



Community & Environment Committee

Agenda: *Community & Environment Committee*

Date: *Monday 30 November 2009*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Recommendation only to the Full Council (“R” Items)

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- Matters which involve broad strategic or policy initiatives within responsibilities of Committee.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters delegated to the Council by the Traffic Authority of NSW.
- Matters not within the specified functions of the Committee,
- Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes.
- Parks and Reserves Plans of Management (Strategies, Policies and Objectives).
- Residential Parking Schemes - Provision and Policies.

Delegated Authority (“D” Items)

- Community Services and Programs.
- Library Services
- Health.
- Licensing.
- Liquor Licences.
- Regulatory.
- Fire Protection Orders.
- Residential Parking Schemes (surveillance and administration).
- Traffic Management (Traffic Committee Recommendations).
- Waste Minimisation.
- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolution).
- Confirmation of the Minutes of its Meetings.
- Any other matter falling within the responsibility of the Community and Environment Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

Committee Membership:

7 Councillors

Quorum:

The quorum for a Committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

26 November 2009

To: His Worship The Mayor, Councillor Andrew Petrie ex-officio
Councillors Sean Carmichael (Chair)
Anthony Boskovitz
Nicola Grieve
Susan Jarnason
Greg Medcraft
Isabelle Shapiro
Susan Wynne (Deputy)

Dear Councillors

Community & Environment Committee Meeting – 30 November 2009

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Community and Environment Committee** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 30 November 2009 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 16 November 2009	1
D2	Delivery Program 2009 to 2013 and Operational Plan 2009/10 (DPOP) Quarterly Progress Report September 2009 – Goals (1) – A Connected & Harmonious Community, (2) – A Supported Community, (3) – A Creative & Vibrant Community, (5) – A Liveable Place, (7) – Protecting Our Environment & (8) – Sustainable Use Of Resources – 1229.G	2
D3	Minutes of Stormwater Management Working Party Meeting held on 20 October 2009 – 626.G	4
D4	Public Art Advisory Committee Minutes – 1160.G Public Art	28
D5	Cooper Park Liquidambar – 178.G	34

Items to be Submitted to the Council for Decision with Recommendations from this Committee ‘Nil R Items’

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 16 November 2009**
Author: Les Windle, Manager - Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 16 November 2009 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Community and Environment Committee Meeting of 16 November 2009 be taken as read and confirmed.

Les Windle
Manager – Governance

Item No: D2 Delegated to Committee

Subject: **Delivery Program 2009 to 2013 and Operational Plan 2009/10 (DPOP) Quarterly Progress Report September 2009 – Goals (1) – A Connected & Harmonious Community, (2) – A Supported Community, (3) – A Creative & Vibrant Community, (5) – A Liveable Place, (7) – Protecting Our Environment & (8) – Sustainable Use Of Resources.**

Author: Kylie Walshe – Director Community Services
Warwick Hatton – Director Technical Services

File No: 1229.G

Reason for Report: To review the status of the Priorities and Actions in Council Delivery Program 2009 to 2013 and Operational Plan 2009/10 for the three months ending 30 September 2009.

Recommendation:

That the September 2009 Quarterly Progress Report on Goal 1 (A connected & harmonious community), Goal 2 (A supported community), Goal 3 (A creative & vibrant community), Goal 5 (A liveable place), Goal 7 (Protecting our environment) and Goal 8 (Sustainable use of resources) of Council's Delivery Program 2009 to 2013 and Operational Plan 2009/10 and the report on Outstanding Notices of Motion be received and noted.

Background:

In June 2009 Council adopted the Delivery Program 2009 to 2013 and Operational Plan 2009/10 (DPOP) in line with the then proposed Integrated Planning & Reporting Legislation.

The Integrated Planning & Reporting Legislation was assented to on 9 October 2009 and as a consequence of the legislation, the Local Government Act 1993 was amended to require Council to report on the progress of its Delivery Program at least every six (6) months. In response to the amendments and in order to ensure that Council's reporting to the community remains transparent, timely and manageable under the new legislation, progress reports on the Delivery Program and Operational Plan will be presented quarterly for the end of September, December, March and June each year.

The framework for quarterly progress reports is consistent with the structure of the Delivery Program and Operational Plan developed around the following broad interrelated Themes and supporting Goals:

Theme: Community well-being
Goal 1: A connected and harmonious community.
Goal 2: A supported community.
Goal 3: A creative and vibrant community.

Theme: Places and spaces
Goal 4: Sustainable built form.
Goal 5: A liveable place.
Goal 6: Moving around.

