

Urban Planning Committee Minutes

Monday 26 March 2007

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Urban Planning Committee Minutes

**Minutes of the Meeting held on
Monday 26 March 2007 at 6.00pm**

Present: Her Worship the Mayor, Councillor Keri Huxley, ex-officio
Councillors Geoff Rundle (Chair)
Christopher Dawson
Wilhelmina Gardner (Items R1-R3)
David Shoebridge
John Walker (Items R2-R3)

Staff: C Bluett (Manager – Strategic Planning)
A Coker (Director – Planning & Development)
L Windle (Manager – Governance)
P Kauter (Executive Planner)
T Tuxford (Manager Compliance)

Also in Attendance: Councillor Julian Martin (Part R1 to R3)
Councillor Andrew Petrie (Part R1)
Councillor Tanya Excell (Part R1)
Councillor Claudia Cullen (Part R1)
Councillor Anthony Boskovitz (Part R1)

Leave of Absence

Leave of Absence previously granted by Council: Nil

Apologies:

Apologies were received and accepted from Councillors John Comino, Isabelle Shapiro and John Walker (items D1 – R1) and Leave of Absence granted.

Late Correspondence

Late correspondence was submitted to the committee in relation to Items: R1

Declarations of Interest

Councillor Julian Martin declared a non pecuniary interest in Item R2 (Sydney Grammar School Tennis Court Site Rezoning) as he has a son at Sydney Grammar School.

Items Decided by this Committee using its Delegated Authority (Item D1)

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 12 March 2007**
Author: Les Windle – Manager Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of 12 March 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

(Huxley/Dawson)

Resolved:

That the Minutes of the Urban Planning Committee Meeting of 12 March 2007 be taken as read and confirmed.

**Items with Recommendations from this Committee
Submitted to the Council for Decision (Items R1 to R3)**

Item No: R1 Recommendation to Council
Subject: **Rose Bay & Point Piper Marinas Redevelopment – Assessment and Resourcing**
Author: Peter Kauter, Executive Planner
File No: 900.G
Reason for Report: Response to Notice of Motion

Note: Late correspondence was tabled at the meeting from Council's Peter Kauter – Executive Planner, The Mayor Keri Huxley, Chris Oxenbould CEO NSW Maritime & Michael Rolfe of The Vacluse Progress Association.

Note: Mr Peter Poland of the Woollahra History and Heritage Society, Ms Maureen Clark of the Rose Bay Residents Association, Mr Michael Rolfe representing the Sydney Harbour and Foreshores Committee, Mr John Jacobs a marine contractor who has previously worked at the Rose Bay Marina, Mr Carl Reid representing several objectors to the proposal and Ms Vessna Papats a resident of Rose Bay addressed the meeting.

**Motion moved by Councillor Rundle
Seconded by Councillor Dawson**

1. That, in relation to the assessment of the development application for the redevelopment of the Rose Bay & Point Piper marinas:
 - A. the Council commission a report on the traffic and parking impacts of the proposed development from an independent traffic consultant,

- B. if it is considered necessary, based on the response from the applicant for additional information on marine biological impacts and proposed environmental management provisions, the Council commission reports from a marine ecological expert and a contamination expert,
- C. the Council note the request for the NSW Maritime Authority to provide a copy of the relevant documents relating to the application, assessment and determination of the land owner's consent application,
- D. that in the event that staff form an opinion that further reports are required to be obtained by Council, including light pollution, that need be reported immediately to the Urban Planning Committee, whether such need arises from the NSW Maritime Authority, from the applicant or from any other source,
- E. that Council's web site be updated to include an indicative time line of the progress of the development application and links to expert reports.

**Amendment moved by Councillor Shoebridge
Seconded by Councillor Gardner**

1. That, in relation to the assessment of the development application for the redevelopment of the Rose Bay & Point Piper marinas:
 - A. the Council commission a report on the traffic and parking impacts of the proposed development from an independent traffic consultant,
 - B. if it is considered necessary, based on the response from the applicant for additional information on marine biological impacts and proposed environmental management provisions, the Council commission reports from a marine ecological expert and a contamination expert,
 - C. the Council note the request for the NSW Maritime Authority to provide a copy of the relevant documents relating to the application, assessment and determination of the land owner's consent application,
 - D. that in the event that staff form an opinion that further reports are required to be obtained by Council, including light pollution, that need be reported immediately to the Urban Planning Committee whether such need arises from the NSW Maritime Authority, from the applicant or from any other source,
 - E. that Council's web site be updated to include an indicative time line of the progress of the development application and links to expert reports.
 - F. that Council immediately reopen the period for public submissions for 14 days from today and notify the public of the same, including the availability of the model.
2. That the matter proceed to the Council Meeting of 26th March 2007 as a matter of urgency.

