



Urban Planning Committee

Agenda: *Urban Planning Committee*

Date: *Monday 8 September 2008*

Time: *6.30pm*

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).

Delegated Authority (“D” Items):

- To require such investigations, reports or actions as considered necessary in respect of matters contained with the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Urban Planning Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below:

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.
- Broad strategic matters, such as:-
 - Town Planning Objectives; and
 - major planning initiatives.
- Matters not within the specified functions of the Committee.
- Matters requiring supplementary votes to Budget.
- Urban Design Plans and Guidelines.
- Local Environment Plans.
- Residential and Commercial Development Control Plans.
- Rezoning applications.
- Heritage Conservation Controls.
- Traffic Management and Planning (Policy) and Approvals.
- Commercial Centres Beautification Plans of Management.
- Matters requiring the expenditure of moneys and in respect of which no Council vote has been made.
- Matters reserved by individual Councillors, in accordance with any Council policy on "safeguards" and substantive changes.

Committee Membership:

7 Councillors

Quorum:

The quorum for a committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

4 September 2008

To: His Worship The Mayor, Councillor Geoff Rundle, ex-officio
Councillors John Comino (Chair)
 Claudia Cullen (Deputy Chair)
 Christopher Dawson
 Wilhelmina Gardner
 Keri Huxley
 Julian Martin
 David Shoebridge

Dear Councillors

Urban Planning Committee Meeting – 8 September 2008

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Urban Planning Committee** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Monday 8 September 2008 at 6.30pm.**

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 25 August 2008	1
----	---	---

Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Commercial use of Harbour Foreshore – 900.G	2
----	---	---

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 25 August 2008**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 25 August 2008 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 Urban Planning Committee Meeting of 25 August 2008 be taken as read and confirmed.

Les Windle
Manager - Governance

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.

Background

The Council has adopted two notices of motion relating to the commercial use of the harbour foreshore. The first was in the following terms:

That a report be brought back to this Council examining the need for a comprehensive policy in relation to the commercial use of the harbour foreshore.

This decision flowed from applications involving commercial recreational activities in foreshore parks and other locations abutting the harbour. Kayak and sailboard operators were two of the activities.

The second decision was:

A report be brought to the relevant committee establishing a policy regarding the commercial use of the harbourside and other public open space. This policy would specifically incorporate the regulation of commercial dog-walkers.

For the purpose of responding to these decisions we have taken the harbour foreshore to be mainly land abutting the waters of Sydney Harbour. In examining the need for a comprehensive policy for this land we have looked at land ownership and how the use of that land is managed and regulated.

Land ownership

Private ownership

Foreshore land in private ownership is mainly zoned residential and used for residential purposes. There are several sites zoned residential that have marina uses which operate under existing use rights. Several properties in Point Piper, Vaucluse and Watsons Bay are partly zoned Regional Open Space Reservation or Local Open Space Reservation. A small part of Watsons Bay abutting Marine Parade is zoned business.

Public ownership

Foreshore land in public ownership comprises road reservations, public reserves (open space), reserves for public utilities, national park and defence land. The public reserves are either Crown land administered by the State Government, Crown land under the care, control and management of the Council, or land owned by the Council. Sydney Harbour National Park is administered by the NSW National Parks and Wildlife Service. The defence land at Steel Point, which accommodates a degaussing station, is administered by the Commonwealth Department of Defence. The *Beach Paddock* associated with the harbourside frontage to Vaucluse House is managed by the Historic Houses Trust.

Land use regulation and management

Land in private or public ownership is subject to at least one form of land use regulation and management through legislation and policy documents.

Environmental Planning and Assessment Act 1979 (EPA Act)

Matters including:

- integrated development provisions requiring input from other approval bodies
- designated development provisions
- section 79C heads of consideration

Local Government Act 1993 (LGA)

Matters including:

- regulation of activities such as businesses or trades on community land and public places
- classification of public land as either community or operational land
- plans of management for community land
- licences and leases.

