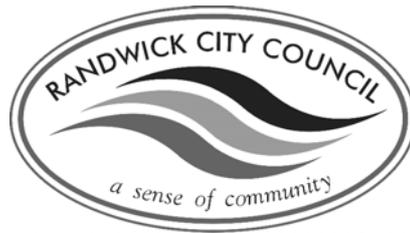


ORDINARY COUNCIL MEETING
SUPPLEMENTARY BUSINESS PAPER

TUESDAY 22 APRIL 2008

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22 April 2008

ORDINARY COUNCIL MEETING

Notice is hereby given that an Ordinary Council Meeting of the Council of the City of Randwick will be held in the Council Chamber, Town Hall, 90 Avoca Street, Randwick, on Tuesday, 22 April 2008 at 6:00 pm.

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Mayoral Minute No. MM18/08



Subject: Salvation Army Red Shield Appeal -
Request for Waiving of Associated Fees

Folder No: F2004/06257

Author: Councillor Notley-Smith, Mayor

Introduction

An email has been received from Roy Byrnes, Maroubra/Matraville Zone Chairman, Salvation Army Australia advising that the 2008 Army's Red Shield Appeal is being held on the weekend of 24 and 25 May 2008.

The Salvation Army seeks Council's assistance with the installation and removal of a banner at the intersection of Bunnerong Road and Anzac Parade, Kingsford prior to the Red Shield Appeal, informing residents and visitors of the fundraising event.

Issues

It has been Council's practice to assist charities or non-profit organisations and the Red Shield Appeal is considered worthy of Council's support. The fees (excluding GST) are made up as follows:

Application fee	\$ 122.64
Install and dismantle banner (\$452.64 x 2 weeks)	\$ <u>905.28</u>
Total	<u>\$1,027.92</u>

Financial impact statement

Funds are available in the 2007/2008 Contingency Fund to cover the fees proposed to be waived (\$1,027.92).

Conclusion

It is considered that Council could help the Salvation Army's Red Shield Appeal by waiving the fees associated with the installation and removal of a banner at the intersection of Bunnerong Road and Anzac Parade, Kingsford.

Recommendation

That:

- a) Council vote to waive the fees associated with the installation and removal of a banner at the intersection of Bunnerong Road and Anzac Parade, Kingsford and funds in the amount of \$1,027.92 be allocated from the 2007/2008 Contingency Fund; and
- b) the Appeal's organisers undertake to appropriately and prominently acknowledge and promote Council's contribution during the Red Shield Appeal.

Attachment/s:

Nil

Item MM18/08

Mayoral Minute No. MM19/08



Subject: Waiving of Fees - Coogee to Bondi
5km Ocean Swim

Folder No: F2004/08286

Author: Councillor Notley-Smith, Mayor

Introduction

An application has been received from Ms Joanna Kyriazakos, the organiser of the *Coogee to Bondi 5km Paddler Assisted Ocean Swim* advising that the Swim is being held on Sunday 27 April 2008, commencing at Coogee Beach and finishing at Bondi Beach with approximately 150 participants.

Issues

The organiser advises that this event was held in 2002 and 2003 and due to popular demand it has been planned to re-introduce the event as there is a surge of interest for endurance swims due to a substantial growth in the ocean swimming community.

Ms Kyriazakos is requesting Council to waive the fees for the event including the associated administrative fees. An entry fee of \$65.00 will be charged to each competitor to better meet the costs of staging such an event. Any money left over will be donated to charity. Council's fees include:

Application fee	\$134.90
Hire of lifeguard @ \$86.80 p/h x 4	\$347.20
Life of Jet Ski (1 hour)	\$ 46.30
Total	\$528.40

The water safety for this event will be supplied by Randwick City Council from Coogee Beach to the north of Clovelly Bay where Waverley Council lifeguards will take over.

It should be noted that Waverley Council has advised that it is not prepared to waive its event fees which include hire of the jet skis, lifeguards and event application fee.

Financial impact statement

In the event that Council accepts the report recommendation, the direct financial implication to Council will be a contribution of \$528.40 from the 2007/08 Contingency Fund.

