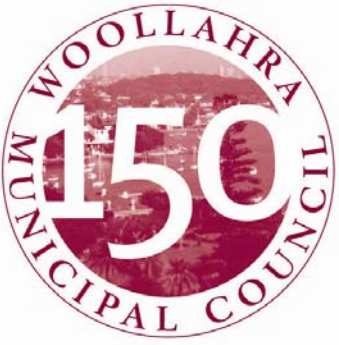


# Ordinary Council Meeting



**Agenda:** *Ordinary Council Meeting*

**Date:** *Monday 11 October 2010*

**Time:** *8.00pm*

# Woollahra Municipal Council

## Notice of Meeting

7 October 2010

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

Dear Councillors

### **Council Meeting – 11 October 2010**

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 11 October 2010 at 8.00pm.**

Gary James  
General Manager

## Meeting Agenda

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5.	Petitions Tabled	
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7.	Public Forum	
8.	General Manager’s Report	Nil
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R2	Library Fine Amnesty	
R3	Stills Photography – Fees	
R4	118 Queen Street Woollahra – Proposed Road Closure & Sale	
9.2	Development Control Committee	27 September 2010
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R3	DA247/2010 – 88 Newcastle Street, Rose Bay – Demolition of 88 & 94 Newcastle Street (dwellings) & 96-98 Newcastle Street (St Paul’s Anglican Church and former Parish Hall) & construction of a new residential flat building, new childcare centre and the retention of the existing Greek Orthodox Church of the Parish of St George – 2/6/2010	6
R4	DA419/2010 – 1A Guilfoyle Avenue, Double Bay – Use of eastern end of Guilfoyle Park for weekly growers markets on Thursdays from 9am to 2pm with a total of 26 stalls – 17/8/2010	9
R5	DA434/2010 – 53 Moncur Street, Woollahra – Use of Council car park land for the “Pink Sunday” event on Sunday 17 October 2010 from 7am to 5pm involving temporary closure of Dorhauer Lane from Queen Street to Moncur Street and erection of a small stall and jumping castle – 24/8/2010	18
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10.	Rescission Motion		Nil
11.	Notices of Motion		30
12	Questions on Notice		Nil
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## 9.1 Corporate & Works Committee

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### Items with Recommendations from the Committee Meeting of Monday 27 September 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Road Dedication – Adjoining 62 New South Head Rd, Edgecliff**  
**Author:** Anthony Sheedy, Property Officer  
**File No:** 329.62  
**Reason for Report:** To seek approval to affix the Council Seal to the Plan of Redefinition for New South Head Road land parcels, thus enabling registration of a Council easement granted in favour of the adjoining Owner 62 New South Road, Edgecliff.

**Recommendation:**

Pursuant to the Roads and Traffic Authority's transfer and dedication to Council of land in deposited plan 341594 as Road; that the Council Seal be applied to the Plan of Redefinition for part of land in residue Certificate of Title Volume 1544 Folio 231, being part of New South Head Road to enable registration of the plan.

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**Item No:** R2 Recommendation to Council  
**Subject:** **Library Fine Amnesty**  
**Author:** Vicki Munro – Manager, Library and Information Services  
**File No:** 48.G  
**Reason for Report:** The purpose of the report is to seek Council approval to conduct a one month Amnesty on fines for overdue Library items, during the month of November 2010.

**Recommendation:**

That Council conduct a one month Amnesty on fines for overdue Library items during the month of November 2010.

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**Item No:** R3 Recommended to Council  
**Subject:** **Stills Photography - Fees**  
**Author:** Paul Fraser, Team Leader Open Space & Recreation Planning  
**File No:** 15G & 900.G  
**Reason for Report:** Notice of Motion requested that an urgent report be brought to Council on the cost and impact of removing all regulations and fees for low impact photography in Woollahra.

**Recommendation:**

- A. That stills photography of a commercial nature relating to advertising, product launches and fashion shoots continue to be regulated by Council's booking process and adopted fees and charges.
  - B. Photography not relating to advertising, product launches and fashion shoots is to be exempt from Council's permit process.
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**Item No:** R4 Recommended to Council  
**Subject:** **118 Queen St, Woollahra - Proposed Road Closure and Sale**  
**Author:** Anthony Sheedy, Property Officer  
**File No:** 373.118  
**Reason for Report:** To give consideration to the closure and subsequent sale of road reserve adjoining the property.

As the voting on the Amendment was 3 votes for the Amendment and 3 votes against the Amendment both the Motion and Amendment are submitted to Full Council in accordance with Council's meeting procedures and policy.

**Recommendation 1 (Motion at Committee)**

- A. A That Council take no further action in respect of the sale of that portion of the subject site comprising the garden bed to the west of the concrete driveway.
- B. Subject to Recommendation A above, that the balance of the subject portion of road reserve in Peaker Lane, Woollahra which adjoins 118 Queen St, Woollahra be valued for its current market sale price.
- C. That a further report be submitted, following part B above.

**Recommendation 2 (Amendment at Committee)**

- A. That the subject portion of road reserve in Peaker Lane, Woollahra which adjoins 118 Queen St, Woollahra be valued for its current market sale price.
  - B. That a further report be submitted, following part A above.
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## 9.2 Development Control Committee

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### Items with Recommendations from the Committee Meeting of Monday 27 September 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **Dunbar House, Clovelly Street, Watsons Bay – Section 96 Application – Proposed Internal Modifications – 12/7/2010**

**Author:** Ms Eleanor Smith – Senior Assessment Officer

**File No:** DA21/2010 Part 2

**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the proposed development occurring on community land and must be determined by full Council, under the provisions of section 47E of the Local Government Act 1993.

**Recommendation: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979**

THAT Council, as the consent authority, modify development consent to Development Application No. 21/2010 part 2 for alterations and additions to existing function centre, including restaurant, internal and external modifications, refurbishment and fit-out on land at Dunbar House, Clovelly Street Watsons Bay, in the following manner:

**A.1 Approved Amended (s96) Plans and supporting documents**

Those acting upon or under this amended consent must carry out all work and maintain the use and works in accordance with the approved plans and supporting documents listed in the original consent, as amended by the amended approved plans and supporting documents as submitted by the Applicant and to which is affixed a Council stamp “Approved Section 96 Plans” listed below otherwise than modified by further condition(s). Where the plans relate to amendments, alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
AR.DA.00 Rev D, AR.DA.01 Rev F AR.DA.02 Rev D	Architectural Plans	Tanner Architects	16.09.2010

**Note:** These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A6

**Item No:** R2 Recommendation to Council  
**Subject:** **37 Darling Point Road, Darling Point – Demolition of Existing Buildings Including ‘Duntrim House’ & Removal of Selected Trees – 17/6/2010**  
**Author:** Mrs Larissa Holbert – Senior Assessment Officer  
**File No:** DA283/2010  
**Reason for Report:** In accordance with the NSW Government - Department of Planning, Procedures for the Operation of Joint Regional Planning Panels, this matter is referred to full Council to consider if it wishes to make a submission for the Panel to consider in its determination of the application.

**Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

- A.** THAT the development application be referred to the Joint Regional Planning Panel for consideration.
- B.** THAT the Council recommends that the consent authority, refuse development consent to Development Application No. 283/2010 for demolition of existing buildings and removal of selected trees on land at 37 Darling Point Road Darling Point, for the reasons stated below:

**1. Loss of significant building**

The proposed demolition of Duntrim and components of its grounds and landscaping would have an unacceptable negative impact on the heritage significance of the place, because:

- (a) the building known as Duntrim has historical significance and historical association significance as the original site of the early Victorian mansion Glanworth. Duntrim was designed by the well known architect, Maurice B Halligan and has been used as a community health facility for over 50 years.
- (b) The building known as Duntrim has aesthetic significance because it exhibits substantial scale, has a landmark location, mature historic garden setting, fine intact interiors and is a substantial example of the Arts and Crafts style by Maurice B Halligan
- (c) The site has social significance because the building and grounds are recognised by the local community as a historically significant building and aesthetic landmark of Darling Point.

**2. Insufficient and incorrect information**

Council does not have sufficient and correct information to properly consider the development application against the matters for consideration listed under Section 79C of the Environmental Planning and Assessment Act, 1979. This includes the following:

- The submitted plans are inaccurate including incorrectly identified tree species, and tree numbers 35, 36 and 37 are missing from the plans;
- The submitted Arborist Report was inadequate, given the extent of tree loss, this report also inaccurately identifies tree species;



- No Landscape Plan has been provided to indicate replacement planting;
- No assessment of the significance of the grounds and landscaping has been provided.

### **3. Aims and Objectives of Woollahra LEP 1995**

The proposal is not consistent with the following objectives of the Woollahra LEP, 1995:

- Clause 2(1)(g) in relation to heritage
- Clause 2 (1)(h) in relation to the natural environment
- Clause 2 (2)(f) (ii) in relation to retention of trees,
- Clause 2(2)(g)(i) in relation to the identification of heritage items and the provision of measures for conservation;
- Clause 2(2)(g)(iv) in relation of the adaptive re-use of significant non-residential buildings.

Therefore, having regard to Cl.8(5) of the WLEP, 1995, the consent authority must not grant consent to the carrying out of the development.

### **4. Desired future character.**

The proposed demolition of the existing grand building, Duntrim House and the majority of the trees on the site is considered to be detrimental to the desired future character of the Darling Point precinct and would be contrary to O4.1.2 and O4.1.4 of Part 4.1 of the RDCP, 2003

### **5. Loss of trees**

The proposed development involves the removal of the majority of the trees on the site including significant and important trees, which is contrary to O5.3.2 and C5.3.2 of Section 5.3 of the RDCP, 2003.

### **6. Public Interest**

The proposal is not considered to be in the public interest.

- C.** A planning proposal be prepared to list the site containing 'Duntrim' as a heritage item under Schedule 3 of the Woollahra Local Environmental Plan, 1995.
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- Item No:** R3 Recommendation to Council
- Subject:** **88 - 96 Newcastle Street, Rose Bay – Demolition of 88 & 94 Newcastle Street (Dwellings) & 96-98 Newcastle Street (St Paul’s Anglican Church & Former Parish Hall) & Construction of a New Residential Flat Building, New Childcare Centre & the Retention of the Existing Greek Orthodox Church of the Parish of St George – 2/6/2010**
- Author:** Ms Eleanor Smith – Senior Assessment Officer
- File No:** DA257/2010
- Reason for Report:** In accordance with the NSW Government - Department of Planning, Procedures for the Operation of Joint Regional Planning Panels, this matter is referred to full Council to consider if it wishes to make a submission for the Panel to consider in its determination of the application.

**Recommendation:**

That Council advises the Joint Regional Planning Panel (JRPP), to refuse development consent to Development Application No. 257/2010 for the demolition of 88 Newcastle Street (dwelling), 94 Newcastle Street (dwelling), 96-98 Newcastle Street (St Paul's Anglican Church and former Parish Hall) and the construction of a new residential flat building, new childcare centre and the retention of the existing Greek Orthodox Church of the Parish of St George, on land at 88-96 Newcastle Street Rose Bay, for the following reasons:

1. The proposal fails to accord with SEPP 65 – Design Quality for Residential Flat Buildings. Specifically the proposal is contrary to the 10 design principles set out under Part 2, SEPP 65.
2. Due to the design, excessive height, FSR, number of storeys, building footprint, front fence height, insufficient setbacks, the bulk, scale and design of the proposed residential flat building relative to the existing character of the area and the development potential (likely future context) of surrounding land, the proposal would appear visually intrusive to the detriment of the streetscape and the existing character of the area. Furthermore the proposal fails to accord with the desired future character objectives for the area. Accordingly the proposal is contrary to the following objectives and controls:
  - Urban Design Objectives: WLEP (1995), Part 1, Section 2, Clause 2 (k), objectives (i) and (iii).
  - Height: WLEP (1995), Part 3, Clause 12 and Clause 2AA, objectives (a), (b), (d) and (e).
  - FSR: WLEP (1995), Part 3, Clause 11 and Clause 11AA, objectives (b), (c), and (d).
  - WRDCP (2003) Section 1.4, objective (a)
  - The desired future character objectives Rose Bay Precinct: WRDCP (2003), Section 4.9, objectives: O 4.9.2, O 4.9.4, O 4.9.5, and O 4.9.6.
  - Number of storeys: WRDCP (2003), Section 4.9, control C 4.9.9.7.
  - Front fence height: WRDCP (2003), Section 4.9, control C 4.9.9.4.
  - Side setbacks: WRDCP (2003), Section 4.9, control C 4.9.4.
  - Articulation: WRDCP (2003), Section 4.9, Control C4.9.9.1
  - Streetscape: WRDCP (2003), Section 5.1, objectives: O 5.1.1, O 5.1.3, and O 5.1.5.
  - Building size and location: WRDCP (2003), Section 5.2, objectives: O 5.2.1, and O 5.2.3.
  - Building footprint: WRDCP (2003), Section 5.2, control C 5.2.7.
  - Building setbacks: WRDCP (2003), Section 5.2, control C 5.2.2, and C 5.2.3.

3. Due to the excessive height, FSR, building footprint, number of storeys, and insufficient setbacks, the bulk and scale of the proposed residential flat building would result in an unreasonable sense of enclosure to the owners of No. 458 Old South Head Road. Accordingly the proposal is contrary to the following objectives and controls:
  - Height: WLEP (1995), Part 3, Clause 12 and Clause 2AA, objective (b).
  - FSR: WLEP (1995), Part 3, Clause 11 and Clause 11AA, objective (c).
  - WRDCP (2003) Section 1.4, objective (c)
  - Number of storeys: WRDCP (2003), Section 4.9 control C 4.9.9.7.
  - Side setbacks: WRDCP (2003), Section 4.9, control C 4.9.4.
  - Building size and location: WRDCP (2003), Section 5.2, objective: O 5.2.3.
  - Building footprint: WRDCP (2003), Section 5.2, control C 5.2.7.
  - Building setbacks: WRDCP (2003), Section 5.2, control C 5.2.3.
  
