

# Urban Planning Committee



**Agenda:** *Urban Planning Committee*

**Date:** *Monday 28 March 2011*

**Time:** *6.00pm*

## **Outline of Meeting Protocol & Procedure:**

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

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

- Such matters as are specified in Section 377 of the Local Government Act and within the ambit of the Committee considerations.
- 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.

## **Delegated Authority (“D” Items)**

- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agendas (and as may be limited by specific Council resolutions).
- Confirmation of the Minutes of its Meetings.
- 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 above.
- Statutory reviews of Council's Delivery Program and Operational Plan.

**Committee Membership:**

7 Councillors

**Quorum:**

The quorum for a committee meeting is 4 Councillors.

# WOOLLAHRA MUNICIPAL COUNCIL

## Notice of Meeting

24 March 2011

To: Her Worship The Mayor, Councillor Isabelle Shapiro ex-officio  
Councillors Chris Howe (Chair)  
Lucienne Edelman (Deputy)  
Nicola Grieve  
Ian Plater  
David Shoebridge  
Malcolm Young  
Toni Zeltzer

Dear Councillors

### **Urban Planning Committee Meeting – 28 March 2011**

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 **Thornton Room (Committee Room), 536 New South Head Road, Double Bay, on Monday 28 March 2011 at 6.00pm.**

Gary James  
General Manager

# **Additional Information Relating to Committee Matters**

**Site Inspection**

**Other Matters**

## Meeting Agenda

<b>Item</b>	<b>Subject</b>	<b>Pages</b>
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 14 March 2011	1
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### **Items to be Submitted to the Council for Decision with Recommendations from this Committee**

R1	Cross Street Car Park Double Bay – Expressions of Interest for Cinema – 525.G	2
R2	Our Harbour Agreement – 1137.G	5

**Item No:** D1 Delegated to Committee  
**Subject:** **Confirmation of Minutes of Meeting held on 14 March 2011**  
**Author:** Les Windle, Manager – Governance  
**File No:** See Council Minutes  
**Reason for Report:** The Minutes of the Meeting of Monday 14 March 2011 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 14 March 2011 be taken as read and confirmed.

Les Windle  
Manager – Governance

**Item No:** R1 Recommendation to Council  
**Subject:** **Cross Street Car Park Double Bay - expressions of interest for cinema**  
**Authors:** Chris Bluett, Manager Strategic Planning  
Allan Coker, Director Planning and Development  
**File No:** 525.G  
**Reason for Report:** To respond to an adopted notice of motion.

**Recommendation:**

- A. That the Council note the report on the potential benefits, consequences and implications of calling for an expressions of interest for the redevelopment of the Cross Street Car Park in order to include a cinema theatre complex.
- B. That the Council decide whether or not to proceed with an expressions of interest process.

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**1. Background**

The Council adopted the following notice of motion at its meeting on 13 December 2010.

- A. That, having regard to the ongoing requests for Council to facilitate the establishment of a picture theatre in Double Bay, a report be submitted to the appropriate Committee in relation to potential benefits, consequences and implications of Council calling for expressions of interest with a view to the possibility of entering into a public/private partnership for the redevelopment of the Cross Street Car Park to include a theatre complex.
- B. That in the event of Council calling for expressions of interest it be noted that the brief will require, at a minimum, any interested parties to:
  - i. submit concept plans,
  - ii. assess any impact on the Council's current planning controls,
  - iii. identify impacts on existing parking provided within the current parking station,
  - iv. identify the likely impacts on the Double Bay commercial centre,
  - v. provide a business plan to enable the financial implications for Council to be considered.

The primary reason for the decision lies in the Council's desire to investigate means of stimulating trading conditions in the Double Bay Centre. It is reasonable to say that a cinema will provide an element of attraction for shoppers and visitors to the Centre, particularly in the evening. A cinema will also benefit the broader community through the reinstatement of an important cultural and entertainment facility.

The decision is therefore consistent with the Council's vision for the Municipality and with numerous themes and goals all of which are contained in the Delivery Program and Operational Plan.

Notwithstanding these general comments, this report does not provide an economic analysis relating to the reintroduction of a cinema within Centre. Such an analysis would be helpful when deciding whether to proceed beyond the expressions of interest process.