Conclusion

It is considered that the *Coogee to Bondi 5km Paddler Assisted Ocean Swim* is a worthwhile event and it is recommended that costs be allocated to cover the associated fees, subject to appropriate and prominent acknowledgement of Council's contribution being made prior to and during the event.

Recommendation

That:

- a) Council vote \$528.40 to cover the fees associated with the *Coogee to Bondi 5km Paddler Assisted Ocean Swim* and funds be charged to the Contingency

Fund 2007/08;

- b) The event organiser undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event; and
- c) The Mayor or his representative be given the opportunity to address the event on behalf of Council.

Attachment/s:

Nil

Item MM19/08

Mayoral Minute No. MM20/08



Subject: New South Wales 2008 Management Challenge Winners

Folder No: F2008/00032

Author: Councillor Notley-Smith, Mayor

Introduction

On Friday, 4 April 2008, a composite team from Randwick City Council and its Sister City, Temora Shire Council participated in the 2008 LGMA Management Challenge at the 'Joan Sutherland Performing Arts Centre' at Penrith.

The LGMA Management Challenge is designed to deliver personal, team and organisation development for the participating Councils.

The Challenge Day is held in each capital city and some regional centres. Teams undertake tasks that typify management in the local government environment.

Issues

The NSW first place title was achieved by the Randwick City Council/Temora Shire Council team. This is an outstanding result for both Councils.

"The Temwick Tuskers"; a merger of both the Council's names, consisted of the following council staff:

Sharon Plunkett - Property Coordinator (captain), Tony Lehmann - Manager Integrated Transport Management, Karen Purser - Coordinator Research and Knowledge Management, Karl Gray - Compliance Officer from Randwick City Council and Kris Dunstan - Director of Environmental Services and Elizabeth Smith - Financial Accountant from Temora Shire Council.

Anne Warner, Coordinator Integrated Planning, was the team mentor.

As a result of the state ranking, the team has been selected to go on and represent NSW in the **Australasian Final** of the Challenge.

The 2008 Challenge Final will be held on the Gold Coast on 24–25 May 2008, prior to the LGMA National Congress on 25-28 May 2008.

Financial impact statement

The cost for attendance to the final has been budgeted in Council's training budget.

Conclusion

The LGMA Management Challenge is respected throughout Australia and New Zealand for its hands on approach to leadership development, real work place relevance and extraordinary value. The "Temwick Tuskers" were able to demonstrate a high level of management skill in obtaining the NSW Championship.

Item MM20/08

Recommendation

That the members of the 2008 Management Challenge be congratulated on their efforts and offered the best of luck in their endeavours at the Australasian Final.

Attachment/s:

Nil

Item MM20/08

Mayoral Minute No. MM21/08



Subject: Cana Ball - Waiving of Fees for Use of the Town Hall

Folder No: F2007/00001

Author: Councillor Notley-Smith, Mayor

Introduction

Cana Communities is a group who work with homeless people with mental illnesses. They have approached Council for free use of the Town Hall for a "Cana Ball" during the forthcoming Mental Health Week in October and have specifically asked for Councillor Paul Tracey and Mrs Sue Tracey to represent Council at the Ball.

The intention is to hold a free ball for people with mental illness, each of whom would be accompanied by a volunteer from Cana. The proposed date of the ball is Friday 10 October 2008.

Issues

The cost to hire the Town Hall for the evening would be:

3pm – 5pm (Friday 10 October)	2 x \$95/hour =	\$ 190.00
5pm – 1am (Friday 10 October)	8 x \$165/hour =	\$1,320.00
Total hire fee:		\$1,410.00

Plus refundable bond: \$ 650.00

Financial Impact Statement

Should Council accept the report recommendation, the financial implication to Council is \$1,410.00 and this amount could be funded from the 2008/2009 Contingency Fund.

Conclusion

It is considered that the Cana Ball is a very worthwhile community event, which is made possible by a non-profit organisation. To assist with the event, it is recommended that the costs associated with the hire of the Town Hall for the evening be waived and that Councillor Paul Tracey and Mrs Sue Tracey be authorised to attend the Ball as Council's representatives.

