

Council Meeting

Monday 26 February 2007

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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 19 February 2007

- D1 Confirmation of Minutes of Meeting held on 5 February 2007
- D2 Monthly Financial Report - January 2007
- D3 Budget Review Balance Sheet
- D4 Organisation Support Principal Activity - 2nd Quarter Management Plan Review
- D5 Customer Service and Communication Principal Activity - 2nd Quarter Management Plan Review
- D6 Roads, Traffic and Transport Principal Activity - 2nd Quarter Management Plan Review
- D7 Environmental and Infrastructure Works Program Principal Activity - 2nd Quarter Management Plan Review
- D8 Capital Projects Status Update

Development Control Committee Meeting held on Monday 19 February 2007

- D1 Confirmation of Minutes of Meeting held on 5 February 2007
- D2 DA 319/2006 – 9 Albert Street, Edgecliff – Alterations and additions including new swimming pool, garage with studio above, rear extension, fencing and air-conditioning- 2/6/2006
- D3 DA114/2006 – 70-72 Wolseley Road, Point Piper – Demolition of existing building & construction of a residential flat building containing three apartments – 7/3/2006
- D4 DA727/2006 – 376-382 New South Head Road, Double Bay – Internal fit out including a kitchen to facilitate use of premises as a bridge centre – 18/10/2006
- D5 DA90/2006 Part 2 – 12A The Crescent, Vaucluse – Section 96 application – Proposed Modification internal & external modifications – 15/11/2006
- D6 DA816/2005 Part 2 – 6 Hillside Avenue, Vaucluse – Section 96 application – Proposed Modification to the approved subdivision (boundary & allotment size adjustments) & retention of existing dwelling house – 30/11/2006
- D7 Register of Current Land and Environment Court Appeals for Building and Development Applications

Urban Planning Committee Meeting held on Monday 12 February 2007

- D1 Confirmation of Minutes of Meeting held on 29 January 2007

Community & Environment Committee Meeting held on Monday 12 February 2007

Nil Items



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 26 February 2007 at 8.00pm.**

Present: Her Worship the Mayor, Councillor Keri Huxley
Councillors Anthony Boskovitz
John Comino
Claudia Cullen
Christopher Dawson
Marcus Ehrlich
Tanya Excell
Wilhelmina Gardner
Andrew Petrie
Geoff Rundle
Isabelle Shapiro
David Shoebridge (arrived 8.05pm)
Fiona Sinclair King

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

(Petrie/Comino)

- 1/3** THAT the Minutes of the Council Meeting held on 12 February 2007 be taken as read and confirmed.

Adopted

Leave of Absence

Note: Late correspondence was tabled at the meeting from Council's Manager Governance, Les Windle.

- 2/3** **(Cullen/Shoebridge)**

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Wilhelmina Gardner for the period Wednesday 28th February 2007 to Tuesday 13th March 2007, inclusive.

Adopted

Apologies

(Petrie/Comino)

- 3/3** Apologies were received and accepted from Councillors Julian Martin and John Walker and Leave of Absence granted.

Adopted

Declarations of Interest

Nil

Suspension of Standing Orders

(Comino/Boskovitz)

- 4/3** That Standing Orders be suspended to allow Councillor Comino to report to Council on two recent matters.

Adopted

The Mayor ruled Urgency and permitted the Suspension of Standing Orders.

Councillor Comino advised that the Manager Parks and Street Trees, Bruce Rann, responded very promptly and very quickly to a request from a constituent in Camp Cove regarding the big heritage Moreton Bay Fig in Camp Cove Reserve. It is a pretty substantial tree and the concern was about the dead branches and the safety of young children who are taken into the park to play. Within a matter of one or two days Mr Rann and his staff were down there and removed all the dead wood and also checked the tree and the rest of it is in a very good state of health. The response from the lady who reported it was one of real appreciation and I would like that extend that, through Director Hatton, to our staff.

Councillor Comino also advised Council, in relation to the Bondi Junction Committee, that there has been a couple of changes. There was a meeting last week and Councillors will remember from the last Council Meeting a question raised by Councillor Shoebridge and myself in relation to a depot that was going to be installed by Waverley Council under the Syd Einfield Drive at its western end. A report was brought to the Bondi Junction Committee last week and I have given a copy of that to our Director Allan Coker. There is actually going to be a temporary works depot, and when it was asked what temporary was, it is seven years. What that will result in is a loss of some 36 car spaces at that western end between Vernon Street and Newland Street.