## **2. Benefits, consequences and implications of calling for expressions of interest**

### **2.1 Benefits**

The main benefits evident from the expressions of interest process are:

- It is a transparent process open to public scrutiny.
- It is an equitable process because it will be open to all interested parties.
- It will enable people and organisations to present their ability to meet specific project requirements, either individually or by combining their abilities.
- Subject to the terms of the expressions of interest document, it would be possible to obtain broad concept plans from which a basic understanding of development impact could be gained. This would include both the physical and environmental impact as well as the impact on the operation of the car parking facility in the shorter and longer terms.
- It can be used as a staging process whereby Council can short list interested parties based on their abilities to meet project objectives and requirements. The Council can then commence a selected tender process from which a preferred party can be identified.

In a project of this type the Council has roles as landowner, policy maker and consent authority. Probity and accountability are therefore matters of high priority. These matters are common to other projects commissioned by the Council, most notably the Kiaora Lands projects of the early to mid 2000s and the current project.

We have, in the past, sought comment from the Independent Commission Against Corruption (ICAC) about the aspects of probity and accountability.<sup>1</sup> One of the actions recommended by the ICAC in response to our enquiry was the use of an expressions of interest process because it provides opportunities for all potential proponents to participate.

If the Council decides to proceed with the expressions of interest and other steps beyond that process, including a development application, other recommendations from the ICAC, such as the establishment of internal probity safeguards, community consultation and independent assessments should be considered.

### **2.2 Consequences and implications**

The main consequences and implications of the process are:

- It could create an expectation that a cinema development will occur.
- Concerns may arise within the business community about disruptions to business arising from the construction activities or possible loss of parking either temporarily or permanently. This is particularly relevant because the Cross Street site contains a substantial amount of the public off-street car parking within the Centre.
- Whilst development is not assured simply because an expressions of interest process is commenced, careful consideration of the timetable for subsequent steps is necessary to avoid conflicts with the Kiaora Lands project.

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<sup>1</sup> Advice from ICAC dated 10 January 2001 regarding Kiaora Lands project.



- The structural capacity of the building will need to be thoroughly investigated. Because of the likely variations in design options, this would be a requirement imposed on respondents to the EOI brief.
- Due to the existing height and form of the car park building, and the nature of current planning controls applying to the site, submissions proposing an additional level or levels will be non-complying when considered against current controls. Cinema operations require a higher floor to ceiling space than an average commercial or retail use.
- If Council decides to proceed with steps beyond the expressions of interest process, it may need to consider:
  - changes to the site's existing planning controls,
  - the possible permanent loss of public parking – this will depend on the design option,
  - the displacement of parking and access rearrangements during the construction stage,
  - the possible need to adjust the current Section 94 Contributions Plan under which contributions for the purpose of constructing an additional level of parking on the Cross Street Car Park may be imposed on particular development applications,
  - how it will spend or reallocate section 94 contributions which have been paid for the purpose of constructing another half level of car parking on top of the existing parking structure.

Some of the above consequences and implications can be addressed in the conditions and requirements of the expressions of interest document. This is contemplated in Part B of the Council decision of 13 December 2010. The brief can be expanded to include other requirements if necessary. For instance, the brief should require respondents to demonstrate that the car park is structurally capable of supporting the development option or if not, the scope of works required to make the building structurally adequate.

### **3. Identification of income and expenditure**

An expressions of interest document can be prepared in-house using existing financial and staff resources. However, if an external assessment of responses is considered appropriate, additional funding will be required.

### **4. Conclusion**

Reinstatement of a cinema in Double Bay Centre has been identified as a positive step towards boosting shopper interest and overall business vitality. However, it is unlikely that a cinema complex can be constructed on the Cross Street car park site without a loss of existing car parking and without breaching the height controls contained in the Double Bay Centre Development Control Plan. Council will need to balance these benefits and consequences to determine whether or not it wants to proceed with an expression of interest process. If Council wants to proceed, an expressions of interest process is an effective starting point for such a project.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

**Item No:** R2 Recommendation to Council  
**Subject:** **Our Harbour Agreement**  
**Author:** Chris Bluett - Manager Strategic Planning  
**File No:** 1137.G  
**Reason for Report:** To seek the Council's recommitment towards and endorsement of the Our Harbour Agreement

### **Recommendation**

- A. That the amended Our Harbour Agreement attached as annexure 1 to the report to the Urban Planning Committee meeting on 28 March 2011 be endorsed by the Council.
  - B. That the Mayor be authorised to sign the Our Harbour Agreement.
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### **1. Background**

On 2 May 2001, the nineteen Sydney Harbour councils signed an agreement for managing Sydney Harbour, its tributaries and catchment. The document was formally titled *Our Harbour: Agreement between Sydney Harbour Councils and the Sydney Harbour Manager*. The agreement remains in force for a period of three years from its commencement date or such time as the parties may agree.