Recommendation

That:

- a) Council vote \$1,410.00 to cover the fees associated with the use of the Town Hall for the Cana Ball and funds be allocated from the 2008/2009 Contingency Fund;
- b) the event organiser undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event; and

- c) Councillor Paul Tracey & Mrs Sue Tracey be authorised to attend the ball as Council's representatives and be given the opportunity to address the event on behalf of Council.

Attachment/s:

Nil

Item MM21/08

Mayoral Minute No. MM22/08



Subject: Improving the NSW Planning System
- Draft Environmental Planning and Assessment
Amendment Bill 2008 and Draft Building Professionals
Bill 2008

Folder No: F2006/00158

Author: Councillor Notley-Smith, Mayor

Introduction

On 3 April 2008 the Minister for Planning released a Draft Environmental Planning and Assessment Exposure Bill 2008 and Draft Building Professional Bill 2008 for public comments. The submissions to the Draft Bills will be accepted by 24 April 2008.

Issues

The Draft Bills propose a number of significant changes including:

- Plan Making
- Development Assessment
- Development Contribution
- Certification.

The attached General Manager's Report details the changes and the potential impacts on Council. As the attached General Manager's report highlights a number of the changes proposed could have considerable cost implications for Council. The changes also impact community participation in the planning process.

The Draft Bills contain a number of positive provisions including the tightening of their certification and enforcement, improvement in plan making process as well as the establishment of a Planning Assessment Commission. The commission is an independent authority which will determine the state significant applications.

Financial impact statement

There could potentially be significant financial implications for Council should the draft Bill proceed. However, at this stage is not possible to determine the cost associated with the proposed changes.

Conclusion

The Draft Exposure Bills propose significant changes to the planning system within the state and will have significant impact on community participation as well as financial implications for Council.

Recommendation

That a detailed submission noting the comments and concerns raised in the General Manager Report dated 22 April 2008 and titled, "Improving the NSW Planning System – Draft Environmental Planning and Assessment Amendment Bill 2008 and Draft Building Professionals Bill 2008" be forwarded to the Department of Planning.

Item MM22/08

Attachment/s:

1. General Manager's Report: Improving the NSW Planning System - Draft Environmental Planning and Assessment Bill 2008 and Draft Building Professionals Bill 2008

Item MM22/08

General Manager's Report No.



Subject: Improving the NSW Planning System
- Draft Environmental Planning and Assessment
Amendment Bill 2008 and Draft Building Professionals
Bill 2008

Folder No: F2006/00158

Author: Sima Truuvert, Director City Planning; Roman Wereszczynski,
Manager Health, Building & Regulatory Services ; Kerry
Longford, Senior Planner

Introduction

In early April 2008, the Minister for Planning released the draft Environmental Planning and Assessment Amendment Bill 2008 and draft Building Professionals Amendment Bill 2008 for public comment. The closing date for submissions on the draft Bills is 24 April 2008. It is noted that the Minister for Planning will introduce legislation into the Parliament for debate in May 2008.

The draft Bill proposes extensive changes to the Environmental Planning and Assessment Act, 1979 including amendment relating to:

- Environmental planning (SEPPs, REPs and LEPs);
- Development assessment;
- Development contributions;
- Certification of development; and
- Miscellaneous amendments.

This report considers the proposed changes and the implications for Council. It recommends that a submission detailing Council's concerns be made to the Department of Planning.

Background

In November 2007 the Department of Planning released a discussion paper titled 'Improving the NSW Planning System'. The discussion paper identified seven areas needing reform: plan making, development assessment, exempt and complying development, ePlanning, building and subdivision certification, strata management and paper subdivisions.

Council considered a report on the discussion paper and draft submission to the Department of Planning at its meeting of 12 February 2008. Council resolved to forward the submission to the Department for consideration in determining how best to improve the NSW planning system.

