



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 10 March 2008*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

6 March 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 – 10 March 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 Monday 10 March 2008 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

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1.	Confirmation of Minutes – Ordinary Meeting	25 February 2008
2.	Leave of Absence and Apologies	
3.	Declarations of Interest	
4.	Late Correspondence	
5.	Petitions Tabled	
6.	Mayoral Minute	Nil
7.	Public Forum	
8.	General Manager’s Report	Nil
9.	Reports of the Committees	
9.1	Corporate & Works Committee	3 March 2008
R1	Report from Legal Sub-Committee Meeting held on 26 February 2008	1
R2	Relocation of Watsons Bay Library from Dunbar House to the area adjacent to the Watsons Bay Tea Rooms	
9.2	Development Control Committee	3 March 2008
R1	331 Old South Head Road, Watsons Bay (St Peters Church) – Section 82A Review of Refusal – 25/12/2007	3
R2	74 Holdsworth Street, Woollahra – Section 96 Application – Proposed Modification delete approved works to façade & New front fence & make modifications to existing front fence – 27/6/2007	4
9.3	Urban Planning Committee – Nil ‘R’ Items	25 February 2008
9.4	Community & Environment Committee	25 February 2008
R1	Earth Hour	6
10.	Rescission Motion	Nil
11.	Notices of Motion	Nil
12.	Questions without Notice	7

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 3 March 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: Report from Legal Sub-Committee Meeting held on 26 February 2008
Author: Allan Coker - Director Planning and Development
File No: 795.G
Reason for Report: To consider the recommendations from the Legal Sub-Committee meeting held on 26 February 2008.

Recommendation:

1. That the Recommendations for Items R1 to R3 of the Legal Sub-Committee meeting held on 26 February 2008 be noted.
 2. That Council proceed to tender for the provision of legal services in a manner similar to the 2005 tender process.
 3. That the tender documents include:
 - a) the basis on which the prospective tenderers will retain counsel
 - b) the basis on which the prospective tenderers will select or agree to Court appointed experts and the basis on which they will make such decisions.
 - c) a requirement for successful tenderers to advise of staff changes
 - d) a requirement for regular reporting of case outcomes
 4. That the revised tender document be submitted to the Corporate and Works Committee for review prior to the calling of tenders.
 5. That the confidential Agenda and Reports for the meeting of the Legal Sub-Committee meeting held on 26 February 2008 remain confidential.
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Item No: R2 Recommendation to Council

Subject: **Relocation of Watsons Bay Library from Dunbar House to the area adjacent to the Watsons Bay Tea Rooms**

Author: Vicki Munro, Manager, Library and Information Services and Zubin Marolia, Manager, Property Services

File No: 307.8

Reason for Report: To seek Council approval for the relocation of Watsons Bay Library from Dunbar House to the area adjacent to the Watsons Bay Tea Rooms. In accordance with Council's Codes and Policies this matter is referred to full Council due to a substantive change from the Officer's Recommendation.

Recommendation:

- A. That Council advertise and invite submissions on the proposal for the relocation of Watsons Bay Library from Dunbar House to the area adjacent to the Watsons Bay Tea Rooms. The proposal includes:
- i) Upgrade one existing toilet/change room wing to provide male and female toilet and change room facilities including disabled facilities.
 - ii) Convert the other toilet/change room wing to the Watsons Bay Library.
- B. That, within 8 weeks, the Council call tenders for lease of the Watson Bay Tea Rooms Kiosk.
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9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 3 March 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **331 Old South Head Road, Watsons Bay (St Peters Church) – Section 82A Review of Refusal – 25/12/200**

Author: Simon Taylor – Senior Assessment Officer

File No: DA755/2005

Reason for Report: A Section 82A review of determination application is required to be determined by a higher level of delegation than the originally determined application. In this instance, the original development application was determined (refused) by the Full Council. Accordingly, the matter is to be determined by Full Council as an ‘R’ item.

Recommendation: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, refuse development consent to Development Application No. 755/2005 for alterations and additions to St Peters Church hall on land at 331 Old South Head Road, Watsons Bay, for the following reasons:

1. Due to the excessive bulk and scale of the proposed additions, the proposal would have a significant adverse impact upon the heritage listed St Peter’s Anglican Church, its setting and the Watsons Bay Heritage Conservation Area. In this regard the proposal is unsatisfactory with the following planning provisions:
 - Objectives 2 (f) (ii) and (iii), g (ii) and (k) (iii) of Woollahra LEP 1995
 - Clause 27 and 28 of Woollahra LEP 1995
 - Performance criteria B.1, C1, B.4, C6, B.5.3, C13 and C15 of the Watson’s Bay Heritage Conservation Area DCP.
 2. The proposal reduces the historically open vista of the church which is a feature of the historical precinct.
 3. The proposal is not in the public interest.
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- Item No:** R2 Recommendation to Council
- Subject:** **74 Holdsworth Street, Woollahra – Section 96 Application – Proposed Modification delete approved works to façade & New front fence & make modifications to existing front fence – 27/6/2007**
- Author:** Dimitri Lukas – Senior Assessment Officer
- File No:** DA571/2005 Part 4
- Reason for Report:** In accordance with Council’s Code of Meeting Practice the Committee chair is not able to use a casting vote to determine the matter, as the voting on the Amendment was 3 votes for the Amendment and 3 votes against the Amendment, both the Motion and the Amendment are referred to Council for consideration.

