

General Purpose Standing Committee No.4

Management of the Sydney Harbour Foreshore Authority

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Terms of Reference

That General Purpose Standing Committee No 4 inquire into and report on the management of the Sydney Harbour Foreshore Authority, and in particular:

- (a) the role of the Chairman, past and present Chief Executive Officers, the SHFA Board, and other executive officers in the management of land development issues under its control,
- (b) lines of communication and accountability between the Sydney Harbour Foreshore Authority and relevant Councils, the Premier and any other Ministers or their staff and advisors,
- (c) potential conflicts of interest in the Sydney Harbour Foreshore's commercial relationships,
- (d) the process by which the Sydney Harbour Foreshore Authority acquired enhanced consent powers, and the role of the Sydney Harbour Foreshore Authority as a consent authority for land that it administers,
- (e) the role of the Sydney Harbour Foreshore Authority following the sacking of the City of Sydney and the South Sydney Councils, and the conduct of the Multidimensional Study of the Pyrmont Point site,
- (f) the transparency of planning assessment methods and processes employed by the Sydney Harbour Foreshore Authority,
- (g) any other relevant matters.

These terms of reference were self-referred by the Committee

Committee Membership

Hon Jenny Gardiner MLC	The Nationals	<i>Chair</i>
Ms Sylvia Hale MLC	The Greens	<i>Deputy Chair</i>
Hon Jan Burnswoods MLC	Australian Labor Party	
Hon Kayee Griffin MLC	Australian Labor Party	
Hon Eric Roozendaal MLC¹	Australian Labor Party	
Hon David Oldfield MLC	Independent	
Hon Greg Pearce MLC²	Liberal Party	

¹ The Hon Eric Roozendaal was a Member of the Committee until 2 May 2005 when he was replaced by the Hon Greg Donnelly

² The Hon Greg Pearce MLC substituted for the Hon David Clarke MLC for the duration of the inquiry

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Chair's Foreword

I am pleased to present this report of the Committee's inquiry into the management of the Sydney Harbour Foreshore Authority (SHFA).

SHFA is responsible for a small number of precincts within, and in some cases, beyond the harbour foreshore. While SHFA manages a relatively small portion of this land, its boundaries encompass places with significant economic value and inestimable cultural importance, including Luna Park, The Rocks, Pyrmont-Ultimo and Darling Harbour. It is therefore not surprising that inquiry participants expressed strong feelings about the way these places are managed and developed.

One of the major concerns raised during the inquiry was that SHFA is too focussed on developing foreshore land rather than preserving these areas for public use. A concomitant concern was SHFA's apparent disinclination to engage in genuine community consultation about its development decisions.

The Committee acknowledges community dissatisfaction with the way SHFA conducts some of its business and the report includes several recommendations to address these issues. However, the Committee also believes that the future of Sydney's harbour foreshore must be placed in the context of the overall development of the Sydney Metropolitan Region and calls on the Government to finalise and release its Metropolitan Strategy as soon as practicable. In the interim, SHFA should seek to improve its approach to consultation and the Minister for Planning and Infrastructure should remove all of the Authority's planning and consent powers.

The Committee would like to thank everyone who participated in the inquiry, either by making a submission, giving evidence or attending a public hearing.

Finally, I would like to thank my Committee colleagues who have undertaken this inquiry and on their behalf, the secretariat staff, particularly the Director, General Purpose Standing Committees, Mr Steven Reynolds and Principal Council Officer, Ms Beverly Duffy.



The Hon Jenny Gardiner MLC

Chair

Summary of Recommendations

Recommendation 1

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That in order for localised planning strategies to be prepared and implemented, including a comprehensive Sydney Harbour foreshore management plan, the NSW Government finalise and release a Metropolitan Strategy.

Recommendation 2

Page 63

That the relevant legislative and administrative arrangements be amended so that the Sydney Harbour Foreshore Authority's planning and consent functions are removed.

Recommendation 3

Page 63

That the Government adequately fund a program to assist foreshore agencies to acquire or reserve foreshore land for public use.

Recommendation 4

Page 64

That the *Sydney Harbour Foreshore Act 1998* be amended so that one of the Authority's principal functions is to undertake community consultation on the management and development of land owned or administered by the Sydney Harbour Foreshore Authority.

Recommendation 5

Page 65

That the Minister for Infrastructure and Planning commission an independent evaluation of the consultation practices used by the Sydney Harbour Foreshore Authority.

Chapter 1 Introduction

Terms of reference

- 1.1 The inquiry terms of reference were adopted by General Purpose Standing Committee No 4 (GPSC4) on 2 April 2004, under the Committee's power to make a self-reference. The Committee was required to examine the management of Sydney Harbour Foreshore Authority (SHFA), including the role of the Chairman and current and former Chief Executive Officers and Board members, the Authority's involvement in planning assessment processes, and possible conflicts of interest in its commercial relationships. A copy of the terms of reference can be found on page iv.

Submissions

- 1.2 The Committee called for submissions via advertisements in suburban newspapers in the precincts managed or owned by SHFA and through a media release issued on 5 April 2004. While the Committee originally intended to conduct public hearings before the end of 2004, it was delayed by the need to complete the complex Orange Grove inquiry and its inquiry into the closure of the Casino-Murwillumbah Rail Service. On 1 December 2004 the Committee Chair issued a media release announcing that the deadline for submissions and supplementary submissions would be extended until Thursday 10 February 2005.³
- 1.3 The Committee received 120 submissions from a range of stakeholders, including people who work, reside or own property in or near the precincts within SHFA's boundaries, such as Luna Park, Cooks Cove, Pyrmont-Ultimo and The Rocks. A list of all submissions is contained in Appendix 1. A number of the public submissions may be accessed via the Committee website at www.parliament.nsw.gov.au/gpscno4. The Committee also received several hundred letters from individuals concerned about the proposed development at Cooks Cove. The authors of these letters are listed at Appendix 2.

Public hearings

- 1.4 The Committee held three public hearings involving 21 witnesses (Representatives of SHFA appeared on two occasions). Hearings were held at Parliament House on 18 and 21 February and 29 April 2005. A list of witnesses is provided in Appendix 3 and transcripts of the public hearings can be found on the Committee's website at www.parliament.nsw.gov.au/gpsc4. A considerable number of documents were tabled during hearings and these are listed in Appendix 4. The Committee would like to thank all of the people who participated in the inquiry, whether by making a submission, giving evidence or attending the public hearings.

³ Hon Jenny Gardiner MLC, 'Inquiry into the Management of the Sydney Harbour Foreshore Authority', *Media Release*, 1 December 2004

Former SHFA Chair and CEO

- 1.5 The Committee extended an invitation to the former CEO of SHFA, Mr Greg Robinson, and former Chairman, Mr Gerry Gleeson, to appear as witnesses at the public hearing on 21 February 2005. Both gentlemen advised the Committee they were unavailable to attend this hearing. On 2 March, the Committee reissued its invitation to Mr Robinson to provide evidence on one of three possible dates but this invitation was also declined. Given media reports concerning the state of his health, the Committee did not reissue an invitation to Mr Gleeson to appear.

Inquiry background

What is the Sydney Harbour Foreshore Authority?

- 1.6 SHFA is a NSW Government statutory authority responsible for the management of several significant public precincts within, and in some cases, beyond the Sydney Harbour foreshore. These precincts include: Darling Harbour, The Rocks, Pyrmont-Ultimo, Circular Quay, Ballast Point, White Bay and Luna Park. The Authority also has a management role at Cooks Cove on behalf of the Cooks Cove Development Corporation.
- 1.7 The Authority, which is regulated by the *Sydney Harbour Foreshore Authority Act 1998*, was established in 1999 to replace the Sydney Cove Redevelopment Authority, City West Development Corporation, and Darling Harbour Authority. SHFA does not receive funding from Treasury but rather finances its operations from rental and other property income.⁴
- 1.8 As the Auditor General, Mr Bob Sendt told the Committee, SHFA is a relatively ‘small player’ when it comes to ownership and management of the foreshore,⁵ a role it shares with 27 other government agencies.⁶

Key functions and roles

- 1.9 The Authority’s Charter includes the following goals:
- Enhance SHFA’s areas as accessible, rich and diverse environments for all communities, while protecting their natural and cultural heritage.
 - Within a capital and risk constrained environment, seek and exploit opportunities to generate future revenue streams.⁷
- 1.10 The Authority seeks to fulfil these objectives through two key functions: Place Management and Place Development.

⁴ Submission 18, SHFA, pp5-10

⁵ Mr Sendt, Audit Office, Evidence 21 February 2005, p18

⁶ Dr Lang, SHFA, Evidence, 29 April 2005, p21

⁷ Sydney Harbour Foreshore Authority, *Annual Report 2003/2004*, p3

Place Management and Place Development

1.11 SHFA is responsible for both the efficient management of its large property portfolio and meeting the needs of tenants. SHFA Chairman, Mr Jon Isaacs, described the Authority's Place Management role as:

...managing places profitably and socially. It is about being a good landlord, maintaining the assets, the heritage and the public domain, and managing the property portfolio efficiently and commercially to meet precinct and customer needs...place management is not just about property; it is really about people.⁸

1.12 Place Management is a key focus of the Authority, accounting for 95% of staff resources and 87% of annual expenditures.⁹

1.13 Place Development is the second of SHFA's two main roles. According to Mr Isaacs, this involves:

... implementing good urban design, enhancing places according to relevant planning instruments and creating quality environments that are diverse, accessible and financially, socially and environmentally sustainable.¹⁰

1.14 While Place Development consumes only five per cent of SHFA's staff resources and 13 per cent of its annual operating expenditure, these activities attracted most of the disquiet expressed by the majority of inquiry participants. A common theme in the submissions and evidence is that SHFA has overemphasised the importance of pursuing its commercial objectives at the expense of its commitment to protecting and enhancing precious harbour foreshore land. This broad concern is examined in Chapter 2.

Five year review of the Act

1.15 The Minister For Planning and Infrastructure is required to review the *Sydney Harbour Foreshore Authority Act 1998* as soon as possible after five years from the date of its assent. The purpose of this review, which should occur during 2005, is to determine whether the policy objectives of the Act remain valid and whether its terms remain appropriate for securing those objectives.¹¹ The Committee believes its report will provide valuable input to this timely review.

Report Structure

1.16 Chapter 2 provides an overview of inquiry participants' concerns about the way SHFA undertakes its Place Development role. These include: the Authority's alleged pro-development agenda, disinclination to engage in genuine consultation and the extension of its activities into places other than the foreshores of Sydney Harbour.

⁸ Mr Isaacs, SHFA, Evidence, 18 February 2005, p2

⁹ Submission 18, SHFA, p11

¹⁰ Mr Isaacs, SHFA, Evidence, 18 February 2005, p3

¹¹ s53, *Sydney Harbour Foreshore Authority Act 1998*

- 1.17** The next four chapters discuss concerns about SHFA's Place Development activities in particular precincts.
- 1.18** Chapter 3 examines SHFA's role in the redevelopment of Pyrmont-Ultimo. While the Authority claims this is a 'landmark' example of successful urban renewal, others believe these peninsular localities are overdeveloped and poorly planned. According to some inquiry participants, the recent controversy over the development of the former Water Police site at Elizabeth Macarthur Bay, epitomises the worst aspects of SHFA's approach to Place Development.
- 1.19** Chapter 4 examines the involvement of SHFA in the proposal to build a trade and technology park at Cooks Cove. In addition to concerns about the possible environmental impact of this development and loss of public open space, participants are also perplexed by SHFA's role in a project nowhere near Sydney Harbour.
- 1.20** The Committee received a large number of submissions regarding SHFA's management of the Luna Park Trust - the subject of Chapter 5. Some participants suggested that the developers of this site have gained numerous concessions from planning authorities, including SHFA, which threaten the heritage and cultural value of this iconic precinct. The recent attempt to construct a 14-storey commercial building on the cliff top above the Park is seen as indicative of SHFA's pro-development bias.
- 1.21** Chapter 6 deals with the Authority's controversial bid for the SuperDome. It examines questions regarding the commercial viability of the proposal, and the apparent lack of involvement of the Director General of the Department of Infrastructure, Planning and Natural Resources, Ms Jennifer Westacott, in the SHFA Board's decision to endorse the bid.
- 1.22** The final chapter in the report, Chapter 7, looks at the broader issues pertaining to the management of the Sydney Harbour foreshore. It discusses the Auditor General's recent call for a more strategic approach to the way foreshore land is sold or developed, and for the creation of more effective governance structures to foster this process. It also includes the Committee's recommendations generated by the inquiry evidence.

Key findings of the inquiry

- 1.23** One of the key concerns raised by participants during the inquiry is that SHFA has failed to strike an acceptable balance between its commercial and stewardship goals. The evidence for this claim is not entirely persuasive. Many of SHFA's most controversial development decisions, particularly in Pyrmont-Ultimo and Luna Park, were made by either its predecessors, the Minister for Planning or in particular cases, the Premier. Nevertheless, the Committee acknowledges the pressures faced by SHFA to realise its commercial assets and makes several recommendations to ensure SHFA is better equipped to balance its competing objectives.
- 1.24** The second major concern raised by inquiry participants is that the Authority has failed to engage in genuine community consultation. The evidence for this claim is mixed. It would seem the Authority has not adequately consulted residents about the future of the Cooks Cove Development Project. In the debate concerning where to locate the M4 emission stack, SHFA

seems to have placed the interests of its commercial tenants in Darling Harbour above those of Ultimo residents.

- 1.25** Unfortunately, when SHFA did seek to engage the community in a ‘commendably democratic’ consultation exercise in relation to the Water Police site in Pymont,¹² its efforts were not appreciated. It is hoped that the actions of some community members following the announcement of the winner of the architectural competition for the Water Police site does not dissuade SHFA from engaging in genuine community consultation in the future. The adoption of the Committee’s recommendations will help facilitate comprehensive and timely consultation by SHFA with its many and diverse stakeholders.
- 1.26** The Committee notes the impact on agencies such as SHFA, as well as on the community, of the continuing delay in the release of the Government’s much-awaited Metropolitan Strategy.
- 1.27** In relation to its activities in Pymont and Luna Park, the Committee did not find any convincing evidence of a lack of probity on the part of SHFA as alleged by some inquiry participants.

¹² Submission 118, Mr Twibill, p2

Chapter 2 SHFA's approach to Place Development

This chapter discusses the broad concerns raised in submissions and evidence about the way SHFA undertakes its Place Development role. Many inquiry participants argued that SHFA has pursued commercial objectives far more vigorously than those relating to heritage protection and the community and that the Authority's recently expanded planning powers accentuate conflicts of interest intrinsic to its development functions. They are also critical of the Authority's apparent disinclination to engage in genuine consultation about planning decisions and its attempts to extend its jurisdiction beyond the foreshores of Sydney Harbour. Subsequent chapters discuss how these broad concerns about SHFA's approach to Place Development are thought to be manifested in particular precincts, including Pyrmont-Ultimo, Cooks Cove and Luna Park.

The Authority's role in Place Management has attracted far less controversy. Indeed several submissions comment favourably on the way SHFA has managed precincts such as The Rocks and Darling Harbour, and this evidence is discussed briefly at the end of this chapter.

Place Development at SHFA

2.1 The aim of SHFA's Place Development activities is to ensure that land that is subsequently leased or sold by the Authority is developed in accordance with the commercial and social expectations set out under the *Sydney Harbour Foreshore Authority Act 1998*.¹³ According to SHFA, this role accounts for a very small proportion of the Authority's business activities:

The Place Development role represents approximately 5% of staff resources and around 13% of SHFA's annual operating expenditure...It is not the major focus of the organisation and is declining over time as SHFA has only a handful of surplus government properties remaining to be sold.¹⁴

2.2 Community groups, however, including the Friends of Pyrmont Point, submitted that the Authority's Place Development role continues to be significant, citing the future development of the Fish Markets, Darling Island and Blackwattle Bay as evidence for this claim.¹⁵

Stewardship vs commercial goals

2.3 Under s12, part 1 of the *Sydney Harbour Foreshore Authority Act 1998*, SHFA is required to fulfil the following three functions:

- (a) To protect and enhance the natural and cultural heritage of the foreshore area.
- (b) To promote, co-ordinate, manage, undertake and secure the orderly and economic development and use of the foreshore area.

¹³ Submission 18, SHFA, p13

¹⁴ Submission 18, SHFA, p14

¹⁵ Mr Perry, Friends of Pyrmont Point, Evidence 21 February 2005, p24

(c) To promote, co-ordinate, organise, manage, undertake, secure, provide and conduct cultural, educational, commercial, tourist, recreational, entertainment and transport activities and facilities.¹⁶

Is SHFA pro-development?

2.4 A key theme raised in submissions and evidence is that SHFA has failed to strike a balance between its responsibilities to protect foreshore areas - its 'stewardship' role - with its revenue raising or commercial objectives. The Authority's desire to make money, it is argued, has led to overdeveloped and poorly planned precincts and the loss of publicly accessible open space. The Friends of Pyrmont Point and Protectors of Sydney Foreshore, among others, suggest that the desire to generate a profit has clouded what should be the Authority's pre-eminent function:

...SHFA and its predecessors have utilised unique parts of the harbour foreshore as a cash-cow, alienating land from public ownership for short term commercial gain and long term loss of amenity.¹⁷

The public could assume that such an authority had some responsibility for protecting the harbour foreshores and reclaiming areas for public enjoyment. But the authority's role seems to be entirely that of identifying and selling off foreshore sites for private development or otherwise facilitating development.¹⁸

2.5 Several witnesses suggested that SHFA's commercial focus is partly driven by recent reforms whereby private sector practices are applied to the public sector. SHFA, like many government agencies, is subject to the NSW Treasury's Commercial Policy Framework:

Although it is not mentioned in the terms of reference, the fundamental issue is really that Treasury rule and what it drives departments or semi-State bodies to do with their public assets.¹⁹

2.6 Critics of SHFA's perceived enthusiasm for development do not suggest the Authority should disregard commercial factors. They do, however, feel that decisions about development should be based on a consideration of the 'triple bottom line', that is, the social and environmental value of surplus government land, as well as its income earning potential.²⁰

2.7 While relevant government policies and legislation urge agencies such as SHFA to protect and enhance foreshore areas, this is neither prescribed nor prioritised. For example, State Environmental Planning Policy 56, *Sydney Harbour Foreshores and Tributaries*, requires only a consideration of open space and working harbour, with few specific requirements and no indication of priorities.²¹ A guiding principle of the Premier's 1997 Sydney Harbour Foreshore

¹⁶ s12(1), *Sydney Harbour Foreshore Authority Act 1998*

¹⁷ Submission 115, Friends of Pyrmont Point, p8

¹⁸ Submission 25, Defenders of Sydney Harbour Foreshores, p1

¹⁹ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p69

²⁰ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p70

²¹ NSW Audit Office, *Performance Audit: Disposal of Sydney Harbour Foreshore Land*, November 2003, p4 (hereafter The Audit Report)

Vision statement is to maximise public access to, and use of, land on the foreshore. However, according to the Auditor General, Mr Bob Sendt, commercial factors tended to outweigh other variables in decisions about the disposal of surplus foreshore land:

Given the commercial focus of private and many public sector organisations, it is to be expected that those intending to dispose of foreshore land will first seek to maximise the disposal value. There are no clear financial incentives in our view for agencies and local councils to reserve foreshore land for open space and working harbour.²²

Response to claims that SHFA is pro-development

- 2.8** The Authority rejected claims that it has failed to reconcile its responsibility to protect and enhance Sydney's harbour foreshore with its role as a property developer. Unlike private developers who do not face the same statutory obligations, SHFA argued, its developments allow for a far greater amount of public space than private developers²³ and many of its projects have attracted professional awards:²⁴

As a place developer the Authority has managed urban rejuvenation that is acknowledged to be of world standard, transforming disused industrial sites into urban communities with a level of continuous public foreshore access that is the envy of any other harbour city.²⁵

- 2.9** Several stakeholders commented favourably on the Authority's balanced approach to place development. Tourism and Transport Forum Australia described SHFA's planning activity as 'sensitive' and its achievements in the protection of heritage and cultural items as 'considerable'.²⁶
- 2.10** The NSW Heritage Office was so pleased with SHFA's management of delegated planning functions relating to the State Heritage Register, it is apparently looking at ways to extend the delegation.²⁷ The Property Council believes that, 'By and large, SHFA's planning and development control process have led to quality built outcomes.'²⁸
- 2.11** During evidence from the Mayor of Leichhardt, Ms Alice Murphy, a Committee member pointed out that Ballast Point was purchased by SHFA from would-be developers and is being returned to the community as a park. The Mayor of Leichhardt acknowledged that while this was the case at Ballast Point and White Bay, SHFA's role in relation to Pyrmont may be responsible for the perception that the Authority is generally pro development.²⁹

²² The Audit Report, p17

²³ Submission 18, SHFA, p14

²⁴ Submission 18a, SHFA, pp12&18

²⁵ Mr Isaacs, SHFA, Evidence, 18 February 2005, p5

²⁶ Submission 44, Tourism and Transport Forum Australia, p1

²⁷ Submission 110, NSW Heritage Council, p2

²⁸ Submission 56, Property Council of Australia, pp1-2

²⁹ Clr Alice Murphy, Leichhardt Council, Evidence, 18 February 2005, p54

Should the SHFA Act make stewardship paramount?

