



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 16 April 2007*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

12 April 2007

To: The Mayor, Councillor Keri Huxley
Councillors Anthony Boskovitz
 John Comino
 Claudia Cullen
 Christopher Dawson
 Marcus Ehrlich
 Tanya Excell
 Wilhelmina Gardner
 Julian Martin
 Andrew Petrie
 Geoff Rundle
 Isabelle Shapiro
 David Shoebridge
 Fiona Sinclair King
 John Walker

Dear Councillors

Council Meeting – 16 April 2007

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 16 April 2007 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

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Officer's Report

Subject: DRAFT WHITE CITY DCP
Author: Chris Bluett – Manager Strategic Planning
File No: 1064.G
Reason for Report: To respond to a decision of the Council made on 26 March 2007 regarding the Draft White City DCP.

Recommendation

That Draft White City Development Control Plan as contained in **Annexure 7** of the officer's report to the Council meeting on 16 April 2007 be publicly exhibited as soon as possible in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

1. Background

The Urban Planning Committee considered a report on the Draft White City DCP at its meeting on 12 March 2007. That report included a range of changes to the Draft DCP which had been recommended by the Strategic Planning Working Party as part of its meeting on 1 March 2007. The Council considered the Committee's recommendation at its meeting on 26 March 2007 and resolved:

That the matter be deferred to the next Council Meeting with a certification from the Director Planning and Development, with the document circulated to Councillors, that the Draft White City Development Control Plan that Council proposes to put out on public exhibition complies with the recommendations put by the Urban Planning Committee in its totality.

This report has been prepared in the absence of the Director Planning and Development who is on annual leave.

In responding to the Council decision it will be helpful to briefly outline the status of the Draft DCP and the manner in which alterations have arisen since April 2006.

The Draft DCP was exhibited in January and February 2006. A report on the submissions arising from the exhibition was considered by the Urban Planning Committee on 10 April 2006. At an extra-ordinary meeting on 18 April 2006 the Council resolved:

- A. *THAT Council, in noting the undertaking of John Alexander's Clubs Pty Ltd and Markham Corporation Pty Limited not to lodge a development application for the lands known as the White City lands during the continuing consultation and public exhibition, defer the DCP to reconsider the possible reconfiguration of building envelopes which are presently B1, B2 and B3 without adding extra floor space and examine further their controls as they relate to the centre courts and car parking on the site.*
- B. *THAT a meeting be called within the next two weeks with senior staff, land owners and Councillors.*
- C. *THAT all Councillors are to be consulted prior to the scheduling of the meeting and invited to attend the meeting.*

- D. *THAT Council acknowledge that Annexure 2 of the Officer's Report to the Extraordinary Council meeting on 18 April 2006 is the latest version of the Draft White City DCP.*
- E. *THAT a report on the establishment of a kerbside drop-off and pick-up zone for Sydney Grammar School in Neild Avenue be referred to Council's Traffic Committee.*

Following that decision, meetings of the Strategic Planning Working Party were held on 14 June 2006, 9 November 2006, 30 January 2007 and 1 March 2007. Changes to the Draft DCP were discussed at those meeting. Minutes of the meetings are attached as **annexures 1, 2, 3 and 4**.

The minutes indicate that, other than the meeting on 1 March 2007, no recommendations were made by the Strategic Planning Working Party to alter the Draft DCP. The Working Party made a specific recommendation to maintain the April 2006 version of the Draft DCP at its meeting on 14 June 2006:

- B. That the current Draft DCP remain the status quo until further determination by the Council.

That recommendation was included in the report to the Urban Planning Committee meeting on 26 June 2006 and adopted by the Council on 10 July 2006 (**annexure 5**). To date, no changes to the April 2006 version have been endorsed by the Council. However, on 12 February 2007 the Council resolved:

- A. *That a principles based draft DCP for White City be prepared for the consideration of a future meeting of the Urban Planning Committee.*
- B. *That the Strategic Planning Working Party meet as a matter of priority in the development of the principles.*

The Working Party met on 1 March 2007 and considered an amended version of the Draft DCP prepared in response to the Council's decision of 12 February 2007. The amended version (dated February 2007):

- deleted Figure 5 – *Buildings B1, B2 and B3: building envelopes* and renumbered remaining figures where required
- deleted provisions associated with building envelopes:
 - preamble to clause 4.2 – *Building envelope, design and uses*
 - objectives and controls for *Tennis/Recreation Club Building: Buildings B1, B2 and B3 control C1* in Overall site - clause 4.2
 - preamble to *New South Head Road – Service station and Building A* – clause 4.2
 - control C12 in *New South Head Road – Service station and Building A* – clause 4.2
 - control C15 in clause 4.7 – *Car parking and servicing*
- deleted references to Figure 5
- inserted new objectives and controls in clause 4.2 for *Tennis/Recreation Club Building – Buildings B1, B2 and B3*
- amended the diagrams to show footprints for the existing clubhouse and grandstands rather than building envelopes for B1, B2 and B3.

