

Council Meeting

Monday 11 October 2010

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Items Determined Under Delegated Authority by Council Committees

The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

Corporate & Works Committee Meeting held on Monday 27 September 2010

- D1 Confirmation of Minutes of Meeting held on 13 September 2010
- D2 Monthly Financial Report – August 2010
- D3 Stills Photography – Fees (**See Item R3**)
- D4 118 Queen St, Woollahra - Proposed Road Closure and Sale (**See Item R4**)

Development Control Committee Meeting held on Monday 27 September 2010

- D1 Confirmation of Minutes of Meeting held on 13 September 2010
- D2 DA659/2009 - 7 Hampden Avenue, Darling Point – Demolition of existing retaining wall & construction of a new replacement retaining wall – 17/12/2009
- D3 DA235/2010 – 93 Holdsworth Street, Woollahra – Alterations & additions to existing dwelling, landscaping & siteworks – 21/5/2010
- D4 DA624/2009 - 73 Wolseley Road, Point Piper - Demolish existing building, construct new dwelling house, swimming pools, basement level carparking, landscaping & siteworks – 30/11/2009 (See Item R6)
- D5 DA82/2010 - 69 Queen Street, Woollahra – Section 82A Review of conditions of consent – 11/8/2010
- D6 DA401/2005 Part 3 - 6 Cove Street, Watsons Bay – Section 96 Application – Proposed internal and external modifications – 30/11/2009
- D7 Register of Current Land and Environment Court Matters and Register of Court Proceedings for Building Control, Environmental Control & Health Control
- D8 Register of SEPP 1 Objections

Urban Planning Committee Meeting held on Monday 20 September 2010

- D1 Confirmation of Minutes of Meeting held on 6 September 2010

Community & Environment Committee Meeting held on Monday 20 September 2010

- D1 Confirmation of Minutes of Meeting held on 6 September 2010
- D2 Woollahra Local Traffic Committee Minutes – 7 September 2010
- D3 Woollahra Local Traffic Committee Minutes – 10 September 2010
- D4 Community Safety Committee Minutes



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 11 October 2010 at 8.00pm.**

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

Staff: Allan Coker (Director – Planning & Development)
Stephen Dunshea (Director – Corporate Services)
Gary James (General Manager)
Vicki Munro (Acting Director – Community Services)
Tom O’Hanlon (Director – Technical Services)
Les Windle (Manager – Governance)

Also in Attendance: Nil

Confirmation of Minutes

(Wynne/Plater)

- 1/19** THAT the Minutes of the Council Meeting held on 20 September 2010 be taken as read and confirmed.

Adopted

(Medcraft/Jarnason)

- 2/19** THAT the Minutes of the Extraordinary Council Meeting held on 21 September 2010 be taken as read and confirmed.

Adopted

Leave of Absence

(Medcraft/Howe)

- 3/19** That leave of absence for all meetings of Council and its Committees be granted to Councillor David Shoebridge for the period Tuesday 28 September 2010 to Monday 18 October 2010, inclusive.

Adopted

Apologies

(Medcraft/Howe)

- 4/19** Apologies were received and accepted from Councillor Sean Carmichael and Leave of Absence granted.

Adopted

Declarations of Interest

Councillor Plater declared a Pecuniary Interest in Development Control Committee Item R2 (37 Darling Point Road, Darling Point). Councillor Plater left the meeting and did not participate in the debate or vote on the matter.

Councillor Young declared a Pecuniary Interest in Development Control Committee Items R2 (37 Darling Point Road, Darling Point) and R3 (88, 94 & 96-98 Newcastle Street, Rose Bay) as he is Council's representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.

Councillor Zeltzer declared a Pecuniary Interest in Development Control Committee Items R2 (37 Darling Point Road, Darling Point) and R3 (88, 94 & 96-98 Newcastle Street, Rose Bay) as she is Council's representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

Petitions

Petition No: 1
From: Residents in the Vaucluse Ward
Table by Councillor: Boskovitz
File No: 884.G 2010

The Petition was in terms,

We the undersigned, object to the application of Woolworths to operate a store in Rose Bay.