Apart from that, the Bondi Junction Committee is going through a metamorphosis in that they are now going to establish a Bondi Junction Forum. It is basically a rename in a sense. They are going to break it up into individual projects that happen in Bondi Junction as most of the things that have been planned in the past have reached fruition in the sense of the developments at Westfield and traffic studies through the area. They are going to implement the metamorphosis in May/June when they are going to have a public transport forum, public domain forum and development forum etc. The people who are currently on the Bondi Junction Committee, which includes Councillors and business representatives, will form the Bondi Junction Forum initially.

(Boskovitz/Ehrlich)

- 5/3** That the information be noted.

Adopted

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 19 February 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Probity and Direct Negotiation Issues with the Woolworth's Scheme**
Author: Allan Coker, Director Planning and Development
File No: 1133.G WP
Reason for Report: To respond to Items 2 and 3 of Council's resolution of 24 July 2006 on the probity and direct negotiation issues that arise from the Woolworths approach to develop the Kiaora Lands site, including any alternatives to direct negotiation such as open tender.

(Shoebridge/Petrie)

6/3 Resolved without debate:

1. That Council agree to discussions with Woolworths in relation to Council's Kiaora Lands site.
2. That direct negotiations with Woolworths be deferred until Council can determine whether or not the Woolworths scheme will satisfy the guidelines and principles set out by the ICAC in its publication, *Direct Negotiations: Guidelines for Managing Risks in Direct Negotiations* (May 2006), including whether or not the scheme will deliver best value for money.
3. That a further report be presented to the working party on how the process should be managed to comply with ICAC and Public Private Partnerships Guidelines including criteria for determining best value for money.
4. That a copy of this report be provided to the Department of Local Government.
5. That Staff provide a prompt report on:
 - Potential and process for an Expression of Interest for the development of the Kiaora Lands site.
 - The possible content of an EOI including the desired public benefit and urban design outcome for the site.
 - How the Kiaora Lands project fits in with the overall strategy for Council's property portfolio.

- Item No:** R2 Recommendation to Council
- Subject:** **Floodplain Risk Management - Progress Reports and Recommendations**
- Author:** Myl Senthilvasan - Asset Management Engineer (Drainage)
- File No:** 626.G Committee
- Reason for Report:**
1. To report on the outcomes of the Floodplain Risk Management Committee (FPRMC) meeting, held Thursday, 1 February 2007 and recommend further actions.
 2. To recommend the Rushcutters Bay Catchment Flood Study for adoption
 3. To recommend Council accept the grant funding offer from the NSW State Government for the Rose Bay Flood Study.

(Shoebridge/Petrie)

7/3 Resolved without debate:

- A. That the minutes of the FPRMC meeting, 1 February 2007, be noted.
- B. That Council adopt the Rushcutters Bay Catchment Flood Study prepared by Webb McKeown & Associates Pty Ltd.
- C. That preparation of a Floodplain Risk Management Study and Floodplain Risk Management Plan for the Rushcutters Bay Catchment be commenced, using available funds and continuing to seek grant funding from the NSW Government and/or Commonwealth Government.
- D. That funding to complete the Floodplain Risk Management Study and Floodplain Risk Management Plan for the Rushcutters Bay Catchment be included for consideration in the 2007-08 draft budget.
- E. That Council accept the grant funding offer of \$30,000 from the NSW Government for the preparation of a flood study for the Rose Bay Catchment, and that Council write to the Minister for Natural Resources, Hon Ian Macdonald MLC, thanking him for approving grant funding for this Woollahra floodplain management initiative.
- F. That the Rose Bay Catchment Flood Study be carried out using available funds, including the grant of \$30,000, and that Webb McKeown & Associates Pty Ltd be commissioned to carry out the study.
- G. That Council continue to pursue further grant funding from the NSW State Government and/or the Commonwealth Government for this project.
- H. That the separation of stormwater and sewerage in the Paddington catchment be considered during the course of preparation of the Rushcutters Bay Floodplain Risk Management Study.
- I. That the flood levels identified be considered in the development to the Draft White City DCP.