**The Amendment was put and lost.
The Motion was adopted.**

Recommendation:

1. That, in relation to the assessment of the development application for the redevelopment of the Rose Bay & Point Piper marinas:
 - A. the Council commission a report on the traffic and parking impacts of the proposed development from an independent traffic consultant,
 - B. if it is considered necessary, based on the response from the applicant for additional information on marine biological impacts and proposed environmental management provisions, the Council commission reports from a marine ecological expert and a contamination expert,
 - C. the Council note the request for the NSW Maritime Authority to provide a copy of the relevant documents relating to the application, assessment and determination of the land owner's consent application,
 - D. that in the event that staff form an opinion that further reports are required to be obtained by Council, including light pollution, that need be reported immediately to the Urban Planning Committee, whether such need arises from the NSW Maritime Authority, from the applicant or from any other source,
 - E. that Council's web site be updated to include an indicative time line of the progress of the development application and links to expert reports.

Item No: R2 Recommendation to Council
Subject: Sydney Grammar School Tennis Court Site Rezoning
Author: Katina Marchbank – Senior Strategic Planner
File No: 324.
Reason for Report: To respond to a Council notice of motion (19 December 2005) regarding whether or not the land owned by Sydney Grammar School containing tennis courts should be rezoned to Zone No. 6 (Open Space Zone).

Note: Councillor Julian Martin declared a non pecuniary interest in this item as he has a son at Sydney Grammar School.

**Motion moved by Councillor Shoebridge
 Seconded by Councillor Gardner**

That the matter be deferred to the next meeting of the Urban Planning Committee where there be consideration in relation to the immediate rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School) to Zone 6 (Open Space).

**Amendment moved by Councillor Walker
 Seconded by Councillor Dawson**

That consideration of the rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School), be included as part of the preparation of the Woollahra Consolidated LEP.

The Amendment was put and the vote was 3 Councillors for the Amendment and 3 Councillors against the Amendment.

As the Committee Chair declined to use his casting vote, both recommendations will be submitted to Council for consideration.

Recommendations for the Council to consider:

1. That the matter be deferred to the next meeting of the Urban Planning Committee where there be consideration in relation to the immediate rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School) to Zone 6 (Open Space).

OR

2. That consideration of the rezoning of Lot 1 DP633259, Nield Avenue, Paddington (owned by Sydney Grammar School), be included as part of the preparation of the Woollahra Consolidated LEP.

Item No:	R3 Recommendation to Council
Subject:	Unauthorised & Illegal Works & Uses – Draft Enforcement Policy
Author:	Tim Tuxford, Manager - Compliance
File No:	885.G ENF
Reason for Report:	To respond to the Notice of Motion adopted at the Council meeting of 1 May 2006 with regard to "Unauthorised and illegal works and uses". To present a revised Enforcement Policy for Council's approval.

Note: Mr R d'Apice addressed the Committee.

**Motion moved by Councillor Shoebridge
Seconded by Councillor Huxley**

1. That the Council adopt the revised 'Enforcement Policy' attached to the report of the Manager – Compliance as **annexure 3** to the Urban Planning Committee on 26 March 2007, to replace Council's current 'Policy on Unauthorised Uses, Buildings & Works' adopted on 12 July 1999, subject to the following amendments:
 - a. section 1.4 (Policy Statement) to read:
 - "Council is strongly opposed to unlawful activity at any time or under any circumstances.
 - Council will initiate enforcement action in accordance with this policy document."
 - b. section 1.5 (Policy Objective) to read:
"The aim of this policy is to establish clear guidelines for the exercise of the discretion the Council must use in dealing with unlawful activity, taking into account all relevant information including the available evidence, cost to the community, the circumstances of the individual case and public policy and precedent considerations."