- 2.12** The President of Pymont Community Group, Ms Jean Stuart, told the Committee that the Authority's Charter should be changed:

SHFA are, in the main, pro-development and I think there should be a push by this Committee to change the charter of SHFA to one on restoration.³⁰

- 2.13** A spokesperson for the Defenders of Sydney Harbour Foreshores, Mr Phil Jenkyn, stated that the *Sydney Harbour Foreshore Authority Act* should be amended so as to elevate stewardship objectives:-

The first thing it should do is to ensure that section 12 (1) (a), "to protect and enhance the natural and cultural heritage of the foreshore area", is paramount. Every other function must be subservient to that...³¹

- 2.14** The Committee agrees that protecting the natural and cultural heritage of the harbour foreshore should be afforded greater status in the Act. However, making this function paramount could restrict the Authority's ability, for example, to make a decision to provide affordable housing, or to make a significant amount of money to cover the cost of protecting another more valuable piece of foreshore land. The Committee supports the need to strengthen SHFA's statutory objectives to preserve foreshore areas, but does not believe s12 (1) (a) should be paramount.
- 2.15** It was also suggested throughout this inquiry that there is a pressing need to develop a holistic strategy to guide the disposal and development of all foreshore land without which individual agencies will never successfully strike a balance between commercial and community goals. This theme is discussed further in Chapter 7.

SHFA's planning and assessment powers

- 2.16** The fourth term of reference for this inquiry concerns the role of SHFA as a consent authority and the process by which SHFA acquired 'enhanced' consent powers. SHFA's planning powers attracted considerable controversy and confusion during the inquiry. The section below seeks to clarify these powers and examines inquiry participants' concerns about potential conflicts of interest in the exercise of these powers.

A conflict of interest in SHFA's planning role?

- 2.17** Some participants suggested that SHFA's capacity to propose, assess and make decisions about development creates a serious conflict of interest. Given its perceived predilection for development, the conflict of interest is said to work in favour of commercial interests, rather than those of the community:

There is also a concern about potential conflicts of interest in that SHFA is a landowner, plan maker and consent authority...SHFA may not always be acting in

³⁰ Ms Stuart, Pymont Community Group, Evidence, 21 February 2005, p27

³¹ Mr Jenkyn, Defenders of Sydney Harbour Foreshore, Evidence, 18 February 2005, p68

terms of the community; they may be acting in terms of landowner and economic values.³²

... if the primary objective of the development of a piece of land, no matter what authority has care and control over it that makes the decision, if the primary objective appears to be making a significant dollar out of that, then I think there is a real problem.³³

- 2.18** Friends of Pyrmont Point argued that SHFA has handled its property developer role so poorly that it should lose all of its planning responsibilities.³⁴

SHFA's 'consent' powers

- 2.19** During the inquiry there was apparent confusion firstly, as to whether SHFA was a consent authority for land it administers and secondly, whether these powers were enhanced by administrative changes introduced in August 2003. The terms of reference for this inquiry which refer to SHFA's role as a 'consent authority', may have contributed to this confusion.

- 2.20** Prior to August 2003 the assessment of major Development Applications and master plans on land under SHFA's control was undertaken by the Department of Infrastructure, Planning and Natural Resources (DIPNR). SHFA has always exercised consent functions delegated by the Minister for Planning for *minor* development applications.

- 2.21** In August 2003 the Minister transferred the *assessment* of major development applications and master plans within SHFA's boundaries from DIPNR to the Authority. These administrative changes were designed to streamline assessments and allow DIPNR to focus on its strategic work.³⁵ The Minister remains the consent authority for major development applications and master plans. Thus, while the August 2003 reforms enhanced SHFA's assessment powers, they had *no* effect on its delegated consent powers.³⁶ While SHFA has been delegated some consent powers, as Ms Westacott clarified, it is not a 'consent authority':

...because those delegations can be removed, they can be varied, they can be changed for a particular site, so they are not a consent authority within the meaning of the Act.³⁷

- 2.22** Some witnesses suggested that the distinction between SHFA's consent and assessment powers is illusory because ministerial consent for developments assessed by SHFA is a 'fait accompli'. City of Sydney Deputy Mayor, Clr John McInerney said that in his experience, the Minister's sign off on such developments is 'just the last tick on the page'.³⁸

³² Clr Murphy, Leichhardt Council, Evidence, 18 February 2005, p47

³³ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p71

³⁴ Mr Perry, Friends of Pyrmont Point, Evidence, 21 February 2005, p24

³⁵ Submission 18, SHFA, p4

³⁶ Submission 18, SHFA, p19

³⁷ Ms Westacott, DIPNR, Evidence, 21 February 2005, p38

³⁸ Clr McInerney, City of Sydney, Evidence, 18 February 2005, p55

Ms SYLVIA HALE: Councillor McInerney, are you aware of any instance when the Minister has not acted in accord with a recommendation from SHFA?

Mr McINERNEY: No.

Ms SYLVIA HALE: So you would agree that, whilst in theory the Minister makes the decision, he almost invariably makes it in accord with the recommendation of SHFA.

Mr McINERNEY: To my knowledge, yes.

Ms SYLVIA HALE: So, in effect, SHFA is the approval authority in practice if not legally.

Mr McINERNEY: That was the purpose of that previous discussion.³⁹

2.23 Similar sentiments were expressed by the Friends of Pymont Point:

Where SHFA has proposed a development, and then assessed its own proposal, then asked the Minister for final consent to whom will the Minister turn for assurance that the development assessment process has been conducted thoroughly, impartially, objectively?⁴⁰

2.24 The suggestion that the Minister will always accept SHFA's recommendations was disputed by SHFA Chair, Mr Jon Isaacs:

I do not know any Minister that we have had—and we have had two Ministers over the time I have been on the board—that have simply just ticked matters off. That is just not the way it happens. We make a recommendation in relation to leases but it is very much the Minister's decision. He is an elected representative of the people.⁴¹

2.25 At the hearing on 29 April, Dr Lang was asked to provide examples of cases where the Minister had rejected a development application or master plan recommended by the Authority. Dr Lang advised that since the transfer of planning assessment powers in August 2003, 20 draft reports had been prepared by the Authority on various development applications. The Minister raised concerns regarding the conditions pertaining to one of these but no other assessment reports prepared by the Authority have been amended and none have been rejected by the Minister.⁴²

Potential impact of new assessment powers

2.26 Inquiry participants suggested that the enhancement of SHFA's assessment powers in 2003 will accentuate the conflicts of interest that already exist in relation to SHFA's planning role.

³⁹ Clr McInerney, City of Sydney, Evidence, 18 February 2005, p56 Earlier, in his evidence, Clr McInerney argued that SHFA acted as the consent authority for development on SHFA land prior to the new consent arrangements introduced in August 2003 (see p55)

⁴⁰ Submission 115, Friends of Pymont Point, p24

⁴¹ Mr Isaacs, SHFA, Evidence, 18 February 2005, p20

⁴² Answers to questions taken on notice during evidence 29 April 2005, SHFA, Question 1

According to the Friends of Pyrmont Point, rather than serving the public interest, the enhancement of its assessment responsibilities had:

...precisely the opposite effect. It might simplify life for SHFA but makes the assessment process even less transparent. It also limits the opportunity for the Minister to determine consent to a DA on the basis of genuinely independent advice.⁴³

Response to conflict of interest concerns

2.27 SHFA strenuously defended the probity and transparency of its development assessment activities, noting that all such activities:

- comply with the statutory requirements set out in the *Environmental Protection and Assessment Act 1979*
- involve community engagement from initial design phase through to project implementation including with local councils within or adjacent to SHFA land.⁴⁴

2.28 The Authority told the Committee that following the changes introduced in August 2003, it had implemented various procedures to reduce the potential conflict of interest arising from its dual role as landowner and assessment authority for major development applications. In consultation with its internal auditors, Deloitte, the Authority has initiated the following:

- Separation of functions: the establishment of a separate section within Place Management to assess DAs, while development projects are prepared in the separate Place Development Division.
- Independence of assessment: the referral of the planning assessment (to certified planners) when SHFA is lodging a major DA.⁴⁵

2.29 SHFA argued that it is no different from local councils which have both a planning and a development role, although, unlike councils, it does not have a consent role for its own major development applications.⁴⁶ In any case, SHFA argued, as it has only lodged two major development applications for Authority-owned land in the past year, (both of which were assessed by an external party) this potential conflict of interest is unlikely to arise very often.⁴⁷ At the final public hearing on 29 April 2005, Dr Lang pointed out that an additional three developments on SHFA land or on land on which SHFA had a close connection, had been assessed since the time SHFA released its submission and in all of these cases, an independent assessment was prepared.⁴⁸

⁴³ Mr Perry, Friends of Pyrmont Point, Evidence, 21 February 2005, p24

⁴⁴ Submission 18, SHFA, pp 19-23

⁴⁵ Submission 18, SHFA, p23

⁴⁶ Submission 18, SHFA, p21

⁴⁷ Submission 18a, SHFA, p17

⁴⁸ Dr Lang, SHFA, Evidence, 29 April 2005, p20

2.30 Some stakeholders representing commercial interests, expressed the utmost confidence in the probity of SHFA's planning activities. For example, members of the Property Council stated that the Authority generally produces clear and well structured planning controls and has open and efficient tendering processes.⁴⁹ The Darling Harbour Business Association's only 'complaint' about SHFA was that they are '... almost too conscientious in their desire to leave no stone unturned in the discharge of their statutory duties.'⁵⁰

Examples of conflict of interest

2.31 While several witnesses commented on the potential conflicts of interest in SHFA's Place Development role, few could provide concrete examples of its manifestation, as is demonstrated by the following exchange with the Mayor of Leichhardt Council who was asked by a Committee member to provide concrete examples of conflicts of interest:

Ms MURPHY: There was a situation where, as a landowner, they opposed Leichhardt Council's planning process for an adjoining piece of land and their intentions in that were not clear, which then left some concern that it may have been an economic concern rather than a planning concern.

The Hon. GREG PEARCE: They have a significant portfolio of property. Do you think that they should exercise those sorts of rights as an owner?

Ms MURPHY: I think that as an owner they should have the same rights as other owners in terms of objecting, et cetera, to developments. I do not know if they should have the right of veto over planning and development.

The Hon. GREG PEARCE: But in that case they did not. Leichhardt Council was the consent authority...How did you think that was a conflict of interest?

Ms MURPHY: My understanding is that they were the final consent authority—sorry—they used their powers to stop council continuing with the planning process, so it is not a conflict of interest in that it was a landowner stopping a development on their site, but it is them having more ability to stop planning and changes than an ordinary landowner would have.⁵¹

Should SHFA's planning role be transferred to local government?

2.32 Some inquiry participants argued that given the inherent conflict of interest, all potential development sites should be removed from SHFA's control and transferred to the relevant local government authority. Friends of Pymont Point suggested that council processes are more transparent than those employed by SHFA, a view shared by the Mayor of Leichhardt, Ms Alice Murphy:

⁴⁹ Submission 56, Property Council of Australia, pp1-2

⁵⁰ Submission 15, Darling Harbour Business Association, p1

⁵¹ Evidence, 18 February 2005, p50

...significant developments assessed by local councils go through several iterations during which the application is debated publicly by residents, councillors and developer before it is approved.⁵²

...SHFA is not accountable to the community in the way that other bodies, such as councils, are, so they do not have to face an electorate; they do not have to be part of the community; they do not have to converse with the community.⁵³

- 2.33** Another potential rationale for transferring SHFA's assessment powers to local councils would be to reduce wasteful duplication. As Clr McInerney pointed out:

... the range of municipal services ... are duplicated, in one form or another, and with relative levels of success, right across Circular Quay, Darling Harbour; in fact, in the areas that SHFA maintains control of.... All of this is something that needs to be carefully worked out in the interests of efficient use of ratepayers' ... It is probably an opportune time for the Committee to... sort that process out, certainly in terms of planning approvals, DAs and the day-to-day maintenance of the whole of the area...⁵⁴

- 2.34** However, as Ms Sheehan noted, local government is not immune from commercial pressures including those stemming from public sector reforms:

That fundamental tension between protecting the public interest and being pressured on the dollar end is something that certainly has been illustrated to a high degree in what has happened to SHFA. It is probably going to be exhibited in what happens at Redfern and you can see some traces of it happening at local government.⁵⁵

- 2.35** In its supplementary submission, SHFA disputed the claim that it is not accountable to the people of NSW:

As a government authority SHFA reports to the Minister and the public via a number of channels, including the publication of an Annual Report; its comprehensive websites...regular newsletters; publications and extensive consultation with the community in relation to its projects.⁵⁶

- 2.36** While sympathetic to concerns raised by participants regarding SHFA's approach to consultation, the Committee has not received sufficient or compelling evidence to suggest that the Authority's planning powers should be transferred to relevant local councils.

SHFA's approach to consultation

- 2.37** There was a strong perception among many inquiry participants that SHFA does not engage in effective or genuine consultation and/or that consultation occurs too late in the process.

⁵² Submission 115, Friends of Pyrmont Point, p8

⁵³ Clr Murphy, Leichhardt Council, Evidence, 18 February 2005, p47

⁵⁴ Clr McInerney, City of Sydney, Evidence, 18 February 2005, p49

⁵⁵ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p71

⁵⁶ Submission 18a, SHFA, p23

This theme is addressed in greater detail in the chapters concerning specific precincts, particularly Pymont-Ultimo and Cooks Cove.

2.38 The Friends of Pymont Point were scathing about SHFA's approach to consultation:

The public consultation programs SHFA undertakes are too often couched as a choice between a) the devil; b) the deep blue sea; and c) hell. Heaven just doesn't get a look in as a viable option leaving residents with a belief they are being dictated to – not consulted.⁵⁷

2.39 While the spokesperson for the Defenders of Sydney Harbour Foreshore, Mr Phil Jenkyn acknowledged that SHFA does consult stakeholders, he believes it does not happen early enough:

...SHFA will tell you, "Look, we do the right thing; we actually do consult." And they do. I have been along to consultations on Ballast Point; they have been good. But the fact is that unless you get in very early and genuinely in the consultation and listen to informed and misinformed advice and views, you can think you are right, make your decision, get nine-tenths down the track and say, "Out it goes to public consultation." Too late! At that stage you are into public meetings and conflict, and it does not work.⁵⁸

2.40 A similar view was held by the Friends of Pymont Point:

Local communities are in an information vacuum until the fleeting window of public comment on Development Applications. In the time available it is virtually impossible to assess the implications of a Development Application, let alone object to it.⁵⁹

2.41 SHFA denied that it does not engage in extensive community consultation at all stages of a development:

In addition to strictly following all EP&A Act requirements for public consultation, SHFA engages in additional processes prior to and after lodgement of the development application.⁶⁰

2.42 SHFA CEO, Dr Lang also pointed out that the Authority's 'community' is very broad and includes not just local business people and residents, but many thousands of local and international visitors who travel to iconic precincts such as Darling Harbour and The Rocks.⁶¹

2.43 Concern about SHFA's willingness to consult its stakeholders was also expressed by local government representatives appearing before the Committee. Leichhardt Mayor, Cllr Alice Murphy suggested that while SHFA's consultation with council officers appears to be acceptable, councillors do not feel adequately consulted about big picture issues:

⁵⁷ Submission 115, Friends of Pymont Point, p8

⁵⁸ Mr Jenkyn, Defenders of Sydney Harbour Foreshore, Evidence, 18 February 2005, p69

⁵⁹ Submission 115, Friends of Pymont Point, p8

⁶⁰ Submission 18a, SHFA, p19

⁶¹ Dr Lang, SHFA, Evidence, 29 April 2005, p22

...there needs to be a recognition that the councillors are an elected body and exist and need separate consultation on issues that they are going to be concerned with, which are any issues in the municipality.⁶²

2.44 Mr Charles Perry from the Friends of Pyrmont Point also believes SHFA's consultation with Councillors is particularly poor:

... SHFA's lines of communication with our elected council do not work...there is SHFA to council communication at bureaucrat level. But we are not talking about the height and shape of the kerbing; we are talking about the big picture. At this level, communication has been meagre and ineffective... the sensible thing would have been to involve council early and in depth about proposed developments within council areas. Instead, council ends up having to lodge objections to DAs, just like the rest of us...so there was genuine concern that councillors needed more consultation and genuine consultation.⁶³

Prescribing earlier consultation

2.45 According to Mr Jenkyn, one of the reasons the Commonwealth's *Sydney Harbour Federation Trust Act* is working so well is because the Commonwealth has accepted the need to involve the community in its decision making from a very early stage.⁶⁴ Under s29 of the *Sydney Harbour Federation Trust Act*, prior to preparing a draft plan, the Trust is required to publicly:

(a) state that it proposes to prepare a draft plan in respect of a specified plan area; and

(b) invite interested persons to make representations in connection with the proposal by a specified date that is at least one month after the publication of the notice.⁶⁵

2.46 Mr Jenkyn urged SHFA to emulate the Commonwealth by engaging the community in genuine consultation as early as possible to ensure there is a comprehensive assessment of the significance of a particular site under consideration:

Probably the most important thing in the Commonwealth Act, and in what defenders and the Protectors of Public Land have been arguing for, is that if you do an early statement of significance about the lands, you get over about six-tenths of all your difficulties because you then know where you are going.⁶⁶

2.47 In his recent audit of the disposal of Sydney Harbour Foreshore Land, the Auditor General noted that the Government's Total Asset Management Manual requires Government agencies to undertake a preliminary assessment of the open space potential when considering the disposal of land. However, the Auditor did not find any evidence that this had occurred in recent years.⁶⁷

⁶² Clr Murphy, Leichhardt Council, Evidence, 18 February 2005, p48

⁶³ Mr Perry, Evidence, 21 February, p24

⁶⁴ Mr Jenkyn, Defenders of Sydney Harbour Foreshore, Evidence, 18 February 2005, p68

⁶⁵ s29, *Sydney Harbour Federation Trust Act 1998*

⁶⁶ Mr Jenkyn, Defenders of Sydney Harbour Foreshore, Evidence, 18 February 2005, p69

⁶⁷ The Audit Report, p16

2.48 The Assistant Auditor General, Mr Stephen Horne, was impressed by the Sydney Harbour Federation Trust's attempts to provide for early assessment of disposal options, although his enthusiasm does not appear to be shared by other agencies:

...We thought the ability to explore a wide range of options in a fairly flexible way was very useful. It allowed more consideration of the possibilities than was the case in the system that was being used for State government properties. So we floated that idea and talked to a number of agencies about it. They were not really enthusiastic about our ideas on that one.⁶⁸

2.49 While providing for consultation during the preliminary assessment of a particular site may be challenging, the Auditor believed these potential impediments are not insurmountable and recommended that the Government require earlier development through the planning process of well-considered proposals for the non-commercial uses of foreshore land.⁶⁹

SHFA activities in non-foreshore areas

2.50 Several inquiry participants questioned how and why SHFA has become involved in developing or managing precincts that are not within the same catchment as Sydney Harbour.⁷⁰ This concern was specifically raised in relation to its activities at Cooks Cove and its attempted purchase of the SuperDome.