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 19 February 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **398 Edgecliff Road, Woollahra – Section 82A Review Section 96 Modifications to DA including raising building by 1m**

Author: Tony Ristevski Assessment Officer

File No: DA 8/2005/4

Reason for Report: The original Section 96 application DA8/2005/4 was refused by full Council on the 27 November 2006. In accordance with Council’s delegations, the Section 82A review of the determination of the Section 96 application is referred to full Council for determination.

Note: Late correspondence was tabled at the meeting from David Rofe QC and Tobias Partners.

**Motion moved by Councillor Petrie
Seconded by Councillor Cullen**

That the recommendation from the Development Control Committee be adopted subject to:

A. Inclusion of the following additional conditions:

1. Roof planning is to be deleted from the roof terrace and adjoining roof gardens (“roof area”) and no access is to be provided to the roof area.
2. The roof area surface is to be non-reflective.
3. All windows on the western side of the new residence are to be screened.

B. Inclusion of the following additional advisings:

1. Require the removal of the existing 12m high pine trees along the western boundary to be replaced by evergreen magnolia to be planted and to be maintained so as to provide effective and complete screening of the western side of the new residence. It is suggested that the variety to be planted should be advanced “Little Gem”.
2. Demolition of the existing residence to precede removal of the existing 12m high pine trees so as to help reduce the spread of dust, dirt and debris onto adjoining properties.

Amendment moved by Councillor Boskovitz

That the recommendation from the Development Control Committee be adopted.

The Amendment lapsed for the want of a seconder.

**Amendment moved by Councillor Shoebridge
Seconded by Councillor Excell**

THAT the application be refused for the following reasons:

- a. The proposed increase in height results in the building having an excessive bulk.
- b. The proposed increase in height results in the building having an excessive height.
- c. The proposed increase in height is inappropriate given the buildings siting in relation to the southern and western boundaries.
- d. The proposed increase in height will increase the floor space ratio non-compliance.
- e. The proposed increase in height is inappropriate given the setbacks of the building.

The Amendment was put and Lost

**Amendment moved by Councillor Shoebridge
Seconded by Councillor Gardner**

That the recommendation from the Development Control Committee be adopted subject to:

- A. Inclusion of the following additional conditions:
 1. Roof planning is to be deleted from the roof terrace and adjoining roof gardens (“roof area”) and no access is to be provided to the roof area.
 2. The roof area surface is to be non-reflective.
 3. All windows on the western side of the new residence are to be screened.
 4. Require the removal of the existing 12m high pine trees along the western boundary to be replaced by evergreen magnolia to be planted and to be maintained so as to provide effective and complete screening of the western side of the new residence. It is suggested that the variety to be planted should be advanced “Little Gem”.
- B. Inclusion of the following additional advising:
 1. Demolition of the existing residence to precede removal of the existing 12m high pine trees so as to help reduce the spread of dust, dirt and debris onto adjoining properties.

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

8/3 Resolved: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 8/2005 part 4 for Section 96-modifications to DA including raising building by One (1) metre on land at 398 Edgecliff Road Woollahra, subject to the following conditions:

1. Approved Section 96 Plans

This consent relates to the work, shown in colour, on plans numbered 001, Issue A dated April 2005, 002, Issue A dated April 2005, 003 dated December 2004, 004, Issue A dated March 2005, 005 dated December 2004, 006, Issue A dated April 2005, 007, Issue A dated April 2005, 008 dated December 2004, 009 dated December 2004, 009, Issue A dated March 2005, 010, Issue A dated April 2005, 011 dated December 2004, drawn by Tobias Theodore, including landscape plans dated 23 May 2005, drawn by Paul Bangay, 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 00B to 011B, dated January 2006, drawn by Tobias Partners Pty Ltd, all of which carry a Council stamp “*Approved S96 Plans*” and the signature of a Council officer on the plans, except where amended by the following conditions.

