



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 13 October 2008*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

9 October 2008

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

Dear Councillors

Council Meeting – 13 October 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 13 October 2008 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

		Page
1.	Confirmation of Minutes – Ordinary Meeting	8 September 2008
	Confirmation of Minutes - Extraordinary Council Meeting	1 October 2008
2.	Leave of Absence and Apologies	1
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	7 October 2008
	R1 3 Queens Ave, Vaocluse - Proposed Road Closure and Sale	
	R2 Statutory Review of Policy - Payment of Expenses and Provision of Facilities to The Mayor, Deputy Mayor and Councillors Policy	
	R3 Queens Ave, Vaocluse - Proposed Action to Regularise Encroachments on the Road Reserve	2
9.2	Development Control Committee	7 October 2008
	R1 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	4
	R2 Recording of Voting on Planning Matters	6
9.3	Urban Planning Committee	8 September 2008
	R1 Commercial Use Of Harbour Foreshore	7
9.4	Community & Environment Committee – Nil R Items	8 September 2008
10.	Rescission Motion	Nil
11.	Notices of Motion	8
12.	Questions without Notice	9

Leave of Absence

Item No: 1
From: Councillor Ian Plater
Reason for Report: Seeking leave of absence for all meetings of the Council and its Committees from 13 October 2008 to 13 October 2008 inclusive.

Recommendation:

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.

9.1 Corporate & Works Committee

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

Item No: R1 Recommendation to Council
Subject: **3 Queens Ave, Vacluse - 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.

Recommendation:

- A. That the matter be deferred to the next meeting.
- B. That the resident in Queens Avenue, Little Queens Avenue and Vacluse 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

Recommendation:

- 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.
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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

Recommendation:

- A. That Council require the owners of Nos. 2, 4, and 9 Queens Avenue to enter into a positive covenant in favour of Council for the encroachments adjoining their properties.
 - B. That Council write to the owners of 3a Queens Avenue requiring the removal of part of the encroachment adjoining their property, and requiring them to enter into a positive covenant in favour of Council for the remaining encroachment adjoining their property.
 - C. That Council require the owners of 5 & 7 Queens Avenue to apply for an Easement to Permit Encroaching Structures to Remain for the encroachment adjoining their land.
 - D. That Council require the owners of 11 Queens Avenue to enter into a Lease, and apply for an Easement to Permit Encroaching Structures to Remain for the area of the encroachment adjoining their land.
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9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 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.

Note: A division of votes is required to be recorded for this planning decision.

Recommendation:

- 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.
- 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, whichever ever occurs last.
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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.

Recommendation:

- 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.
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9.3 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

Recommendation

That the report on policy for commercial use of the harbour foreshore be noted.

Notices of Motion

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

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 it's website.
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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 8 September 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 8 September 2008 are as follows:

Councillor Boskovitz asking:

I was recently walking in the park behind Pacific Street, Watsons Bay and found there was a huge amount of dog waste but no bags or bins available.

Could we look into the possibility of providing a small disposal unit in the Park?

Manager Public Open Space in response:

Camp Cove Reserve is a relatively small park which has a 120Lt size bin installed at its Cove Street frontage. This bin adequately caters for park users and provides the opportunity for dog walkers to dispose of their waste.

Councillor Boskovitz asking:

Could you please let me know when we are going to remove the skip bin in Black Street which is causing a traffic hazard for the surrounding residents?

Manager Compliance in response:

This matter has been recorded in Council's Customer Request Management system, reference number CRM 10097641/2008 and referred to Council's Rangers for investigation and action, as appropriate. Council's Rangers will check that;

1. the skip bin belongs to a licensed operator;
2. the skip bin complies with all the conditions of the licence; and
3. the placement of the skip bin complies with the licence and is located on the roadway within a legal parking spot.

If the skip bin complies with the all of the above items, no action will be warranted.

Councillor Boskovitz asking:

One issue that has come up recently is the lack of bins along the Rose Bay Promenade. Could we investigate the possibility of installing one or more bins along there for the benefit of residents?

Could we also investigate a way in which residents can also dispose of their dog waste?

Mayor in response:

That would have to be a Notice of Motion.

Councillor Boskovitz asking:

Can the Acting Director outline if there are any immediate plans to go ahead and bunch all the cabling in Wilberforce Avenue, Rose Bay?

Manager Public Open Space in response:

A report regarding aerial bundle conductors and how they may be rolled-out in a number of streets including Wilberforce Avenue is being prepared for Council's consideration in November.

Councillor Comino asking:

Is it true that new application for the Rose Bay/Point Piper Marina has been lodged with Council?

If so, when can preliminary details be circulated to Councillors considering the public interest issues involved?

Director Planning and Development in response:

We have had discussions with the proponent of that project. We have been informed that 2 new development applications will be submitted. One development application will seek consent for the reconstruction of the Point Piper Marina exactly as previously proposed with the original application. The second development application will involve a completely redesigned Rose Bay Marina. To my knowledge neither of those applications have been submitted.