2.51 In response, SHFA told the Committee it was invited to become involved in Cooks Cove because of its specialist skills and resources, and the need to supplement its entertainment facilities led to its attempt to purchase the SuperDome. These matters are addressed in further detail in Chapters 4 and 6.

Place Management

2.52 The activities of SHFA in relation to its Place Management role appear to be less controversial than those concerning Place Development. While the Committee received some evidence and submissions critical of the Authority's role as a landlord in places such as the Rocks, several submissions commented on its exemplary role as a place manager.

2.53 The Property Council argued that SHFA does an excellent job managing iconic precincts such as Darling Harbour and The Rocks. The New South Wales Maritime Authority (formerly the Waterways Authority) commented favourably on SHFA's management, on its behalf, of King St Wharf and the retail outlets at Circular Quay.⁷¹ Even one of SHFA's most vocal critics, Friends of Pyrmont Point, complimented the Authority on its place management expertise:

⁶⁸ Mr Horne, Audit Office, Evidence, 21 February 2005, p16

⁶⁹ The Audit Report, p16

⁷⁰ Submission 19, Rockdale Wetlands Preservation Society, p3 and Professor Adams, Evidence, 21 February 2005, p4

⁷¹ Submission 16, Waterways Authority

...SHFA should be allowed to do what it undoubtedly does best and that is to continue to manage its commercial operations as a landlord of commercial properties.⁷²

Conclusion

2.54 While SHFA's Place Development activities consume a comparatively small and declining area of its business, most of the criticism of the Authority concerns these activities, leading one community group to suggest SHFA be stripped of its property development role. As many of the Authority's Place Management activities are funded from its developments, the implications of such a step would need to be considered very carefully:

Sustaining SHFA precincts is costly. Revenues from its remaining developments assist in providing funds for SHFA to meet local community service obligations; creating and maintaining parks and public domain; continuing the foreshore boardwalks which are being built from Circular Quay to Blackwattle Bay; maintaining the heritage restoration works in The Rocks; providing the free public events in The Rocks and Darling Harbour; and developing and maintaining the roads, infrastructure and other services for the people who use SHFA's precincts.⁷³

2.55 The next four chapters examine how some of the broad concerns about SHFA's Place Development role are manifested in specific SHFA precincts, beginning with SHFA's involvement in the 'renewal' of Pyrmont-Ultimo.

⁷² Submission 115, Friends of Pyrmont Point, p20

⁷³ Submission 18, SHFA, p14

Chapter 3 Pymont-Ultimo

Over the past ten years Pymont-Ultimo has been transformed from a largely disused industrial precinct into a major commercial and residential district. Responsibility for the renewal of the peninsula, initiated by City West Development Corporation in 1994, was transferred to SHFA in 1999. With most of the planned development complete, SHFA is currently in the process of handing over responsibility for these localities to the City of Sydney.

The Minister for Planning has described the revitalisation of this historic Sydney precinct as an undeniable success - more than a 'Cinderella story'.⁷⁴ Inquiry participants, many of whom live in the area, are less impressed with its redevelopment. They suggested that SHFA'S commercial ambitions, disregard for community opinion and lack of integrity of its management have led to overdeveloped and poorly planned suburbs. SHFA's approach to the development of the former Water Police site at Elizabeth Macarthur Bay is said by critics to illustrate some of the most problematic aspects of the Authority's Place Development role.

Pymont-Ultimo: urban village or planning disaster?

Criticisms of the development

- 3.1** Instead of the vibrant neighbourhood envisaged by planners in the early 90's, some residents and commentators believe Pymont-Ultimo has been spoiled by massive overdevelopment and poor planning:

Anyone thinking Pymont is a thriving community should take a walk up Harris Street from the Pymont end and look at the bland brick facades, the asphalt parking lots and garages fronting the streets, the derelict old hotels, the vacant shops, the run down terraces, the absence of essential services, the poor retail mix, and, most importantly, the absence of people with any purpose (except to get somewhere else). Pymont is bad enough; it gets even more barren and stark as you move to Ultimo.⁷⁵

- 3.2** Friends of Pymont Point argued that gross overdevelopment has marred this precious piece of foreshore land:

Developments that turn their back on the community (Star City is a prime example) and block the vistas to the harbour, developments that defile the natural and cultural heritage of the area...developments that create grim, sunless canyons, with high rise buildings facing each other across narrow streets.⁷⁶

⁷⁴ Hon Craig Knowles, Minister for Infrastructure and Planning, 'Restored Pymont returned to City of Sydney' draft *Media Release*, undated, tabled by Clr John McInerney, City of Sydney, 18 February 2005

⁷⁵ Submission 115a, Friends of Pymont Point, p4

⁷⁶ Submission 115a, Friends of Pymont Point, p4

- 3.3** High profile architects Harry Seidler and Winston Barnett offered a generally negative assessment of these new suburbs. Seidler referred to:

unmitigated, disastrous planning...overbuilt large squat boxy housing blocks on each site from which only very few occupants can see the water...There is nothing but an atmosphere of oppressive congestion, little unresolved open space....⁷⁷

- 3.4** Winston Barnett concluded that:

Few independent observers could argue that what has in large measure been produced is of much merit...It is the product of an essentially laissez-faire approach to planning where market forces are the only significant determinant.⁷⁸

- 3.5** The Convener of Protectors of Public Lands, Ms Maire Sheehan, believes commercial pressures are responsible for what went wrong in Pyrmont:

I do not think there is any doubt, for anybody who looks back at the history of SHFA, particularly in Pyrmont, that there was a significant pressure, whether it was articulated in official documents or not, for SHFA to make a lot of bucks out of the redevelopment of the Pyrmont-Ultimo area. It has seen levels of floor space ratios and levels of open space to residential that are...way above anything that is surrounding it...⁷⁹

In defence of Pyrmont-Ultimo

- 3.6** SHFA, among others, disputed the negative assessment of these newly-developed peninsula localities:

Individual criticism notwithstanding, the majority of Pyrmont residents acknowledge that the overall result is an excellent living and working environment, providing the right balance of working, living and recreational opportunities. This sentiment is made very clear in an independent post-occupancy research study carried out over eight years in Pyrmont, which we would be happy to provide to the Committee if it wishes.⁸⁰

- 3.7** The CEO of SHFA, Dr Lang, acknowledged that there is high rise development at Pyrmont, including on the foreshores but that: 'These can be found in the areas and sites not owned and controlled by the authority...the private developers have maximised the development of each site.'⁸¹

⁷⁷ Seidler, H, 'Pyrmont: definitely a failure', *Architecture Bulletin*, April/May 2002, p11

⁷⁸ Barnett, W, 'Pyrmont: the curate's egg', *Architecture Bulletin*, April/May 2002, p12

⁷⁹ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p70

⁸⁰ Dr Lang, SHFA, Evidence, 18 February, p7

⁸¹ Dr Lang, SHFA, Evidence, 18 February, p6

3.8 Dr Lang also noted that the most densely developed areas of Pyrmont are on land owned by the former CSR company, for which the Department of Infrastructure, Planning and Natural Resources (DIPNR) was the assessment authority, not SHFA.⁸²

3.9 The Director General of DIPNR, Ms Jennifer Westacott, also indicated her belief that Pyrmont-Ultimo is an example of successful urban renewal:

...We have 22,000 jobs. It is one of the most successful affordable housing schemes in Australia...the reactivation of the retail and commercial area along Harris Street; and, of course, the light rail. There would be many people who would argue that those achievements, as well as the additional open space that has been provided since 1992, represent very good urban development...providing much-needed residential accommodation in excellent proximity to the CBD.⁸³

3.10 While some believe the redevelopment of Pyrmont-Ultimo is, on balance, a success, they are also willing to concede that it could have been done better. Architect, John Richardson noted that:

The Glebe Island Bridge was saved. The foreshore is accessible to the public. Parks and streets have been created...The light rail is operating...People stream on foot across from Pyrmont into the city every day...⁸⁴

3.11 Mr Richardson nevertheless acknowledged Pyrmont's less successful features:

...the light rail has struggled. Higher buildings have been developed on the waterfront. The scale of buildings on the street is too high...the next generation of high density development can be better.⁸⁵

3.12 The Deputy Director General of DIPNR, Mr Gary Prattley, conceded that Pyrmont-Ultimo has its deficiencies: 'We can argue about the merits of some of the architecture....I am not saying that some of the buildings are not higher than might have been envisaged at that stage...'⁸⁶

⁸² Dr Lang, SHFA, Evidence, 18 February, p16

⁸³ Ms Westacott, DIPNR, Evidence 21 February 2005, pp44-45

⁸⁴ Richardson, J, 'Pyrmont: Lessons to be learnt', *Architecture Bulletin*, April/May 2002, p13

⁸⁵ Richardson, J, 'Pyrmont: Lessons to be learnt', *Architecture Bulletin*, April/May 2002, p13

⁸⁶ Mr Prattley, DIPNR, Evidence, 21 February 2005, p43

Open space in Pyrmont-Ultimo

3.13 The Committee received conflicting assessments of the amount of open space in Pyrmont. According to SHFA, each resident enjoys 19.8 sq metres of open space, 24% more than the amount stipulated in the original 1991 Department of Planning Guidelines.⁸⁷

3.14 However, Friends of Pyrmont Point argued that SHFA's estimate of open space is specious and that the current ratio is about 11 square metres, well below the 'generally accepted ratio' of 28 square metres per person.⁸⁸ They claimed SHFA's estimates are exaggerated because they include *unusable* open space, such as the areas between roads and under freeways and because they overstate the size of parks and reserves.⁸⁹ For example, in a recent booklet published by SHFA, *Pyrmont/Ultimo – Decade of Renewal*, the estimated size of St Bartholomew's Park is overstated by 143%:

Whether SHFA is deceiving or whether SHFA is merely carrying forward the deception of other planners, it is clear that this deception is designed to convey the impression that the needs of the community have been respected and met.⁹⁰

3.15 The Friends of Pyrmont Point also argued that the statistics on open space in Pyrmont were distorted by the inclusion of hard to access regional facilities such as Wentworth Park and Tumbalong Park.⁹¹

3.16 In response, Ms Westacott rejected the suggestion that the overall assessment of open space, based on an independent audit by Cox Richardson Architects, is inaccurate.⁹² With respect to St Bartholomew's Park, she does, however, acknowledge the estimate presented in the table is not entirely correct:

For the purposes of creating a summary table for this information booklet, graphic designers chose to round survey measurements up or down to the nearest 0.1ha. In the case of St Bartholomew's Park it was chosen to list that park as 0.1ha – the smallest measurement unit for the table – rather than list it as 0, which would make little sense to readers.⁹³

3.17 Calculating open space is a notoriously difficult exercise, as the Deputy Lord Mayor of the City of Sydney, Clr John McInerney explained:

⁸⁷ SHFA, *Ultimo+Pyrmont, Decade of Renewal*, SHFA, 2005 This estimate is based on an open space audit conducted by Cox Richardson Architects in March 2004

⁸⁸ Submission 115, Friends of Pyrmont Point, pp16-19

⁸⁹ Submission 115a, Friends of Pyrmont Point, p3

⁹⁰ Submission 115a, Friends of Pyrmont Point, p3

⁹¹ Submission 115a, Friends of Pyrmont Point, p17

⁹² Answers to questions taken on notice during evidence 21 February 2005, Ms Jennifer Westacott, Director General, DIPNR, Q9a and b

⁹³ Answers to questions taken on notice during evidence 21 February 2005, Ms Jennifer Westacott, Director General, DIPNR, Q9a and b

... I should make it clear that the definition of open space is a problem as well. For example, is the foreshore land or the land that is used for the market on a Saturday morning partly open space, partly not open space? The area associated with the casino, is that open space, the fact that it is part of the entry to the casino?⁹⁴

- 3.18** It was envisaged that questions regarding the amount of open space in Pyrmont-Ultimo would be resolved with the imminent publication of a new Strategic Traffic Parking and Open Space Study commissioned by the City of Sydney and undertaken by Hassell Planning:

We are just about to complete a study called an infrastructure study for Pyrmont, and that has gone through a very detailed process for assessing open space. That study will be public within a matter of weeks and the study addressed that specific question.⁹⁵

- 3.19** It would seem, however, that this study has not resolved this issue. SHFA received a copy of the report by Hassell Planning several days before the Committee's final hearing on 29 April. According to Dr Lang, the consultants underestimated the public space in Pyrmont by more than a factor of two:

Yesterday we approached Hassell to find out how it could be that they got those numbers so wrong given that we have detailed survey plans that correspond with the DP lot numbers and we know exactly to the square metre how big each of these blocks of land is. Hassell wrote back to me yesterday and indicated that they had relied on information provided to them by the City of Sydney, that they did not audit it, that they did not use a registered surveyor and never had access to any maps or plans. It would appear, therefore, that those inaccuracies will be corrected when we advise Hassell of information they do not have.⁹⁶

The former Water Police site at Elizabeth Macarthur Bay

- 3.20** Some of the most passionate criticism of SHFA's approach to Place Development concern its handling of the former Water Police site on Elizabeth Macarthur Bay. SHFA's management of this issue, and in particular the way it conducted the architectural competition, was said to epitomise the worst aspects of SHFA's modus operandi: its lack of integrity and disdain for community views, and its inability to balance stewardship and commercial goals. The critique of SHFA's actions in relation to this site, and the Authority's refutation of this assessment, is discussed below.

Background

- 3.21** The former headquarters of the Water Police and film set for the television drama, *Water Rats*, is situated on government owned foreshore land adjacent to Elizabeth Macarthur Bay. Until

⁹⁴ Clr McInerney, City of Sydney, Evidence, 18 February 2005, p52

⁹⁵ Clr McInerney, City of Sydney, Evidence, 18 February 2005, p51

⁹⁶ Dr Lang, SHFA Evidence, 29 April 2005, pp16-17

early 2004, SHFA intended to sell this site, allowing a mix of recreational and residential development, as stipulated under the relevant regional environmental plan.⁹⁷

- 3.22** In 2002, at the behest of some community members, SHFA undertook an architectural competition to identify an appropriate design. A winner was selected, but this was not the community's preferred candidate. Other community members had sought to preserve the area as open space, culminating in the establishment of a new residents group – the Friends of Pyrmont Point, with the goal of ensuring the area revert to open space. The campaign was a success. In May 2004 the City of Sydney expressed an interest in acquiring the site from SHFA for \$11m, guaranteeing the site's future as parkland.⁹⁸ The Government agreed to the request to sell the site which previously had been valued at approximately \$30million.

Concerns about the conduct of the architectural competition

- 3.23** The idea to hold a competition to identify a suitable design for the Water Police site was suggested by some members of the local community. However, by the time the winner had been announced in June 2003, some members of the community were referring to the whole competition as a 'sham'.⁹⁹ Their criticisms of the competition included that SHFA:
- failed to appoint a probity officer to monitor the competition
 - gave preferential treatment to one of the entrants
 - failed to include the option of retaining the land as open space.

Probity officer not appointed

- 3.24** According to Pyrmont Community Group, a probity officer should have been appointed to oversee the architectural competition. While Ms Bronwyn Connolly of Deloitte was apparently approached to undertake this role, SHFA did not proceed with the appointment.¹⁰⁰ Pyrmont Community Group argued that the failure to appoint a probity officer was in breach of government and ICAC guidelines, set out in Premier's Memorandum No 98–12.¹⁰¹
- 3.25** According to SHFA, it was not obliged to appoint a probity officer for two reasons: firstly because a design competition does not involve the transfer or sale of an asset and secondly, because the competition was to be judged by an independent jury.¹⁰²

⁹⁷ SREP 26 is the regional environmental plan developed in 1992 to guide the reinvigoration of Pyrmont-Ultimo

⁹⁸ Submission 18a, SHFA, p11

⁹⁹ Submission 115, Friends of Pyrmont Point, p10

¹⁰⁰ Submission 42, Pyrmont Community Group, p7

¹⁰¹ Submission 42, Pyrmont Community Group, p7

¹⁰² Answers to questions taken on notice during evidence, 18 February 2005, Dr Rob Lang, CEO, SHFA, (questions tabled by C Perry)

Preferential treatment for entrant B

- 3.26** Community groups were extremely disappointed with the results of the architectural competition. While 85 out of 95 submissions from community members voted for Design A,¹⁰³ according to SHFA, Design B was selected by a unanimous vote of the jury because it improved usable open space and minimised view loss.¹⁰⁴
- 3.27** Pyrmont Community Group and the Friends of Pyrmont Point allege that the outcome of the architectural competition was predetermined by SHFA: ‘...it appears the SHFA decided in advance to select Plan B.’¹⁰⁵
- 3.28** The evidence cited in support of this allegation is a letter written on 14 June 2003 by the community representative on the jury panel, Mr Geoffrey Twibill, to the SHFA officer responsible for the competition, Mr Todd Murphy. In this letter, Mr Twibill expresses his concern that SHFA had apparently met with the architects associated with Design B, but had not afforded a similar opportunity to the architects of Design A. The Friends of Pyrmont Point suggested that this meeting led to Design B’s selection as the winning candidate, a result SHFA wanted all along:
- ...it appears that additional opportunity of one form or another may have been provided to the eventual competition winner. Perhaps the criteria were modified to suit the winning entry or additional information was provided for the winner only.¹⁰⁶
- 3.29** While Mr Twibill did raise his concerns about this meeting, he appears to have been satisfied with SHFA’s response: that the discussion with Design B architects occurred *after* the jury’s unanimous decision to select Design B as the winner, and concerned the conditions of the proposed architectural agreement only. Mr Twibill has repeatedly defended the integrity of the competition:
- The competition assessment process was managed extremely well by SHFA, with the National President of the Association of Consulting Architects, Robert Peck, chairing the jury panel...the assessment process was carried out by the jury panel in a thoroughly professional, disciplined and impartial manner ...¹⁰⁷
- 3.30** He also applauded the degree of community consultation engaged in by SHFA in relation to this Water Police site, which he described as: ‘...unusual, commendably democratic and possibly without precedent in Sydney.’¹⁰⁸
- 3.31** SHFA emphatically denied that the winning entrant was offered an opportunity to revise their design prior to the jury decision. They argued that as the meeting with the competition winner took place *after* the jury’s recommendations had been made on 6 June, to suggest preferential

¹⁰³ Friends of Pyrmont Point, ‘Residents disillusioned at abuse of consultation process for water rats site’, *Media Release*, 1 August 2003

¹⁰⁴ Submission 18a, SHFA, p13

¹⁰⁵ Submission 42, Pyrmont Community Group, p8

¹⁰⁶ Submission 115, Friends of Pyrmont Point, p30

¹⁰⁷ Submission 118, Mr Twibill, p3

¹⁰⁸ Submission 118, Mr Twibill, p2

treatment would require a distortion of the competition timing.¹⁰⁹ SHFA also pointed out that the competition was established at the suggestion of the community and with significant input from them, and that the winner was selected by an independent jury that included a community elected representative, Mr Twibill, who has supported the integrity of the competition.¹¹⁰

Did SHFA fail to pursue its stewardship goals?