On 4 April 2008 the Minister for Planning released the draft Environmental Planning and Assessment amendment Bill 2008 for public comment. The draft Bill makes amendments to the Environmental Planning and Assessment Act, 1979 in line with the proposals in the discussion paper. The closing date for submissions on the draft Bill is 24 April 2008. It is noted that the Minister for Planning will introduce the draft legislation into the Parliament for debate in May 2008.

Item MM22/08

The key changes proposed by the draft Bill are:

- introduce in the LEP process, principally via a 'gateway' test that defines suitability to proceed, levels of consultation, agency referral and sign-off based on scale and complexity of proposals;
- remove Regional Environmental Plans (REPs) from system;
- introduce Planning Assessment Committees (PACs) to assess the majority of State significant development;
- introduce Joint Regional Planning Panels (JRPP) to determine regionally significant development;
- introduce Planning Arbitrators for local DAs;
- allow minor variations to complying development requirements; and
- tighten accreditation requirements for certifiers and council.

Comments

Consideration and comments on the proposed amendment is provided below. The main comments are:

- support for future provisions relating to the statutory timeframes for development assessments;
- certification process has generally been improved and tightened;
- potential reduction in public consultation in plan making;
- increased costs to Council for funding of panels, advisory committees and arbitrators;
- increased resourcing pressures for both experienced planners and administration.

Environmental planning and Assessment Amendment Bill 2008

The following provides consideration of the issues which form the basis for a submission to the Department of Planning.

1. Plan Making

1.1 Gateway Process

The Bill introduces provisions to streamline the LEP process, principally via a 'gateway' test that defines suitability to proceed, and levels of consultation, agency referral and sign-off based on the scale and complexity of proposals. The improvement to the time taken to make LEPs is supported. The draft Bill notes that should Council's delay the process, the Minister will refer the LEP to a Planning Assessment Commission or a Joint Regional Panel. An assumption is made that the delays are due to the inactions of Local Government. The delays often also occur at the State Government level.

It is noted that, however, there is no time frame placed either at the Department of Planning, a Planning Assessment Commission or a Joint Regional Panel in dealing with the plans. Thus it is unlikely that the proposed simplified process will introduce a more efficient system. It is recommended that a timeframe be placed on these authorities.

It is noted that the Planning Assessment Commission and Joint Regional Planning Panel are empowered to revise a planning proposal and refer it to the Minister without any consultation with the local Council. Provisions need to be introduced ensuring consultation/referrals to the local Councils are to take place should the planning proposal be revised.

1.2 Community Consultation

It is noted that S.56 'Gateway determination' among other things refers to the requirement for community consultation based on the scope and impact of a planning proposal.

The draft Bill notes that regulations may be introduced for standard community consultation requirements for various categories of planning proposals.

Currently, the consultation process is generally the same regardless of the nature of the LEP. Councils, however, generally take a common sense approach having regard to the impact and public interest issues when undertaking the community consultation process.

As the regulations are not released, it is not clear what will be the minimum standards for community consultation. It is imperative that the community consultation process is not eroded.

1.3 Drafting Local Environmental Plans

Council previously raised concerns regarding the Director General and the Department of Planning having the ultimate responsibility of drafting an LEP. The drafting is inherent in the preparation of the LEP and needs to be undertaken by the local council. Detailed provisions should be part of the community consultation process and should be accompanied by detailed explanatory notes.

1.4 Deemed Environmental Planning Instruments and Development Control Plans

Clarification on the removal of 'deemed environmental planning instruments' from the definitions is sought. The masterplans prepared under the Randwick LEP 1998 were categorised as 'deemed EPs' to retain their validity. It is requested that the current situation of dealing with masterplans under the comprehensive LEP/DCP process be retained. It also seems to be an omission that there is no provision available which will repeal DCPs which are no longer required.

1.5 State and Regional Plans

State Environmental Planning Policies which now would include both State and Regional issues, should now have consultation as a standard requirement in their preparation. It is noted that REPs, which have now been deleted, had to be accompanied by consultation during their preparation. Only in exceptional circumstances should a SEPP be made without consultation. Section 37 which sets up the framework for SEPP, is too convoluted and should simply state that the Governor can make a SEPP and the Minister should be of the opinion that the issues are of State or regional significance.