Theme: A healthy environment
Goal 7: Protecting our environment.
Goal 8: Sustainable use of resources.

Theme: Local prosperity

Goal 9: Community focused economic development.

Theme: Community leadership and participation

Goal 10: Working together.

Goal 11: A well managed Council.

Annexure 1 to this report is Council's Quarterly Progress Report for the period 1 July 2009 to 30 September 2009 for Goals 1, 2, 3, 5, 7 and 8, being most relevant to the Community and Environment Committee.

Progress comments for all Delivery Program 2009 to 2013 Priorities and Operational Plan 2009/10 Actions are provided in the tables of Annexure 1. Council staff update these comments on an ongoing basis for internal management purposes with the comments then collated at the end of the quarter for reporting to Council and the community. Generally, actions included in the Operational Plan 2009/10 relate to the current financial year, however there are a number of actions that extend beyond June 2010, as indicated in the Target Date column.

As this is the first quarterly report for 2009/10, the final column in the tables headed "Updated Comments" is blank. In future quarterly reports a tick will appear in this column to indicate that the comments relating to that Action have been updated since the previous quarterly report to Council. This will enable Councillors and other readers of the report to easily identify where an Action status has been updated.

In line with a previously adopted Notice of Motion, the status of outstanding Notices of Motion are also submitted to the Committee for consideration as the final schedule in Annexure 1, also linked to the above Goals.

Conclusion:

It is recommended that the September 2009 Quarterly Progress Report on Goal 1 (A connected & harmonious community), Goal 2 (A supported community), Goal 3 (A creative & vibrant community), Goal 5 (A liveable place), Goal 7 (Protecting our environment) and Goal 8 (Sustainable use of resources) of Council's Delivery Program 2009 to 2013 and Operational Plan 2009/10 and the report on Outstanding Notices of Motion be received and noted.

Kylie Walshe
Director Community Services

Warwick Hatton
Director Technical Services

Annexures:

- 1 DPOP Quarterly Progress Report September 2009 and Outstanding Notices of Motion for Goal 1 (A connected & harmonious community), Goal 2 (A supported community), Goal 3 (A creative & vibrant community), Goal 5 (A liveable place), Goal 7 (Protecting our environment) and Goal 8 (Sustainable use of resources) – *distributed separately*.

Item No: D3 Delegated to Committee
Subject: **Minutes of Stormwater Management Working Party meeting held on 20 October 2009**
Author: Michael Casteleyn – Design & Investigation Engineer
File No: 626.G
Reason for Report: For the Committee to consider the recommendations of the Stormwater Management Working Party.

Recommendation:

- A. That the report to the Urban Planning Committee dealing with amendment of Clause 25(2) of the WLEP, called for in the notice of motion dated 24 August 2009, be prepared as a matter of urgency due to the difficulty Clause 25(2) imposes on processing development applications in locations where downstream drainage is constrained.
- B. That Council redefine the OSD exemption area in the Draft DCP in consultation with Council's FPM consultants.
- C. That Council allow the substitution of any required OSD tank with a rainwater tank sized at 1.5 times the volume of the OSD tank.
- D. That Council adopt the amendments to the Development Guide Step 2 to include all references to WSUD as per Attachment 2 of Annexure 3 of this report.

Clause 25(2) of the WLEP:

The Working Party at its meeting held on 20 October 2009 recommended:

- A. That the report to the Urban Planning Committee dealing with amendment of Clause 25(2) of the WLEP, called for in the notice of motion dated 24 August 2009, be prepared as a matter of urgency due to the difficulty Clause 25(2) imposes on processing development applications in locations where downstream drainage is constrained.

Clause 25 of the WLEP requires that Council must be satisfied that adequate provision has been made by an application for the disposal of stormwater from land proposed to be developed. Section 25(2) of the WLEP 1995 states:

The Council must not grant consent to the carrying out of development on land or the subdivision of land to which this plan applies for any purpose unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.

A judgement by Justice Bignold of the Land & Environment Court in Billgate Pty Limited v Woollahra Municipal Council (Billgate) has had a significant impact upon the ability of Council to determine development applications on land locked sites. The practical effect of the application of Billgate to development applications is that Council must be satisfied that **adequate provision has** been made for the disposal of stormwater in both the **physical capacity** and **legal capacity or competence** prior to being able to grant consent.

At the Working Party meeting a report prepared by Council's Manager – Strategic Planning dealing with the practicality of Council making amendments to Clause 25(2) of the WLEP was considered. A copy of this report is attached as Annexure 2.