- 3.32** The Friends of Pymont Point believe the former Water Police site afforded an invaluable opportunity for SHFA to ensure one of the few remaining publicly owned foreshore sites would become publicly accessible open space, in an area in which open space is in short supply. They claimed that by not deciding in the first instance to provide for 100% open space, SHFA abrogated its statutory duty to protect and enhance foreshore land:

Had SHFA discharged its statutory duties correctly, it would have found a way to rezone the land. Instead, it behaved like any other developer...¹¹¹

- 3.33** SHFA told the Committee that until mid 2003 there was considerable community support for the proposed development of the site to include foreshore access, a plaza and at least 50% open space.¹¹² In March 2003, Ms Jean Stuart, President of Pymont Community Group, wrote to SHFA, noting that: ‘...the consultative process for EMB is a model which could deliver strategies for use with communities of differing aims and objectives.’¹¹³

- 3.34** Dr Lang also pointed out that the revenue raised by the sale of the land would assist SHFA to recoup the cost of the relocation of the Water Police site (\$11million) and as the site was adjacent to Pymont Point Park, it did not make sense to build a park next to an existing one:

If you were going to create another 1.8-hectare park it would not be next to an existing 3.6-hectare park but probably further down towards Ultimo where they do not have any. I do not think any urban designer would have suggested it.¹¹⁴

- 3.35** While sympathetic to residents’ desire to increase open space in their neighbourhood, *Sydney Morning Herald* architecture writer, Ms Elizabeth Farrelly, acknowledged that there may have been good urban design reasons to develop the site:

Strategically, and environmentally, the Government is surely right to limit sprawl by densifying the core. And although the rate of change has been enormous, population numbers in Ultimo-Pymont are less than half those 1991 projections. Plus Pymont is already spoiled for parks, compared with Ultimo, Chippendale, Potts Point, Redfern, Darlo...this means they’re calling on Sydneysiders to forgo \$30 million for hospitals

¹⁰⁹ Submission 18a, SHFA, p14

¹¹⁰ Submission 18a, SHFA, p14

¹¹¹ Mr Perry, Friends of Pymont Point, Evidence, 21 February, 2005, p24

¹¹² Submission 18a, SHFA, pp11-14

¹¹³ Submission 18a, SHFA, p13

¹¹⁴ Dr Lang, SHFA, Evidence, 18 February 2005, p17

and schools in the burbs in favour of yet another park for the lifestylers of Pymont.
Hmm. Tricky business politics.¹¹⁵

- 3.36** According to Dr Lang, once SHFA became aware of the extent of community feeling about the issue, it entered into discussions with the City of Sydney to find a solution to satisfy the community's wishes.¹¹⁶ Dr Lang described SHFA's response as: 'a great example of the cooperation between the City and the Authority in responding to those community concerns'.¹¹⁷

A new campaign objective?

- 3.37** Following the announcement of the successful entrant, Friends of Pymont Point initiated a high profile campaign for the site to be retained as total open space. While it is clear many community members were dissatisfied with the outcome of the competition, the reasons for the change to their campaign objective are more difficult to discern.

- 3.38** Would the campaign for total open space have developed if the jury had awarded first prize to the community's preferred candidate, Design A? A Friends of Pymont Point media release indicates that the jury's decision was a significant factor:

With the outcome of the process announced yesterday, residents are claiming to have been disenfranchised, ignored and manipulated by SHFA and are anxious to vent their anger at this Saturday's rally at Pymont Point Park.¹¹⁸

- 3.39** However, as the following extract from a letter from Pymont Community Group to the Minister for Planning attests, even if Design A had been the successful candidate, community support may still have been withheld:

Some in the community are attempting to have the site retained as open space. Since Pymont/Ultimo is extremely short of open space, we are very sympathetic to that proposal. However, we accept the government's need to secure a return from the site and are willing to support a design of quality. Accordingly we will accept plan A if its tower height is reduced to eight storeys and there is genuine and adequate community involvement in the development application process. However, given the overwhelming community preference for plan A, and the SHFA's incomprehensible and unethical conduct with regard to plan B, we will not support plan B.¹¹⁹

- 3.40** Friends of Pymont Point claim that their campaign was generated by growing frustration with the SHFAs consultation process, including its failure to present residents with the option of a park in the first instance:

¹¹⁵ Farrelly E, 'Open Land, but its closed discussion', *Sydney Morning Herald*, 3 February 2004

¹¹⁶ Dr Lang, SHFA, Evidence, 18 February 2005, p22

¹¹⁷ Dr Lang, SHFA, Evidence, 18 February 2005, p6

¹¹⁸ Friends of Pymont Point, 'Residents disillusioned at abuse of consultation process for water rats site', *Media Release*, 1 August 2003

¹¹⁹ Submission 42, Pymont Community Group, Attachment 14, Letter to the Hon Craig Knowles from Pymont Community Group, 8 October 2003

...the option of restoring the site to parkland was never canvassed. What may well have been the community's preferred option was locked out of the process...SHFA gave residents a choice between development, development and more development. SHFA never let us tell them we wanted a park.¹²⁰

- 3.41** Some Pymont residents did not support the call for total open space, that is, building a park next to an existing 3.6 hectare park. In July 2003, Pymont resident, Ms Elizabeth Elenius, commented positively on SHFA's consultation in relation to the Water Police site and stated that she did not support the calls for total open space: 'We've got heaps of open space. We've already got a park on the point.' Ms Elenius argued instead for a park at the southern end of Pymont which was 'crying out for parkland.'¹²¹ Indeed, Ms Elenius believes this matter has had a negative impact on relations between the community and SHFA ever since:

I will have to mention the war here, but I think since the Elizabeth Macarthur Bay decision SHFA has, possibly understandably, decided to go just by the strict letter of the law and not engage as fully with the community as perhaps it might have done in the past...But that is a possible explanation for the more recent very rapid turnover of master plans and development applications that has occurred.¹²²

Committee view

- 3.42** The Committee does not have any evidence that SHFA was in breach of its statutory obligations by seeking to develop the former Water Police site. There were urban design and social reasons for SHFA to pursue the development of the site provided for under the Regional Environment and Master Plans by using the revenue from development. A further park in an area already 'spoilt for parks'¹²³ means that the revenue is not available to fund other important heritage or social projects, including open space in neighbourhoods such as Ultimo.
- 3.43** Nor does the Committee accept that SHFA's architectural competition was 'rigged'. The purported evidence for this allegation, Mr Twibill's letter of 14 June, is not persuasive. The meeting between SHFA and the architects for Design B took place *after* the jury's unanimous recommendation had been made. In addition, the community's representative on the panel, Mr Twibill, has steadfastly defended SHFA's conduct of the competition both before and after the winner was announced. The Pymont Community Group also complimented the Authority on its consultation in relation to the site, including the conduct of the competition, at least until March 2003.
- 3.44** The Authority does, however, deserve to be criticised for rejecting an offer from the Royal Australian Institute of Architects to manage the competition, and for meeting with the successful entrant prior to announcing the award. While SHFA may have had every right to conduct its own competition, given community concerns about its alleged appetite for

¹²⁰ 'Welcome sign', *The News*, August 2003, accessed from Friends of Pymont Point website: www.pymontpoint.net

¹²¹ Shain M, 'Battle Rages on old water police site' *Glebe*, 16 July 2003 Ms Elenius made these comments prior to the establishment of Pymont Action, of which she is convener

¹²² Ms Elenius, Pymont Action, Evidence, 29 April 2005, p6

¹²³ Farrelly E, 'Open Land, but its closed discussion', *Sydney Morning Herald*, 3 February 2004

development and lack of openness, it should have predicted the negative publicity that would ensue if the successful candidate was not to the community's liking, or if its actions could in any way be interpreted as seeking to advantage a particular candidate.

- 3.45** Allowing an independent body to conduct the competition may have shielded SHFA from damaging allegations about its integrity. It may not have avoided a campaign for total open space, given that sections of the community strongly felt that an option for open space should have been included in the competition.

Consultation in Pyrmont-Ultimo

- 3.46** Inquiry participants expressed frustration with SHFA's approach to consultation in relation to several other sites in Pyrmont-Ultimo. The recurring theme in their submissions and evidence is that SHFA's consultation attempts were tokenistic and belated, and compared poorly with local councils.
- 3.47** SHFA's assessment functions were said to be at the very heart of these development controversies, many of which could have been avoided with appropriate community consultation *before* and *during* the assessment period.¹²⁴
- 3.48** SHFA's role in some of these controversies is discussed below, including Jackson's Landing, the Sydney Fish Markets, Ultimo Aquatic Centre, the Cross City Tunnel Stack and the Community Reference Group.

Waterfront Park at Jackson's Landing

- 3.49** Waterfront Park is 1.2 hectares of undeveloped land at Jackson's Landing in Pyrmont which is awaiting development as a park by its owners, the Lend Lease Corporation. As it is a 'minor' development, SHFA is the delegated consent authority for the site.
- 3.50** According to Ms Elenius, SHFA recently gave conditional consent to a park scheme at Waterfront Park, despite opposition to the plan from the community and the City of Sydney. Pyrmont Action argued that the opportunities for consultation afforded by SHFA in relation to the proposed design were extremely poor. For example, SHFA made very little effort to allow community groups to participate in a recreational use study for the site, and the issue was not put on the agenda at the relevant meeting of the Community Reference Group. (The Community Reference Group was established by SHFA in 2004 as a vehicle for community views on development issues in Pyrmont, see page 32).
- 3.51** The knowledge that SHFA had engaged in lengthy discussions and negotiations with other stakeholders about the park's design, but not the community, goes to the 'nub' of Pyrmont Action's concerns about SHFA's assessment processes:

Discussions have been held between SHFA officers and Lend Lease Developments, including on the concerns raised by the members of the public, yet those of us who have made submissions...have not been able to participate at any level in negotiations on the future design of this harbourside park. We will have been kept in the dark

¹²⁴ Submission 120, Pyrmont Action, p2

about how our concerns have been dealt with, until after the decision has been made.¹²⁵

- 3.52** SHFA's defence of its role in Waterfront Park is set out in a letter to Ms Elenius, dated 1 October 2004. In that letter Dr Lang argued that the assessment process was entirely within the law, that members of the community had an opportunity to be involved in the assessment process and that involving the authors of submissions in negotiations about their suggestions is not 'common practice'.¹²⁶

Sydney Fish Markets

- 3.53** Similar concerns about the community's restricted consultation opportunities were raised during the inquiry in relation to the Master Plan for the Sydney Fish Markets. A number of groups have made submissions to SHFA concerning the potential impact on parking, traffic and usable open space. According to Ms Elenius, SHFA's response to requests by the Community Reference Group (CRG) and Pyrmont Action to discuss the assessor's recommendations has been unsatisfactory.¹²⁷

Ultimo Aquatic Centre

- 3.54** The UnitingCare Harris Community Centre told the committee that SHFA's handling of the Development Application for the Ultimo Aquatic Centre demonstrated a lack of openness and transparency:

This was our first experience of DAs coming under the jurisdiction of SHFA...Submissions went to a SHFA planner who then prepared a report, and at no time was this response public. The report went to the SHFA board who also made no public response to the report and their secret recommendations then went to the Minister for Planning. This process left many questions unanswered – for example – how many submissions were received? What were community concerns? How were these addressed.¹²⁸

- 3.55** The Centre noted that the City of Sydney and former Planning Department allowed a far greater level of consultation:

In the past the process had been far more thoroughly documented - minutes of meetings are available to the community, reports are available, community members could attend and address both Council and CPSC meeting, objections can be heard through the Land and Environment Court. The process adopted by SHFA leaves absolutely no recourse for DA objectors. ...the approval process should at a minimum provide the same level of public scrutiny as that of the City Council and the CPSC.¹²⁹

¹²⁵ Correspondence from Ms Elenius to Dr Lang, 24 September 2004, tabled by Ms Stuart, 21 February 2005

¹²⁶ Letter to Ms Elenius from Dr Lang, 1 October 2004, tabled by Ms Stuart, 21 February 2005

¹²⁷ Submission 120, Pyrmont Action, p3

¹²⁸ Submission 12, UnitingCare Harris Community Centre, p1

¹²⁹ Submission 12, UnitingCare Harris Community Centre, p1

The Stack

- 3.56** The ‘Stack’ is an emission vent for the cross-city tunnel built on SHFA land at Darling Harbour. The UnitingCare Harris Community Centre campaigned against the proposed location of the stack for many years, on health and other environmental grounds. The UnitingCare Harris Community Centre was highly critical of SHFA’s role in the process of deciding where the stack should be located:

SHFA remained ambivalent and unprepared to make any independent stand at the many public meetings that were held...at no time did SHFA assist or support the community in their very real concerns about an unfiltered emission stack in the middle of Darling Harbour....¹³⁰

- 3.57** The Centre alleged that SHFA told the community that it had no real influence over where the stack was going to be placed:

At one precinct meeting the Director of Built Environment admitted that SHFA could not do anything because they were a government department.¹³¹

- 3.58** According to the Centre, however, documents tabled in the Legislative Council in 2004 do not support this claim, but suggested rather that ‘SHFA was actively pursuing the option of hiding the stack in a new building in Darling Harbour.’¹³² SHFA acknowledged that it spent a considerable amount of time and money on a proposal to build the stack within a new building in Darling Harbour which would minimise the negative public perceptions created by a stack.¹³³

- 3.59** While the Darling Harbour Business Association was reportedly pleased with SHFA’s efforts in relation to the stack,¹³⁴ many in the community believe that in its pursuit of ‘maximum profits’, the ‘community’s needs have been compromised’.¹³⁵

Pymont-Ultimo Community Reference Group

- 3.60** The Pymont-Ultimo Community Reference Group (CRG) was set up by SHFA in 2004. Its terms of reference include to:

identify and discuss community issues relating to the future development of Pymont Point, and the operation of the Pymont and Ultimo precincts with a view to SHFA completing all its Pymont/Ultimo operations within the next five years.¹³⁶

- 3.61** According to Ms Elizabeth Elenius, this new vehicle for consultation has been a major disappointment: ‘...it is not an effective consultation mechanism but simply a means of

¹³⁰ Submission 12, UnitingCare Harris Community Centre, p2

¹³¹ Submission 12, UnitingCare Harris Community Centre, p2

¹³² Ms Thirkettle, UnitingCare Harris Community Centre, Evidence, 21 February 2005, p33

¹³³ Submission 18a, SHFA, p20

¹³⁴ Submission 18a, SHFA, p20

¹³⁵ Submission 12, UnitingCare Harris Community Centre, p2

¹³⁶ Submission 120, Pymont Action, p120

communicating decisions or recommendations made'.¹³⁷ SHFA CEO, Dr Lang argued the group failed because it was overly focussed on development applications:

Even when I at one point tried to create a community reference group to discuss other matters, precinct-wide matters, in much the same way as the Federation Trust operates, they very quickly said, "No, we do not want to talk about that. We want to talk about DAs."

Unfortunately, I was in no position to say that I could do that because that would have circumvented and overridden the EPACT requirements. To have this group exercising some sort of veto power over the DA process was not something I could contemplate. It turned out that our communities did not really want to talk about those precinct-wide matters that we initially set up the group to discuss. As a result, that group fell by the wayside.¹³⁸

- 3.62** SHFA recently advised that it wants the City of Sydney to take over responsibility for community consultation in Pymont-Ultimo. While Pymont Action welcomed this suggestion, it is concerned that SHFA is still involved in the assessment of new developments and Master Plans in the area. It also argued that SHFA should make an appropriate contribution towards the cost of maintaining the CRG process.¹³⁹

Pymont Action's suggestions to improve participation in planning decisions

- 3.63** In its submission, Pymont Action said its key concerns regarding consultation opportunities during the assessment process are that:

- submission authors have no way of knowing whether their views have been taken into account
- recommendations made during the assessment phase, and the reasons for them, are not made public

- 3.64** While Pymont Action acknowledges that SHFA's consultation practices follow the 'letter of the law', it believes the community want more than is currently required under the legislation:¹⁴⁰

It is our contention that whilst it may not be "common practice", such discussion SHOULD be held with the community...¹⁴¹

- 3.65** Accordingly, Pymont Action recommends that prior to the formulation of a Master Plan or the assessment of a Development Application, the following should occur:

¹³⁷ Submission 120, Pymont Action, p3

¹³⁸ Dr Lang SHFA, Evidence, 29 April, 2005, p24 Dr Lang is referring to the Environmental Protection and Assessment Act 1979

¹³⁹ Submission 120, Pymont Action, p3

¹⁴⁰ Submission 120, Pymont Action, p3

¹⁴¹ Letter to Dr Lang from Ms Elenius, 8 November 2004

- the documentation associated with assessors' recommendations should be made public, including the reasons for accepting or disregarding submissions
- submission authors should be given an opportunity to address the recommendations in further submissions to the Minister
- that either an independent expert review body, with community representation, should assume responsibility for making recommendations on major matters which come before SHFA for consent, or for which SHFA is the proponent, or that the assessments of such proposals should be referred to the Central Sydney Planning Committee for final recommendation.