Recommendation 1:

- A. That subject to the applicant withdrawing the appeal, that Council as the consent authority grant consent to modify development consent to Development Application No. 571/2005/4 for alterations and additions to existing dwelling on land at 74 Holdsworth Street Woollahra subject to the following :-
- retaining the existing front door
 - requiring no change to the double hung window
 - requiring no change to the first floor façade other than replacing the balustrades to match that of 72 Holdsworth Street Woollahra
 - requiring no change to the doors other than French doors to existing door frame
- B. That the unlawful fence be referred to the Manager Compliance to determine, in accordance with Council’s Enforcement Policy adopted by Council on 16 April 2007, what enforcement action is appropriate.

Recommendation 2:

- A. THAT Council, as the consent authority, modify development consent to Development Application No. 571/2005 Part 4 for alterations and additions to existing dwelling on land at 74 Holdsworth Street Woollahra in the following manner:

Condition No. 1 is deleted and replaced with:

1. Approved Plans

This consent relates to the work, shown in colour, on plans numbered 01A and 02A, dated 31/08/2005, drawn by Ercole Palazzetti Pty Ltd, all of which carry a Council stamp “**Approved DA Plans**” and the signature of a Council officer; as amended by the works shown in colour on plans numbered A:002 Issue E, A:003 Issue E, A:200 Issue E, A:201 Issue E, A:300 Issue E, all dated 08.01.07; A:004 Issue D dated 27.11.06 all drawn by Level 5 Design, all of which carry a Council stamp “**Approved S96 Plans**” and the signature of a Council officer; as further amended by the works shown in colour on plan number A:200/G dated 19.06.2007, drawn by Level 5 Design, all of which carry a Council stamp “**Approved S96 Plans**” and the signature of a Council officer, except where amended by the following conditions.

- B. No action is taken seeking to remedy the unauthorised building works. This does not prevent the Manager Compliance taking any further action under the Enforcement Policy.
 - C. The matter is referred to the Manager Compliance to determine, in accordance with Council's Enforcement Policy adopted by Council 16 April 2007, what enforcement action is appropriate.
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9.4 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 25 February 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: Earth Hour
Author: Rebecca Peacock – Environmental Protection Coordinator
File No: 813.G
Reason for Report: To seek Council endorsement for participation in Earth Hour 2008.

Recommendation:

- A. That Woollahra Council signs up to participate in Earth Hour 2008, ensuring that interior lights at Council buildings are turned off on Saturday 29 March 2008 from 8.00pm to 9.00pm.
 - B. That Council promotes Earth Hour to Council staff and the broader community through a variety of communication channels.
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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 25 February 2008 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 25 February 2008 are as follows:

Councillor Comino asking:

Can you institute enquiry to the RTA as to why the traffic lights at Tivoli Avenue and New South Head Road, and those outside the Kambala School gates on New South Head Road, no longer operate in synchronisation. I note this requirement was stipulated by the RTA when the second set of lights were first installed?

Manager – Public Infrastructure in response:

RTA has advised that the Tivoli lights are not operating correctly due to the loop detectors having been cut by Energy Australia. Upon completion of the EA works the detectors will be reinstated by the RTA. Energy Australia has been directed to contact RTA upon completion of works to expedite replacement of Loop Detectors.

Councillor Comino asking:

Concerning the lawyers report on 4 – 8 Patterson Street, Double Bay:

- a) Why has it taken some two (2) months for our lawyers to provide their analysis of the judgement?
- b) Why has the report not addressed the merit issues in details but rather seems to concentrate on attributing blame to others, in particular a court appointed expert?

Director - Planning and Development in response:

This QWN has been referred to Deacons for comment before finalisation of our reply.

Councillor Comino asking:

In relation to the hearing and judgement on 4 – 8 Patterson Street, Double Bay, when that matter was listed for hearing, the court directed joint reports be filed by the 30/11/2007 and no further expert evidence be adduced other than Ms Sonter's report.