The agreement was formed in response to the NSW State Government's vision and action plan for the Harbour which was released in 2000 and titled *Sharing Sydney Harbour – Regional Action Plan*. Management of that plan was vested in the Sydney Harbour Executive and the Sydney Harbour Manager. The Sydney Harbour Executive comprised State Government Departments and agencies and major harbour-front entities such as Taronga Zoo, Sydney Opera House and the Royal Botanic Gardens. The plan contained ten priority projects:

1. Plans for strategic sites
2. Improving stormwater quality
3. Bushland regeneration and conservation
4. Land supply for the working harbour
5. Tenure of waterfront operations
6. Cultural audit
7. Sydney Harbour Dreaming – “Tuhbowgule Nangamay”
8. Foreshore and access improvement program
9. Sydney Harbour Regional Environmental Plan
10. Information systems

The agreement enabled the Sydney Harbour councils to collaborate and negotiate with the State Government and its agencies on matters concerning the planning and management of Sydney Harbour. The agreement also enabled the Office of the Sydney Harbour Manager to facilitate effective communications between the agencies and councils.

The State Government subsequently closed the Office of the Sydney Harbour Manager and appointed a new Executive Officer for Sydney Harbour. Consequently, a new agreement between the Sydney Harbour Councils, the Minister for Planning and the Sydney Harbour Executive was endorsed by the Sydney Harbour Councils Executive and the Sydney Harbour Councils on 9 May 2002. Woollahra Council endorsed the agreement on 11 June 2002.

## **2. Role and functions of the Sydney Harbour Councils**

The parties to the agreement are the Sydney Harbour Councils (comprising the nineteen Harbour councils represented by nominated Councillors), the Minister for Planning and the Sydney Harbour Executive (comprising nominated senior and professional staff). The roles and functions of each party are set out in the agreement.

From its inception in 2001 to 2004 the Sydney Harbour Councils and the Sydney Harbour Councils Executive were involved with numerous projects and actions. These included input to the preparation of:

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- City Foreshores Area Strategy
- Sydney Harbour National Park Plan of Management
- Integrated Land and Water Access Plan
- The review of the Sharing Sydney Harbour Regional Action Plan.

Meetings of the Sydney Harbour Councils and the Sydney Harbour Councils Executive also provide a forum to allow dissemination of information from government agencies and other harbour forums on matters relating to harbour operations and management.

Following gazettal of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 the Sydney Harbour Councils effectively ceased operation. It did, however, reconvene in March 2007 and readopted the Agreement.

## **3. Recent actions**

The Sydney Harbour Councils reconvened on 13 January 2011. The agenda included discussion on a revised Agreement. The group resolved unanimously to:

- Agree in principle to support the Our Harbour Agreement and its eight core issues.<sup>2</sup>
- Amend the agreement to remove matters that are no longer relevant.
- Express concern at the lack of commitment from the government to the eight core issues and request the Minister of Planning and the Minister for Ports and Waterways to renew the amended Agreement.
- Request the Leader of the Opposition to consider accepting the revised agreement as part of the Opposition's planning policy.

The Sydney Harbour Councils also resolved to establish a working party to consider exempt and complying development provisions within the foreshore scenic protection areas. Woollahra formed part of this working party. Consequently, a submission from the Sydney Harbour Councils on the operation of SEPP (Exempt and Complying Development Codes) 2008 was prepared and sent to the Department of Planning.

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<sup>2</sup> The core principles are listed in subclauses 3.1.1 to 3.1.8 of the Agreement. Refer to annexure 1.

#### **4. Identification of income and expenditure**

There are no subscription or membership costs associated with the Council's involvement with the Sydney Harbour Council's. Expenditure arising from hosting meetings and staff participation in meetings and projects is drawn from the existing operational budget.

#### **5. Conclusion**

The Our Harbour Agreement establishes an arrangement which enables relevant councils to formally collaborate in the management and protection of the Harbour. The Sydney Harbour Councils forum enables the councils to provide ongoing input to the preparation and effective implementation of government policy and actions relating to Sydney Harbour. We consider the Council should endorse the revised agreement and maintain its commitment towards the operation of the Sydney Harbour Councils.

Chris Bluett  
Manager Strategic Planning

Allan Coker  
Director Planning and Development

#### **ANNEXURE**

1. Our Harbour Agreement (as amended)

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