3.66 Pyrmont Community Group believe the *Sydney Harbour Foreshore Act* should reflect a greater emphasis on consultation:

...the Act must specify that the Authority will give public notice of all development proposals, enter into genuine consultations with the community, and demonstrate that it has taken community opinion into account in reaching its decisions.¹⁴²

3.67 At present, the Act is silent on the issue of consultation. Asked whether it should emulate the *Sydney Harbour Federation Trust Act* which includes specific provisions regarding consultation, SHFA Chair, Mr Jon Isaacs commented:

...I would like to adopt whatever the best practice is that is going, but if you are asking us to comment on what should be in our Act, really you cannot expect us to make a comment on that.¹⁴³

3.68 While Dr Lang was favourably disposed towards the consultation approach adopted by the Sydney Harbour Foreshore Trust, he was not convinced such methods are applicable in SHFA's communities, including Pyrmont-Ultimo:

From what I understand was their [the Trust's] situation, they had one community group telling them to go left and one community group telling them to go right. There was no solution for satisfying the general community requests. We do not have that situation in our areas. In respect of The Rocks and Darling Harbour our focus is very clear. Our tenants and our customers have a single-mindedness about what they want to achieve, that is a very active and vibrant area for people to come to play, to work and to shop, and so on. As a result of that, our consultation has mainly been focused on the DA process. Therefore, there are very strict guidelines on how one can do that.¹⁴⁴

3.69 Dr Lang also disputed that people do not receive adequate feedback on applications during the assessment phase:

Anyone who makes a written submission to the DA process is given a letter back from our planners saying that the DA was consented to or otherwise and what form

¹⁴² Submission 42, Pyrmont Community Group, p15

¹⁴³ Mr Isaacs, SHFA, Evidence 29 April, 2005, pp21-22

¹⁴⁴ Dr Lang, SHFA, Evidence, 29 April 2005, p24

that is, and copies of that consent are then put on web sites and forwarded to people who put in submissions. So that feedback certainly occurs...¹⁴⁵

Committee view

- 3.70** While it is generally accepted that SHFA fulfils its statutory requirements in relation to community consultation in Pymont-Ultimo, some members of the community argued that it should go beyond these limited requirements. They believe that opportunities to participate in the assessment of a development or master plan are particularly inadequate, especially when compared to those of the City of Sydney
- 3.71** Given the widespread concerns about consultation raised by participants during the inquiry, it will take more than legislative reform to counter community perceptions of SHFA as arrogant and secretive. Cultural change within SHFA will also be required. It is unlikely that every decision made by SHFA will garner community support, but any agency receiving such criticisms should review its consultation activities.
- 3.72** It should be noted that SHFA's management of the consultation process in relation to the Water Police site was seen as best practice by some in the community, at least up until the winner was decided. The Committee can understand SHFA's dismay at the apparent turnaround in community feeling after the announcement of the competition winner and how this may affect attitudes within the organisation regarding the importance of consultation.
- 3.73** The recommendations discussed in Chapter 7 seek to address many of the concerns raised regarding SHFA's approach to consultation in Pymont-Ultimo.

Probity concerns about SHFA

- 3.74** Serious allegations about SHFA's honesty and integrity were raised during the inquiry. For example, it was alleged that it provided preferential treatment to one of the architectural competition entrants. Another serious allegation made by one community group is that because SHFA received payment for the preparation of Master Plans from businesses in Pymont:

... these will reflect the interests of business owners and maximise commercial advantage and...as the assessing agency, SHFA will be favourably disposed towards the development application.¹⁴⁶

- 3.75** This allegation was challenged by a Committee member during the hearing on 21 February 2005.¹⁴⁷
- 3.76** The Friends of Pymont Point also raised serious allegations regarding the relationship between SHFA and City West Housing and suggest the Committee obtain information about

¹⁴⁵ Dr Lang, SHFA, Evidence, 29 April 2005, p24

¹⁴⁶ Submission 115a, Friends of Pymont Point, p2

¹⁴⁷ Evidence, 21 February 2005, pp31-32

the composition of the City West's Board of Directors, its ownership structure and assets.¹⁴⁸ The group did not provide any substantive evidence for their claim and this matter was not addressed in SHFA's submissions or evidence.

Conclusion

3.77 While SHFA tends to downplay the significance of its future role in Pyrmont-Ultimo, inquiry participants believe SHFA's involvement in both the Sydney Fish Market and Darling Island, belie this claim.¹⁴⁹

SHFA is consistently telling us that it is moving out of Pyrmont and Ultimo and handing over control of the developed lands to Sydney City Council over the next five years. We support that move...Our concern is what will occur now and during the transition phase. We believe that during the transition phase all deals done with land in Pyrmont and Ultimo must be clearly done within the public focus.¹⁵⁰

3.78 SHFA must address concerns raised during this inquiry about its willingness to engage in genuine consultation. As the following chapters will show, these issues are not confined to Pyrmont-Ultimo, but have been raised in several other precincts including Cooks Cove and Luna Park.

3.79 Statutory reforms, as proposed in the final chapter of this report may address some of these criticisms. But these reforms should be accompanied by cultural or attitudinal change in SHFA, to overcome the current, negative perception among many residents that it is commercially driven and unresponsive to community concerns.

¹⁴⁸ Submission 115a, Friends of Pyrmont Point, p6

¹⁴⁹ Supplementary Submission 115a, Friends of Pyrmont Point, p2

¹⁵⁰ Submission 115a, Friends of Pyrmont Point, p6

Chapter 4 The Cooks Cove Project

The Cooks Cove Project aims to establish a 21 hectare trade and technology zone within a 100 hectare site south west of Sydney Airport. The area currently encompasses the Kogarah Golf Club, several sporting fields, wetlands, and degraded open space.¹⁵¹ It is expected to be completed within 10-20 years.

According to SHFA, the project will deliver significant benefits to the people of NSW: 73 hectares of open space, new sporting facilities, protection of wetland habitats and the resolution of local contamination issues - at no cost to the Government. Inquiry participants however, were less positive about the development of Cooks Cove.¹⁵² They expressed concern about the possible social and environmental impact of the project, and the lack of information provided by SHFA about how these factors will be managed.

Project background

- 4.1** Responsibility for the management of the Cooks Cove project was initially held by the Department of State and Regional Development. In July 2001 the project was declared to be of State significance and the Cooks Cove Development Corporation (CCDC) was established to manage development of the site. Two months later, in September 2001, the newly established Corporation appointed SHFA as its managing agent.
- 4.2** Rockdale Council is a significant landowner and partner in the project. Its role is to manage the relocation of sporting fields and to liaise with clubs using the existing facilities.¹⁵³ Other landowners include the Department of Infrastructure, Planning and Natural Resources (DIPNR), Sydney Water, the Roads and Traffic Authority and Kogarah Golf Club. The land owned by Kogarah Golf Club is critical to the project and, according to DIPNR Director General, Ms Jennifer Westacott, likely to comprise the first stage:

That particular part of the development is central to many other things being able to occur, so I would imagine that, from a kind of efficiency point of view, not proceeding with that aspect of the development would make the rest of the development very difficult.¹⁵⁴

- 4.3** In June 2004 a Regional Environmental Plan for the site (No 33) was gazetted and a Master Plan, prepared by SHFA, was endorsed by the Minister for Infrastructure and Planning.¹⁵⁵ Development of the site has been delayed by the recent withdrawal of the company proposing

¹⁵¹ Cooks Cove Development Corporation, *Annual Report 2003/2004*, p4

¹⁵² In addition to the eight submissions received regarding Cooks Cove, the Committee also received several hundred letters critical of SHFA's role in this project.

¹⁵³ Submission 18a, SHFA, p8

¹⁵⁴ Ms Westacott, DIPNR, Evidence, 21 February 2005, p47

¹⁵⁵ Submission 18, SHFA, p29

to buy and develop the golf club site, Harrington Properties Limited (formerly Trafalgar Properties Limited).¹⁵⁶

Concerns about Cooks Cove

4.4 Inquiry participants raised several concerns about the proposed development at Cooks Cove. These include:

- SHFA's involvement in developing land not part of the Sydney Harbour foreshore
- SHFA's apparent lack of transparency about the proposal and resistance to meaningful community consultation
- the negative environmental impact and loss of public open space.

4.5 Rockdale Councillor, Ms Lesa de Leau said the high degree of community concern about the proposed development was demonstrated by:

- an interim green ban imposed by the CFMEU in March 2002
- 2,600 letters of objection lodged during the exhibition of the draft regional environment plan and Masterplan
- the results of a survey conducted by a local resident action group.¹⁵⁷

How and why did SHFA become involved in the Cooks Cove project?

4.6 Several inquiry participants questioned how and why SHFA becomes involved in developing land that is not even in the same catchment as Sydney Harbour.¹⁵⁸

How SHFA came to be involved in a proposal outside Sydney Harbour, and the nature of the relationship between SHFA and CCDC may hopefully be clarified by the Committee.¹⁵⁹

4.7 The Chief Executive Officer of SHFA, Dr Rob Lang, said it was reasonable to ask why the Authority is involved in a project 'so far from Sydney Harbour' and that the 'short answer' is:

... we were asked to do so by government because of our specialist skills and expertise in master planning, property project management, community consultation and in dealing with significant waterfront lands.¹⁶⁰

¹⁵⁶ Submission 18a, SHFA, p8

¹⁵⁷ Clr de Leau, Evidence 21 February 2005, pp2&6. While 98% of the 1,200 survey respondents were opposed to the project, the overall survey return rate was approximately 7 per cent

¹⁵⁸ Submission 19, Rockdale Wetlands Preservation Society, p3, and Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, p4

¹⁵⁹ Submission 20, Coast and Wetlands Society, p2

¹⁶⁰ Dr Lang, SHFA, Evidence, 18 February 2005, p8

4.8 According to SHFA, the original Cooks Cove project proponents, the Department of State and Regional Development, decided the project was moving beyond its expertise and that another agency with property development skills should assume this role.¹⁶¹ The Government decided that given its involvement in Pymont-Ultimo, SHFA should take on this role and this idea was supported by Cabinet. As the Cooks River is outside SHFAs legislative boundary, the Cooks Cove Development Corporation was established under the relevant legislation allowing SHFA to take on this new responsibility.¹⁶²

4.9 The President of the Coastal Wetlands Society, Professor Paul Adams said SHFA's involvement has transformed the project, especially in relation to Kogarah Golf Course:

...at no time when those concepts were being considered was there any public mention that the golf course and so on might be swept up into this project. That was something that came completely out of the blue when this grand project was announced, so it is not so much that they took over a project, or if they did, it was very much enlarged and different from what had previously been talked about.¹⁶³

Lack of transparency and disregard for community views

4.10 Witnesses and submissions raised concerns about SHFA's lack of openness about aspects of the Cooks Cove project:

It is perhaps not the normal practice to make a submission to an Inquiry which raises more questions than it answers.¹⁶⁴

4.11 Clr de Leau said the project has been characterised by poor information sharing with the community from the early stages:

Prior to being elected to council I attended—for about two years I went along to council meetings and sat in the back of the chamber in the public gallery...it was a period of about six months when the Cooks Cove project regularly appeared on the business papers and council would go into confidential session, so there were issues at the time of the lack of transparency or a lack of sharing information with the community...¹⁶⁵

4.12 According to Clr de Leau, the situation did not improve when she was elected to Council:

...Of the 15 councillors sitting on the council at the moment, nine are on the council for the first time this term so nine of us have not been involved in the planning of this project to date and at the information session the independent negotiator that was contracted by council did make the comment that he was surprised more information

¹⁶¹ Submission 18a, SHFA, p8

¹⁶² The Managing Director of the Corporation is the DG of DIPNR, Ms Westacott. The Corporation's Board includes SHFA CEO, Dr Lang, SHFA Chairman, Mr Jon Isaacs and the Deputy Director-General of DIPNR, Mr Prattley

¹⁶³ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, p5

¹⁶⁴ Submission 19, Rockdale Wetlands Protection Society, p3

¹⁶⁵ Clr de Leau, Evidence, 21 February 2005, p4

had not been forthcoming to the new council to give them more background of what had happened previously.¹⁶⁶

4.13 Community members sensed that their views were not valued by SHFA and that decisions were predetermined. According to the President of the Rockdale Wetlands Preservation Society, Mr Ron Raynor:

The whole saga raises important issues about the...involvement of the public in planning for public lands.¹⁶⁷

4.14 Specific examples cited to the Committee of SHFA's apparent lack of transparency and willingness to take community views into account include:

- the simultaneous display of the Master Plan and REP
- the 'mystery' surrounding the withdrawal of the prospective developers of the Kogarah Golf Club site - Harrington (formerly Trafalgar Pty Ltd) - and the process for selecting another developer
- the lack of information about the impact on the project and on the local community of the planned development of Sydney Airport
- the lack of information about the current status of the project.

Simultaneous display of Master Plan and Regional Environment Plan

4.15 In 2004 the Master Plan for the Cooks Cove project was publicly exhibited at the same time as the Regional Environmental Plan. Professor Paul Adams believes the simultaneous display of both plans was 'unusual' and demonstrated a lack of interest on the part of SHFA in the views of the community:

...it did not seem logical. It seemed logical that there had to be a progression because you could not really prepare the master plan until you knew what the rules were and they were to be established by the REP, so to have the two simultaneously displayed was of great concern.¹⁶⁸

4.16 SHFA defended its actions in relation to the exhibition of both plans, for the following reasons:

- DIPNR advised that simultaneous preparation of the REP and master plan was an 'appropriate course to follow'
- the statutory requirements regarding public exhibition were complied with fully
- the Authority distributed updates through letter boxing the local community and conducted open days, site tours and one to one consultation sessions with local interest groups

¹⁶⁶ Clr de Leau, Evidence, 21 February 2005, p4

¹⁶⁷ Submission 19, Rockdale Wetlands Protection Society, p3

¹⁶⁸ Professor, Coastal Wetlands Society, Evidence, 21 February 2005, p3

- both plans were amended in response to issues highlighted by the public exhibition process eg, increased protection of wetlands.¹⁶⁹

Arrangements between Kogarah Golf Club and private developers

- 4.17** The land currently owned by Kogarah Golf Club is a critical element of the Cooks Cove project. Until recently Harrington Properties Limited (formerly Trafalgar Properties) had an exclusive development agreement with the club for its part of the site. Harrington recently advised the Club that it wanted to withdraw from the project and the Club is apparently free to pursue another developer, as this excerpt from a letter from Kogarah Golf Club indicates:

The Government has also indicated that there is no impediment to the club directly appointing a new development manager with whom the club can negotiate the most favourable outcome for its members.¹⁷⁰

- 4.18** Inquiry participants, including Professor Adams, said that given the significance of this development, and the substantial benefits that will flow to Kogarah Golf Club, the lack of public discussion in relation to this part of the site was problematic:

... we find it strange that subsequently it is the golf course that has been taking steps to appoint a new developer, which has now taken place. We find it odd that for a development that affects large areas of public land the preferred developer has apparently been chosen by a third party without any obvious tendering process or involvement of government, at least on the face of it.¹⁷¹

- 4.19** As Clr de Leau argued, the lack of transparency about this matter is of particular concern given the considerable profits the Club is likely to generate from the transaction:

The golf course is swapping 18 hectares of its freehold land...and it will then get a new course of 63 hectares. So that is all public land. It is swapping its freehold of 18 to get 63 in a new course with a 99-year lease.¹⁷²

Impact of Sydney Airport development

- 4.20** Clr de Leau believes SHFA has not been open about the potential impact of proposed changes to Sydney Airport on the financial viability of the Cooks Cove project, and on transport infrastructure and traffic:

... Sydney airport have announced that they will be building three high-rise towers within a stone's rival of Cooks Cove, so that does cast some doubt over the financial viability of that project, which would have a 200-room hotel and a number of other buildings that would be aiming to have office space for high-tech industries. It does say that there will be 10,000 operational jobs, and yet in neither the Sydney airport plan nor the Cooks Cove is there any mention of public transport infrastructure. One

¹⁶⁹ Submission 18a, SHFA, p9

¹⁷⁰ Quoted by the Ms Sylvia Hale, 21 February 2005, p5

¹⁷¹ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, p3

¹⁷² Clr de Leau, Evidence, 21 February 2005, p6

of the concerns reflected in the community is the sheer amount of traffic that will be generated on already overburdened roads.¹⁷³

- 4.21** At the final Committee hearing on 29 April, Dr Lang was asked to comment on whether the planned expansion of Sydney airport would have any impact on the Authority's plans for Cooks Cove, to which Dr Lang replied:

The short answer is limited, the reason being that the intended use of the Cooks Cove site is a very different use than what the intended use of the expanded airport lands are and therefore we do not see a conflict of uses there. There are some suggestions that it may be a positive effect in that it may cause that area of Sydney to be more activated and therefore the Cooks Cove development might be enhanced by that. On the other hand there could be a negative effect and that is that if that results in a greater transport issue in that general area of Sydney then other infrastructure things need to be looked at. The Cooks Cove development plan in its own right has taken all the various traffic and things into account but obviously we are not taking into account any enhanced traffic that might come from an adjacent development.¹⁷⁴

Lack of transparency about the current project status

- 4.22** Inquiry participants told the Committee that after an apparent flurry of activity, including the display of the Master Plan and the Regional Environment Plan, the project appears to have disappeared into a 'black hole':

The whole saga to date has lacked transparency. Since the close of the period for submissions there has been resounding silence. What is the current status of the project? Why has it taken so long to reach a decision on whether to adopt, amend or reject the draft REP and Masterplan?¹⁷⁵

- 4.23** Despite her position on Rockdale Council, Clr de Leau did not seem to be any more knowledgeable about the future of the project:

Up until the State election 2003, certainly from a local newspaper point of view...there was quite a bit of talk about the project. But that quietened down around late 2002 and pretty much since that time the only major announcements we have had were the two plans being gazetted. That was in June 2004. We are still waiting on information of the wetlands master plan and the other associated master plan being put out for exhibition and public comment...It just seems that nothing really is progressing but there does tend to be a feeling that something may come up without appropriate notice.¹⁷⁶

¹⁷³ Clr de Leau, Evidence, 21 February 2005, p4

¹⁷⁴ Dr Lang, SHFA, Evidence, 29 April 2005, p27

¹⁷⁵ Submission 20, Coast and Wetlands Society, p2

¹⁷⁶ Clr de Leau, Evidence, 21 February 2005, p2

Environmental concerns

- 4.24 Inquiry participants raised serious concerns about the impact of the Cooks Cove Project on the local environment, especially the wetlands ecosystem, and on access to publicly available open space.

Wetlands preservation

- 4.25 The Cooks Cove site traverses significant and vulnerable wetland ecosystems. Inquiry participants complained that while plans are supposed to be prepared to deal with the wetlands' protection, SHFA has not indicated what the eventual status of these plans will be, or whether there will be a public comment phase prior to their adoption.¹⁷⁷ Professor Paul Adams submitted that:

...certainly the regional environmental plan [REP] requires that plans be prepared for wetland management, contamination and some other issues. It is not clear to us from reading the REP that those will be master plans available for public comment, and that is a concern...Plans are to be prepared but it is not clear that there will be any opportunity for public input on them.¹⁷⁸

- 4.26 While Clr de Leau was cautiously optimistic about the establishment of a technical environment reference group involving officers from NSW Fisheries and the National Parks and Wildlife Service, Professor Adams was sceptical about its potential impact:

...without in any way doubting the professionalism of the officers of those departments, again they might be heard, but would they be listened to? Would the broader public ever know that maybe the views of those departments have been overridden as part of this process? ...there is no guarantee that if those departments raise serious concerns they would be necessarily listened to or that we, as the poor old public, would ever know about it. So if that makes me paranoid and a conspiracy theorist, then so be it.¹⁷⁹

- 4.27 Professor Adams' scepticism about the environmental management of the project has apparently been fuelled by the fact that some of the early plans for the site demonstrate a very poor understanding of the issues involved. For example, previous plans sought to completely obscure the historic Chinese Market Gardens and obliterate the Landing Light wetlands.¹⁸⁰ Professor Adams was also concerned that the environmental study conducted as part of the Master plan was funded and developed by Trafalgar, the company that was poised to buy and develop the Kogarah Golf Course site.¹⁸¹

¹⁷⁷ Submission 20, Coast and Wetlands Society, p2

¹⁷⁸ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, pp2-3

¹⁷⁹ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, pp10-11

¹⁸⁰ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, p10

¹⁸¹ Professor Adams, Coastal Wetlands Society, Evidence, 21 February 2005, p3

Loss of publicly available open space and local sporting facilities

- 4.28** While SHFA claim that 70% of the Cooks Cove site will be dedicated to open space, Clr de Leau noted that most of this will be provided by a golf course, which could hardly be described as publicly accessible open space. She claimed the project will lead to a net loss of publicly available open space and local sporting facilities:

...the people of Rockdale are the ones who will lose out. Publicly accessible open space will be reduced from 60 hectares to 17 hectares, which is quite a dramatic loss. The golf course is ... going onto other sporting fields. Those sporting fields then have to move further down the recreation corridor. So the community of Rockdale, all the way from Arncliffe down to Sans Souci, will feel the impact....We are not gaining any open space; we are actually moving all these others further down the corridor.¹⁸²

Should SHFA continue to manage Cooks Cove?