The Working Party noted the advice from Mr Bluett that it is uncertain whether the Department of Planning would permit a minor change to the WLEP or if the Department would insist on these changes being incorporated into the new WLEP presently being drafted. Mr Bluett also advised that in order to progress a report on amendments to Clause 25(2) of the WLEP it would be necessary for existing planning priorities to be changed and that this would require a resolution of Council.

The Working Party considered that the report on the amendment to Clause 25(2) of the WLEP should proceed as a matter of urgency as at the present time Council is unable to approve a development unless adequate provision for the disposal of stormwater has been made. Generally this means that an applicant must obtain a downstream easement before Council can determine the application. This is at considerable cost and without any certainty that the application will be approved.

Other issues relevant to the Drainage DCP:

The Working Party at its meeting held on 20 October 2009 recommended:

- A. That Council redefine the OSD exemption area in the Draft DCP in consultation with Council's FPM consultants.
- B. That Council allow the substitution of any required OSD tank with a rainwater tank sized at 1.5 times the volume of the OSD tank.
- C. That Council test the water in the Rose Bay WSUD tanks and report to the Working Party.
- D. That Council submit the proposed change to guidelines for applicants to the Corporate Works Committee for consideration and suggestions.
- E. That Council investigate the use of Councils drainage system for supplying private water supply systems with water for garden watering, toilet flushing and the like and that a report be prepared addressing all practical issues including any legal issues such as liability for water quality and required covenants.

With respect to item A. above decisions on OSD exemption are based on the plan in the Draft DCP which was developed several years ago based on information available at that time. Now that more detailed information is available it is appropriate for this plan to be amended. Council officers have discussed redefining the exemption line with Council's FPM consultants and a methodology has been developed. Currently the consultants are reviewing Councils GIS data and developing a proposal to complete the task.

With respect to item B. above it is proposed to keep the current onsite detention offset for rainwater tanks but also to give developers the option of avoiding an OSD system entirely if they construct a rain tank 1.5 times the volume of the normally required detention tank. It is considered that a tank this size will help reduce downstream flooding as well as providing considerable environmental benefits.

With respect to item C. above this information is currently available and will be reported to the next meeting of the Working Party.

In relation to item D. above, the Working Party considered Step 2 of Council's DA Guide and recommended that amendments in reference to WSUD should be adopted. These amendments provide clarity or additional information with respect to WSUD.

In relation to item E. above, this matter will be investigated and will be the subject of a further report to the Working Party.

Summary:

Clause 25(2) in its current form makes it impossible for Council to approve development applications where it is not satisfied that adequate provision has been made for the disposal of stormwater. As a consequence applications have to be refused and in some cases these are appealed in the Land and Environment Court resulting in unsatisfactory disposal of stormwater.

It is considered that amendment to Clause 25(2) is of paramount importance due to the difficulty in dealing with development applications without refusing development applications or imposing onerous conditions, and that the report called for in the notice of motion dated 24 August 2009 should be prepared as a matter of urgency.

As recommended by the Working Party it is considered that the plan referenced in the Draft DCP should be revised to reflect currently available data.

The Working Party's recommendation to allow substitution of any required OSD tank with a rainwater tank sized at 1.5 times the volume of the OSD tank will help reduce downstream flooding as well as providing considerable environmental benefits.

It is considered that the Working Party's recommendation to adopt the amendments to Step 2 of Council's DA Guide in reference to WSUD will provide clarity and additional information for developers with respect to WSUD

Items C. and E. of the Working Party's recommendation will be the subject of future reports to the Working Party.

Michael Casteleyn
Design & Investigation Engineer

Warwick Hatton
Director Technical Services

Annexures:

1. Minutes of the Stormwater Management Working Party meeting held on 20 October 2009
2. Copy of report to Stormwater Working Party by Manager – Strategy Planning
3. Agenda of the Stormwater Management Working Party meeting held on 20 October 2009

Item No: D4 Delegated to Committee
Subject: **Public Art Advisory Committee Minutes**
Author: Jo Jansyn, Cultural Development Coordinator
File No: 1160.G Public Art
Reason for Report: To table the minutes of the Public Art Advisory Committee meeting held on 18 November 2009.

Recommendation:

- A. That the minutes of the Public Art Advisory Committee meeting held on Wednesday 18 November 2009 be noted and endorsed.
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Background:

This report outlines the meeting held by the Public Art Advisory Committee (PAAC) on 18 November 2009.