4. Due to the combination of the non-compliant height, non-compliant side setback, and the design of the proposed child care centre, the proposal would result in an unacceptable visual impact upon the streetscape and the residential amenity currently afforded to the owners and residents of 80-84 Newcastle Street. Accordingly, the proposal is contrary to the following objectives and controls:
  - Height: WLEP (1995), Part 3, Clause 12 and Clause 2AA, objectives (b), and (e).
  - WRDCP (2003) Section 1.4, objectives (a), and (c)
  - The desired future character objectives Rose Bay Precinct: WRDCP (2003), Section 4.9, objective: O 4.9.4.
  - Side setbacks: WRDCP (2003), Section 4.9, control C 4.9.4.
  - Streetscape: WRDCP (2003), Section 5.1, objectives: O 5.1.1, O 5.1.3, and O 5.1.5.
  - Building size and location: WRDCP (2003), Section 5.2, objective: O 5.2.3.
  - Child Care Centre DCP (2006) Section 1.5, Objective ii), and Section 2.1, Objective O 2.1.1, O 2.1.3, O 2.1.4, and Control C 2.1.2, and Section 2.2, Objective O 2.2.1 and control C.2.2.1.
  
5. Due to the excessive height, FSR, building footprint, number of storeys, and insufficient setbacks, the proposal would result in an unreasonable loss of views to the neighbouring properties to the east of the subject site, including units 2, 3, 5 and 6 at 453 Old South Head Road. Accordingly the proposal is contrary to the following objectives and controls:
  - Height: WLEP (1995), Part 3, Clause 12 and Clause 2AA, objective (a).
  - FSR: WLEP (1995), Part 3, Clause 11 and Clause 11AA, objective (c).
  - WRDCP (2003) Section 1.4, objective (c)
  - Number of storeys: WRDCP (2003), Section 4.9 control C 4.9.9.7.
  - Building size and location: WRDCP 2003, Section 5.2, objective: O 5.2.2.
  - Building setbacks: WRDCP (2003), Section 5.2, control C 5.2.2 and C 5.2.3.
  - Building footprint: WRDCP (2003), Section 5.2, control C 5.2.7.
  
6. Due to insufficient deep soil landscaping, the proposal would fail to adequately maintain the landscape character of the locality. Furthermore insufficient information has been submitted with the development application to assess the impact of the proposal on the existing trees within and adjacent to the site. Accordingly the proposal is contrary to the following objectives and controls:
  - WLEP (1995) Part 1, Section 2, Clause 2 (f), objectives (ii) and (iii) - in relation to landscape.
  - Excavation: WLEP (1995), Part 3, Clause 18, part 1 (e).

- WRDCP (2003) Section 1.4, objective (b)
  - Deep soil landscaping at the frontage: WRDCP (2003), Section 4.9, control C 4.9.9.3.
  - Building size and location: WRDCP (2003), Section 5.2, objective: O 5.2.1 and control C 5.2.1.
  - Open space and landscaping: WRDCP (2003), Section 5.3, objective O 5.3.2 and control C 5.3.1.
7. Insufficient information has been submitted with the development application to assess the impact of the proposal in terms of loss of solar access to neighbouring properties, specifically No.'s 458, 449-451, 453, 455, and 457 Old South Head Road. Accordingly the proposal is contrary to the following objectives and controls:
- Height: WLEP (1995), Part 3, Clause 12 and Clause 2AA, objective (d).
  - FSR: WLEP (1995), Part 3, Clause 11 and Clause 11AA, objective (c).
  - WRDCP (2003) Section 1.4, objective (c)
  - Building size and location: WRDCP (2003), Section 5.2, objective: O 5.2.2.
  - Sunlight Access: WRDCP (2003) Section 5.2 controls C 5.2.1.3 and C.5.2.14.
8. Insufficient information has been submitted with the development application to assess the impact of the proposal in terms of loss of acoustic privacy to neighbouring properties. Accordingly the proposal is contrary to the following objectives and controls:
- WRDCP (2003) Section 1.4, objective (c)
  - WRDCP (2003) Section 5.8 objective, objective O 5.8.1
  - Child Care Centre DCP (2006) Section 1.5, Objective ii), and Section 2.1, Objective O 2.1.1, and Control C 2.1.3, and Section 2.3, Objective O 2.3.1 and controls C.2.2.1, and C.2.3.2.
9. Insufficient information has been submitted with the development application to demonstrate that the proposal is satisfactory with regards to clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land.
10. Insufficient information has been submitted with the development application to demonstrate that the proposal is satisfactory with regards to Acid Sulfate Soils. According the proposal is contrary to the following objectives and controls:
- Acid Sulfate Soils: WLEP (1995) Part 3, Clause 25D.
  - Development on certain land in Rose Bay: WLEP (1995) Part 3, Clause 21BA.
-

**Item No:** R4 Recommendation to Council  
**Subject:** **1A Guilfoyle Avenue, Double Bay – Use of Eastern End of Guilfoyle Park for Weekly Growers Markets on Thursdays From 9am To 2pm With a Total of 26 Stalls – 17/8/2010**  
**Author:** Mr Dimitri Lukas – Senior Assessment Officer  
**File No:** DA419/2010  
**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the proposed development occurring on community land and must be determined by full Council, under the provisions of section 47E of the Local Government Act 1993.

**Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979 and Section 68(1) of the Local Government Act, 1993**

THAT the Council, as the consent authority, grant development consent to Development Application No. 419/2010 for use of eastern end of Guilfoyle Park for weekly growers markets on Thursdays from 9am to 2pm with a total of 26 stalls on land at 1A Guilfoyle Avenue, Double Bay, subject to the following conditions:

**A. General Conditions**

**A.1 Approved Plans and supporting documents**

Those with the benefit of this consent must carry out and operate the market in Guilfoyle Park in accordance with the plan listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition.

Title	Description	Author/Drawn	Date(s)
Double Bay Weekly Produce markets	Plan	No author	16.08.2010

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

**A.2 Time Limited Consent (s80A(1)(d & e) of the Act)**

This is a time-limited consent.

The consent period shall be 12 months commencing from the date of the first market. If a new development application or Section 96 application is not lodged and determined within the time limits imposed by this condition the development subject to this consent must cease. The issue of this time-limited consent does not render any previous consent or any existing use right void.

**Note:** Where this condition is amended or deleted by any further section 96 amendment or the ongoing use is subject to a further development application Council may, if it favourably considers such amendment or application, seek the surrender of previous consents or any existing use right.

This condition has been imposed to allow a review of the practical effect of this consent through the submission of a new Development Application or the further assessment of an application to amend or delete this condition under section 96 of the Act prior to this consent's expiration in accordance with this condition.

**Note:** The purpose of this condition is to allow development that may have an adverse impact upon the amenity of the neighbourhood proceed for a trial period whereby towards the end of the trial period the person(s) with the benefit of this consent can seek the amendment or deletion of this condition pursuant to section 96 of the Act or submit a new development application where the proposed continuation of the development is not substantially the same development..

Standard Condition: A7

### **A.3 Ancillary Aspect of the Development (s80A(2) of the Act)**

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated January 2003 unless expressly provided otherwise by these conditions at the *owner's* expense.

**Note:** This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8

### **A.4 Prescribed Conditions**

Prescribed conditions in force under the *Act* and *Regulation* must be complied with.

**Note:** It is the responsibility of those acting with the benefit of this consent to comply with all prescribed conditions under the *Act* and the *Regulation*. Free access can be obtained to all NSW legislation at

[www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

Standard Condition: A30

### **A.5 Reviews**

Council reserves the right to review the operation of the market throughout the year and impose any further stipulations on its operation.