Motion moved by Councillor Boskovitz
Seconded by Councillor Petrie

5/19 That the petition lie on the table for fourteen (14) days and be considered during the assessment of the Development Application.

Adopted

Petition No: 2
From: Residents of Woollahra
Table by Councillor: Jarnason
File No: 884.G 2010

The Petition was in terms,

We the undersigned oppose the proposed closure and sale of Road Reserve on corner of Moncur Street and Peaker Lane.

Motion moved by Councillor Jarnason
Seconded by Councillor Grieve

6/19 That the petition lie on the table for fourteen (14) days and be referred to the appropriate Council officer.

Adopted

Suspension of Standing Orders

(Edelman)

- 7/19** That Standing Orders be suspended to allow her to thank the Director Technical Services and Councillors in relation to the removal of the boats and trailers from Old South Head Road.

Adopted

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

Councillor Edelman advised:

On behalf of a large number of happy Vaocluse residents who would like to convey their thanks and gratitude, firstly to the Director of Technical Services and then Councillors in general in relation to the removal of the boats and trailers from Old South Head Road. Ever since I have been thinking of standing for Council and as member of the Vaocluse Progress Association this has been one of the greatest thorns in the side of residents of Vaocluse, and the greater Municipality. There is enormous joy with the fact that a resolution has been reached and there are actually now almost no trailers.

The Council noted the information.

(Boskovitz)

That the Suspension of Standing Orders continue to allow him to raise the issue of the condition of New South Head Road, Double Bay.

The Mayor ruled that this is not a Suspension of Standing Orders matter and advised Councillor Boskovitz that he could ask a “Question for Next Meeting” at the end of the meeting.

(Boskovitz)

- 8/19** That the Suspension of Standing Orders continue to allow him to advise Council of the success of the 2GB Day in Double Bay and invite everybody to come to the Double Bay Food and Art Festival.

Adopted

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

Councillor Boskovitz advised:

After the success of the 2GB Day in Double Bay I would invite everybody to come down to the Double Bay Food and Art Festival on 23 October 2010.

The Council noted the information.

(Howe)

- 9/19 That the Suspension of Standing Orders continue to acknowledge everyone involved with the success of the 2GB event in Double Bay.

Adopted

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

Councillor Howe advised:

In regard to the 2GB event in Double Bay I would like to acknowledge the three people involved in that event, Jo Kelly from Double Bay Partnership, Tim Gratton and his wife Sue Gratton. What people won't know is that this was a fairly impromptu event down in Double Bay. I got lots of phone calls from around Sydney from people who had heard about it on 2GB and it actually brought quite a lot of business into Double Bay. I did want to acknowledge publicly the huge amount of effort that Jo Kelly did, well and truly beyond what was expected of her. Tim and Sue Gratton will also be involved on 23 October in the Double Bay Art Festival for what is believed to be the largest body art competition in the world.

The Council noted the information.

(Howe)

That the Suspension of Standing Orders continue to allow him to raise a matter about receiving upsetting e-mails about the former Mayor and to allow him to make a personal comment.

The Mayor ruled that this is not a Suspension of Standing Orders matter.

(Grieve)

- 10/19 That the Suspension of Standing Orders continue to allow her to advise Council of the Cooper Park Community Day.

Adopted

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

Councillor Grieve advised:

I had the great pleasure to open the Cooper Park Community Day due to the unfortunate illness of the Deputy Mayor. I was thrilled to do it, it was something that is very close to my heart. I personally want to thank the staff and the Director Technical Services and I believe also Community Services. Could you please pass this on? It was the most brilliantly done, organised community day that I have ever been involved. It was so fantastic thanks to Chris Munro, Rob Brewster, Melissa Sellen, Justin Shupe, Rudi Adlmayer, Linda Porter and a volunteer who heard about it on the 350.ORG website and came down and helped the entire day working for us, her name was Sarah Elder. It would be good if we could send a letter to her because she did a fantastic job.

It was organised as part of the Cooper Creek Sustainability Project which was funded by a 3 year grant. A \$250,000 grant supporting several different projects. One of them is the sustainable garden where Council is seeking 6 residents to join together to have their gardens made over at no cost and trying to link the connection between what you do in your garden with what goes down to the water course as well as to the creek.