- 4.29** While participants expressed concern about SHFA's role in Cooks Cove, alternative project managers are not readily apparent. Clr de Leau suggested the administration of the project by local councils would allow for genuine community consultation, however she was not sure whether Rockdale Council could manage such a large project:

I am still not sure whether Rockdale Council would be the appropriate authority. The project is quite substantial. As I mentioned, \$6.4 million has been allocated just to move sporting facilities. It is contaminated land. It could be worked out in co-operation with neighbouring councils.¹⁸³

Conclusion

- 4.30** As one inquiry participant commented, it is unusual to make a submission to an inquiry that raises more questions than it answers. But this comment encapsulates a widely held view among participants in relation to Cooks Cove. SHFA's apparent lack of openness has fuelled suspicions regarding its commitment to local residents and their environment. Given concerns expressed during this inquiry about the potential impact of the proposed expansion of Sydney Airport, the need for comprehensive community consultation would seem even more pressing.

¹⁸² Clr de Leau, Evidence, 21 February 2005, p7

¹⁸³ Clr de Leau, Evidence, 21 February 2005, p7

Chapter 5 Luna Park Reserve

The evidence received by the Committee in relation to Luna Park was highly critical of SHFA's management of the Luna Park Trust. Participants' disquiet about the Authority's role in Luna Park - its alleged pro-development bias and lack of transparency - echo similar concerns raised by participants from other precincts managed by SHFA. The recent proposal to build a 14-storey office block on the cliff site above Luna Park is seen by some critics as an example of SHFA's inability to strike an appropriate balance between its commercial and community interests.

Luna Park's recent history

- 5.1 Luna Park has had a vexed history since its heyday in the 1930s as Sydney's much-loved amusement venue. In 1999, after several refurbishments and multiple owners, two entertainment companies combined to win a competitive tender to redevelop the site. The successful tenderer, Metro Edgley, re-opened the park on 4 April 2004¹⁸⁴.
- 5.2 Metro Edgley's development plans included the retention of the historical rides such as the Ghost Train and Coney Island and the construction of new entertainment, conference and car parking facilities. While it was expected that some of the cliff top site above the Park would be developed to help offset the restoration costs, the type and extent of this development is contentious, as discussed below.
- 5.3 In 2001, the Government appointed SHFA to manage the Luna Park Reserve Trust. SHFA is the planning assessment authority for development on Trust land and the Minister for Planning is the Consent Authority.¹⁸⁵

Relevant planning documents and controls

- 5.4 Much of the controversy surrounding Luna Park today concerns the interpretation of various planning instruments relating to the site. These include the *Luna Park Site Act 1990* (as amended), the Luna Park Plan of Management, North Sydney Local Environmental Plan 2001 (NSLEP 2001) and State Environmental Planning Policy 56 (SEPP 56).

Luna Park Site Act 1990

- 5.5 The *Luna Park Site Act 1990* (the Act) was designed to provide guidance on how the Park and its environs should be governed and managed. It also had the effect of converting the land within the Luna Park Reserve into Crown Land.¹⁸⁶

¹⁸⁴ Luna Park Sydney (LPS) is responsible for the operation of Luna Park and is 50% owned by Metro Edgley (Multiplex). In 2002, Multiplex bought 100% of Metro Edgley shares

¹⁸⁵ Submission 18, SHFA, p26

¹⁸⁶ Metropolitan Land and Resource Planning Division, DIPNR, 'Proposed amendments to State Environmental Planning Policy No 56 – Sydney Harbour Foreshore and Tributaries (SEPP 56) as it

- 5.6** The Act was amended in 1997 to provide for a wider range of commercial uses for the reserve, including the cliff top, as long as such development did not threaten heritage listed fig trees on the site.¹⁸⁷ The cliff top is comprised of three areas on the cliff top above Luna Park, fronting Glen and Northcliffe Streets, generally known as: areas A, B and C (See map 2). A 10-storey office building has been constructed on area A, while areas B and C are yet to be developed.

Luna Park Plan of Management and master plan

- 5.7** A Luna Park Plan of Management was adopted in March 1998. While this Plan included planning controls for most of the site, it did not encompass the cliff top.
- 5.8** A ‘Stage One’ master plan was prepared by Metro Edgley but this did not encompass cliff top sites ‘A’ and ‘B’. The requirement for a master plan for the remainder of the site was waived in October 1998 by the then Minister for Urban Affairs and Planning because of the amount of planning work already undertaken.¹⁸⁸

North Sydney Local Environment Plan 2001

- 5.9** Development of the Luna Park site is also subject to the provisions of the North Sydney Local Environment Plan 2001 (NSLEP). Clause 59 of NSLEP makes a special rezoning of the Glen Street cliff top area (area A) to permit commercial development with consent on that site. The same provision has not been extended to the other cliff top areas.¹⁸⁹

State Environmental Planning Policy No 56

- 5.10** In 2001, the Government brought Luna Park within the provisions of State Environmental Planning Policy No 56 - *Sydney Harbour Foreshore and Tributaries* (SEPP56) and development on the site was deemed to be ‘State Significant’.

Development of cliff top areas B and C

- 5.11** In January 2004, Metro Edgley submitted a development application to SHFA for commercial development on cliff top areas B and C and publicly announced its plans to build a 14-storey office block. This proposal attracted widespread community opposition. Inquiry participants

applies to the Luna Park site’. (Draft briefing paper, dated 8 August provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005)

¹⁸⁷ *Luna Park Site Amendment Act 1997*

¹⁸⁸ Memorandum to Mr Gleeson and Dr Lang from Mr Kerr re Master Plan status for Luna Park site, 10 February 2004, provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005)

¹⁸⁹ Memorandum to Mr Gleeson from Mr Kerr, re: Luna Park – advice from Deacons, 11 February 2004, provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005

told the Committee that such a development would have a deleterious impact on the local environment and was in fact prohibited by the relevant planning controls. Mr Gerard van Rijswijk, the Chairman of local resident group, the Protectors of Sydney Foreshores, claimed that SHFA's role in the matter demonstrates its desire to facilitate the developer's interests rather than those of the local residents and broader community:

Why is SHFA standing on the side of the developer when they should be neutral and, if anything, on the side of the general public both in their roles as the recommending consent authority and as trustee of the Luna Park Reserve Trust. This is Crown land; this is public land. This is not Multiplex's land.¹⁹⁰

What kind of development is allowed on the cliff top?

5.12 Inquiry participants argued that the relevant planning instruments (the *Luna Park Site Act 1990*, NSLEP 2001 and the Luna Park Plan of Management) prohibit the construction of another office block on the cliff top.

5.13 According to Mr van Rijswijk, the *Luna Park Act 1990* requires compliance with NSLEP 2001 and this precludes commercial development of the southern cliff top, as does the masterplan.¹⁹¹ He told the Committee that a document issued by the developers in 2001 - *Turning the Lights back on* - makes it clear that what they had in mind for the cliff top, namely:

- a public park on the middle area adjoining the intersection of Glen and Dind streets
- a split level restaurant on the area to the south adjoining Northcliff Street
- a hotel/serviced apartments on the area to the north in Glen street¹⁹² (this is area A where a 10 storey office block has been built).

5.14 However, Luna Park Sydney rejected Mr van Rijswijk's claims. In correspondence to the Committee its Managing Director, Mr Peter Hearne stated that commercial development of both sites was envisaged under the *Luna Park Site Act*, the Luna Park Plan of Management and NSLEP 2001.¹⁹³ Mr Hearne also claimed that community members were fully informed about the potential commercial development of the cliff top, during extensive community consultation that took place during 1997:

The development of those sites was clearly discussed with the community throughout 1997 through the workshops conducted by Urban Design Advisory Service (UDAS) including two seven storey commercial buildings, one on each site.¹⁹⁴

¹⁹⁰ Mr van Rijswijk, Protectors of Sydney Foreshore, Evidence, 18 February 2005, pp38-39

¹⁹¹ Mr van Rijswijk, Protectors of Sydney Foreshore, Evidence, 18 February 2005, p32

¹⁹² Metro Edgley, *Turning the Lights Back On*, p4

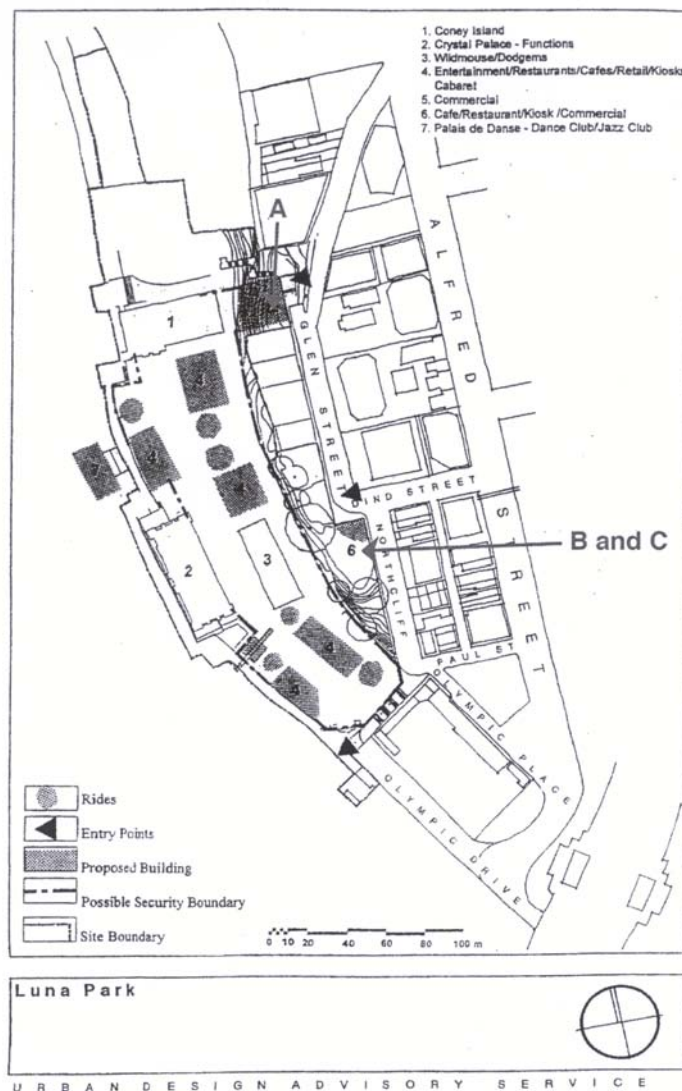
¹⁹³ Correspondence from Managing Director of Luna Park Sydney, Mr Peter Hearne, to the Chair, 4 April 2005, p7

¹⁹⁴ Correspondence from Managing Director of Luna Park Sydney, Mr Peter Hearne, to the Chair, 4 April 2005, p7

5.15 SHFA is in no doubt that commercial development on the cliff top site was planned and supported by Parliament, to ensure Luna Park's financial viability:

Development of the cliff top was made permissible under the *Luna Park Site Amendment Act 1997* to enable Luna Park to be redeveloped and operated as an economically viable venture. The Luna Park Plan of Management adopted in 1998 also envisaged commercial development of the cliff top sites...The second reading speech by Minister Yeadon on the Luna Park Site Amendment Act stated that the cliff top area "will be subject of long term leases for commercial development by the private sector."¹⁹⁵

Map 2: Luna Park and cliff top sites



Source: Sydney Harbour Foreshore Authority

Commercial development prohibited under NSLEP 2001

- 5.16** Despite the apparent clarity provided by the amended Luna Park legislation and Plan of Management, the question as to whether the development application was in conflict with NSLEP 2001 remained in doubt. Legal advice sought by SHFA in February 2004 confirmed its preliminary view that the proposed development was prohibited under the LEP and could only be refused by the Minister:

Under the North Sydney LEP (NSLEP) commercial offices is not listed in the Luna Park Zone as a use that may be carried out with development consent and is consequently “**prohibited**” and consequently should not be advertised and can only be “**refused**” by the Minister

...The Luna Park Site Act provides a definition for “Luna Park” that includes commercial office use for the cliff top area. However, there is no provision in the NSLEP and EP&A Act that imports provisions from the Luna Park Act.¹⁹⁶

- 5.17** In March 2004, the Minister for Planning, the Hon Craig Knowles announced a ‘two pronged’ approach to the apparent conflict between NSLEP 2001 and the *Luna Park Site Act 1990*, the first of which was to seek amendments to SEPP 56 to clarify what commercial development could be permitted on the site. The second ‘prong’ was to convene an Independent Expert Advisory Panel to recommend appropriate planning controls for the cliff top sites.¹⁹⁷

- 5.18** The panel’s recommendations were released in September 2004, proposing maximum heights for the two sites of approximately 4-5 storeys and 2-3 storeys, respectively, considerably lower than the 14 storeys requested by Luna Park Sydney. Two of the four panel members, Councillors McCaffery and Thalys from North Sydney Council, do not fully support the Study’s recommended planning controls, both councillors prefer slightly different configurations for the site.¹⁹⁸ At the time of the hearing, SHFA was awaiting the Minister’s advice on this matter.¹⁹⁹

- 5.19** A section 69 report has been prepared by officers from DIPNR regarding an amendment to NSLEP, however the Committee is not aware of its current status:

It will be recommended in that report that Minister Beamer uses her powers under s70(4) of the EP&A Act to defer the provisions dealing with the Luna Park site land (including the cliff top sites) from the amending LEP, as they are to be dealt with as part of the proposed amendments to SEPP56.²⁰⁰

¹⁹⁶ Memorandum to Mr Gleeson from Mr Kerr, re: Luna Park – advice from Deacons, 11 February 2004, provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005

¹⁹⁷ Minister for Infrastructure and Planning, Minister for Natural Resources, ‘Minister approves Luna Park Planning Process’, *Media Release*, 30 April 2004

¹⁹⁸ Letter from Ms Westacott to Committee Director, correcting aspects of her evidence provided on 21 February 2005, 12 March 2005.

¹⁹⁹ Dr Lang, SHFA, Evidence, 18 February 2005, p24

²⁰⁰ Metropolitan Land and Resource Planning Division, DIPNR, ‘Proposed amendments to State Environmental Planning Policy No 56 – Sydney Harbour Foreshore and Tributaries (SEPP 56) as it applies to the Luna Park site’. (Draft briefing paper, dated 8 August provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005. Under s69 of the *Environmental Planning and*

Did SHFA offer inappropriate advice to the developers?

- 5.20** Following the receipt of legal advice regarding the cliff top development application, SHFA advised Luna Park Sydney that it could not accept their application, but that certain appeal rights were available to the applicants under section 89 of the *Environmental Planning and Assessment Act 1979*. Mr Gus Kuiters from the Protectors of Sydney Foreshores was highly critical of SHFA for providing this advice:

Why is SHFA trying to go around the rules and regulations and seemingly instead of saying, "It's not permissible", saying "I will tell you another way in which you can get around it." That is not the action of an independent authority. That is why I think that this inquiry into SHFA is so important.²⁰¹

- 5.21** According to Mr Kuiters, the language used by a SHFA planner in a memo regarding the application reveals SHFA's pro development bias:

The problem **we** face is that the Luna Park Site Act was made by the Hon Richard Amery ...under the Crown Lands Act 1989. However the assessment of development applications is limited to the Environmental Planning and Assessment Act 1979 which does not appear to provide a bridging link to the Crown Lands Act or the Luna Park site Act – i.e **we** may not be able to borrow a land use definition from the Luna Park Site Act to replace the North Sydney LEP.²⁰²*[emphasis added]*

- 5.22** Mr Kuiters said that the 'problem' referred to by the planner should not be perceived as SHFA's problem, but rather that of the developer.

- 5.23** Dr Lang rejected the negative interpretation of SHFA's actions in relation to this matter:

...It has been suggested that the Authority acted inappropriately in advising the applicant of its rights of appeal. On the contrary, it is the responsibility of planning authorities to advise applicants of appeal rights if they disagree with determinations. These options are legally available to them. This sort of information is routinely given by planning authorities every day.²⁰³

- 5.24** Luna Park Sydney told the Committee that it was wholly appropriate for SHFA to advise them of their appeal rights, although it did not tell them anything they did not know already.²⁰⁴

Assessment Act 1997, the Director General of DIPNR must prepare a report to the Minister on any proposal for a new or amended Local Environmental Plan.)

²⁰¹ Mr Kuiters, Protectors of Sydney Foreshore, , Evidence, 18 February 2005, p37

²⁰² Memorandum to Mr Gleeson and Dr Rob Lang from Mr Kerr re Status of Development Applications for Luna Park, 4 February 2004, p, provided by Mr van Rijswijk in correspondence to the Committee, 30 March 2005

²⁰³ Dr Lang, SHFA, Evidence, 18 February 2005, pp7-8

²⁰⁴ Correspondence from Managing Director of Luna Park Sydney, Mr Hearne, to the Chair, 4 April 2005, p10

Other examples of ‘development creep’

- 5.25** Protectors of Sydney Foreshore claim the proposal to build an office block on the cliff top is but one of numerous instances of ‘development creep’ on the Luna Park reserve:

... what is happening at the site now is probably referred to as developer’s creep, where they start off with one plan and little by little get approval for more and more and more. In the end what you have got is not what you originally started off with. Because there is no master plan you do not know what the end point is going to be.²⁰⁵

- 5.26** Mr van Rijswijk argued that the developers have gained these additional concessions on the grounds of commercial viability:

The northern cliff-top site was to house a four-storey office block; they have a 10-storey office block. That has contributed to viability. They have a larger circus tent. That has contributed to viability. They have a larger café-brasserie. That has contributed to viability. They have a larger car park. That has contributed to viability. So every time they turn around and want a bit more, they trot out the viability argument. What about the viability of the community? ²⁰⁶

- 5.27** Luna Park Sydney deny that its developments offend relevant planning controls. For example, the 10-storey office building on cliff top area A complies with the LEP and six of its 10 storeys are below street level. ²⁰⁷ In relation to the car park, Mr Hearne said they had *always* sought a car park of at least 500 cars in their application to both Council and DIPNR. While their request was knocked back by Council, DIPNR eventually agreed to allow 389 spaces. They claimed the car park is operating successfully and the Council is encouraging Luna Park Sydney to promote its use.²⁰⁸ Mr Hearne also argued that its café/brasserie is not too big, but complies with the intent and height controls stipulated by the Plan of Management.²⁰⁹

- 5.28** SHFA told the Committee that it had no involvement in the assessment of various development applications approved by the Minister in 2002 and 2003²¹⁰ and has a relatively limited role in Place Development at Luna Park:

The Sydney Harbour Foreshore Authority is not the developer: we are not the consent authority. We had no role in the development of the lease arrangements, nor the determination of the original planning parameters...We have no commercial interest in what might be developed on the site. Our only interest is as the landlord, ensuring that Luna Park Sydney meets its lease conditions, and as planning assessors in checking any new DA against whatever environmental planning instruments govern

²⁰⁵ Mr van Rijswijk, Protectors of Sydney Foreshore, Evidence, 18 February 2005, p38

²⁰⁶ Mr van Rijswijk, Evidence, 18 February 2005, pp35-36

²⁰⁷ Correspondence from Managing Director of Luna Park Sydney, Mr Hearne, to the Chair, 4 April 2005, p4

²⁰⁸ Correspondence from Managing Director of Luna Park Sydney, Mr Hearne, to the Chair, 4 April 2005, p4

²⁰⁹ Correspondence from Managing Director of Luna Park Sydney, Mr Hearne, to the Chair, 4 April 2005, p5.