### **A.6 Use of Guilfoyle Park**

The market shall open for trade between the hours of 9:00am and 2:00pm.

The set up of the market shall not commence before 7:00am and the stalls shall be dismantled and the Park vacated by 3:30pm.

The market is to operate on Thursdays only.

### **A.7 Number of Stalls**

No more than 26 temporary stalls are permitted to be installed in accordance with the approved plan.

### **A.8 Storage of materials and plant on Council's footpath/roadway**

Materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Open Space & Trees Team.

### **A.9 Protection of Parkland**

Any damage caused to Guilfoyle Park caused by the operation of the market must be made good by the Applicant.

### **A.10 Vehicular Access**

Vehicle access onto Guilfoyle Park is prohibited.

### **A.11 Rubbish Removal**

All store holders are responsible for the removal of their own rubbish off site.

Additional bins will need to be organised through Council's Waste section. Information can be found on Council's website;

[http://www.woollahra.nsw.gov.au/services/rubbish\\_and\\_recycling/additional\\_services\\_available](http://www.woollahra.nsw.gov.au/services/rubbish_and_recycling/additional_services_available)

### **A.12 Licence agreement**

The Applicant must enter into a license agreement with Council to use Guilfoyle Park. A term of one year is available. In this respect, contact should be made with Council's Property Officer, Mr Anthony Sheedy on 9391 7019.

An Application to enter into a licence agreement will be considered only if Development Consent has been obtained for the use. Council reserves the right as owner of Guilfoyle Park to not enter into a licence agreement, even where Development Consent for the use has been obtained. The licence agreement sets out the terms and conditions under which that use may be carried out.

### **A.13 Signage**

A sign shall be installed at the Bay Street end of the northern garden bed at the cost of the applicant. The sign shall be constructed of the same materials as used by Council and the dimensions approved by Council. The wording on the sign shall be limited to:

*Double Bay Growers Market  
Every Thursday  
9:00am – 2:00pm  
Supported by The Double Bay Partnership*

Should the market cease, or be subsequently modified (with the consent of Council), the sign shall be removed, or amended to reflect the change at the expense of the Applicant.

#### **A.14 Works on Council Roads**

No works on Council roads may commence until an application has been made and approval granted under s138 of the Roads Acts 1993.

#### **A.15 Occupation of Council property**

No occupation of Council property may occur until an appropriate legal agreement has been entered into with Council.

#### **A.16 Power supply**

Approval from Council's Technical Services Public Open Space Division is required for power supply from Guilfoyle Park. In this respect, contact should be made with Council's Team Leader of Open Space & Recreational Planning, Mr Paul Fraser on 9391 7142.

#### **B. Conditions which must be satisfied prior to the demolition of any building or construction**

Nil.

#### **C. Conditions which must be satisfied prior to the issue of any construction certificate**

Nil.

#### **D. Conditions which must be satisfied prior to the commencement of the Chanukah Festival**

##### **D.1 Public Liability**

The applicant must provide a copy of a Certificate of Currency prior to each event showing Public Liability Insurance to the value of \$10,000,000 for each market nominating the Double Bay Chamber of Commerce and Woollahra Council as interested parties.

Copies of Certificates of Currency for Public Liability Insurance are also to be supplied by each of the service providers operating at each market.

##### **D.2 Registration of food stall holders**

The food stall holders and/or events organiser must register with Council and notify the NSW Food Authority the food business details of all food stall holders. This can be done by contacting Council ([www.records@woollahra.nsw.gov.au](mailto:www.records@woollahra.nsw.gov.au)) and the NSW Food Authority's website ([www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)).

##### **D.3 Fitout of food stalls**

The person(s) with the benefit of this consent must submit to Council details of the typical construction and fitout of the temporary food stalls. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council's Environmental Health Officers'.



**E. Conditions which must be satisfied during the preparation of the Chanukah Festival**

**E.1 Protection of vegetation**

- No equipment is to be stored or set-up within 2metres of any tree trunk, shrub or garden bed (except on paved area).
- No vehicle is to drive or stand within 2metres of any tree trunk, shrub or garden bed.
- No speakers, lights, signs or the like are to be attached to or placed within any tree, shrub or garden bed
- No shrubs, trees or other vegetation are to be moved, lopped or damaged.

**F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**

Nil.

**G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

Nil.

**H. Conditions which must be satisfied during the ongoing operation of the Markets**

**H.1 Operation of food stalls**

- a) The person(s) with the benefit of this consent must ensure there are:
  - adequate bins at appropriate locations throughout the event area;
  - adequately sized, enclosed rubbish bins at each food stall;
  - arrangements to dispose of garbage contents (separate putrescibles and recyclable waste) at the end of the day.
- b) Food stall operators are required to handle food for sale for human consumption in accordance with the Food Standards 3.1.1, 3.2.2 and 3.2.3.
- c) Only potable water must be used for preparing food and for washing.
- d) Ice used for keeping food cool or adding to food or drink must be potable.
- e) Food stall operators and the events organiser must ensure there is a sufficient supply of electricity for food handling operations, particularly for hot and cold food holding and water heating. All electrical work should be undertaken by a licensed electrician and conform to AS 3002-1985 'Electrical Installations-Shows and Carnivals'.
- f) Any gas bottles used for appliances should be secured so that it cannot be tipped over and should be pressure checked.
- g) A fire extinguisher and fire blanket should be supplied inn each stall where cooking or heating processes are undertaken. Such equipment should be easily accessible in the event of a fire.
- h) A sealed container of potable water with a tap should be provided at each stall, together with suitable bowls or containers for cleaning, sanitising and hand washing. Clean towels and detergent must be provided.
- i) A hand washing facility, separate from other facilities and used only for that purpose, must be provided. Warm water is needed for effective hand washing and personal hygiene. Hot and cold water must be delivered through a single outlet to a dedicated hand basin. Liquid soap and paper towels must be provided at or near the hand washing facility.
- j) A suitable sanitising agent must be available for sanitising food handling implements and food contact surfaces.

- k) Foods that are required to be stored under temperature control, or kept frozen shall be kept under strict temperature control. Cold foods should be stored at or below 5 degrees celcius and hot food appliances such as bain maries and display cases should enable hot foods to be kept at or above 60 degrees celcius at all times. Refrigeration facilities should be large enough to hold potentially hazardous foods under temperature control at all times.
- l) Potentially hazardous foods like poultry, meat, dairy products, seafood and egg-based products must be stored under temperature control. If the food is intended to be stored frozen, the food must remain frozen during storage and display.
- m) All food stall operators that handle potentially hazardous foods are required to have a readily accessible, accurate, probe-type thermometer. The thermometer must be cleaned and sanitised before it is used.
- n) Adequate measures must be taken by all food stall operators to prevent cross-contamination from raw foods to cooked foods by ensuring that there are separate utensils for cooked and raw meats, poultry and seafood; covering all food; keeping cooked meat and salads separate and washing hands after handling raw meats, raw poultry, raw seafood and raw vegetables.
- o) All food displayed by food stall operators shall be protected from likely contamination by customers, dust, fumes or insects by using plastic food wraps, sealed containers, sneeze barriers or food covers.
- p) Only single-use disposable eating and drinking utensils are permitted for use by food stall operators and must be protected from contamination until used.
- q) All packaging material must be suitable for food packaging and unlikely to cause food contamination. Only clean unprinted paper, food wraps or packaging must be used for wrapping or storing foodstuffs.
- r) The food stalls must be maintained to a standard of cleanliness where there is no accumulation of garbage or recycled matter, food waste, dirt, grease or other visible matter.
- s) Bench tops and surfaces of equipment in contact with food and storage appliances must be kept in a clean and sanitary condition to ensure food is unlikely to be contaminated.
- t) All pre-packaged products must be clearly labelled with a description of the food, the name and address of the supplier, product lot identification, a list of ingredients, date marking, storage conditions, nutrition information panel and characterising ingredient. The above requirements are outlined in more detail in the Food Standards Code available on the NSW Food Authority's website ([www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)).

