 2008
Submitted to the Council for Determination**

Item No: R1 Recommended to Council
Subject: Holdsworth Street Community Centre - 2008-2009 Strategic Plan
Author: Kylie Walshe
File No: 126.6
Reason for Report: To report on the 2008 Strategic Plan for Holdsworth Street Community Centre.

(Shoebridge/Petrie)

12/6 Resolved:

- A. That Council note the quarterly financial report for Holdsworth Street Community Centre for the quarter ending 31 December 2007 and congratulate the organisation for the service growth and improvements.
 - B. The Council support in principle the Holdsworth Street Community Centre 2008 -2009 Strategic Plan.
 - C. That Council reaffirm the Funding and Management Agreement.
 - D. That Council increase funding to the Holdsworth Street Community Centre by \$50,000 in the 2008/09 budget.
-

Item No: R2 Recommendation to Council
Subject: **Review of Community Grants Policy & Guidelines**
Author: Kylie Walshe – Director Community Services
File No: 30.G
Reason for Report: Review of the procedure for the allocation of community grants through the Community Grants Program.

(Excell/Shapiro)

13/6 Resolved without debate:

- A. That Council continue the current procedure for the allocation of Community Grants in the 2008/09 financial year, with some minor amendments to the Policy, Guidelines and procedures.
- B. That an extensive review of the Community Grants Program be undertaken in accordance with the Social & Cultural Plan 2008, once adopted.
- C. That Council allocate \$40,372 from the Holdsworth Community Centre reserve to additional community grants as detailed in this report.

Item No: R3 Recommended to Council
Subject: **Draft Energy Savings Action Plan**
Author: Rebecca Peacock - Environmental Protection Coordinator
File No: 990.G
Reason for Report: To present the draft Energy Savings Action Plan for endorsement of final draft status by Council.

(Excell/Shapiro)

14/6 Resolved without debate:

- A. THAT the draft Energy Savings Action Plan, including the optional components, contained in annexure 2 of the report to the Community and Environment Committee Meeting on 31 March 2008, be endorsed for the purpose of referral to the Minister of Utilities for approval.
- B. That a further report be brought to the Committee on the progress in implementing the Energy Savings Action Plan including initiatives that could see Council achieve a ranking of best practice in the Local Government Industry.

Notices of Motion

Item No: 1
From: Councillor Shoebridge
Date: 10 April 2008
File No: 900.G

15/6 (Shoebridge/Excell)

1. Council calls on the NSW Parliament to immediately pass a Bill to help halt the corrupting influence of developer donations in the NSW political system;
2. That Council urge the NSW Parliament to pass a Bill promptly to ensure developer donations do not influence the outcome of the September 2008 Council elections in NSW.
3. That this decision be communicated to all members of the NSW Legislative Council.

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 31 March 2008 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Motion moved by Councillor Comino

Seconded by Councillor Huxley

16/6 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Comino asking:

The State Government has previously advertised for grant applications to fund Council projects on harbour foreshores and land/water interfaces. What grants have been applied for and obtained in respect of the Rose Bay Promenade works and other foreshore and seawall works in Woollahra?

Director Technical Services in response:

On notice.

Councillor Comino asking:

Did any staff or other person on behalf of Council attend the information day held by Ashington for the 33 Cross Street development proposal last Saturday, 12th April?

Have there been any Pre-DA discussions with staff in respect of proposals for this significant Double Bay site?

Mayor in response:

I attended the 9.00am session. You will recall that last, I think it was last November, there was a presentation with Councillors and the Double Bay Chamber of Commerce where Ashington set out what their thoughts were and there were six schemes which had montages of the proposed building. My recollection was that one was a 28 storey tower, their preferred option. Their second preferred option to my recollection was 3 towers ranging from 12-13-14 storeys, including 250 meters of shop front. There was one option that kept the existing height of the building. On Saturday, not one of those plans were shown to the public. The presenters at no stage mentioned the word height. They also indicated that they thought that construction would commence in 2009 but had no plans available and at the moment there is no DA lodged with Council.

Councillor Comino asking:

Would you convey my sincere thanks and appreciation to all staff involved in the planning, directing and supervision of the Rose Bay Promenade project including the staff involved in staging and conducting the historical re-opening event yesterday?

Mayor in response:

I will do that.

Councillor Gardner asking:

While jogging from Lyne Park, going along New South Head Road and returning via Old South Head Road, I noticed numerous instances where the standard 1.5m wide footpath was considerably reduced or completely inaccessible due to low over-hanging tree or shrub branches, protruding hedges, overgrown grass and ground shrubs, construction barricades etc. Two persons abreast holding a conversation is impossible. Pushing a pram along this route would be most hazardous.