During the day we had many people there, one of them was Costa, from Costas Garden Odyssey, who did a brilliant job of connecting what you do in your garden to what happens to the creek. There was John Lennis, the Dharawal elder who did the Acknowledgement of Country and also did a bush tucker walk. There were bush walks and many other presentations. It was absolutely fantastic. Over 120 people signed up for Friends of Cooper Park. There were about 400 people who attended.

The Council noted the information

(Zeltzer)

- 11/19** That the Suspension of Standing Orders continue to allow her to congratulate the former Mayor and to thank him for his work in getting funding for Gap park.

Adopted

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

Councillor Zeltzer advised:

I would like to congratulate you Madam Mayor and to thank you for your commitment in the delivery of the funding for the Gap Park project. I know you went down with staff last week to take charge of that funding. I also want to take this opportunity to congratulate the ex Mayor, Councillor Andrew Petrie and acknowledge him for his unfailing and unwaiving commitment to this project. He was on board for this particular project over a number of years, he went to visit quite a number of members of the Government, at all tiers of Government and was able to get Malcolm Turnbull on board and others. He had numerous meetings to try and deliver this funding. It is a credit to Andrew that he persisted with this. I don't think one can underestimate the value of Andrews persistence on producing a positive outcome for this project.

The Mayor advised that she would like to endorse that as well and stated that I know that Councillor Petrie put a huge amount of effort in and I thank him. It was my luck that it came to fruition in the first few days of my Mayoralty, but I know in a large part, in no uncertain means, it was due to Councillor Petrie's persistent advocacy for the funding.

The Council noted the information.

Corporate & Works Committee

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

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.

(Petrie/Medcraft)

Resolved without debate:

- 12/19** 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.

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.

(Petrie/Medcraft)

Resolved without debate:

- 13/19** That Council conduct a one month Amnesty on fines for overdue Library items during the month of November 2010.
-

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.

(Petrie/Medcraft)

14/19 Resolved without debate:

- 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.

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.

Note: Late correspondence was tabled by Andrew Sharpe of Queens Court Pty Ltd.

**Motion moved by Councillor Petrie
Seconded by Councillor Medcraft**

- 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.

**Amendment moved by Councillor Boskovitz
Seconded by Councillor Plater**

- 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.

**The Amendment was put and Lost.
The Motion was put and Adopted.**

15/19 (Petrie/Medcraft)

- 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.
-

Development Control Committee

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

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.

(Zeltzer/Howe)

16/19 Resolved without debate: 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

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion***Against the Motion***

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Young
Councillor Jarnason
Councillor Plater
Councillor Howe
Councillor Grieve
Councillor Shapiro

Nil

13/0

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.

Note: Councillor Plater declared a Pecuniary Interest in this Item. Councillor Plater left the meeting and did not participate in the debate or vote on the matter.

Note: Councillor Young declared a Pecuniary Interest in this Item as he is Council’s representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.

Note: Councillor Zeltzer declared a Pecuniary Interest in this Item as she is Council’s representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

(Petrie/Grieve)

18/19 Resolved: 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, Dumtrim 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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion***Against the Motion***

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Jarnason
Councillor Howe
Councillor Grieve
Councillor Shapiro

Nil

10/0

- 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.
- Note:** Councillor Young declared a Pecuniary Interest in this Item as he is Council’s representative on the Joint Regional Planning Panel. Councillor Young left the meeting and did not participate in the debate or vote on the matter.
- Note:** Councillor Zeltzer declared a Pecuniary Interest in this Item as she is Council’s representative on the Joint Regional Planning Panel. Councillor Zeltzer left the meeting and did not participate in the debate or vote on the matter.

(Edelman/Wynne)

18/19 Resolved:

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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Jarnason
Councillor Howe
Councillor Grieve
Councillor Shapiro

Nil

10/0

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.

(Zeltzer/Howe)

19/19 Resolved without debate: 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

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

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) and the NSW Food Authority's website (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).

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>) 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).

Department of Environment and Conservation NSW, Noise Policy Section web page (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).

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

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (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. Advisings

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.

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

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.