²¹⁰ Submission 18a, SHFA, p4

the site. So our role is very defined and quite limited. ... most of the concerns raised are the responsibilities of other organisations and agencies, not ours.²¹¹

The agreement for lease

- 5.29** Protectors of Sydney Foreshores, among others, argue that a full copy of the agreement for lease between Metro Edgley and the Luna Park Reserve Trust should be released. The group has a copy of this document, but according to Mr van Rijswijk, it has 'all the good bits blacked out'. They believe the document should be released in its entirety:

These facts are not commercial in confidence types of facts. They are the sorts of things that the community has a right to know in relation to a site that is as important to Sydney as Luna Park. The secrecy surrounding the lease agreements and the secrecy surrounding the agreement between the developer and the government, as reflected in the agreement with the Luna Park Reserve Trust, needs to be known.²¹²

- 5.30** While the registered lease is publicly available, the agreement for lease is not.

Membership profile of the Protectors of Sydney Foreshore

- 5.31** Three members of Protectors of Sydney Foreshores, including its Chairman, Mr van Rijswijk appeared before the Committee on 18 February 2005. During the hearing questions were raised about the status and motivations of some of its members. In particular, it was alleged that the group included local developers primarily motivated by self interest, rather than concerns about the local environment or heritage. Mr van Rijswijk strenuously rejected this suggestion, stating that the group was broadly representative of community interests and that the bulk of its \$1 million fighting fund was raised from contributions from the 'mums and dads in the community'.²¹³
- 5.32** Correspondence from Luna Park Sydney contradicts Mr van Rijswijk's evidence.²¹⁴ The Committee has not sought to resolve the contradictions in this evidence as it does not relate directly to SHFA's role. The issue does, however, point to the need for transparency not only on the part of agencies such as SHFA, but also on the part of community organisations seeking to challenge the decisions and actions of these agencies.

²¹¹ Mr Isaacs, SHFA, Evidence, 18 February 2005, p4

²¹² Mr van Rijswijk, Protectors of Sydney Foreshores, Evidence 18 February 2005, p34

²¹³ Mr van Rijswijk, Protectors of Sydney Foreshores, Evidence, 18 February 2005, p42

²¹⁴ Correspondence from Managing Director of Luna Park Sydney, Mr Hearne, to the Chair, 4 April 2005

Conclusion

- 5.33** Many of the criticisms directed towards SHFA in relation to the Luna Park Reserve are misdirected, as most development decisions regarding the site were made previously and will continue to be made, by DIPNR, the Minister for Planning and the Premier.

Chapter 6 The SuperDome

In mid 2004, SHFA made a \$23 million bid to secure a 31 year lease on the SuperDome: a sports and entertainment complex at Homebush Bay. The controversial bid was subsequently and very publicly withdrawn by SHFA, at the direction of the Premier. The Committee received a small amount of evidence regarding this issue during the inquiry. Concerns raised include: the commercial viability of the bid, and the apparent lack of involvement of the Planning Director General, Ms Jennifer Westacott in the Authority's attempt to buy the stadium. These issues are discussed below.

Timeline of events

- 6.1 The SuperDome is a 21,000 seat mini-stadium built for the Sydney 2000 Olympics. The venue cost more than \$200m to construct, \$140m of which was contributed by the NSW Government. In late 2003 the then leaseholders flagged their intention to divest themselves of the SuperDome. Potential government ownership of the site was apparently opposed by the Premier, who reportedly stated that ownership of the SuperDome should be 'left to the market'.²¹⁵
- 6.2 It seems neither the former SHFA Chair, Mr Gleeson, nor his fellow board members were dissuaded by the Premier's apparent opposition to government ownership of the SuperDome. In a memo to the Treasurer and Minister for Planning, dated 28 April 2004, Mr Gleeson wrote that despite serious financial and political issues 'the Government should think hard before allowing Superdome to pass into private ownership' proposing that Sydney Olympic Park Authority purchase the lease, possibly with support from SHFA.²¹⁶
- 6.3 Three weeks later, on 20 May 2004, the Authority CEO, Dr Lang presented a business case for the purchase of the SuperDome lease to the SHFA Board. Board members (with the exception of DIPNR'S Director General, Ms Westacott) approved the \$28 million bid, subject to the Treasurer's approval and finalisation of the requisite legal and financial due diligence.²¹⁷ The Treasurer's approval was secured on Friday 21 May, despite the recommendation of Treasury that he not support it.²¹⁸ SHFA submitted its plan on 24 May. The next day, Mr Gleeson was directed by the Premier to withdraw the bid, on the basis that it was inappropriate for the Authority to buy a new entertainment venue.²¹⁹

²¹⁵ 'Beyond SuperDome: clash of the titans', *Sydney Morning Herald*, 26 May 2005, p1

²¹⁶ Memo to Hon Craig Knowles MP and Hon Michael Egan MLC from Mr Gleeson: re SuperDome, 28 April 2004

²¹⁷ Mr Isaacs, SHFA, Evidence, 18 February 2005, p25

²¹⁸ 'Sorry: it was me: Egan backed SuperDome bid', *Sydney Morning Herald*, 28 May 2005, p1

²¹⁹ Beyond SuperDome: clash of the titans', *Sydney Morning Herald*, 26 May 2005, p1

Should SHFA have bid for the SuperDome?

- 6.4** SHFA Chair, Mr Jon Isaacs acknowledged that much of the disquiet surrounding the SuperDome bid stemmed from a belief that the plan was financially unsound:

The public perception was that the Authority had made a bid that was not commercially satisfactory.²²⁰

- 6.5** Dr Lang vigorously defended SHFA's attempt to purchase the SuperDome lease on commercial and public grounds. Dr Lang argued that SHFA's primary motivation was to address the serious shortage of exhibition and convention facilities at Darling Harbour: 'We were looking at expanding our facilities at Darling Harbour because the place had effectively run out of space...'²²¹

- 6.6** Dr Lang said that running out of space at Darling Harbour was not only a problem for SHFA; it also had State-wide implications:

...we were consistently hitting the capacity of the venue and turning away business. The convention centre management said to us that this is not a favourable thing for the people of New South Wales, in that these facilities bring in a number of parties who have a high spend rate, who bring other business, who add to the economy of New South Wales, and that if they had more space they would be able to use it....²²²

- 6.7** Dr Lang assured the Committee the Authority had considered many options before settling on the SuperDome solution:

... we considered taking the existing exhibition halls and adding a mezzanine level, so you got more full space within the same building envelope. We looked at demolishing and rebuilding an adjacent car park so we could put some exhibition space on top. We looked at digging underground, but there is a water table problem.²²³

- 6.8** According to Dr Lang, the cost of a new exhibition hall in Darling Harbour would be more than \$100 million but the SuperDome option offered the same sort of expansion and capabilities at a much cheaper price.²²⁴ Mr Isaacs stated that the public benefits of SuperDome ownership could justify the relatively small rate of return:

... These are facilities for the community and the reason that the governments in the past have invested in them is to generate economic activity for the State, for Sydney in particular. They do not, as Dr Lang has said, make a return on investment which would make any private sector investor jump with joy—quite the reverse.²²⁵

²²⁰ Mr Isaacs, SHFA, Evidence, 18 February 2005, p14

²²¹ Dr Lang, SHFA, Evidence, 18 February 2005, p12

²²² Dr Lang, SHFA, Evidence, 18 February 2005, p24

²²³ Dr Lang, SHFA, Evidence, 18 February 2005, p24

²²⁴ Dr Lang, SHFA, Evidence, 18 February 2005, p12

²²⁵ Mr Isaacs, SHFA, Evidence, 29 April 2005, p11

- 6.9 Dr Lang and Mr Isaacs pointed out that if and when the Sydney Olympic Authority was in a position to take up the ownership SHFA would willingly transfer ownership to them at the appropriate rate.²²⁶
- 6.10 SHFA's bid for the SuperDome was \$22.8 million. This was at least \$3 million less than the bid made by the successful tenderer, Publishing & Broadcasting Ltd.²²⁷

The Director General's role in the SuperDome bid

- 6.11 Another issue raised regarding the SuperDome is the apparent lack of involvement of SHFA Board member, Ms Westacott, in the decision to make a bid for the site. Ms Westacott told the Committee she was not present at either of the two Board meetings at which the bid was discussed. Indeed, it appears the business case was not sent to Ms Westacott until *after* the Board had made a decision to proceed with the tender.²²⁸
- 6.12 Given her position as both Director General of DIPNR and a member of the seven-person SHFA Board, coupled with the Premier's reported opposition to government ownership of the stadium, Ms Westacott's 'hands off' approach to the SuperDome issue is perplexing, as the following exchange shows:

The Hon. GREG PEARCE: Did you have a view on whether the proposal was in the interests of the Sydney Harbour Foreshore Authority or not?

Ms WESTACOTT: No.

The Hon. GREG PEARCE: As a director, you did not form any view at all?

Ms WESTACOTT: No.

The Hon. GREG PEARCE: Why would you not form a view?

Ms WESTACOTT: Well, I was not present at the meeting. I was not going to go to the meeting, and I did not think I had a—my recollection was of a short board paper. I did not have enough information to form a view and I had not been party to any of the discussions.

The Hon. GREG PEARCE: And as a director, that did not cause you to speak to Dr Lang or to the chair or someone to find out what was happening, as to whether it was in the interests of the authority—what the basis of its going forward was?

Ms WESTACOTT: No, I did not speak to Dr Lang about it. I was not going to be present at the meeting.

²²⁶ Mr Isaacs, SHFA, Evidence, 18 February 2005, p14

²²⁷ Totaro P, 'Packer in double or nothing for venue', *Sydney Morning Herald*, October 2004

²²⁸ Answers to Questions taken on Notice during evidence 21 February 2005, Director General, Ms Westacott, DIPNR, Q1

The Hon. GREG PEARCE: So, in terms of the way you perform your duties as a director of that authority, if you are not going to be present, you do not take any interest in what is happening?

Ms WESTACOTT: No, that is not true. I did not say that. I said I did not form an opinion based on the papers that were available to me and I did not discuss the matter with Dr Lang.²²⁹

Committee view

- 6.13** The Committee was unable to question the former Chair, Mr Gleeson and in the absence of any further explanation from the Premier, has not formed any conclusion on the bid process.

²²⁹ Evidence, 21 February 2005, pp39-40

Chapter 7 Conclusion and recommendations

During the inquiry, participants identified two major areas of concern about SHFA's role and methods: first, that the Authority has pursued its commercial goals at the expense of its social and community obligations; second, that it has discouraged public participation in its decisions, either by its lack of transparency, or by ignoring community views.

Some inquiry participants suggest that a comprehensive strategy for the management of the Sydney Harbour foreshore is needed to reduce the over-emphasis on revenue-raising in agencies such as SHFA. While sympathetic to this view, the Committee is not convinced that yet another strategy will align these inherently conflicting values. In a public sector environment that encourages and rewards commercial success, this tension will only be relaxed if the Government provides incentives for foreshore agencies to preserve foreshore land for public enjoyment.

Another way to encourage foreshore agencies to better balance their objectives would be to facilitate genuine public participation in their decisions, especially during the early stages of a proposal. Ways to establish more effective consultation mechanisms are discussed in the second part of this chapter.

A comprehensive strategy for Sydney Harbour?

7.1 There is a plethora of strategies, statements, plans and policies concerning the development and management of Sydney Harbour. For example:

- The Premier's 1997 Vision Statement for Sydney Harbour.
- SEPP 56 Sydney Harbour Foreshores and Tributaries.
- Draft Sydney Regional Environmental Plan 32 – Sydney Harbour Catchment.
- Numerous relevant regional and local environmental plans. For example, *Sydney Regional Environmental Plan 23-Sydney and Middle Harbours*.

7.2 The ideas and objectives contained within these documents are supposed to be implemented by a multitude of State Government agencies. These include:

- DIPNR
- SHFA
- Sydney Ports Corporation
- NSW Maritime Authority
- Department of Lands
- National Parks and Wildlife Service
- local councils.

7.3 Public debate about the effective management of the Sydney Harbour foreshore was recently provoked by the release of the Auditor General's report: *Performance Audit of the Disposal of Sydney Harbour Foreshore Land*. One of the main themes of the report is the need for a comprehensive policy framework to guide the future use of Sydney's foreshores:

...the need for an overarching plan is so that all the different players, be they local councils, SHFA or the National Parks and Wildlife Service can align their roles with some broader principles.²³⁰

7.4 The broader principles alluded to by The Audit Office would sit on top of the principles individual agencies are currently expected to balance. For example, SHFA has a strong commercial role but its legislation also requires it to consider the need to protect and enhance foreshore areas. Assistant Auditor General, Mr James Horne, argued that an overarching strategy would assist agencies such as SHFA to align these principles and resolve their conflicting roles: 'I think without a simpler guiding framework everybody will be conflicted to some degree and cannot get out of the loop'.²³¹

7.5 The Auditor General, Mr Bob Sendt, argued in his report that in addition to a holistic strategy, a new structure to govern decisions about the foreshore should be created: '...existing governance arrangements are too complex and are not equipped to be decisive or to drive actions in a holistic way'.²³²

Response to Audit Report

7.6 DIPNR and SHFA were unimpressed with the Auditor General's draft findings, which were presented to these agencies prior to the finalisation of the report. Both agencies believe the Auditor General failed to recognise recent government initiatives designed to overcome some of the barriers to effective foreshore management identified in his report. These initiatives include:

- the creation of one Minister and department –DIPNR–to provide leadership on land use, infrastructure and natural resources
- the development of a single planning instrument to regulate development in and around the harbour - Regional Environment Plan 32
- initiation of the Sydney Harbour Strategy.²³³

7.7 DIPNR argued that these reforms provide all the strategic direction needed to 'sustain the harbour well into the future.' Nor did the Department see the need to alter current governance structures:

²³⁰ Mr Horne, The Audit Office, Evidence, 21 February 2005, p19

²³¹ Mr Horne, The Audit Office, Evidence, 21 February 2005, p19

²³² The Audit Report, p3

²³³ The Audit Report– Response from DIPNR and SHFA, pp50-64

DIPNR is now the most appropriate single agency to provide guidance on the strategic development of Sydney Harbour Foreshore Land, ...in consultation with its partner agencies through the Sydney Harbour Executive.²³⁴

- 7.8 While SHFA's views were generally in accord with the Department's, the Authority makes several suggestions for improving the governance of the foreshore, one of which is to strengthen the *Sydney Harbour Foreshore Act* so that foreshore land no longer required by government agencies for their core activities is transferred to SHFA.²³⁵

The Metropolitan Strategy

- 7.9 The Audit Office believes the lack of a comprehensive harbour plan is a subset of a broader, more pressing problem - the lack of a plan for the whole of Sydney:

one of the comments given to us at the time we were finalising the audit was that the Metropolitan Strategy for Sydney...would be a significant response to the issues we were raising.²³⁶

- 7.10 The Metropolitan Strategy is meant to guide Sydney's future rail, roads and suburban development.²³⁷ The Auditor General believes that in the absence of the Metropolitan Strategy, work cannot proceed on a Harbour strategy: 'Certainly I think the metropolitan strategy needs to be released before you can then move down to more localised strategies, including the harbour strategies'.²³⁸

- 7.11 Indeed, Mr Horne indicated that the Audit Office is unlikely to initiate its usual follow-up investigation until the strategy is released:

...until such time as the metropolitan strategy starts to take some shape and be implemented as a response to some of the matters we had raised, there would not be a lot to follow up.²³⁹

- 7.12 When the Government launched the plan to develop a Metropolitan Strategy in April 2004, it described it as a 'bold new blueprint for metropolitan Sydney' that would be developed over the next 12 months. Less than 12 months later, Ms Westacott told the Committee that the Government never intended to release a single written document:

...it is not intended to be a document; it is intended to be a living action strategy for Sydney...We have always said that we would not produce one document and that that

²³⁴ The Audit Report, p54. The Sydney Harbour Executive represents 20 State and three federal government agencies, and 19 local councils. It seeks to facilitate cooperation and communication on Harbour issues.

²³⁵ The Audit Report, p58

²³⁶ Mr Horne, The Audit Office, Evidence, 21 February 2005, p13

²³⁷ The Premier, Hon Bob Carr MP, 'New Blueprint for Sydney', *Media Release*, April 22, 2004

²³⁸ Mr Sendt, Auditor General, Evidence, 21 February 2005, p19

²³⁹ Mr Horne, The Audit Office, 21 February 2005, p15

would be the end of the strategy....One does not simply write a document and leave it to everyone else to get on with.²⁴⁰

- 7.13** It may therefore be difficult to discern when and if the strategy has been released. Notwithstanding any decisions regarding a comprehensive Harbour strategy, the Committee believes the Government should seek to meet the community expectations it has created for a policy on Sydney's future development to be completed and released within the next 12 months.

Recommendation 1

That in order for localised planning strategies to be prepared and implemented, including a comprehensive Sydney Harbour foreshore management plan, the NSW Government finalise and release a Metropolitan Strategy.

Will a new strategy and governance regime help balance competing goals?

- 7.14** The Committee is not convinced that a new Harbour management strategy or governance arrangements will assist agencies such as SHFA to align its commercial and stewardship objectives. There is no shortage of statements, policies or vision statements telling foreshore agencies about the need to seriously consider public space objectives. The Premier's Vision Statement, for instance, declares that the *first* step in determining future use of a surplus foreshore site is to establish if all or part of it is suitable for open space that will enhance the Harbour foreshore open space network.²⁴¹ Community groups argue that this has not led to an overabundance of publicly accessible foreshore land. There is no guarantee that developing yet another strategy will encourage agencies to operate any differently. And if such a strategy is predicated on the release of the Metropolitan Strategy, it may be quite some time before it can even be started.
- 7.15** Nor is the Committee convinced that new governance arrangements or a new agency would make a significant difference to the effective management of the foreshore. Any such agency or revised configuration of agencies would come under the same political pressures as SHFA does in relation to the interpretation and implementation of government policy.
- 7.16** SHFA is a creature of the State Government. It is formally subject to the authority and control of the Minister for Planning. It acts in accordance with official policy and interprets its legislative responsibilities in light of these values. Any major proposal for development on SHFA land must be approved by the Minister, and while it has been delegated the power to authorise minor developments, this delegation may be revoked or varied at the Minister's discretion. Occasional deviations from what is expected, as happened recently in relation to SHFA's attempted purchase of the SuperDome, can be reined in. When the Government really wants to reserve foreshore land as public space, it can direct an agency to buy it for this purpose, which is what occurred when the Government directed SHFA to purchase Ballast

²⁴⁰ Ms Westacott, DIPNR, Budget Estimates 2004-2005, 9 February 2005, pp20 &23

²⁴¹ Sydney Harbour Foreshore, A Statement by the Premier of New South Wales, August 1997

Point.²⁴² Recent reforms proposed by the Minister for Planning, designed to increase the use of 'state significant site' powers in relation to urban renewal projects, will increase the influence of the government in areas supposedly under the control of agencies such as SHFA.²⁴³

- 7.17** The evidence to this inquiry suggests that rather than adding to the long list of existing polices, a more effective way to reduce the tensions between social and revenue-raising goals in agencies such as SHFA would be first, to reduce the financial disincentives to providing open space and second, to improve opportunities for public participation in decisions about foreshore land.