The Working Party recommended:

That the Draft White City DCP be amended as agreed by the Strategic Planning Working Party on 1 March 2007 and be presented to the Urban Planning Committee so that it may be placed on public exhibition.

The amendments agreed to by the Working Party are primarily set out in the table provided in the minutes for the meeting held on 1 March 2007 (**annexure 4**). The Working Party also supported the use of a design review panel. This amendment is not listed in the table, but is included in the minutes (see bottom page 2).

The minutes of the Strategic Planning Working Party have been included in reports to the Urban Planning Committee meeting in the following manner:

- UPC 26 June 2006 – minutes of Working Party 14 June 2006
- UPC 12 February – minutes of Working Party 9 November 2006 (as amended by SPWP on 30 January 2007)
- UPC 12 March 2007 – minutes of Working Party 1 March 2007.

2. Amendments to Draft DCP

The recommended amendments to the April 2006 version of the Draft DCP are drawn from two sources:

- Minutes of the Strategic Planning Working Party meeting of 1 March 2007 (**annexure 4**)
- Recommendation of the Urban Planning Committee meeting 12 March 2007 (**annexure 6**)

The **April 2007** version, which was attached to the Urban Planning Committee report on 12 March 2007, and which is attached to this report to Council as **annexure 7**, contains the amendments submitted to the Working Party meeting on 1 March 2007, the subsequent changes made by the Working Party (**annexure 4**) and the changes contained in the recommendation of the Urban Planning Committee meeting of 12 March 2007 (**annexure 6**).

In addition from the above changes, one further amendment is now recommended. In clause 3.1 – Planning principles, the following principle should be deleted:

- the club building provides for a wide range of physical, cultural and social activities, such as, but not limited to:
 - tennis
 - squash
 - swimming/sauna/spa/hydrotherapy
 - gym/aerobics/exercise programs
 - lifestyle and health programs
 - childcare
 - medical support facilities
 - lounge/meeting rooms

This principle is similar to an objective in clause 1.5 that was deleted by the Strategic Planning Working Party on 1 March 2007. The planning principle has been removed from clause 3.1 in the version attached to this report.

Chris Bluett
Manager Strategic Planning

Annexure

1. Strategic Planning Working Party minutes 14 June 2006
2. Strategic Planning Working Party minutes 9 November 2006
3. Strategic Planning Working Party minutes 30 January 2007
4. Strategic Planning Working Party minutes 1 March 2007
5. Council minutes 10 July 2006 – Draft White City DCP
6. Recommendation of Urban Planning Committee meeting 12 March 2007
7. Draft White City DCP (version April 2007)

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 2 April 2007 Submitted to the Council for Determination

Item No: R1 Delegated to Committee

Subject: **Internet Web Cast of Council Meetings**

Author: Geoff Clarke
Director Corporate Services

File No: 900.G

Reason for Report: To determine if the Council wishes to proceed with the internet web casting of full council meetings.
In accordance with Council's meeting procedures this matter has been called to full Council by Councillor Petrie for the reason that it is an important matter affecting all Councillors, staff and the public.

Recommendation:

That capital funding of \$90,000 and recurrent funding of \$30,000 required for the internet web casting of Council meetings be considered at the forthcoming Strategic and Corporate committee budget review meeting.

9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 2 April 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: 331 Old South Head Road, Watsons Bay – Alterations & additions to St Peters Anglican Church Hall – 5/12/2005

Author: David Booth – Senior Assessment Officer

File No: DA755/2005

Reason for Report: In accordance with Council’s meeting procedures this matter has been called to full Council by Councillor Shoebridge for the reason that it proposes very significant amendments to a key historic landmark in Woollahra and has large potential impacts on the surrounding environment.

Recommendation

That consideration of Development Application No. 755/2005 for alterations and additions to St Peters Church Hall on land at 331 Old South head Road, Watsons Bay be deferred and considered at the Development Control Committee meeting to be held on Monday 23 April 2007.