Double Bay Public Art Project (Eastern Gateway):

A general discussion of evaluation points on the Double Bay Public Artwork Project was conducted at the meeting. Whilst there have been a wide range of comments from all stakeholders, it was agreed by the majority of PAAC members that the Double Bay Public Artwork had achieved its objectives and that the process was professionally managed by staff. Councillor Howe's role in responding to community and media inquiries was also acknowledged. A detailed evaluation report for the project will be compiled once an evaluation questionnaire issued to project stakeholders has been completed.

The majority of PAAC members were in support of a proposal that a concept scheme be developed to provide a better background setting for the Double Bay Public Artwork and moved a recommendation to support the development of the background concept.

Funding of an annual Public Art Program:

The Cultural Development Coordinator advised that the Woollahra Council Public Art Policy was reviewed and amended to reflect that a percentage of Section 94A contributions will be available for an annual Public Art Program. The amended Public Art Policy was adopted by Council in September 2009.

Rose Bay Chalk Art Walk:

A draft project plan for the chalk walk has been developed however further scoping of the concept will be undertaken by the project Working Party and presented back to the PAAC prior to any recommendations.

Conclusion:

The meeting of the Public Art Advisory Committee on 18 November 2009 primarily consisted of an evaluation discussion in relation to the process undertaken to commission and implement the Double Bay Public Artwork. The physical form of the work as well as the impact of the project on stakeholders was also discussed. A detailed evaluation report will be compiled once stakeholder

evaluation questionnaires are completed. The evaluation report will be circulated to all Councillors and Public Art Advisory Committee members.

Jo Jansyn
Cultural Development Coordinator

Vicki Munro
Acting Director – Community Services

Annexures:

1. Minutes of the Public Art Advisory Committee meeting, Wednesday 18 November 2009.

Item No: D5 Delegated to Committee
Subject: **Cooper Park Liquidambar**
Author: Bruce Rann - Manager Open Space and Trees
File No: 178.G
Reason for Report: To provide options for a staged removal and replacement strategy for the four Liquidambar trees at the Cooper Park playground

Recommendations:

1. That Council notes the report, including the attached Arborists' reports;
2. That Council approve the immediate removals of trees 2 and 3;
3. That Council approve the immediate lopping of trees 1 and 4; and
4. That Council support a program of planting six replacement trees starting with the most eastern trees at the end of Summer.

Background

Following a routine inspection of trees in the vicinity of the Cooper Park playground in early August, Woollahra's Technical Officer for Arboriculture advised that the four large *Liquidambar styraciflua*, Liquidambar trees, close to the playground had fungal fruiting bodies (mushrooms) on their trunks and it appeared that some previously identified decay cavities in these trees were increasing.

Given the size and profile of these trees the Manager of Open Space and Trees commissioned an independent arborist's report from Mr. Paul Vezgoff of Moore Trees – Consulting Arborists (**see annexure 1**) to ascertain the extent of the decay and the condition of the trees.

Mr. Vezgoff's report dated 18 August found all four trees to be over-mature with large open stem wounds and evidence of previous branch failures. Mr. Vezgoff recommended two possible management options.

1. Complete removal and replacement ; or
2. Extensive pruning for weight reduction – noting that this pruning may not eliminate ongoing branch failures.

After reviewing Mr. Vezgoff's report and discussing options, Council staff considered that the most practical and safe management option was for removal and replacement of all four trees. The four trees were notified for removal and replacement on 15 September 2009.

The replacement species indicated on the notification letter was a local tree species as advised by recent resident feedback during the Cooper Park Plan of Management (POM) review process. However the POM also noted the importance of the Liquidambar to the cultural landscape and this deciduous species was to be maintained in the younger and structurally sound grove of trees further from the playground.

During and following the notification period, Council received a number of enquiries and objections to the removal of the four large Liquidambar trees.

Community Consultation

On 11 November 2009 the Mayor, Councillor Petrie, arranged a meeting at Redleaf for community representatives and Council staff to discuss the removal and replacement proposal. At this meeting Council staff outlined their concerns about tree stability and public safety, and the community representatives outlined their concerns for the loss of the large trees, which form part of an important cultural landscape. At this meeting the Mayor committed to postponing removal pending a larger community consultation meeting to be held on-site.

Following the initial meeting the Mayor requested that the area be cordoned off for public safety and that staff commission a second expert report to supplement Mr. Vezgoff's analysis.