2. Development Assessment

There are significant changes proposed. The Bill proposes a hierarchy of bodies which are able to assess and determine an application. These are as follows:

- *“Independent hearing and assessment panel means a panel constituted under section 231*
- *Joint regional planning panels means a joint regional planning panel constituted under section 23G*
- *Planning arbitrator means a planning arbitrator listed on the register of planning arbitrators under section 23K*
- *Planning Assessment Commission means the Planning Assessment Commission constituted under section 23B*
- *Planning assessment panel means a panel listed in Schedule 5B.”*

The draft Bill proposes that the regulations or an environmental planning instrument may mean that the Minister, a Planning Assessment Commission, a joint Regional Panel or Public Authority can determine a development application.

The draft Bill provides for the Planning Minister to establish the Planning Assessment Commission and Joint Regional Panels and specifically states that these bodies are not subject to control or the direction of the Minister except as it relates to the procedural issues.

The draft Bill leaves it to Council as whether it wishes to establish an Independent Hearing and Assessment Panel (IHAP). It also notes that the panels are not subject of Ministerial directions.

2.1 Financial Implications for Council Relating to Planning Commissions and Joint Panels.

The Bill stipulates that Councils are required to resource the panels and commissions. This also includes the remuneration and expenses to the above bodies.

The Commissions are to replace the ‘Commissioners of Inquiry’. These were previously established and funded by the State Government. The new provision will be an unreasonable burden on the Local Government and could have significant financial implications.

The provision of Council assistance in relation to the assessment process is supported. However, the requirement relating to the remuneration and other expenses is not supported.

2.2 Stop the Clock and Introduction of Planning Arbitrators

The explanatory notes issued with the draft Bill refers to regulations removing ‘stop the clock’ provisions of the Act. The provision is used when specific additional information was required to assess an application.

The Bill introduces provisions of Planning Arbitrators to deal with deemed refusals, a determination by Council that further information is required to assess an application or a review of a determination. The Arbitrators are introduced as independent, administrative non judicial review bodies.

An applicant is able to refer a matter to the Court if they are dissatisfied with the Arbitrators decision or if a consent authority

consents for an appeal to proceed to Court without the referral to a Planning Arbitrator.

While there are positive aspects in reducing the adversarial court processes, alternative dispute resolutions (such as both formal and informal mediation) have not been considered. There will be significant cost implications for the Council as the Bill requires Council to support and resource the Arbitrators.

Further, clarification is sought as to who will represent an applicant in an Arbitrator's matter and whether an applicant could have a legal representative. If a legal representative was required, this would be a duplication of the court system and would add significantly to the cost.

2.3 Third Party Right of Appeal and SEPP 1

The third party appeal rights for development applications for objectors need to be clarified as to what categories of development this would apply to and the basis for appeal, understood to be the extent of the departure from the development standard (eg. 25% departure from SEPP 1).

3. Development Contributions

The provisions of the Bill allows a consent authority to collect s.94 Contributions under two options.

- Direct Contributions: Where the development will result in extension or augmentation of services (Nexus argument)
- Indirect Contributions: Where a consent authority will be able to seek a percentage of the cost of a proposed development for the provisions of infrastructure.

Council's are enabled to charge for two categories of infrastructure:

- Key community infrastructure (local roads, bus infrastructure, parks, recreational, cultural and social facilities); and
- Additional community infrastructure (other than key community infrastructure but only after Ministerial approval).

3.1 Implications of the Proposed Changes to S.94 Contributions

In June 2007 Council adopted a new S.94 Contributions Plan based on 1% levy of the proposed cost of a development. Council prepared a comprehensive schedule of works for the next 10 years in line with the Council's strategic plan.

It is noted that S.910 of schedule 3 (Nexus for indirect contributions) states that:

'the validity of an indirect contribution is not affected by there being no connection between the development the subject of the indirect contribution and the object of expenditure of any money required to be paid.'

However, amendments to the Regulation 31A (Key community infrastructure and additional community infrastructure) states that contributions for district infrastructure could be sought only if there is a direct connection with the development to which a contribution relates.