Could Council please advise whether it is in its power to demand the owners abutting the restrictive footpaths to prune, clear or remove the offending vegetation and barricades? And if so, will it please do so?

Director Technical Services in response:

It is within Council's power to serve notices on people to clear branches and so on over the footpath and also to remove building materials and other obstructions. If you give me the details of the route I will look at it.

Councillor Huxley asking:

Is Council proposing to distance itself as the public consent authority from this particular marketing campaign (33 Cross Street, Double Bay). We have not asked them to consult with the community and I for one would not like the community to believe that we were driving this and they had our imprimatur to go and do it. I am asking is it possible for the Mayor to write on behalf of Council that we are not associated with that?

Mayor in response:

I will answer that in 2 ways.

Firstly, a letter has already been drafted and I have sent it to Justine Henderson to review before I have it sent to the Wentworth Courier and Ashington.

Secondly, I went there not because I intended to say anything, but to observe what was going on so that I could have my own self an understanding of what they were representing to the public as part of their community consultation and I felt the community was let down considerably by the lack of frankness and openness to the community as to what they were planning.

Councillor Huxley asking:

We all know the sham process in place for these planning reforms and the shortness of time that that has occurred between when our submissions all went in and now there is this complex document with all these changes. I would like to ask the Mayor 2 things.

Will you convene a meeting of Councillors so that we can prepare a submission in response to the new draft?

Could you please write expressing Woollahra's rejection of this sham community consultation process and our objection to any diminution of community input and expansion of the role of private certifiers?

Mayor in response:

I spoke to both Director Coker and the General Manager on Friday about this. The General Manager kindly gave me a copy of the amendments which exceeds some 137 pages and Mr Coker is working through it. Whether or not we can organise a meeting in time to be able to have that input, if we can we will. It may well be that what Mr Coker will have to do is to do a position paper and then circulate it to people because of the short time available.

Councillor Martin asking:

What plans do we have for the north west corner of 5 Ways? It's a bit naked. I believe a bench against the Chicken Shop looking out towards the Royal would help complete this corner and provide a pleasant amenity.

Director Technical Services in response:

On notice.

Councillor Martin asking:

When will you answer the On notice portion of my Question of last time re the White City North/South path? I am not seeing much progress hence.

Director Planning and Development in response:

I will take that On notice but I am awaiting a response in relation to the concept design.

Councillor Martin asking:

Who is responsible for preparing the concept plan?

Director Planning and Development in response:

We have indicated that we will prepare a concept plan at least as it applies to the land underneath the viaduct connecting the Sydney Grammar School land to Mahoney Lane.

Councillor Dawson asking:

A resident has called for a pedestrian crossing be put on New Beach Road. The proposal is for a crossing where many mothers push their prams to Rushcutters Bay Park. Sight lines for cars is poor. What can we do? Can this matter go before the Traffic Committee?

Director Technical Services in response:

The matter can go before the Traffic Committee and indeed it would need to. There have been responses to that request before which has advised that a pedestrian crossing would not be feasible in New Beach Road. We have suggested the alternative of pedestrian refuges and those are being investigated.

Councillor Dawson asking:

Along Victoria Road opposite the Packer contonement was a tree. It stood outside the Malaysian Consul. It was felled two years ago. When will it be replaced?

Director Technical Services in response:

On notice.

Councillor Excell asking:

Where are we up to with Watsons Bay Baths restoration and improvement project?

Director Technical Services in response:

A report is coming to the Council either at the end of this month or in early May.

Councillor Shoebridge asking:

Have we had any advance from the RTA regarding the New South Head Road pedestrian crossing at Rushcutters Bay?

Director Technical Services in response:

The answer to that question is yes and no. We have been told informally that they have agreed to that crossing and I understand there may be funds being made available but we are awaiting a response.

Councillor Shoebridge asking:

What is the current height limit for development on the Stamford Plaza site in Double Bay?

Director Planning and Development in response:

The height limit on that site would be 16.5 meters, expressed in the Double Bay DCP and the envelopes in that DCP.

Councillor Shoebridge asking:

Is there any restriction on the number of floors allowed on the site? If so, what is it?

Director Planning and Development in response:

The 16.5 meter height limit assumes a five level building.

Councillor Shoebridge asking:

Is there an FSR restriction on the site? If so, what is it?

Director Planning and Development in response:

The FSR for that site is 2.5:1. The existing site is built to an FSR of 4:1.

Councillor Shoebridge asking:

Can the developer Ashington be publicly advised of these important planning controls and Council's support of them?

Director Planning and Development in response:

That has already happened.

There being no further business the meeting concluded at 10.15pm.

We certify that the pages numbered 1107 to 1124 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 14 April 2008 and confirmed by Council at the ordinary Meeting of Council on 28 April 2008 as correct.

General Manager

Mayor