Mayor further in response:

I can add that on Saturday, I did not attend but there was an exhibition down at the Rose Bay Marina showing it.

Councillor Comino asking:

Can you advise in relation to the direction of the Land and Environment Court, the one I referred to earlier tonight, that Council send a staff member to S34 Conferences with delegations to enter meaningful discussions and conciliation, upon penalty of costs orders being imposed. This with a view to whether Council should make formal representations to the Land and Environment Court Chief Judge?

Director Planning and Development in response:

On notice

Councillor Comino asking:

What is the current status of initiatives between Woollahra, Waverley and Randwick Councils to implement joint depot and waste services operations, having regard to the closure of the Waterloo joint site and possible closure of the O'Dea site?

Manager Depot & Waste Services in response:

Over the past 6 months a number of Councils have inspected several sites, however none of these sites have been suitable. We are continuing to liaise with Waverley and other interested Councils in an effort to locate and view any further suitable sites.

Councillor Huxley asking:

There was a Notice of Motion adopted by Council that Council staff engage with the members of the local Jewish communities and properties in relation to the installation of bollards at particular sites. Could this Council get some feedback as to how those discussions have progressed and what is the likely outcome?

Manager Engineering Services in response:

A meeting was held with NSW Jewish Board of Deputies and Head of Security for NSW Jewish Community in May 2008. They were requested to provide a security assessment of Jewish Community properties at risk, including options for possible treatments. We have now received information on the probable number, type and cost of security measures (bollards) from the Head of Security for the Jewish Community and this will be incorporated in a report to Council in accordance with Adopted Notice of Motion Item 1 Council meeting 28 April 2008. See that matter for future information/actions.

Councillor Huxley asking:

Does the General Manager propose to respond to allegations made by an applicant recently now that we have resolved that matter?

General Manager in response:

The answer to that is yes. I assume you are talking about an episode and correspondence that went to the DCC last week. Now that that matter has gone through Council tonight I will be contacting that person.

Councillor Huxley asking:

Could the Councillors involved receive copies of the letter that you draft please?

General Manager in response:

The first instance will probably be by way of e-mail, but yes I will copy you in, in relation to that. The e-mail that was circulated was circulated, to all Councillors and as the staff were only copied in, it is my intention to contact that person to ask them how they intend to proceed with it. I don't believe the matter has any substance at all.

Councillor Sinclair King asking:

Could you please maintain Greenoaks Road, Darling Point by sweeping leaves, removing rubbish (including the double mattress on the verge) and mowing the grass? At the top of the hill in Darling Point Road near St Marks Church a gutter floods every time it rains and needs to be investigated.

Mayor in response:

If you had driven up Greenoaks Road at about twenty to eight this morning you would have observed workmen mowing the grass outside the Bishopscourt.

Manager Parks & Street Trees further in response:

The verge mowing has been completed, the dumped mattress has been picked up and the blocked drain will be investigated by our Civil Works and Infrastructure staff.

Councillor Sinclair King asking:

I am proud of my stand on this Council in protecting and saving heritage properties wherever possible. I recall a Notice of Motion I moved years ago that resulted in the formal listing of properties on Howard Tanner's drive by list. Months ago, when there were serious concerns about the detriments related to heritage listing private properties I asked you a Question Without Notice to arrange for Howard Tanner, Heritage Architect, to address Council on the benefits of heritage listing. Why has this meeting not taken place?

Director Planning and Development in response:

Howard Tanner was on an extended overseas trip at the time Councillor Sinclair King requested a heritage presentation by him. By the time he returned to Sydney, the Council was in the last months of its term. It was therefore decided that to maximise the benefit of a presentation, it would be made to the new Council.

Councillor Dawson asking:

Should we know the identity of the 38 faceless shareholders of the Double Bay Marina?

Director Planning and Development in response:

The identity of the shareholders of the Double Bay marina is not a relevant matter for consideration in assessing the development application under the Environmental Planning and Assessment Act 1979.

Councillor Dawson asking:

There is an unfortunate lady who lives in Bunyula Road who feels she has been disadvantaged by development of a neighbouring swimming pool. Could our regulatory staff look into her issues?

Manager Compliance in response:

Council has received numerous letters and representations on behalf of this resident, including contact from Mr Peter Debnam and the NSW Ombudsman. The resident's concerns date back to unauthorised work that was undertaken in 2003 by an adjoining neighbour. Council investigated these works and issued building certificate BC 244/2003 on 29 October 2003 for a retaining wall. At that time it was resolved not to take any action with regard to the boundary paling fence.

Other concerns raised by the resident relate to the planting of 15 Cypress Pine Leylandi by the adjoining neighbour. The resident has been advised that consent was not required for the planting of these trees and there is no action available to Council to require the owner to prune and/or remove the trees.

On 27 September 2007 development application DA 627/2007 was submitted to Council for the adjoining property (36 Bunyula Road Bellevue Hill) for the demolition of the existing dwelling and the erection of a new dwelling-house with a new swimming pool, landscaping and associated siteworks. The application was notified to the neighbouring property owners, including the placement of a public notice at the front of the site for 15 days.