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

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion***Against the Motion***

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Young
Councillor Jarnason
Councillor Plater
Councillor Howe
Councillor Grieve
Councillor Shapiro

Nil

13/0

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.

Note: Late correspondence was tabled by Simon Taylor, Council’s Assessment Officer.

(Zeltzer/Howe)

20/19 Resolved: 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) and the NSW Food Authority's website (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 an 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).

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>) 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).

Department of Environment and Conservation NSW, Noise Policy Section web page (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).

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

Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).

Department of Gaming and Racing - (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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion***Against the Motion***

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Young
Councillor Jarnason
Councillor Plater
Councillor Howe
Councillor Grieve
Councillor Shapiro

Nil

13/0

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.

Note: Late correspondence was tabled by George Karavanas of GSA Planning Pty Ltd, Tony Robb of Urbis and Paul (no last name provided).

**Motion moved by Councillor Howe
Seconded by Councillor Petrie**

That consideration of the matter be deferred and the Director Planning and Development obtain an opinion from Council's legal counsel and an expert planning opinion as to the Council's chance of defending a Class 1 action in the Land and Environment Court.

**Amendment moved by Councillor Young
Seconded by Councillor Grieve**

That the recommendation from the Development Control Committee for refusal of the application be adopted.

Foreshadowed Amendment put forward by Councillor Boskovitz.

That the application be approved.

**The Amendment moved by Councillor Young
Seconded by Councillor Grieve was put and carried.
The Amendment became the Motion.**

**Amendment moved by Councillor Boskovitz
Seconded by Councillor Howe**

That the application be approved.

**The Amendment was put and Lost.
The Motion was put and Adopted.**

(Young/Grieve)**Resolved:**

- 21/19** 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 C4.5.4 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% - 334m²). The proposed building attains a building footprint of 37% (413m²) 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 - 612m²). The proposed building attains an FSR of 0.86:1 (957m²) 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 1770m³ (bulked) but when unbulked up results in approximately 2600m³ 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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Young
Councillor Jarnason
Councillor Plater
Councillor Howe
Councillor Grieve
Councillor Shapiro

Against the Motion

Councillor Boskovitz

12/1

Urban Planning Committee

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

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— <ul style="list-style-type: none">• 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.

Motion moved by Councillor Howe Seconded by Councillor Plater

- 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 6 September 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.

**Amendment moved by Councillor Zeltzer
Seconded by Councillor Wynne**

- 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 6 September 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. The references to 1.7m in Control C 5.8.5A being amended to 1.5m wherever it occurs.
- 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.

**The Amendment was put and Carried.
The Amendment became the Motion.
The Motion was put and Adopted.**

(Zeltzer/Wynne)

22/19 Resolved:

- 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 6 September 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. The references to 1.7m in Control C 5.8.5A being amended to 1.5m wherever it occurs.
- 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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Shapiro

Against the Motion

Councillor Plater
Councillor Jarnason
Councillor Young
Councillor Grieve
Councillor Howe

8/5

Note: A Notice of Motion of Rescission on this matter was submitted at 9.55pm, 10 minutes after the conclusion of the Council Meeting, signed by Councillors Howe, Young and Grieve. The Notice of Motion of Rescission was submitted in accordance with section 2.34(8) of Council's Code of Meeting Practice, which states:

- (8) *If a Notice of Motion to rescind a resolution, other than a resolution relating to a Development Application, is given within 15 minutes after the close of a meeting at which the resolution is carried, the resolution will not be carried into effect until the motion of rescission has been dealt with. [POLICY]*

The Notice of Motion of Rescission will be considered at the Council Meeting to be held on 1 November 2010.

Urban Planning Committee

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

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).

(Howe/Petrie)

23/19 Resolved without debate:

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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Councillor Boskovitz
Councillor Cavanagh
Councillor Medcraft
Councillor Wynne
Councillor Petrie
Councillor Edelman
Councillor Zeltzer
Councillor Young
Councillor Jarnason
Councillor Plater
Councillor Howe
Councillor Grieve
Councillor Shapiro

Against the Motion

Nil

13/0

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

(Howe/Petrie)

24/19 Resolved without debate:

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.

Note: In accordance with section 375A of the Local Government Act a Division of votes is recorded on this planning matter.