The above two provisions are contradictory as under the Bill the operation of 'Indirect Contributions' do not require the nexus argument while the latter provisions in the Regulation asks for a nexus argument in relation to a district facility.

Of greater concern is the definition of key community facilities that excludes district infrastructure. Within the inner city context nearly all infrastructure facilities are used by the population of both that LGA and other nearby LGAs. With the lack of funding from both the State and Federation Government the provisions and augmentation of these facilities are seriously compromised.

Another matter of concern is the repeal of the existing contributions plans by either 2009 or 2015 (only if it relates to 'key community facilities'). As discussed above, it is not clear whether district infrastructure are 'key community facilities' and thus not clear when the plans would lapse.

Voluntary planning agreements by the virtue of their names are voluntary and were originally designed to be flexible. The proposed requirement to restrict these to the provision of 'key community infrastructure' or 'additional community infrastructure' (that the Minister has approved) is not supported. The flexibility and the scope to extend the voluntary planning agreements to provide district facilities must be retained. The facility to provide for affordable housing in planning agreements should also be included.

The planning provisions agreements to 'run with the land' rather than the owner are supported. However, the need for the Minister to have a role in planning agreements other than those associated with developments for which he is the determining authority is questioned.

4. Certification and Enforcement

4.1 S 80A (6) c) - Compliance Security deposits

The ability to require a security deposit should also extend to CDC's, as provided in Council's adopted Pricing Policy. The deposits could be based on the scale and type of development and be limited but reasonable value eg. ranging from \$500 for a very minor development to \$5,000 for a major development.

4.2 S 85A - Complying development certificates

The proposed amendments which enable an accredited certifier to lodge a (draft) CDC with Council for determination under (7A), raises a number of concerns. Firstly, it tends to defeat the purpose of Complying Development. It may also raise issues on inconsistency between applications and Councils. In addition the limited [deemed approved] time period in which a Council has to assess the particular matter and respond to the Certifier, is likely to result in Council's providing a negative response in most cases, as there may be

insufficient time for appropriate assessment, site inspections, possible consultation and preparation of internal reports etc.

It is considered that these provisions should be deleted, as they have no limits and tend to defeat the intent of complying development (eg. a tick a box compliance process). It is better to have appropriate and reasonable prescriptive criteria and requirements in the Codes, so that everyone knows what is permitted via this process.

As a minimum, the scope of these provisions should be restricted to a very limited number of minor non-compliance's (eg 5% variation of the prescriptive criteria) and the provisions should be altered to be "deemed refused" if a response is not provided within the time period.

4.3 S 109EA - Replacement of PCA's

These provisions should retain the requirement to notify Council of any change in PCA (in addition to the existing requirements of section 81A).

4.4 S 109EB - Directions by certifying authorities

In (1) (a) Should the word "would" be replaced with "does" and or "may" result in a non-compliance etc ?

4.5 S 109PA - Applying for Advice to the consent authority

These provisions should be limited to "specified matters" relating to the design and construction of the building and not potentially relating to the 'whole' of the development and all of the conditions of consent. Otherwise this provision would defeat the purpose of the Certification process and it would require the consent authority to carry out a full and comprehensive assessment of the development application and Construction Certificate (or Occupation Certificate) to make such a determination. The provisions also have the potential of transferring all of the responsibility for the inevitable variations and liability back to the Council.

Extending this provision to the Occupation Certificate stage also may defeat the purpose of the new clause 154D, which aims to ensure that development is not inconsistent with the consent at OC stage. As a general principle, the provisions should not facilitate unauthorised variations.

In particular, the provision should also be altered to be "deemed refused" or "deemed potentially inconsistent", if the consent authority does not respond to the certifier in the time period.

The form should require the specified matter/s to be clearly identified and full particulars of the variation or potential inconsistency being provided.

To overcome any concerns that consideration could be given to mandatory reporting of these applications and associated time frames and decisions etc. If after a reasonable period, this was shown not to be working, then the Department of Planning could always change the provisions back as proposed.