9.3 Urban Planning Committee

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

Item No: R1 Recommendation to Council
Subject: **Rose Bay & Point Piper Marinas Redevelopment – Assessment and Resourcing**
Author: Peter Kauter, Executive Planner
File No: 900.G
Reason for Report: Response to Notice of Motion

Recommendation:

1. That, in relation to the assessment of the development application for the redevelopment of the Rose Bay & Point Piper marinas:
 - A. the Council commission a report on the traffic and parking impacts of the proposed development from an independent traffic consultant,
 - B. if it is considered necessary, based on the response from the applicant for additional information on marine biological impacts and proposed environmental management provisions, the Council commission reports from a marine ecological expert and a contamination expert,
 - C. the Council note the request for the NSW Maritime Authority to provide a copy of the relevant documents relating to the application, assessment and determination of the land owner's consent application,
 - D. that in the event that staff form an opinion that further reports are required to be obtained by Council, including light pollution, that need be reported immediately to the Urban Planning Committee, whether such need arises from the NSW Maritime Authority, from the applicant or from any other source,
 - E. that Council's web site be updated to include an indicative time line of the progress of the development application and links to expert reports.
-

Item No: R2 Recommendation to Council
Subject: **Sydney Grammar School Tennis Court Site Rezoning**
Author: Katina Marchbank – Senior Strategic Planner
File No: 324.
Reason for Report: To respond to a Council notice of motion (19 December 2005) regarding whether or not the land owned by Sydney Grammar School containing tennis courts should be rezoned to Zone No. 6 (Open Space Zone).

Note: As the vote for the amendment was 3 Councillors for and 3 Councillors against with the Committee Chair declining to use his casting vote, both motions put before the Urban Planning Committee are submitted to Council for consideration.

Recommendations for the Council to consider:

1. That the matter be deferred to the next meeting of the Urban Planning Committee where there be consideration in relation to the immediate rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School) to Zone 6 (Open Space).

OR

2. That consideration of the rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School), be included as part of the preparation of the Woollahra Consolidated LEP.

Item No: R3 Recommendation to Council
Subject: **Unauthorised & Illegal Works & Uses – Draft Enforcement Policy**
Author: Tim Tuxford, Manager - Compliance
File No: 885.G ENF
Reason for Report: To respond to the Notice of Motion adopted at the Council meeting of 1 May 2006 with regard to "Unauthorised and illegal works and uses".
To present a revised Enforcement Policy for Council's approval.

Recommendation

1. That the Council adopt the revised 'Enforcement Policy' attached to the report of the Manager – Compliance as **annexure 3** to the Urban Planning Committee on 26 March 2007, to replace Council's current 'Policy on Unauthorised Uses, Buildings & Works' adopted on 12 July 1999, subject to the following amendments:
 - a. section 1.4 (Policy Statement) to read:
 - "Council is strongly opposed to unlawful activity at any time or under any circumstances.
 - Council will initiate enforcement action in accordance with this policy document."

- b. section 1.5 (Policy Objective) to read:
- “The aim of this policy is to establish clear guidelines for the exercise of the discretion the Council must use in dealing with unlawful activity, taking into account all relevant information including the available evidence, cost to the community, the circumstances of the individual case and public policy and precedent considerations.”
- c. the definition of “unlawful activity” in section 1.7 (Definitions) to read:
“means any activity or work that has been or is being carried out:
- contrary to a legislative provision regulating a particular activity or work,
 - contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land,
 - without a required development consent, approval, permit or licence, and/or
 - contrary to the terms or conditions of a development consent, approval, permit or licence.
- d. the first paragraph of section 2 (Background) to read:
“Council becomes aware of unlawful activities in a variety of ways, from the proactive actions of Council staff to the receipt of complaints or requests from members of the public.”
- e. the second paragraph under section 2.1 (Submitting complaints or requests) to include the following additional sentence:
“Council will advise any complainants of the action, if any, taken or the reasons why no action was taken in the circumstances.
- f. the following sentence to be deleted from section 2.3.3 (Criminal or Civil?):
“~~Council generally favours the commencement of civil proceedings.~~”
- g. inclusion of the following additional dot point in section 3.2 (Balancing of public interest and cost to Council) under the statement “In considering the ‘public interest’ Council will have regard to whether the unlawful activity:”
- flouts Council’s authority.
- h. inclusion of the following additional dot points in section 4.3 (Land and Environment Court Proceedings) under the statement “The following matters will be considered in determining whether to commence civil or criminal proceedings in the Land and Environment Court:”
- Does the development breach height limits.
 - Does the development breach non-standard conditions of consent.
2. That any comments Council staff may have on the proposed amendments be circulated to Councillors prior to the matter being considered by the Council.
-

9.4 Community & Environment Committee

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

Item No: R1 Recommendation to Council
Subject: **Darling Point Traffic Study and Action Plan**
Author: Frank Rotta – Traffic Engineer
File No: 255.G Darling Point Traffic Study
Reason for Report: Consideration of the Darling Point Traffic Study and Action Plan and the submission from the Darling Point Society.