National Parks and Wildlife Act 1974

Particularly relevant for Woollahra are plans of management prepared under the Act. The Plan of Management for South Head National Park regulates land use activities.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The REP with its associated DCP provide aims, land use controls and heads of consideration for water based development, land and water interface development and land based development.

State Environmental Planning Policy (Infrastructure) 2007

This SEPP replaced a number of SEPPs including *State Environmental Planning Policy No. 11 – Traffic Generating Development*. Clause 104 of the Infrastructure SEPP refers to traffic generating development. It provides that certain types of development must be referred to the RTA for comment prior to the granting of consent. The criteria for referral are based on the size or capacity of the development and the nature of the road to which the development has vehicular or pedestrian access.

State Environmental Planning Policy No.33 – Hazardous and Offensive Development

This SEPP may have relevance to developments such as marinas or other water activities that have a land based component.

Woollahra LEP 1995

The LEP provide aims, objectives, land use controls and heads of consideration to be used in the assessment of development applications.

Woollahra DCPs

There are several DCPs that are relevant to commercial use of the foreshore:

- DCP for Off-street Car Parking and Servicing Facilities
- DCP for Advertising and Notification of DAs and Applications to Modify Development Consents
- Watsons Bay Heritage Conservation Area DCP

Plans of Management

Where Council manages foreshore land, we prepare Plans of Management (PoM). These PoM's are prepared in accordance with the *Local Government Act 1993*, for Council owned land and the *Crown Lands Act 1989*, for land owned by the state and managed by Council. Examples of foreshore area PoM's adopted by Council include *Lyne Park 2002*, *Robertson Park 2004*, *Sir David Martin Reserve 2004* and *Rushcutters Bay Park and Yarranabbe Park 2005*. Plans of Management are prepared following a detailed public consultation process and these documents outline in detail permitted uses of the land including those which may be of a commercial nature.

The need for a comprehensive policy

For land in private ownership we consider there is no requirement for additional policy regulating commercial use. The residential land use zones applying to private land prohibit commercial land use other than in the form of home occupations. Marina operations in residential zones are subject to existing use rights provisions under the *Environmental Planning and Assessment Act 1979* and to the provisions under *Sydney REP (Sydney Harbour Catchment) 2005* and its associated DCP.

For public land owned by the Council or under the Council's care control and management, proposals to carry out commercial activities must be assessed and determined under relevant legislation and policy. This includes PoM's which have been subject to public consultation and submissions prior to Council adoption.

Under the EPA Act and LGA the Council may grant a development consent or an approval to a proposal and impose conditions that regulate the use. Where a licence is issued the Council might also impose conditions. All conditions however applied may be tailored to the particular proposal and its context.

The current layers of regulation from State to local levels result in a complex planning system that must be navigated by all development proposals. Within this framework the particular circumstances of each proposal are assessed. Applications must be accompanied by various degrees of documentation depending on the nature of proposals.

Whilst the Council might consider the introduction of policy for the commercial use of the harbour foreshore, such a policy would in our view add to the current layer of legislation and policy governing land use on the foreshore without tangible benefits.

5. Commercial Dog Walking

We have investigated commercial dog walking activities in our parks and can find no reported conflict between park users and commercial dog walkers. Feedback from Council's Animal Advisory Committee confirms there are no concerns with the use of Council managed land by commercial dog walkers. The use of our parks by commercial walkers is considered to be low with Centennial Parklands being the preferred location for this activity.

The *Companion Animal Act 1998*, permits no more than four dogs to be walked by a person at any one time in an on-leash area, or an off-leash area. Therefore, we do not believe a specific policy or regulation needs to be developed to manage commercial dog walking activities.

Conclusion

There is a considerable amount of legislation and policy at State and Local Government level governing the commercial land use on the harbour foreshore. The Council is required to consider this legislation and policy in various ways when it assesses and determines applications for commercial activities.

Current legislation provides adequate means for assessing proposals and allowing public comment.

Chris Bluett
Manager Strategic Planning

Allan Coker
Director Planning and Development

David Sheils
Manager Public Open Space