4.6 S 121B – Orders

In relation to serving an order relating to support of premises in 19 b), the provisions need to provide for the Order to either cease specified works (eg those causing the loss of support), but equally importantly, they need to provide for the Order to require specified works or things to be done (eg. provide temporary supports, back-fill the excavation, provide retaining walls or shoring or, obtain a report from a professional engineer and undertake recommended works etc).

Two separate orders should be provided eg 19 - To cease work, in relation to unauthorised development and 20 - To do such things as are specified in the order to safeguard / support adjoining premises.

In addition, provisions should be included in the Act to waive any costs and liability for Councils for issuing and implementing any necessary class 4 proceedings relating to the service of a Stop Work Notice, when acting in good faith.

4.7 S 121D - Compliance with s121 F-K

Add Order #20 as above.

4.8 S 121CA - Compliance cost notices

In sub clause 1) add after the word "order" - "or notice". As Councils spend significant time and resources resolving matters before (or preferably without having to) serve a formal Order. If Councils can only recoup costs if an Order is served, Councils may not be inclined to resolve such matters before serving an Order. Councils should be encouraged to resolve matters without the service of an order and the legislation should enable the Council to be reimbursed for the services and time to investigate, negotiate, resolve or regulate the unauthorised work.

4.9 CI 154D (Regulation) – Development to be consistent with consent prior to Occupation Certificate

Proposed clause 154D of the Regulation requires the development to be consistent with the consent or CDC, prior to issue of an Occupation Certificate.

This issue is probably the most important issue of concern to all Councils and the community. It is a basic and fundamental expectation that the completed development is consistent with the development consent or CDC.

If there are no checks and balances the certification system may be flawed; why have a PCA and an Occupation certificate, as a developer or builder could simply ignore the DA, CC or CDC and make whatever changes they want knowing that they can simply lodge an application for a section 96 amendment after the event.

Whilst the retrospective section 96 provides a practical path to address genuine minor amendments which may be well justified, the process is undoubtedly being abused by some developers, builders and assisted by some Certifiers.

Therefore, the proposed clause should be retained. This clause would not preclude the occupation of a building prior to full completion, providing the subject building or part was not inconsistent with the consent. If necessary this could be explained and addressed via relevant Guidelines or Advisory Notes (refer to Attachment 1).

5. Building Professionals Amendment Bill 2008

This draft Bill is essentially tightening certification and enforcement requirements.

5.1 S 31, 45 & 92 - Complaints, Investigations and Action - Council Certifiers

The provisions relating to the potential individual penalties against Council Certifiers will have significant potential impact upon Council officers and Council and their ability to provide certification services. Council officers should not have to take out individual insurances and should be covered by Council's insurance policies.

5.2 Notices & Orders

Two new orders should be introduced in the Table to section 121B of the Act to provide greater scope and ability for the consent authority to address significant community impacts associated with [predominantly major] development.

Firstly, an order should be introduced along the lines of the proposed provisions relating to the review of operating hours, where the existing development (eg licensed premises or other late-night business) is having a significant community impact.

Randwick City Council and many other Councils are dealing with and trying to resolve major community impacts arising from existing development, particular where the development was approved many years ago, with very limited conditions and controls. Many without any specified hours of operation.

In summary, the Act should enable the consent authority to issue an order to do specified things to address specified community and environmental impacts arising from the operation of the development (eg. for a licensed premises or a late-night take-away food business – to reduce the hours of operation, develop and implement a Plan of Management or a Complaints Management System etc).

Obviously, the owner / operator would have the right of appeal, which would be considered on its merits by the Land and Environment Court.

Also, a new order should be developed (or modify the existing order #16), to enable specified works to be carried out to complete all or part of a development, where the development is incomplete and only an interim OC has been issued and where the particular matter has or may have a detrimental environmental or amenity impact or it is in the public interest to do so (refer to Attachment 1).

Relationship to City Plan

The relationship with the City Plan is as follows:

Outcome: 4 Excellence in urban design and development.
Direction: 4b New and existing development is managed by a robust framework.
Outcome: 6 A liveable City.
Direction: 6d A strategic land use framework provides for our lifestyle changes and for a continuing yet low rate of growth across our City.