## **H.2 Residential Amenity**

All activities are to be carried out and conducted in such a manner so as to not interfere with the amenity of surrounding residents or those within the locality having regard to noise emission, rubbish, waste products and the like.

## **H.3 Protection of the Environment Operations Act**

The operators of the produce market shall have regard to the Protection of the Environment Operations Act 1997 and ensure that no harm is caused to the environment, and that no items, articles or other matter is placed in a position where a pollution incident will result or likely to result.

## H.4 Noise Control

The use of the Park must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

### Useful links:

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

**New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

**Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: 150

## H.5 Offensive Noise

No amplified music or similar amplified entertainment shall be permitted at the market where the level of noise may adversely impact on the comfort or repose of neighbouring residential premises contrary to the noise provisions under the *Protection of the Environment Operations Act 1997*.

### I. Conditions which must be satisfied following completion of the markets

Nil.

### J. Miscellaneous Conditions

Nil.

### K. Advising

#### K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

### Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

### Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

**Note:** The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of *the Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).

Standard Advising: K1

## **K.2 Commonwealth Disability Discrimination Act 1992 (“DDA”)**

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council's Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>
- b) [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send and email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3

## **K.3 NSW Police Service and Road Closures**

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

**Warning:** If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Standard Advising: K4

#### **K.4 Workcover requirements**

The *Occupational Health and Safety Act 2000 No 40* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

**Note:** Further information can be obtained from Workcover NSW's website:

<http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office:

Location: Workcover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

Standard Condition: K7

#### **K.5 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr Dimitri Lukas, Senior Assessment Officer, on (02) 9391 7159.

However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, site hearings and the use of Court Appointed Experts, instead of a full Court hearing.

This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed commissioner having the full authority to completely determine the matter at the conference.

Standard Condition: K14

#### **K.6 NSW Police Service and Road Closures**

The Rose Bay Local Area Command closely aligns with the boundaries of the Woollahra local government area.

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant, Paddington Police Station, 16 Jersey Road, Paddington. Phone No.: 0283568299 or Fax No.: 0283568211.

**Warning:** If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Standard Advising: K4

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**Item No:** R5 Recommendation to Council

**Subject:** **53 Moncur Street, Woollahra – Use of Council Car Park Land for the “Pink Sunday” Event on Sunday 17 October 2010 From 7am To 5pm Involving Temporary Closure of Dorhauer Lane From Queen Street to Moncur Street & Erection of a Small Stall & Jumping Castle – 24/8/2010**

**Author:** Mr Simon Taylor – Senior Assessment Officer

**File No:** DA434/2010

**Reason for Report:** In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the proposed development occurring on community land and must be determined by full Council, under the provisions of section 47E of the Local Government Act 1993; and there being unresolved objections.

**Recommendation: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979**

THAT the Council, as the consent authority, grant development consent to Development Application No. 434/2010 for the use of Council car park land for the "Pink Sunday" event on Sunday 17 October 2010 from 7am to 5pm involving temporary closure of Dorhauer Lane from Queen Street to Moncur Street and erection of a small stall and jumping castle, including land at 53 Moncur Street, subject to the following conditions:

**A. General Conditions**

**A.1 Approved Plans and supporting documents**

Those with the benefit of this consent must carry out and operate the fundraising event in accordance with the plan listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition.

Title	Description	Author/Drawn	Date
	Site Plan	GSA Planning	
15077	Traffic Control Plan	Frank Rotta	1 September 2010

**Note:** These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

**A.2 Date of event**

The event (and associated setting up and packing up is confined to 7am-5pm on Sunday 17 October 2010 only.

**B. Conditions which must be satisfied prior to the demolition of any building or construction**

Nil.

**C. Conditions which must be satisfied prior to the issue of any construction certificate**

Nil.

**D. Conditions which must be satisfied prior to the commencement of the event**

**D.1 Notification to surrounding residents**

The applicant must inform all business proprietors, residents and other occupants in the vicinity of the proposed activities, at least fourteen (14) days before the event via a letterbox drop and an advertisement placed in the local paper at least seven (7) days before the event.

**D.2 Activity Application**

The applicant must submit an Activity Application to Council's Compliance Section and this application needs to be approved and the applicant must comply with any conditions of consent.

**D.3 NSW Police**

The applicant must obtain approval for the event from Police by completing a "Notice of Intention to Hold a Public Assembly" and "Notice of Temporary Road Closure" application.

**D.4 Registration of food stall holders**

If the proposed stall is a food stall, the event organiser(s) must register with Council and notify the NSW Food Authority the food business details of the food stall holder. This can be done by contacting Council ([www.records@woollahra.nsw.gov.au](mailto:www.records@woollahra.nsw.gov.au)) and the NSW Food Authority's website ([www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)).

**D.5 Damage Security Deposit**

A security deposit of \$2,000 shall apply for the cost of making good any damage to Council property or park infrastructure caused as a consequence of the event, including any potential damage resulting from vehicular access to the park. The security deposit shall be provided to Council two (2) weeks prior to the event.

**E. Conditions which must be satisfied during the preparation of the event**

**E.1 Fire Point**

A fire point is to be suitably located within the site with suitable portable fire extinguishers as per Australian Standard AS2444, being a mobile fire point.

**E.2 Building Code of Australia Requirements**

All structures are to comply with Part H102 (Temporary Structures) of the Building Code of Australia.

### **E.3 Toilets**

It is the responsibility of the event organisers to arrange adequate port-a-loos for the period of the event.

### **E.4 Waste Services and Cleaning**

Recycling and general rubbish bins are to be provided and the applicant shall ensure that all waste is disposed of in an appropriate manner.

Additional waste services required for the event are the responsibility of the organisers. Waste Services can be arranged through private contractors or by hiring receptacles from Council's Waste Section.

The event organisers must undertake to leave the car park, Dorhauer Lane and surrounds with the same level of cleanliness as at the start of the event. Any cleaning costs incurred by Council for cleaning of the park including the removal of litter and the removal of any grease stains from roads, footpaths and paving after the event will be deducted from the damage security deposit.

### **E.5 Power, Generators and Cabling**

The applicant is required to meet their own power needs for the event.

The applicant is responsible for ensuring all power cables do not affect pedestrian movement or present risks to the safety of pedestrians.

### **E.6 Fitout of food stalls**

The person(s) with the benefit of this consent must ensure that the food stall complies with the Food Handling Guidelines for Temporary Events published by the NSW Food Authority. Details of the typical construction and fitout of the temporary food stall proposed at the 'Pink Sunday' event being forwarded to Woollahra Council. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council's Environmental Health Officers'.