Condition 2 is to be deleted from the original consent and replaced with the following revised condition:

2. Modification of details of the development (s80A(1)(g) of the Act)

The approved plans must be amended and the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to Clause 139 of the Regulation, must detail:

- a) Louvres are to be provided to all windows and doors at first floor level to the western and eastern elevation and to the roof level windows to the northern elevation. These louvres are to be fixed in an upward position to protect the privacy of adjoining properties.
- b) The doors to the eastern elevation at first floor level are to be non-openable to ensure that the visual privacy of the adjoining property to the east is maintained.
- c) Deletion of the roof terrace to ensure that the privacy and amenity of the adjoining properties is maintained.
- d) All windows to ensuites, powder room and bathrooms are to be constructed to translucent glass.
- e) Deletion of roof top swimming pool to ensure that the acoustic privacy of adjoining properties is maintained.
- f) The height of the evergreen magnolia to be planted along the western boundary is not to exceed RL71.70 at any time. The variety to be planted is to be advanced "Little Gem".
- g) The proposed Callery Pear trees to be planted along the driveway are to be deleted and replaced with an alternative evergreen species to protect the general amenity of adjoining properties in terms of falling leaves.
- h) Roof planting is to be deleted from the roof terrace and adjoining roof garden ["roof area"] and no access is to be provided to the roof area.
- i) The roof area surface is to be non-reflective.
- j) All windows on the western side of the new residence are to be screened.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

Additional Advising Nos. 22 & 23**22. Existing pine trees are to be removed and replaced with evergreen magnolias**

The removal of the existing 12 metre high pine trees along the western boundary to be replaced by evergreen magnolia to be planted and to be maintained so as to provide effecting and complete screening of the western side of the new residence. It is suggested that the variety to be planted should be advanced "*Little Gem*".

23. Retain the existing pine trees until the existing residence is demolished

Demolition of the existing residence to precede removal of the existing 12 metre high pine trees so as to help reduce the spread of dust, dirt and debris onto adjoining properties.

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 12 February 2007 Submitted to the Council for Determination

Item No: R2 Recommendation to Council

Subject: **Planning and Urban Design Assessment, Woolworths Scheme for Kiaora Lands**

Author: Allan Coker, Director Planning and Development
Margaret Zulaikha, Team Leader Urban Design

File No: 1133.G WP

Reason for Report: To respond to Items 4 and 5 of Council's resolution of 24 July 2006 on how the new scheme for the Kiaora Lands site responds to the Double Bay DCP and to present Woolworth's response to the issues Council asked that it address.

(Rundle/Ehrlich)

9/3 Resolved without debate:

That consideration of the matter be deferred until after the Corporate and Works Committee has received and considered the report, as required by Council's resolution of 24 July 2006, on the probity and direct negotiation issues that arise from Woolworth's approach to develop the Kiaora lands site.

Notice of Motion

Item No: 1
From: Councillor Fiona Sinclair King
Date: 12 February 2007
File No: 900.G

(Sinclair King/Shoebridge)

- 10/3** That a report be brought to the appropriate Committee regarding the Council commissioning some public art on the median strip at Bayswater. The report to also include consideration of erecting a welcome to Woollahra sign and screening of the electrical substation.

Adopted

Item No: 2
From: Councillors David Shoebridge and Tanya Excell
Date: 14 February 2007
File No: 900.G

(Shoebridge/Excell)

- 11/3** Noting the extent of e-waste in the community and the high levels of heavy metals and toxic chemicals in mobile phones, that Council immediately participate in the Mobile Muster campaign and encourage residents and local businesses to take part in this free-of-charge recycling program for mobile phones.

Adopted

Item No: 3
From: Councillor Geoff Rundle
Date: 21 February 2007
File No: 900.G

Note: Councillor Shoebridge moved a Motion of Dissent to the ruling of the Mayor that a question he asked Councillor Ehrlich as part of his debate on this matter was Out of Order.

The Motion of Dissent was put to the meeting and declared lost.

(Rundle/Petrie)

- 12/3** A report, as a matter of urgency, be brought to the Urban & Planning Committee advising Council as to the required and or advisable reports for Council's consideration of the proposed Rose Bay/Point Piper Marinas with emphasis on the reports that have a greater scope in respect to issues of Harbour usage, ecological and related issues over and above issues that pertain to Woollahra Municipality with the view of requesting that the State Government/Waterways undertake such reports or alternatively requesting the financial support of the State Government/Waterways for the undertaking of such reports.

Adopted

Item No: 4
From: Councillor Geoff Rundle
Date: 21 February 2007
File No: 900.G

(Rundle/Petrie)

- 13/3** A report be brought to Urban & Planning Committee advising of the issues encountered by Council in assessing commercial marina development within the Municipality particularly with respect to the Royal Motor Yacht Club at Point Piper.