How then did Council's lawyers believe his evidence could have been given for Council, contrary to the courts direction? In what way did Council's lawyers misinform the hearing dates? Why was Council not notified of Mr Rowan's unavailability to give evidence, at the full Council meeting of the 17 December 2007?

Director - Planning and Development in response:

This QWN has been referred to Deacons for comment before finalisation of our reply.

Councillor Comino asking:

When will the judgement of Commissioner Brown be made available to Councillors regarding 4 – 8 Patterson Street, Double Bay?

Director Planning and Development in response:

This QWN has been referred to Deacons for comment before finalisation of our reply.

Councillor Huxley asking:

Given Minister Sartor's back flip on Section 94 funds being collapsed into state government coffers, have Councillors been circulated with the Ministers letter outlining the misconception, misrepresentation and mistaken perspective by the Local Government Association, along with all Members and Shire Presidents across NSW?

Mayor in response:

The letter had been previously circulated and a new response from the LGSA has been received today which will be circulated to Councillors.

Councillor Huxley asking:

Is Council aware of unsociable behaviour, drunkenness, urinating and noise in Styne Park, Guilfoyle Park and Kiaora Lane behind the Sheaf Hotel in Double Bay?

Manager Compliance in response:

Anti-social behaviour in public places is a Police matter and residents contacting Council would be advised to report such matters directly to the Police when it occurs. The Parks & Street Trees and Compliance Sections are not aware of any recent incidents.

Councillor Huxley asking:

When will the review of parking hours of operations in the Queen Street West precinct take place? I have not heard from staff regarding this matter? Further I haven't had feedback yet on the demand by residents for a pedestrian crossing at the junction of Hargrave Street, Moncur and Jessey Roads?

Manager Public Infrastructor in response:

Woollahra 1 has been completed and Woollahra 2 (which includes part of Queen Street) is being reported to the March Traffic Committee. The next area to be considered will be the Paddington 4 area which includes the remainder of Queen Street.

There is no history of resident requests for a pedestrian crossing at the intersection of Hargrave, Moncur and Jersey. The only pedestrian related request was in 2004 which requested further kerb blisters at this location. It should be noted that a pedestrian refuge is located in Moncur Street east of this intersection. It should also be noted that the Paddington PAMP study did not identify a need to introduce any further pedestrian facilities in this location.

Councillor Huxley asking:

Has Council received any complaints of unsociable behaviour and noise emanating from the Paddington Bowling Club?

Manager Compliance in response:

Council has received complaints about the operation of the Paddington Bowling Club. However, as the Club is a licensed premises, where such complaints relate to patron noise and anti-sociable behaviour, the residents have been advised to lodge a formal complaint with the Liquor Administration Board pursuant to Section 17AA of the Registered Clubs Act 1976. It is specifically the role of the Liquor Administration Board (LAB) to resolve "complaints of undue disturbance of the neighbourhood of licensed premises and registered clubs". In this regard the LAB seeks complaints if a registered club is unduly disturbing "the quiet and good order" of a neighbourhood as a result of;

1. The manner in which the business of the licensed club is conducted; or
2. The behaviour of persons after they have left the registered club; or
3. Both of the above.

Late last year a number of residents lodged a formal complaint about the Paddington Bowling Club with the LAB and a preliminary meeting was convened by the LAB on 18 December 2007. Acoustic testing was agreed to be carried out by the Club and the matter is currently listed for review before the LAB on 17 March 2008.

Councillor Huxley asking:

Given that water filled safety barriers have been installed, or are being installed, across Woollahra Municipality, are the public footpaths still available for use by the general public and residents of Woollahra? If not what provision is being made for the safety of pedestrians and residents wishing to use the footpaths? It has been brought to my attention that in one case a young family was instructed to walk on the road. In light of the seeming, ongoing nature of these security measures, is it possible, or isn't it preferable that Woollahra and the Jewish community centres meet to discuss a more permanent solution that emulates the bollards currently installed to protect Parliament House in Canberra.

Mayor in response:

At the Community and Environment Committee it was recommended that 'all approved water barriers had a minimum 1.8 metres clearance. The Mayor advised that the request for a more permanent solution should be by way of a Notice of Motion.

Director - Technical Services further in response:

At the meeting, the Mayor suggested a Notice of Motion would be required if an investigation into installing retractable bollards at all of these sites is to be requested. This would entail considerable expense and there would need to be discussion with the Synagogues as to the requirements and responsibility for funding. The present installation is in response to a perceived specific threat, and the approved annual installations, which the Council has approved for a three year period, are also in response to a perceived heightened risk during the Jewish holiday period. In each case, the installation is for a limited time, and pedestrian access is required to be maintained.

Councillor Sinclair King asking:

What procedures are in place at Woollahra Council to ensure that the scandal that has engulfed Wollongong Council could not happen here? Can Councillors receive a report on whether and if so how these procedures can be improved?