The person(s) with the benefit of this consent must ensure there are:

- a) Adequate bins at appropriate locations throughout the events area;
- b) Adequately sized, enclosed rubbish bins at each food stall;
- c) Arrangements to dispose of garbage contents (separate putrescibles and recyclable waste) at the end of the day.

### **E.7 Public Liability**

Council must be indemnified against all claims for damage or injury that may result from either the activities or from the occupation of part of the public way during the activities. A copy of Public Liability Insurance Cover to the value of \$10,000,000 shall be provided to Council prior to the event and Council must be listed as in interested party on the insurance.

Copies of Certificates of Currency for Public Liability Insurance are also to be supplied by each of the service or entertainment providers operating at each of the events.



## **E.8 Road Closures**

The applicant must supply and erect any barriers and traffic signs necessary for the road closure and remove them at the completion of the event.

The applicant must inform all Emergency Services of the proposed road closure (that is NSW Police, Fire Brigade, Ambulance, SES and the RTA) and must maintain a four-metre emergency vehicle lane at all times, with all services (eg. fire hydrants) remaining free of any obstruction.

## **F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)**

Nil.

## **G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate**

Nil.

## **H. Conditions which must be satisfied during the ongoing operation of the event**

### **H.1 Operation of food stalls**

- a) Food stall operators are required to handle food for sale for human consumption in accordance with the Food Standards 3.1.1, 3.2.2 and 3.2.3.
- b) Food stall operators and the events organiser must ensure there are adequately sized, enclosed rubbish bins at each food stall and adequate arrangements made to dispose of garbage contents at the end of the day.
- c) Only potable water must be used for preparing food and for washing. Ice used for keeping food cool or adding to food or drink must also be potable.
- d) A fire extinguisher and fire blanket should be supplied in each stall where cooking or heating processes are undertaken. Such equipment should be easily accessible in the event of a fire.
- e) A sealed container of potable water with a tap should be provided at each stall, together with suitable bowls or containers for cleaning, sanitising and hand washing. Clean towels and detergent must be provided.
- f) A suitable sanitising agent must be available for sanitising food handling implements and food contact surfaces.
- g) Foods that are required to be stored under temperature control, or kept frozen shall be kept under strict temperature control. Cold foods should be stored at or below 5 degrees celcius and hot food appliances such as bain maries and display cases should enable hot foods to be kept at or above 60 degrees Celsius at all times. Refrigeration facilities should be large enough to hold potentially hazardous foods under temperature control at all times.
- h) Potentially hazardous foods like poultry, meat, dairy products, seafood and egg-based products must be stored under temperature control. If the food is intended to be stored frozen, the food must remain frozen during storage and display.
- i) All food stall operators that handle potentially hazardous foods are required to have a readily accessible, accurate, probe-type thermometer. The thermometer must be cleaned and sanitised before it is used.

- j) Adequate measures must be taken by all food stall operators to prevent cross-contamination from raw foods to cooked foods by ensuring that there are separate utensils for cooked and raw meats, poultry and seafood; covering all food; keeping cooked meat and salads separate and washing hands after handling raw meats, raw poultry, raw seafood and raw vegetables.
- k) All food displayed by food stall operators shall be protected from likely contamination by customers, dust, fumes or insects by using plastic food wraps, sealed containers, sneeze barriers or food covers.
- l) Only single-use disposable eating and drinking utensils are permitted for use by food stall operators and must be protected from contamination until used.
- m) All packaging material must be suitable for food packaging and unlikely to cause food contamination. Only clean unprinted paper, food wraps or packaging must be used for wrapping or storing foodstuffs.
- n) The food stalls must be maintained to a standard of cleanliness where there is no accumulation of garbage or recycled matter, food waste, dirt, grease or other visible matter.
- o) Bench tops and surfaces of equipment in contact with food and storage appliances must be kept in a clean and sanitary condition to ensure food is unlikely to be contaminated.
- p) All pre-packaged products must be clearly labelled with a description of the food, the name and address of the supplier, product lot identification, a list of ingredients, date marking, storage conditions, nutrition information panel and characterising ingredient. The above requirements are outlined in more detail in the Food Standards Code available on the NSW Food Authority's website ([www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)).

## **H.2 Access**

Public access through the car park and Dorhauer Lane is to be maintained.

Access for all emergency vehicles from roads surrounding the event must be made available and monitored by security staff in the event of an emergency.

## **H.3 Noise**

The applicant must not give rise to the production of offensive noise as determined by the Protection of the Environment Operations Act 1997 and regulations thereunder. The PA system and musical equipment must not be used prior to 10am or after 2pm.

## **H.4 Residential Amenity**

All activities are to be carried out and conducted in such a manner so as to not interfere with the amenity of surrounding residents or those within the locality having regard to noise emission, rubbish, waste products and the like.

## **H.5 Traffic management**

A traffic marshal is to be stationed at the Dorhauer Lane, Moncur Street and Queen Street to assist with pedestrian movement and to direct traffic.

## H.6 Amplified music equipment etc

The use of amplified music equipment, public speakers and other like activities at the proposed event which have the potential to create noise must not give rise to *offensive noise* to the surrounding residential area. The use of such equipment must be controlled so that elevated volumes of sound are not being experienced by residents within the surrounding area. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

**Reason:** This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

**New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

**Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

## H.7 Protection of the Environment Operations Act 1997

The events organiser(s) must have regard to the *Protection of the Environment Operations Act 1997* and ensure that no harm is caused to the environment. In particular no items, articles or other matter is to be placed or operated in a manner where a ‘pollution incident’ may result.

### I. Conditions which must be satisfied following completion of the event

#### I.1 Waste

The applicant must make arrangements to remove all waste from the site at the completion of the event and must not be left overnight.

#### I.2 Making good any damage

The applicant must repair or meet the cost of making good any damage to the car park and Dorhauer Lane and Council’s infrastructure, as a consequence of the activities associated with this consent. Council must be reimbursed for the cost of repair of any damage caused to Council property as a result of the activities.

### J. Miscellaneous Conditions

Nil.

### K. Advisings

Nil.

**Item No:** R6 Recommendation to Council

**Subject:** **73 Wolseley Road, Point Piper - Demolish Existing Building, Construct New Dwelling House, Swimming Pools, Basement Level Carparking, Landscaping & Siteworks – 30/11/2009**

**Author:** Mr Dimitri Lukas – Senior Assessment Officer

**File No:** DA624/2009

**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 for refusal of the application to the Officer’s recommendation for approval of the application.