The development application was presented to the Council's Application Assessment Panel meeting on 20 November 2007, where it was resolved to defer the application to allow the Panel to carry out a site inspection. The required site inspection was carried out by the Application Assessment Panel on 22 November 2007.

Development application DA 627/2007 was subsequently determined by the Application Assessment Panel at its meeting of 8 January 2008, following consideration of a late objection from this resident who raised the following concerns;

- the raising of the level of land
- three (3) additional besser bricks on top of the retaining wall
- height of the existing southern side boundary fence

No construction certificate or notice of commencement has been received for development consent DA 627/2007 at this time.

Generally the resident's concerns are civil issues that need to be addressed directly with the owner of the neighbouring property.

Councillor Excell asking:

It has been brought to my attention that at 12.05am this morning a young man was seen outside Reddam College cutting down Greens corflutes. He was driving a white tray back ute registration number VOV-695. When he was approached and asked to return the 20 or so corflutes he had in his ute he fled driving in a speedy and dangerous manner. Is this a matter for Council rangers or police?

General Manager in response:

It is a matter for the police.

Councillor Cullen asking:

A boat is parked across the footpath on Old South Head Road near the lighthouse at Watsons Bay. It is totally blocking the footpath. Could you please have it moved onto the road?

Manager Compliance in response:

This matter has been recorded in Council's Customer Request Management system, reference number CRM 10097639/2008 and referred to Council's Parking Enforcement Officers to take immediate action.

Councillor Shoebridge asking:

How and where can the current Plan of Management for Christison Park at Vaucluse be accessed by residents?

Manager Public Open Space in response:

In 1996 council adopted a Plan of Management for Christison Park. That plan was not adopted under the Crown Lands Act, the site is Crown Land. While this Council has adopted a Plan of Management it has not been adopted in accordance with the Regulations. We can make the Plan of Management available.

Manager Public Open Space further in response:

The Plan of Management has been made available on Council's website.

Councillor Shoebridge asking:

Can the Plan of Management be made available on the website, given the interest in the matter?

Manager Public Open Space in response:

Yes

Councillor Shoebridge asking:

Why has there been a substantial proposed change in lighting for the Park producing a potential significant change in use, especially at night, from an area of principally passive recreation for all residents to a more structured and limited environment for a few sporting teams?

Manager Public Open Space in response:

We have surveyed the park at night, in winter when the demand for night training is highest. When dark, the fields are not used for any active, or passive recreational use. Lights provide expanded opportunities for passive use around the periphery of the fields such as dog walking and unstructured fitness training. The lights actually expand opportunities for passive use. A successful example of this occurs at Lyne Park. I have received favourable comments regarding the proposed lights by local Christison park dog walkers who indicate they would feel comfortable to walk their dogs around the edge of the illuminated fields. However, when the field is dark they do not feel safe to walk across the fields, or use the adjoining coastal walk.

Councillor Shoebridge asking:

Assuming there is a change in use proposed, when did Council authorise such a change in use?

Mayor in response:

Christison Park has been used as a sportsground since the early 1960's. The existing grandstand, toilets and sports changeroom facilities were constructed in 1964. The existing sportsground lighting was installed over 30 years ago. The proposed upgrade of the lighting for sports as proposed by the DA does not change its use.

Councillor Shoebridge asking:

Wouldn't the progression of a DA for major lighting facilities be a matter that should first be progressed through a Plan of Management for the Park so that all options can be considered together, including passive recreation?

Manager Public Open Space in response:

The proposal to improve night training facilities at Christison Park was first identified in 2003 with the adoption of Council's Section 94 Contributions Plan (subsequently updated in 2005). In 2006, following a lengthy public consultation process, Council adopted the Recreational Assessment and Needs Strategy which specifically identified the need to upgrade the lights at Christison Park. The proposed lighting upgrade would make available sportsgrounds which are currently dark at night and not used for any active, or passive recreational use. Lights would also provide expanded opportunities for passive use around the periphery of the fields such as dog walking and unstructured fitness training. This passive use around the edge of the fields occurs at Lyne Park where floodlights exist and are complementary to the use by sporting clubs and would not occur if not for the lights. Under the provisions of the Crown lands Act 1989 Plans of Management are not mandatory for the management of Crown Reserves, therefore we have ensured the public have been fully informed and able to express any concerns regarding the lighting proposal through a comprehensive DA notification process and the exhibition and adoption of relevant contribution plans and recreational strategy documents.

Councillor Shoebridge asking:

Can staff please ensure that any separate DA's for the Point Piper and Rose Bay Marinas be considered, so far as possible, together in order to properly access the cumulative impacts of the developments on the Bay?

Director Planning and Development in response:

It is certainly our intention to present the reports on both of those proposals to the same committee meeting of the Council.

Gary James
General Manager

Annexures:

Nil