On Wednesday 18 November the Manager Open Space and Trees commissioned Mr. Hayden Coulter of The Ents Tree Consultancy to carry out a second visual tree assessment of the four trees. Although the full report was not received until Monday 23 November, on Friday 20 November Council staff received verbal advice from Mr. Coulter that all four trees contained significant amounts of decay and defects. Mr. Coulter's full report can be seen in **annexure 2**.

At 6pm Friday 20 November Councillor Howe chaired an on-site meeting which was also attended by the Mayor Councillor Petrie, Councillor Edelman, Councillor Grieve and Councillor Young. The meeting was also attended by Mr. Bruce Rann - Manager Open Space and Trees, Mr. Paul Vezgoff – Consulting Arborist, and a large number of concerned residents.

At this meeting Mr. Vezgoff and Mr. Rann outlined the key issues concerning the condition of the trees and public safety. Following this presentation Councillor Howe facilitated a question and answer session where many resident questions were answered by either Councillors, staff or Mr. Vezgoff.

At the end of the meeting many residents agreed that there was an issue with the structural soundness and safety of the trees. However there were also many residents requesting that if possible the trees should not be removed all at once; and that they should be removed and replaced in a staged manner, using the same species (Liquidambar) as the replacement planting.

It is intended to replant with six advanced size (4.5 metre) trees to reinstate the original planting pattern.

Potential Management Options

There are three main management options for the Liquidambar trees near the Cooper Park playground:

Remove all four tree and replace with six advanced (4.5 metre) trees

This option would completely eliminate the public safety risks and it would be the least disruptive and least expensive option in the long term.

This option would create a large gap in the canopy of this part of Cooper Park.

This option is not supported by the majority of residents.

Remove two trees and replace with four advanced (4.5 metre) trees; extensively prune the two remaining trees.

This option would allow for a significant reduction in public safety risks by reducing any trees not removed to a height where they would have little end weight (branch weight) above the existing cavities and defects.

The removal of some trees now would improve the options for access and establishment of advanced replacement trees.

Extensive pruning of all trees

This option would reduce but not eliminate public safety risks.

It would delay the replanting of the area.

It would be difficult to establish advanced trees close to the existing trees as they would be affected by the root zones and shadowing of the older trees.

Preferred Management Option

After further analysis of the defects in the individual trees with the consulting arborists, I am recommending that we remove trees 2 and 3 immediately and replace them with four advanced Liquidambar trees. These two trees have structural defects relatively low in their canopies and would have to be pruned harder than trees 1 and 4 if they were retained.

I have also discussed with the consultants the issue that these two trees are growing in such close proximity to each other that the removal of one could predispose the other to further branch failures from wind damage, or to total wind throw (trunk failure)

The two trees closer to the tennis courts, although extensively decayed; appear to have the potential to be pruned "higher", and they should provide a reasonable volume of retained canopy while the four younger trees establish.

The eventual removal of trees 1 and 4 in a few years time would allow for the re-establishment of the original pattern of six Liquidambar around the playground.

A site plan showing the short term removal and replacement strategy can be seen in **annexure 3**

A site plan showing the final removal and replacement strategy can be seen in **annexure 4**

Replacement Trees

Several nurseries contacted have advanced *Liquidambar styraciflua* in stock. Established Tree Transplanters Pty. Ltd. currently have a number of field grown Liquidambar at approximately 4.5 metres in height. These trees will be ready for lifting and replanting at the end of summer.

Please see **annexure 5**, field grown Liquidambar at 4.5 metres.

Conclusions:

- Council has four large Liquidambar trees near the Cooper Park Playground which have extensive decay and defects and pose an unacceptable level of risk to public safety.
- Immediate action is needed to make the trees, the playground and the paths safe.

- The community has a strong attachment to these particular trees, and to Liquidambar in general for this part of Cooper Park.
- A staged removal and replacement program seems to be supported by most residents.
- The retention of trees 1 and 4, and the removal of trees 2 and 3 would maximize replanting opportunities while retaining a reasonable volume of canopy.
- Some large field grown Liquidambar will become available at the end of this summer.

Bruce Rann
Manager Open Space and Trees

Warwick Hatton
Director Technical Services

Annexures:

1. Arboricultural Report from Paul Vezgoff of Moore Tree Consultants.
2. Arboricultural Report from Hayden Coulter of The Ents Tree Consultants.
3. Site plan showing the short term removal and replacement strategy.
4. A site plan showing the final removal and replacement strategy.
5. Replacement trees image.

**POLITICAL DONATIONS DECISION MAKING FLOWCHART
FOR THE INFORMATION OF COUNCILLORS**