- c. the definition of “unlawful activity” in section 1.7 (Definitions) to read:
“means any activity or work that has been or is being carried out:
 - contrary to a legislative provision regulating a particular activity or work,
 - contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land,
 - without a required development consent, approval, permit or licence, and/or
 - contrary to the terms or conditions of a development consent, approval, permit or licence.
 - d. the first paragraph of section 2 (Background) to read:
“Council becomes aware of unlawful activities in a variety of ways, from the proactive actions of Council staff to the receipt of complaints or requests from members of the public.”
 - e. the second paragraph under section 2.1 (Submitting complaints or requests) to include the following additional sentence:
“Council will advise any complainants of the action, if any, taken or the reasons why no action was taken in the circumstances.
 - f. the following sentence to be deleted from section 2.3.3 (Criminal or Civil?):
“~~Council generally favours the commencement of civil proceedings.~~”
 - g. inclusion of the following additional dot point in section 3.2 (Balancing of public interest and cost to Council) under the statement “In considering the ‘public interest’ Council will have regard to whether the unlawful activity:”
 - flouts Council’s authority.
 - h. inclusion of the following additional dot points in section 4.3 (Land and Environment Court Proceedings) under the statement “The following matters will be considered in determining whether to commence civil or criminal proceedings in the Land and Environment Court:”
 - Does the development breach height limits.
 - Does the development breach non-standard conditions of consent.
2. That any comments Council staff may have on the proposed amendments be circulated to Councillors prior to the matter being considered by the Council.

**Amendment moved by Councillor Walker
Seconded by Councillor Dawson**

That the matter be deferred to the next Urban Planning Committee for a staff report as to the appropriateness of the amendments put by Councillor Shoebridge.

**The Amendment was put and lost.
The Motion was adopted.**

Recommendation

1. That the Council adopt the revised 'Enforcement Policy' attached to the report of the Manager – Compliance as **annexure 3** to the Urban Planning Committee on 26 March 2007, to replace Council's current 'Policy on Unauthorised Uses, Buildings & Works' adopted on 12 July 1999, subject to the following amendments:
 - a. section 1.4 (Policy Statement) to read:
 - "Council is strongly opposed to unlawful activity at any time or under any circumstances.
 - Council will initiate enforcement action in accordance with this policy document."
 - b. section 1.5 (Policy Objective) to read:

"The aim of this policy is to establish clear guidelines for the exercise of the discretion the Council must use in dealing with unlawful activity, taking into account all relevant information including the available evidence, cost to the community, the circumstances of the individual case and public policy and precedent considerations."
 - c. the definition of "unlawful activity" in section 1.7 (Definitions) to read:

"means any activity or work that has been or is being carried out:

 - contrary to a legislative provision regulating a particular activity or work,
 - contrary to an environmental planning instrument that regulates the activities or work that can be carried out on particular land,
 - without a required development consent, approval, permit or licence, and/or
 - contrary to the terms or conditions of a development consent, approval, permit or licence.
 - d. the first paragraph of section 2 (Background) to read:

"Council becomes aware of unlawful activities in a variety of ways, from the proactive actions of Council staff to the receipt of complaints or requests from members of the public."
 - e. the second paragraph under section 2.1 (Submitting complaints or requests) to include the following additional sentence:

"Council will advise any complainants of the action, if any, taken or the reasons why no action was taken in the circumstances.
 - f. the following sentence to be deleted from section 2.3.3 (Criminal or Civil?):

~~"Council generally favours the commencement of civil proceedings."~~
 - g. inclusion of the following additional dot point in section 3.2 (Balancing of public interest and cost to Council) under the statement "In considering the 'public interest' Council will have regard to whether the unlawful activity:"
 - flouts Council's authority.

- h. inclusion of the following additional dot points in section 4.3 (Land and Environment Court Proceedings) under the statement “The following matters will be considered in determining whether to commence civil or criminal proceedings in the Land and Environment Court:”
- Does the development breach height limits.
 - Does the development breach non-standard conditions of consent.
2. That any comments Council staff may have on the proposed amendments be circulated to Councillors prior to the matter being considered by the Council.

There being no further business the meeting concluded at 8.08pm.

We certify that the pages numbered 634 to 643 inclusive are the Minutes of the Urban Planning Committee Meeting held on 26 March 2007 and confirmed by the Urban Planning Committee on 16 April 2007 as correct.

Chairperson

Secretary of Committee