General Manager in response:

I'd be reluctant to compare Woollahra to the Wollongong fiasco, but would be prepared to report on the procedures in place at Woollahra Council.

Director Planning and Development further in response:

The standard policies and procedures we have in place are as follows:

1. Woollahra Council Code of Conduct. This code sets out both Councillor and Staff responsibilities and includes matters such as pecuniary and non-pecuniary conflicts of interest, the release of information, gifts and benefits, the use of council resources and equipment, corruption, maladministration, serious and substantial wastage and improper and undue influence.; The code has been provided to and explained to all staff as part of our induction procedure.
2. Protected Disclosures Policy. This policy sets out the responsibilities of all staff and the relevant protections in relation to reporting corrupt conduct, maladministration or serious and substantial wastage.
3. Conflicts of Interest Policy. This policy explains conflicts of interest and how they should be managed. It also deals with gifts and benefits.
4. Disclosure of Pecuniary Interest and Other Matters Return. All senior staff and Councillors are required to complete an annual return disclosing interests in real property, sources of income, gifts, contributions to travel, interests and positions in corporations, dispositions of property.
5. Code on Councillors access to information and their interaction with staff. This code provides for clear communication lines between Councillors and appropriate staff and guidelines for Councillors in dealing with staff. It also deals with access to documents and Council offices.
6. Privacy Management Plan. This Plan set out the principles that apply to collecting personal information, the use of personal information, access to personal information and the use of personal information by Council.
7. Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors. This policy sets out what expenses will be paid to Councillors for conferences/seminars, insurance and legal expenses and what facilities will be provided to Councillors.

In addition to the policy framework outlined in 1 to 7 above we have the following additional safeguards:

8. Structured delegations relating to the determination of development applications. Our delegations clearly set out what applications may be determined by staff under delegation, by the AAP, by the DCC and by Council, and the safeguards for Councillor involvement.

9. The person who assesses an application is never the person who determines an application. In this way there is always a clear separation of roles between assessment and determination.
10. We have a comprehensive list of internal procedures that relate to all stages of the DA process, not only dealing with the business flow process but also to the relevant planning principles that should be followed.
11. We have internal procedures that require staff to apply applicable planning principles of the Land and Environment Court in assessing development applications.
12. We have a series of quality control checklists that are signed or certified by various staff at the completion of each stage of the DA process.

Councillor Excell asking:

When will the report outlining our policy (in relation to pole banners) be ready to be presented to Council?

Director - Technical Services in response:

The report is a combined report between the Director – Technical Services and the Director – Community Services

General Manager in further response:

Councillors will be advised of the date proposed for the Committee to consider the report.

Councillor Shapiro asking:

Can we ask the Maritime Authority to remove the remnants of the Rose Bay Afloat? Not only is it an eyesore but I have been told that there are now people living there.

Mayor in response:

The Maritime Authority is conscious of the matter and is proceeding to tender for removal of the those structures

Director – Technical Services further in response:

We will follow up the removal by Maritime.

Councillor Shapiro asking:

I noticed that walking down Bellevue Road from River Street to Kambala Road there are no pedestrian ramps. Please can we install them along this busy road?

Manager Public Infrastructure in response:

The area will be inspected and pedestrian ramps installed where appropriate.

Councillor Shoebridge asking:

Can we please send a letter of congratulations to Holdsworth Street Community Centre for their Family Fun Day held on Sunday 17 February 2008. It was a wonderful day with a cross-section of residents attending from the young to the elderly enjoying stalls, games, entertainment and a true sense of community.

Mayor in response:

If you provide me with a draft letter, I would be happy to do so.

Councillor Shoebridge asking:

When can we expect a report on the Council's motion regarding the retaining wall in Cooper Park near Adelaide Street?

Project Manager Strategic Projects & Policy in response:

Draft report prepared. To be submitted to the Corporate and Works Committee on 17 March, 2008.

Councillor Petrie asking:

How much weight did you and our lawyers put on the objectors consultant (Anthony Betros of ABC Planning) to cause a complete flip flop in the case midstream of 4 – 8 Patterson Street?

Why did you and our lawyers believe that the Court would hear Anthony Rowans evidence when even I a mere Councillor, told the Council on 17 December 2007 "that there was no way the Court would listen to them and they didn't". Why was Anthony Rowan engaged by Council and by whose instigation was he engaged.

The lawyers report after two (2) attempts is not satisfactory, will you request a further report detailing their flip flop of the century from recommending consent orders to defend without them blaming everybody else.

Director - Planning and Development in response:

This matter has been referred to Deacons for comment before the QWN is finalized.

Gary James
General Manager
Annexures: Nil