For the Motion

Against the Motion

Councillor Boskovitz
 Councillor Cavanagh
 Councillor Medcraft
 Councillor Wynne
 Councillor Petrie
 Councillor Edelman
 Councillor Zeltzer
 Councillor Young
 Councillor Jarnason
 Councillor Plater
 Councillor Howe
 Councillor Grieve
 Councillor Shapiro

Nil

13/0

Community & Environment Committee

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

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.

(Wynne/Boskovitz)

Resolved without debate:

25/19 That Council staff undertake a Request for Quotations for an operator to manage a temporary coffee cart at Lyne Park, Rose Bay Ferry Wharf.

Notice of Motion

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

(Boskovitz/Howe)

- 26/19** 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.

Adopted

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

(Medcraft/Wynne)

- 27/19** 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.

Adopted

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

(Zeltzer/Medcraft)

- 28/19** That Council produce a report within 6 months on 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.

Adopted

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

(Medcraft/Cavanagh)

29/19 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

Adopted

Questions for Next Meeting

Item No: 13
Subject: Questions for Next Meeting
Author: Gary James, General Manager
File No: 467.G/Q 10
Reason for Report: To allow Councillors to ask Questions for Next Meeting in accordance with Council's Code of Meeting Practice.

(Boskovitz/Grieve)

30/19 That the responses to previous Questions for Next Meeting be noted.

Adopted

The following questions were asked:-

Councillor Boskovitz asking:

The condition of the road on New South Head Road and especially outside Cranbrook is deplorable. As recently as last week the road collapsed at the corner of Rose Bay Avenue across from the Rose Bay Police Station.

This is all the fault of the State Government and is unacceptable. They have let this road degrade for so long that it is almost unusable by motorists so much so that motorists are taking risks to merge into the outside lane and which both slows the traffic to a standstill and will eventually cause an accident.

Could Council staff work out what the NSW Government is doing to rectify this problem and when residents will finally have a road which is more becoming of an area like Woollahra?

Director Technical Services in response:

The RTA has previously responded to significant lobbying from this Council on this issue and advised us, I think it was around April, that they would be undertaking resheeting of the road from Kent Street right up to Old South Head Road within this financial year that we are in at the moment. We can follow up with them and confirm exactly when that is going to happen.

Councillor Medcraft asking:

Can the Director of Technical Services please organise an inspection and repair of a pot hole at the corner of Stafford Street and Union Street, Paddington?

Director Technical Services in response:

On notice.

Councillor Plater asking:

Can the Director Technical Services provide an update on our ability to control public boat access to Double Bay wharf and the impact on passengers and surrounding residents?

Director Technical Services in response:

On notice.

Councillor Jarnason asking:

Is Council aware that the thoroughfare from Paddington to Ruschutters Bay through White City has been blocked off for a number of months and it may be in contravention of a law which upholds thoroughfares which has been established over a long period of time?

Could this be investigated and fed back to the Councillors?

Director Planning and Development in response:

I have previously responded to the issues associated with that right of way in response to previous Questions Without Notice from Councillor Medcraft. I will take it On notice to update you in relation to the current situation because there has been some changes of ownership of some of the affected lands.

Councillor Howe asking:

Can the Director of Technical Services please communicate with Sydney Water as a matter of urgency as to when the hydrants and water pipe on the footpath on the corner of Bay Street and Knox Street, Double Bay will be removed? This pipe has now been in place for over 8 weeks with no action and is both a safety hazard to pedestrians and a serious impediment to local businesses in carrying out their business operations in a very difficult economic climate.

Director Technical Services in response:

On notice.

Councillor Young asking:

Could Councillors be informed as to what is happening (following taking legal advice after Council's last resolution on the matter) in relation to the public access way/steps leading down from Eastbourne Road, Darling Point to the waterfront and enforcement of the original conditions of consent? If it involves disclosure of legal advice could Councillors be informed by e-mail?

Director Planning and Development in response:

On notice.

There being no further business the meeting concluded at 9.45pm.

We certify that the pages numbered 2492 to 2542 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 11 October 2010 and confirmed by Council at the ordinary Meeting of Council on 1 November 2010 as correct.

General Manager

Mayor