Adopted

Item No: 5
From: Councillors David Shoebridge & Tanya Excell
Date: 22 February 2007
File No: 900.G

(Shoebridge/Excell)

That as there was no model and an unrepresentative photo montage of the effect that the Rose Bay Marina will have on Rose Bay Beach and Promenade that when a model and accurate photo montage are received by Council we re-open the exhibition period for a further two weeks so that residents can make submissions that are well informed.

Lost

Note: A Division was called by Councillors Shoebridge and Gardner.

For the Motion

Councillor Gardner
Councillor Excell
Councillor Cullen
Councillor Shoebridge

Against the Motion

Councillor Comino
Councillor Ehrlich
Councillor Petrie
Councillor Dawson
Councillor Rundle
Councillor Shapiro
Councillor Sinclair King
Councillor Boskovitz
Councillor Huxley

4/9

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 12 February 2007 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 Boskovitz

14/3 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Comino asking:

As major construction work is currently progressing to the residential flat building adjacent to the east of Council's unmade road reserve/park at Pacific Street and Victoria Street Watsons Bay:

1. will Council carry out an inspection to ensure that Council's reserve is not being used for construction traffic and continued storage of building materials, and
2. have conditions been applied to the development approval to ensure protection of Council's asset and public access thereto?

Director Planning and Development in response:

We will carry out the inspection and the other part of the question I will take On notice.

Councillor Excell asking:

My copy of the Code of Meeting Practice is no longer in my block folder. Could it be replaced please so that I can do the reference check that the Mayor asked us to do?

General Manager in response:

We can do that.

Councillor Excell asking:

Could we please contact Sydney Water and ask them to clean up their soft cloth barrier and equipment which is now lying half submerged in the sand in the harbour at the mouth of the new outlet they have just constructed in New South Head Road, Rose Bay?

Director Technical Services in response:

On notice.

Councillor Excell asking:

To Councillor Comino

At the last Bondi Junction Committee did the issue of the two hour parking under Syd Einfeld Drive arise as requested to be done by this Council?

Councillor Comino in response:

No it did not.

Councillor Excell asking:

Could you please let us know when a report will be coming to the Community and Environment Committee on a Notice of Motion that was put before Council on 9 May 2005 regarding the disposal and recycling of e-waste?

Director Technical Services in response:

On notice.

Councillor Dawson asking:

Tall grass grows in the gutter of the wood fired pizza shop and the Japanese Daikoku Restaurant in New South Head Road in Double Bay. Can you arrange for this to be removed as it detracts from the good looks of this precinct?

Mayor in response:

On notice

Councillor Sinclair King asking:

No grass grows on the beautiful strip of concrete that has been laid adjacent to the Shell Petrol Station on New South Head Road adjacent to the White City Tennis Club. What has happened at this site? Why has it been concreted illegally? The car park is empty, the concreting I believe was done last week, the workshop has closed. Has there been any approval for works to be done on this site? If not, what infringement notices have been issued?

Director planning and Development in response:

It came to our attention last week that the site was being prepared for the laying of a concrete slab. Our officers inspected the site and took photos at that time and we instructed the people on site not to proceed with the pouring of the slab. The following day the slab was poured. Again our officers attended the site and took photographic evidence. It is our view that it is development and it is development of a kind that requires development consent. We have referred the matter to our lawyers, HWL, and the evidence that we have to date in relation to that illegal work. We have not at yet commenced proceedings and we are waiting on advice from our lawyers in relation to the best way to proceed. It is unclear at this stage what the exact purpose of the slab is. There is some suggestion that it is being prepared for the purpose of a car wash but we can't be certain of that, at this stage.

Councillor Shoebridge asking:

Could we please have a report to either the Urban Planning Committee or another Committee on the DA proposing changes to the pedestrian access to the Bondi Junction train and bus interchange that is presently before Waverley Council as it is a significant piece of public transport infrastructure in the area?

Director Planning and Development in response:

Yes. I would be happy to do that.

There being no further business the meeting concluded at 9.32pm.

We certify that the pages numbered 409 to 426 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 26 February 2007 and confirmed by Council at the ordinary Meeting of Council on 12 March 2007 as correct.

General Manager

Mayor