Financial impact statement

There could potentially be significant financial implications for Council should the draft Bill proceed. However, at this stage is not possible to determine the cost associated with the proposed changes.

Recommendation

That a detailed submission noting the above comments and concerns be forwarded to the Department of Planning.

Attachment/s:

1. Amendment to the Environmental Planning and Assessment Regulation 2000 and Building Professionals Amendment Bill 2008

Mayoral Minute No. MM23/08



Subject: St Andrew's Market Day
Folder No: F2004/07550
Author: Councillor Notley-Smith, Mayor

Introduction

Correspondence has been received from Ms Julia Yee-Dela Torre, organiser for the Malabar Markets at St Andrew's Primary School, Malabar, which are proposed to be held once a month.

Issues

Ms Torre is asking Council to hang banners for a week at two different locations on 8 separate occasions commencing in April and ending November, 2008.

The request is for a financial contribution and fees to be waived for the following:

The quote for one banner to be made:	\$625.00
To hang one banner per week \$497.90 at different banner locations ie Kingsford, Maroubra x 4 (May-November)	\$1,991.60
Install and Remove banner @ \$590.50 X 4 (May-November)	\$2,362.00
Total:	\$4,353.60

Funds raised through the letting of stalls at the fete are donated to Sitima Village in Malawi, Africa, to help provide facilities for the community and to help financially support two local schools. Mrs Yee-Dela Torre has also asked whether there may be other cost effective ways of promoting the school's market day.

Additionally, Council could provide assistance via promoting the school's market day in the Mayoral Column the week prior to each nominated date.

Financial impact statement

Funds are available in the 2007/2008 Contingency Fund to cover the fees proposed to be waived (\$4,353.60).

Conclusion

It is considered that Council could help St Andrews Primary School, Malabar by waiving the fees associated with the purchasing, installation and removal of banners around Randwick City Council.

Recommendation

That Council vote to waive the fees for St Andrews Primary School, Malabar, associated with the purchase, installation and removal of banners within Randwick City Council and funds in the amount of \$4,353.60 be allocated from the 2007/2008 Contingency Fund.

Attachment/s:

Nil

Item MM23/08

Item MM23/08

Mayoral Minute No. MM24/08



Subject: Randwick City Tourism Sports Coast
Flags - Request for Financial Assistance

Folder No: F2004/06257

Author: Councillor Notley-Smith, Mayor

Introduction

Randwick City Tourism has approached Council requesting financial assistance towards the production and installation of Sports Coast flags in selected parts of Randwick City to coincide with World Youth Day, thus raising the profile of Council.

Issues

In November, 2005 Mayor Seng officially launched "The Sports Coast" theme which is a combined initiative of Randwick Tourism and Randwick City Council. Randwick City Tourism has since produced a Sports Coast website and a series of CDs and DVDs to promote the image of Randwick as a vibrant City with an active outdoor lifestyle for both residents and visitors.

To further promote our regional image as "The Sports Coast" Randwick City Tourism has identified outdoor flags as an appropriate medium. The flags help build atmosphere, are cost-effective and will complement Council's own street banners.

Randwick City Tourism has had an appropriate flag designed in line with the specifications required by Council, noting Council's support, and have requested that 40 flags be produced.

In order to minimise installation costs, it is proposed that the "Sports Coast" flags will be placed on the promenade flagpoles at Coogee and Maroubra Beaches at the same time as other banners are installed on our street banner poles. The timing of such installations will be approved by Council's Manager Communications and can be carried out by Council's multi-skilled teams.

Financial impact statement

The cost of producing 40 Sports Coast flags will be \$2,780 + GST. These funds are to be provided from the 2008/2009 Contingency Fund.

Conclusion

"The Sports Coast" is an initiative between Randwick City Council and Randwick City Tourism. It is appropriate that Council supports this request as it will raise Council's profile during the upcoming World Youth Day.

Recommendation

That Council approve \$2,780 + GST for the production of 40 "Sports Coast" flags, from the 2008/2009 Contingency Fund.

Attachment/s:

Nil

Item MM24/08