**Recommendation:**

THAT the Council, refuse Development Application No. 624/2009 to demolish the existing building and construct a new dwelling house, swimming pools, basement level car parking, landscaping and site works on land at 73 Wolseley Road, Point Piper, for the following reasons:

1. The development is inconsistent with O4.5.8 which states buildings are to maintain the evolution of residential building styles through the introduction of well designed contemporary buildings. In this regard, the development results in numerous non-compliances with Council controls due to the building not responding to the context and topography of the site, particularly the excavation required to lower the building by 1.5m to comply with Council’s height requirement.
2. The development does not comply with C.4.5.4 which states where the site width is equal to or exceeds 18m, development has a minimum side setback of 3m which is increased in a pro rata basis by 0.5m for each metre or part thereof that the building height exceeds 6m. As such, the building is required to be setback 3-4.5m from the northern boundary and 3-4.5m from the southern boundary. The building is setback 1.5-4.7m from the northern boundary resulting in non-compliances on the ground and second floor levels and 1.5-4.5m from the southern boundary, resulting in non-compliances on the ground, first and second floor levels. The non-compliances will result in excessive bulk and scale and sense of enclosure when viewed from the street and adjoining properties.
3. The development does not comply with C4.5.7.2 which states that dwelling-houses are to be a maximum height of two storeys. In this regard, the three storey appearance of the dwelling-house from the street is considered to be excessive.
4. The development does not comply with C5.2.3 which states buildings are to have a minimum rear setback of 25% (12m) of the average site length. The proposed building will have a minimum setback of 7.5m from the rear boundary which contributes to the excessive bulk and scale of the building.
5. The development does not comply with C5.2.4 which states ancillary development, to a maximum height of 3.6m and rear setback of 1.5m may be permitted in the area designated as the rear setback if all other policy controls are met. In this instance, the upper swimming pool for the ground floor level attains a height of 6m, while the decking structures around the pool/gym floor level do not comply with the side setback requirements of 3m. Furthermore, the proposed swimming pools and gym area are all located within the front setback area. The non-compliances will have an adverse impact on the streetscape and the amenity of adjoining properties.

6. The development does not comply with C5.2.8 which states building footprints for dwelling-houses shall comply with the sliding scale (or 30% - 334m<sup>2</sup>). The proposed building attains a building footprint of 37% (413m<sup>2</sup>) which is considered to be excessive and contributes to the bulk and scale of the building.
  7. The development does not comply with C5.2.9 which states the floor space ratio for a dwelling-house shall comply with the sliding scale (or 0.55:1 – 612m<sup>2</sup>). The proposed building attains an FSR of 0.86:1 (957m<sup>2</sup>) which is considered to be excessive and contributes to the bulk and scale of the building.
  8. The development does not comply with C5.2.16 which states that excavation shall not be less than 1.5m from a front, side or rear boundary. In this regard, the excavation for the basement level garage is setback 0m from the front boundary resulting in a non-compliance with the control. The non-compliance contributes to the excessive amount of excavation for the site.
  9. The development does not comply with C5.3.16 which states that the location of swimming pools is to be at the rear of properties. The proposal involves the construction of a swimming pool within the front setback area of the site. The location of the swimming pool will have an adverse visual impact on the streetscape.
  10. The development does not comply with C.5.4.10 which states that side and rear boundary fences are no higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. The proposed side boundary fences will have a height of 1.8-6m which will have an adverse impact on the amenity and sense of enclosure of adjoining properties.
  11. The amount of excavation for the proposal amounts to approximately 1770m<sup>3</sup> (bulked) but when unbulked up results in approximately 2600m<sup>3</sup> which is excessive and not supported. In this regard, the proposal is inconsistent with Clause 18 of WLEP 1995 and O5.2.4 and C5.2.15 of WRDCP 2003. In this regard, the depth and amount of excavation will significantly alter the topography of the site. Furthermore, the required truck movements due to the substantial amount of excavation will have an adverse impact on the amenity of adjoining properties and the locality.
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## 9.3 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 6 September 2010 Submitted to the Council for Determination

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- Item No:** R2 Recommendation to Council
- Subject:** **Obscure Glazing to Upper Floor Windows and Screening for Privacy**
- Author:** Jacquelyne Jeffery—Team Leader Strategic Planning
- File No:** 1064.G Amend 3
- Reason for Report:** The purpose of the report is to—
- Address deferred matters from the Urban Planning Committee meetings of 1 February 2010 and 8 March 2010 on the proposed obscure glazing and privacy provisions.
  - Seek Council’s decision to prepare amendments to the Woollahra Residential Development Control Plan 2003 and place those amendments on public exhibition.

**Note:** This matter was considered at the Council Meeting on 20 September 2010 where Council resolved as follows:

*That the matter be deferred and resubmitted to the next Council Meeting with the details of the proposed controls for the amendment to the Woollahra Residential Development Control Plan 2003 being submitted to all Councillors prior to the meeting.*

The required information has been distributed to the Councillors with the Meeting Agenda and the matter is resubmitted to Council for consideration.

**Recommendation:**

- A. That Council resolve to prepare an amendment to the Woollahra Residential Development Control Plan 2003, as set out in **Annexure 1** of the report to the Urban Planning Committee of 23 August 2010 subject to:
1. Control C 5.8.5A being amended by reversing the options of 2 and 3 so that the printed option 2 becomes the new option 3 and the printed option 3 becomes the new option 2, and
  2. Deletion of Control C 5.8.5
  3. The *Visual privacy controls* in the Explanation Table being amended to read:  
“The visual privacy controls apply to habitable rooms. This includes rooms such as a bedroom, living room, lounge room, kitchen, dining room and the like. Maintaining visual privacy within and from these types of habitable rooms is the most important, as these are the common living areas in a dwelling.”
- B. That the Draft Woollahra Residential Development Control Plan Amendment No 3. be placed on public exhibition consistent with the requirements of the *Environmental Planning and Assessment Act 1979* and Regulation.

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## 9.4 Urban Planning Committee

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### Items with Recommendations from the Committee Meeting of Monday 20 September 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council

**Subject:** **Reporting on the Opportunity Site Submissions as Part of the Section 62 Consultation for the Woollahra Principal Local Environmental Plan**

**Author:** Anne White – Senior Strategic Planner

**File No:** 1064.G Principal LEP

**Reason for Report:** To identify the appropriate mechanism for reporting the submissions received on the opportunity sites, following the community consultation for Woollahra's new Principal Local Environmental Plan under section 62 of the *Environmental Planning and Assessment Act 1979* (the Act).

#### Recommendation

1. That Council endorse the *Reporting framework for the submissions received on the opportunity sites*, provided at part 5 of the report to the Urban Planning Committee on 20 September 2010.
2. That a report be submitted to the Committee as soon as possible on sites additional to the current opportunity sites that are identified through investigations responding to Council's resolution on 6 September 2010 relating to "Existing Use Rights of Residential Flat Buildings in the Residential 2(A) Zone" with a view to integrating consultation on those sites, as far as possible, into the reporting framework mentioned in part 1, above.