Recommendation:

- A. That the findings of the Darling Point Precinct Traffic Study dated July, 2005 be noted.
 - B. That the Action Plan (revised 26 March 2007) as detailed in Annexure 1 of this report be adopted.
 - C. That the Darling Point Society be consulted from time to time as investigations are being carried out on specific actions.
-

Item No: R2 Recommendation to Council
Subject: **Lyne Park Change Rooms**
Author: David Sheils - Manager Public Open Space
File No: 195.G
Reason for Report: To report to Council results of the winter season change room survey and recommend works be undertaken to make available the change rooms for the 2007 winter sports season.

Recommendation:

- A. That the change rooms at Lyne Park be refurbished and made available for use by sportsground users and the works to be funded from park revenue.
 - B. That the modifications to the Budget to fund these works be addressed in the March Budget Review.
 - C. That it be noted that a report will be presented to the Committee in June on the upgrade of toilets and the provision of a kiosk.
-

9.5 Strategic & Corporate Committee

Items with Recommendations from the Committee Meeting of Monday 4 April 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: Expressions of Interest for Kiaora Lane Carpark
Author: Margaret Zulaikha - Team Leader Urban Design
Allan Coker – Director Planning and Development
File No: 1133.G WP
Reason for Report: To respond to the Council resolution of 26 February 2007 regarding expressions of interest for the Kiaora Lands site.

Recommendation:

THAT Council proceed with discussions with Woolworths in relation to the development of the Kiaora Lands subject to compliance with the Guidelines and Principles of ICAC on direct negotiations.

Item No: 12
Subject: **Questions Without Notice**
Author: Gary James, General Manager
File No: 467.G/Q01
Reason for Report: To provide a response to Questions without Notice from Council Meeting of 26 March 2007 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Recommendation:

That the responses to previous Questions without Notice be noted.

Background:

The provision for Councillors to ask Questions Without Notice is contained in Section 3 of Council's Code of Meeting Practice which states:

- (1) *As a standard practice, "Questions Without Notice" shall be listed in all agendas of Ordinary Meetings of Council*
- (2) *Questions shall be in writing.*
- (3) *The Mayor shall direct the question to the General Manager or responsible Division Head; or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- (4) *If the answer to a question can be given immediately then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed and the basis upon which the answer is to be provided (whether in writing and direct to the Enquirer, or by means of a report to an appropriate Committee, or otherwise.)*
- (5) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions Without Notice" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions Without Notice should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions Without Notice on 26 March 2007 are as follows:

Councillor Comino asking:

Will Council inspect the Beach area at Rose Bay between Vickery Avenue and Percival Park to determine whether the boat hire group/s using this beach area are complying with conditions of their licence agreements regarding the placement of boats and other marine craft?

Will Council further direct the licensee/s not to place any boats/marine craft on or within Tingira Reserve?

Director Planning and Development in response:

We will inspect Tingira Reserve and we will check those operators in relation to compliance with their development consent and licensing requirements.

Manager Compliance further in response:

Issue raised recorded in Council's Customer Request Management System (reference CRMS No. 301212446) and referred to Council's Development Compliance Officer for investigation and action.

Councillor Martin asking:

I continue to get many inquiries about the public pathway through White City to New South Head Road. You have now advised that a new pathway cannot be determined until after the Sydney Grammar DA is decided. When will the Sydney Grammar DA be tabled and how long after that should we tell residents that the pathway issue will be resolved?

Director Planning and Development in response:

The development application by the Sydney Grammar School for the construction of new playing fields on their site will be presented to the Development Control Committee on the 23 April 2007. The second part of the question relating to when the matter might be resolved, I cannot give a precise answer to that question other than to say that we will pursue vigorously negotiations with the land owners once the location of the potential pathway across the Sydney Grammar School site is determined.

Councillor Dawson asking:

Parking has become a premium in the streets surrounding Kambala School in Rose Bay. Because of the lack of off street parking in this area, would it be possible to introduce resident parking in Bayview Hill Road?

Traffic Engineer in response:

A report on this matter will be presented to the May Traffic Committee.

Councillor Walker asking:

At the meeting held last Monday to discuss options for the public improvement works in Double Bay it was strongly suggested that representatives of our staff visit locations around the country to look at examples of best practice and innovative ideas to assist us in our deliberations. The “Cities on the Edge” Conference to be held in June in New Zealand offers a great opportunity to consider and learn about these matters as well as the marketing of retail centres and place management. Would you please consider sending a representative of your staff to this conference on our behalf?

Director Planning and Development in response:

We will be quite happy to examine that suggestion.

Councillor Walker asking:

The Thai Restaurant at the Woollahra Golf Club recently opened and already is facing closure due to the lack of patronage. It is the view of the operator that delays in approving signage and other matters are affecting the potential viability of this welcome addition to the neighbourhood. Could you please advise whether this is so and whether any matters regarding this restaurant are still awaiting approval.

Director Planning and Development in response:

The matter is being investigated.

Gary James
General Manager

Annexures: Nil