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**Item No:** R2 Recommendation to Council

**Subject:** **Scottish Hospital - Statement of Planning Principles**

**Author:** P Kauter, Executive Planner

**File No:** 62.74

**Reason for Report:** Report required by a resolution of Council

#### Recommendation:

1. That Council adopt a Statement of Planning Principles for the redevelopment of the Scottish Hospital site at 2 Cooper Street (aka 74 Brown Street), Paddington as set out in annexure 5 to this report subject to:
  - a. Planning Principle 2 being amended to read "*Subject to Planning Principle 4, the heritage significance of existing buildings, vegetation and landscaping, as established by a properly researched and prepared conservation management plan, is to be preserved, enhanced and managed.*"

- b. Planning Principle 11 being amended to read “*Subject to section 94 of the Environmental Planning and Assessment Act 1979 or to a voluntary planning agreement under section 93F of the Act, allow for dedication of land for publicly accessible open space areas to complement existing open space in the locality.*”
  - c. The first dot point of Planning Principle 12 being amended to read “*exceed the density and bulk of the previously approved buildings (refer to DA931/2001 as identified in Council’s records) (This does not prevent the redistribution of building mass from its location in the original DA).*”
2. That a copy of the adopted Statement of Planning Principles be provided to Presbyterian Aged Care and to the Department of Planning and that they be advised that the principles should be given significant weight in the design and assessment of the proposed development.
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## 9.5 Community & Environment Committee

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### Items with Recommendations from the Committee Meeting of Monday 20 September 2010 Submitted to the Council for Determination

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**Item No:** R1 Recommendation to Council  
**Subject:** **Proposed Coffee Cart at Lyne Park, Rose Bay**  
**Author:** Paul Fraser - Team Leader - Open Space & Recreation Planning  
**File No:** 195.G  
**Reason for Report:** To respond to a Notice of Motion regarding the process of allowing a privately run coffee cart at Lyne Park, Rose Bay.

**Recommendation:**

That Council staff undertake a Request for Quotations for an operator to manage a temporary coffee cart at Lyne Park, Rose Bay Ferry Wharf.

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## Notices of Motion

**Item No:** 1  
**From:** Councillors Boskovitz and Howe  
**Date:** 28 September 2010  
**File No:** 900.G

That Council extend the time of the formal exhibition for the Woolworths development in Rose Bay for a further 2 weeks to allow for residents to commission professional reports including traffic reports.

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**Item No:** 2  
**From:** Councillors Medcraft, Wynne, Plater, Young, Petrie, Jarnason & Zeltzer  
**Date:** 29 September 2010  
**File No:** 900.G

Playground for Royal Hospital for Women Park

That a report be made within 3 months to the appropriate committee on location of a playground (aimed at elder children 6-12 years) in the NW corner of the Royal Hospital for Women Park, with a theme of using infrastructure as art (also taking into account heritage and the environment), similarly to what Council did in Rushcutters Bay Park. The report should also explore whether a contribution to funding would be available from private (eg the Benevolent Society) and Public sources (state government). Target for construction should be the 2011/12 Council year.

**Rationale:**

- Largest open space in Paddington-Growing number of small and elder children in Paddington, and need for outdoor recreation
- The nature of Paddington as a densely populated area with terraces having limited private outdoor space
- Residents have commented frequently on the need for a playground in this location.
- There is a lack of playground facilities for elder children in Paddington, all existing playgrounds largely cater to younger children (under 6 years).
- The NW corner is suggested as a location, because it well shaded by trees. It is also the location frequently suggested by Residents.
- Contribution to funding – Estimated budget of \$55,000 consisting of \$30,000 for equipment and \$25,000 for site works and rubber surfacing.

**Item No:** 3  
**From:** Councillors Zeltzer and Medcraft  
**Date:**  
**File No:** 900.G

That council produce clear controls for lofts over garages in the Woollahra Conservation area so that the controls regarding lofts in this location are brought into accord with those applying to the Paddington Conservation Area.

Can a report by staff be brought to the Urban Planning Committee within 8 weeks.

### **Rationale**

These two heritage conservation areas border each other and share similar features and constraints. They are separated by an arbitrary line which we have imposed on the precinct. Currently under the new Paddington DCP 'Lofts over Garages' there is greater consideration given to the amenity impacts on those residents living in Paddington compared to those living in the Woollahra Conservation Area with regard to the development of 'Lofts over Garages'.

While lofts are desirable in some parts of the conservation area and can contribute to better activation of lanes, increased passive surveillance and a more humanising element to laneways, they also have the capacity to impact on amenity of neighbouring properties in these areas which exhibit small lots sizes and very narrow blocks.

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**Item No:** 4  
**From:** Councillors Medcraft, Cavanagh, Wynne, Zeltzer and Plater  
**Date:** 6 October 2010  
**File No:** 900.G

Bikeshare for Woollahra

That a report be made within 6 months to the appropriate committee on options for implementation of a bike share scheme similar to that now operating in the cities of Melbourne and Brisbane

### **Rationale**

- public bike hire schemes now operate commercially in Melbourne and Sydney, as well as many major cities throughout the world, including Paris, Barcelona, Washington, London and Montreal.
- the system allows for a low cost, healthy and carbon-free form of public transport.
- reduces pressure on parking and traffic in the area.
- in areas such as Paddington, where storage is an issue bike-share, would prove very useful
- the system could also be attractive to tourists wanting to visit our area, particularly locations, such as Paddington/West Woollahra/Double Bay and Edgecliff.
- cost to of the schemes is often recovered by operating on a public private business model.
- more background can be found at [http://en.wikipedia.org/wiki/Bicycle\\_sharing\\_system](http://en.wikipedia.org/wiki/Bicycle_sharing_system)

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**Item No:** 13  
**Subject:** **Questions for Next Meeting**  
**Author:** Gary James, General Manager  
**File No:** 467.G/Q 10  
**Reason for Report:** To provide a response to Questions for Next Meeting from Council Meeting of 20 September 2010 and for Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

**Recommendation:**

That the responses to previous Questions for Next Meeting be noted.

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**Background:**

The provision for Councillors to ask Questions for Next Meeting is contained in Section 3.2 of Council's Code of Meeting Practice which states:

**3.2 QUESTIONS FOR NEXT MEETING – No previous notice of questions required**

- 1) *As a standard practice, "Questions for Next Meeting" shall be listed in all agendas of Ordinary Meetings of Council. The agenda item shall contain a report of the questions asked at the last Council Meeting and the responses to those questions and provide an opportunity for the Councillors to ask questions for the next Council Meeting.*
- 2) *Questions asked at a Council Meeting shall also be submitted in writing.*
- 3) *The Councillor must put every question directly, succinctly and without argument.*
- 4) *The Mayor shall refer 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.*
- 5) *If the answer to a question can be given immediately, and it makes sense to do so, 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.*
- 6) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions for Next Meeting" 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 for Next Meeting should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions for Next Meeting on 20 September 2010 are as follows:

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**Councillor Medcraft asking (on behalf of Councillors Cavanagh, Carmichael and himself)**

When will the iconic 5 Ways lamppost be re-installed at the 5 Ways intersection?

**Manager Civil Works and Infrastructure in response:**

This matter is currently being researched. It is expected that a report will be submitted to the Community and Environment Committee in November 2010.

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**Councillor Medcraft asking:**

Re: Boundary Street Reserve and Comber Street Reserve

Can we arrange an inspection of the reserves which are in a poor state of repair, with broken tables, chairs and rusted fence?

**Manager Open Space and Trees in response:**

Boundary Street Reserve and Comber Street Reserve were inspected on the 24th September, all defects associated with the seats, table and fence were identified. Works orders have been created in the CRM system and we expect the repairs to be completed by mid October.

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**Councillor Shoebridge asking:**

At the Cooper Ward Meeting and on a number of prior occasions residents have asked for the right to have up to 10 tickets per annum for visitors and tradespeople who need a one day/night car park in resident parking zones. Is a report imminent on this possibility?

**Manager Engineering Services in response:**

The issue of Visitor Parking is under investigation and will be the subject of a report to the Community & Environment Committee in November.

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Gary James  
General Manager

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