Creating financial incentives to protect harbour foreshore sites

- 7.18** The Convener of the Protectors of Public Lands, Ms Maire Sheehan, believes that a fundamental issue in this inquiry is the corporatisation of the public sector and the concomitant pressure on State bodies to realize the commercial value of their public assets.²⁴⁴ The Auditor General shared Ms Sheehan's view on the impact of commercial pressures on decisions about foreshore land:

Given the commercial focus on....many public sector organisations, it is to be expected that those intending to dispose of foreshore land will first seek to maximise disposal value.²⁴⁵

- 7.19** There are significant financial disincentives for agencies to reserve foreshore land for public space. In addition to the potential revenue the agency must forego, it may also have to find funds to cover the cost of preparing and maintaining the site for public use: remediating contaminated land, preserving heritage items, landscaping parks, and ensuring the site is clean and secure.²⁴⁶ In contrast, if an agency decides to develop the land, they are able to obtain some if not all of the funds from the sale of the asset and avoid the ongoing costs associated with the site.²⁴⁷

- 7.20** Unable to identify any designated State Government program to fund, acquire, develop and manage public access sites involving key foreshore agencies, the Auditor General made the following recommendation:

We recommend that the Government balance the commercial pressures limiting disposal options with clear mechanisms for the funding, acquisition, development and

²⁴² Submission 18a, SHFA, p16

²⁴³ Goodsir D, 'Councils to lose control of more sites', *Sydney Morning Herald*, 14 May, 2005, p5 On 27 May 2005, the Hon Craig Knowles introduced the Environmental Planning and Assessment (Infrastructure and other Planning Reforms) Bill 2005 passed through the Legislative Council on 9 June and is awaiting assent in the Lower House.

²⁴⁴ Ms Sheehan, Protectors of Public Lands, Evidence, 18 February 2005, p69

²⁴⁵ The Audit Report, p17

²⁴⁶ The Audit Report, p18

²⁴⁷ The Audit Report, pp17-18

management of public access and associated harbour infrastructure for the harbour as a whole.²⁴⁸

- 7.21** The Committee believes that as a first step, the status of SHFA's open space objectives should be elevated, to reflect the fundamental importance of its stewardship goals. The Committee also believes that it is essential to find a way to either fully or partially compensate agencies such as SHFA for the costs associated with the reserving land for public space.

Recommendation 2

That the relevant legislative and administrative arrangements be amended so that the Sydney Harbour Foreshore Authority's planning and consent functions are removed.

Recommendation 3

That the Government adequately fund a program to assist foreshore agencies to acquire or reserve foreshore land for public use.

Improving opportunities for public participation

- 7.22** The lack of effective consultation by SHFA is a key theme in inquiry submissions and evidence. While participants generally stated that the Authority follows the letter of the law in relation to its consultation requirements, they argued that this is not enough. They wanted to have a say much earlier in the consideration of a development proposal, and more meaningful participation in the assessment of a development.
- 7.23** There is no reference to consultation or public participation in the *Sydney Harbour Foreshore Authority Act 1998*, however, SHFA is subject to the consultation requirements under the *Environmental Planning and Assessment Act 1979*. The only consultation required by the legislation under which the Cooks Cove Development Corporation was established is with public authorities and government departments.²⁴⁹
- 7.24** Pyrmont Community Group argued that the SHFA Act should reflect the importance of consultation:
- ...the Act must specify that the Authority will...enter into genuine consultations with the community, and demonstrate that it has taken community opinion into account in reaching its decisions.²⁵⁰
- 7.25** The Committee agrees that the Act should be amended to include a statement on the importance of community consultation, as well as specific provisions on certain matters, (see

²⁴⁸ The Audit Report, p20

²⁴⁹ s22, *Growth Centres (Development Corporations) Act 1974*

²⁵⁰ Submission 42, Pyrmont Community Group

below). Other Acts have been similarly amended. For example, one of the principal objectives of the *Landcom Corporation Act 2001* is ‘to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates.’²⁵¹ The second of nine functions in the *Sydney Harbour Federation Trust Act 2001* is: to undertake community consultation on the management and conservation of Trust Land.²⁵²

- 7.26** The forthcoming review of the Act provides an excellent opportunity to address the current silence in the legislation on the fundamental importance of public participation.
-

Recommendation 4

That the *Sydney Harbour Foreshore Act 1998* be amended so that one of the Authority’s principal functions is to undertake community consultation on the management and development of land owned or administered by the Sydney Harbour Foreshore Authority.

Prescribing earlier consultation

- 7.27** In order to facilitate opportunities to participate during the early phases of a development, inquiry participants suggested emulating provisions within the *Sydney Harbour Federation Trust Act 2001*,²⁵³ which provides for community involvement *prior* to preparing a draft plan. The Committee supports this suggestion.

Enhancing public participation in the assessment phase

- 7.28** Inquiry participants, especially Pymont residents, were particularly concerned about the lack of opportunities to be involved in the assessment phase of a development. The suggestions made by Pymont Action to improve these opportunities are discussed in Chapter 3 and appear to be an appropriate means of addressing this problem.
- 7.29** The Committee notes that under section 36(a) of the *Sydney Harbour Federation Trust Act* submissions in relation to draft plans and amendments are publicly available, and believes similar provisions should be made in relation to SHFA developments.²⁵⁴

Evaluation of consultation practices

- 7.30** Given the controversy generated during the inquiry regarding SHFA’s approach to consultation, an independent evaluation of its consultation practices may assist the Authority to ascertain how it might address some of the concerns raised by participants during this inquiry.
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²⁵¹ *Landcom Corporation Act 2001*

²⁵² s7(b) *Sydney Harbour Federation Trust Act 2001*

²⁵³ s29 *Sydney Harbour Federation Trust Act 2001*

²⁵⁴ s36(a) *Sydney Harbour Federation Trust Act 2001*

Recommendation 5

That the Minister for Infrastructure and Planning commission an independent evaluation of the consultation practices used by the Sydney Harbour Foreshore Authority.

Appendix 1 Submissions

No	Author
1	Mr Cecily Green
2	Mr Phillip Altman
3	Ms Joyce Lam
4	Ms Mary Armstrong
5	Mr Neville Monk
6	Mr Keith Fountain
7	Confidential
8	Mr Tommy Lai
9	Mr and Mrs Bill and Pip Koh
10	Mr and Mrs RW and LF Huntsman
11	Mr Ronald Rayner
12	Ms Lalita Lakshmi (UnitingCare Harris Community Centre)
13	Ms Teresa Todaro
14	Mr Kevan Hardacre
15	Mr Stephen Grieve (Darling Harbour Business Association Inc)
16	Mr Zenon Michniewicz (Waterways Authority)
17	Ms Alice Murphy (Leichhardt Council)
18	Mr Rob Lang (Sydney Harbour Foreshore Authority)
18a	Mr Rob Lang (Sydney Harbour Foreshore Authority)
19	Mr Ronald Rayner (Rockdale Wetlands Preservation Society)
20	Ms Ellen O'Brien (Coast And Wetlands Society Incorporated)
21	Confidential
22	Ms Clarissa Moo
23	Mr Michael Rolfe (Sydney Harbour Foreshore Committee)
24	Mr Raymond Hambly
25	Mr Joseph Glascott OAM (Defenders of Sydney Harbour Foreshores)
26	Mr Bradley Trevor Greive
27	Confidential
28	Mr Gerard van Rijswijk (Protectors of Sydney Foreshore Inc)
29	Mr Santo Nicotra
30	Ms Joan Street
31	Mr Phillip Cave

No	Author
32	Confidential
33	Ms Allison Merrick
34	Mrs Margaret Lynn McDonald
35	Mrs Paula Gowans
36	Confidential
37	Ms S H Langford
38	Ms Barbara Brown
39	Partially Confidential
40	Ms Lesa de Leau
41	Ms Jenny Cole (Biojen Communication)
42	Ms Jean Stuart (Pymont Community Group)
43	Ms Berice Dudley (Sydneyiders Against Polluting Stacks)
44	Mr Christopher Brown (Tourism and Transport Forum Australia)
45	Mr Greg Larkings (Wok On Inn)
46	Mr Stephen Milgate (S A Milgate and Associates Pty Ltd)
47	Mr M.B Keogh
48	Mr and Mrs Neil and Pamela Wyles
49	Dr Saad Al-Mahaidi (Mahaidi Medical P/L)
50	Mr Rafi Sabel (IdeaData Pty Ltd)
51	Mr Don Brown
52	Ms Gabriella Olsen (Kaminski Gallery)
53	Ms Joanne Le-Vene (Residents of Watermark Complex)
54	Partially Confidential
55	Mr Bryce Jackson
56	Mr Ken Morrison (Property Council)
57	Mr Ross Johnston
58	Mrs Asuncion Spencer
59	Mr Barry Evans
60	Mr Malcolm John Cohen
61	Mr Keith Sutton
62	Mr Kevin Latham
63	Mr Jacobs Tony
64	Confidential
65	Ms Sylvia Schwenk
66	Dr Elizabeth Nash

No	Author
67	Partially Confidential
68	Ms Rosemary Bishop
69	Mrs Gisella Ingaldo
70	Dr Craig Lilienthal
71	Confidential
72	Mr Robert Saliba
73	Ms Jillian Christie
74	Mr Tony Jeffcott (Kirribilli Club)
75	Mr Paul Keating
76	Ms Brigitte Delane (Shore Partners Real Estate)
77	Confidential
78	Ms Maire Sheehan (Protectors of Public Lands)
79	Mr Nick Armitage
80	Mr Bill Parry
81	Mr Thomas George Klinger
82	Mr Geoffrey Fox
83	Mr George Antice
84	Mr Geoff Pritchard
85	Ms Helen Wilcox
86	Ms Juanita Altman
87	Mr Gus Kuiters
88	Prof Rufus Clarke
89	Mr Tony Hutchinson
90	Ms Lynne Smith
91	Dr Taco Kuiper
92	Dr Jenny Hutchinson
93	Ms Fiona Mather
94	Mr Edward Loong (Loong and Co Solicitors)
95	Mr and Mrs Henry and Monica Kleinman
96	Ms Marie Martin
97	Ms Frances Kevans
98	Mr Mike Roche
99	Mr Anthony Caulfield
100	Mr Chris Bartle
101	Prof Laurie Mather

No	Author
102	Mr John Meadows
103	Dr Dean Economou
104	Mr Athol Yeomans
105	Mr Saad Barazi
106	Mrs Jocelyn Millett
107	Ms Nadine McDonald (Sydney University)
108	Ms Angelika Ellerbrock
109	Mrs Fiona Melville
110	Mr Reece McDougall (NSW Heritage Office)
111	Mr Fabian Marsden (The Rocks Chamber of Commerce)
112	Mrs P Cramer
113	Mr Greg Walls (Friends of Honeysuckle)
114	Dr Vincent Serventy (Wild Life Preservation Society of Australia)
115	Mr Charles Perry (Friends of Pyrmont Point)
115a	Mr Charles Perry (Friends of Pyrmont Point)
116	Ms Clover Moore
117	Mr Terry Shapiro
118	Mr Geoffrey Twibill
119	Mr Doug Lithgow (Park and Playgrounds Movement Inc)
120	Ms Elizabeth Elenius (Pyrmont Action)

Appendix 2 Correspondence regarding Cooks Cove

Author	Author
Abdulhadi, Caroline	Belokolovski, Srecko
Abellera, Miami	Benedict, Mario
Adams, Benjamin	Bennett, Michael
Adams, Noelene	Bennett, Anne
Adema, Terry	Benson, J.
Agnese, Joseph	Benson, L.
Agnese, Peter	Bishop, G.W.
Agnese, Stephanie	Blake, Jeff
Ahmad, Fadia Sayed	Bogoamovski, Misia
Alawich, Hasson	Bonanno, Grace
Alves, Maria	Borban, Paul
Amine, Wael	Borg, L.
Ammar, Ahmad	Boroevsra, Vera
Ammoun, Khalil	Borrow, Anarbanicola
Anderson, H.	Boshe, Wally
Anderson, Pam	Boston, Daniel
Andrews, Jacqui	Bourke, C.
Awado, Rabih	Briggs, W
Bailey, J.D.	Browne, Jack
Bailey, Geoff	Browne, Raymond
Baker, Darryl	Browne, Mary
Barakats, Ali	Bruinessen, J.R.
Barbara, Bibi	Bruton, Brenda
Barbara, Melissa	Cadd, Mr & Mrs
Barbara, Monica	Cahall, B.
Baril, Christine	Cahks, T.
Barker, Wendy	Cakouski, Vince
Bashou, U.	Callaghan, C.
Batman, Vallet	Callaghan, David
Bazzi, Kassem	Camilleri, M.
Bazzi, Norman	Camilleri, Linda
Beams, L.	Campbell, Margaret
Beane, B.	Celin, Norma
Bell, Roslyn	Chakovski, Chris

Author	Author
Chalak, Adam	Dpuen, Arhom
Chand, Shonrita	Drakoulis, Toula
Chanine, Zeinab	Droubi, Maria
Chipperfield, Brian	Duggan, I.
Clarke, Graham	Dunne, Santa
Claseu, A.	Ebrahim, Amina
Claseu, J.	Edsall, Sally
Coakley, Mary	El-Cheikh, Aliya
Cohen, Elaine	El-Taraboulsi, Mohamad
Conlon, Robert	Elzein, Abbas
Coombs, G.	Elzein, Ahmad
Cooper, Paul S.	Erem, A.
Cooper, Kyolco	Fack, Michael
Craigie, Zeida	Fadel, Zeinab
Crockett, Peggy	Faikes, Hassan
Dallas, Isabel	Farez, Hussein
Dalley, Matt	Farhat, Adel
Dalley, Steph	Farhat, Kamiah
Darcy, Jennifer	Farhat, Ali
Darling, Christopher	Farrel, J.B.
David, B.	Farrell, Agnese
Davis, Greg	Farrell, Jim
De Pasquale, Angela	Fayad, Ali
Dean, Kevin Eric	Fidow, Maria
Debattista, J.	Foster, Ian
Degney, Paul	Fotiou, Fay
Denize, A.	Freedman, M.
Dimakis, Dimitri	Friedich, Richard Anthony
Dimakis, Michael	Fritz, Fred
Dimakis, Nick	Frugoman, M. R.
Dimakis, Despina	Galtsmith-Clarke, Rae
Dimakis, Irene	Gambrollis, George
Dimakis, Sophia	Gardiner, M
Dimitrievski, Vera	Garrido, Maria
Dlyen, John	Gatt, Nicole
Doherty, James	Gehl, Ron
Doumit, Suzie	Georgiou, Andria

Author	Author
Gerada, Jenny	Hoy, Malcolm
Ghazzaoui, Ali	Hungar, Susan
Ghazzaoui, Eman	Hynes, Marie
Girandi, Ergernia	Ingram, Anthony
Girardi, Paolo	Innes, Colin
Gligoroski, Robert	Irani, Munzer
Goodsell, Barbara	Irani, Samia
Gosarevski, K.	Irish, Paul
Gould, Trevor	Jaafar, Hussein
Gow, George	James, Peg
Gow, Dawn	Jessup, Mark
Granada, Rachel	Jessup, Jenelle
Grbevski, B.	Johnski, Tony
Gresson, Stephen	Johnson, Alexander
Gyacham, Hassan	Johnson, Barry
Haidar, Malmoud	Johnson, Elizabeth
Haking, Robert	Jomaa, Abbas
Hallam, Stephen	Jomaa, Mouhammed
Hamdau, Sarah	Jones, Barbara
Hammoud, Mohammed	Jouni, Hussein
Hardy, A.	Jouni, Seham
Harris, Fay	Kalan, Rami
Hawkins, Tracy	Karaki, Ibrahim
Hernick, Matthew John	Karauna, Jaqueline
Herold, Nick	Karhant, Emma
Herold, Willie	Kassin, Koda
Hiader, Riad	Kell, D.R.
Hill, C.	Kell, Barbara
Hilliard, Ron	Kelleher, Ben
Hinnaoui, Mohamad Mustapha	Kennedy, John
Hogan, Patrick Thomas	Kenning, Martin
Holcroft, Yvonne	Khabbaz, Najat
Holloway, Adam	Khalil, Robert
Hoskings, Joshua	Khanafer, Ali
Hotert, Abbas	Khanafer, Hassan
Howard, Carol	Khochaiche, A.
Hoy, Lee	Khoder, Hussein

Author	Author
Khoder, Waleed	Mahoney-Smith, R.
Kimber, L.	Maiorana, U.
King, Christine	Makke, Mostapha
King, Elizabeth	Maloney, Kerrie
Kionis, D.	Mana, Aron
Kizilcik, S.	Martin, Patrick
Klindo, Lisa	Masalkovski, Jordan
Kontalis, Vicki	Matchett, Leigh
Korol, Barry	Mcbride, Terence
Kosteski, George	Mcbride, Christine
Kostopoulos, Connie	Mccashion, Graham
Kostopoulos, Sam	Mcclit, Pierce
Koszogionec	Mcdermott, B.
Krcanoski, Tony	Mcdermott, Betty
Ktalar, Erika	Mcdougall, E.
Ktalav, Javiv	Mcdougall, N.
Kulkarni, Mayur	Mckoen, Donald Charles
Kurtz, Deaonie	Mehuaine, Nance
Lando, Ms Rosa	Meola, Carlo
Laskovski, Trayan	Mercia, Mario
Laum, Greg	Merki, Mohamed
Leece, Renee	Mervat
Leeor, Albert	Micallef, Rita
Leon, Rebecca	Michel, Fahnr
Leslie, Alf	Michel, Marlene
Lim, Irene	Middleton, Ivan
Little, Edward	Mikulic
Livingstone, B.	Millar, Russel
Lofthouse, Johanne	Miller, J.W.
Lopes, Ana	Miller, J
Lopes, Ana	Milligan, Taya
Lording, John	Mills, Jennifer
Lund, Ainslie	Mitevski, Steve
Lupo, Snez	Mitevski, R.
Lynch, George	Mizamtzidis, Sue
Maharey, J.D.	Mollyca, Dennis
Mahoney-Smith, Margaret	Mooney, Wayne

Author	Author
Moses, Michael	Patsanas, Niki
Moshef, Shedi	Pearce, Beverley
Mouckchar, Mohamad	Pearce, Nicole
Mourad, Ahmed	Peel, Susan
Mourad, Jamal	Peletions, Adrian
Mourad, Eva	Perugini, Joe
Mourad, Negmeh	Petkovski, P.
Mourtada, Mohamad	Petrov, V.
Moussa, Linda	Petrovski, Tom
Moylan, Kate	Phillips, L.
Mungovan, D.	Phillips, V.
Murray, Wayne	Pieng, Y.
Murray, Vicki	Premaratah, Ratmaratah
Nagi, Fatima	Pride, Alexandra
Nagi, Samia	Pristov, Fedora
Najjar, Samira	Psillis, Tom
Nasser, Ahmed	Psillis, Andreas
Naumoski	Rankine, F.
Nazzal, Rabi	Rankine, Roy
Negib, Annette	Reda, Baizar
Neservski	Reda, Fadia
Niiroschuf, T	Redden, Y.
O'donnell, Margaret	Regan, Sean
O'flynn, Terry	Regan, Diane
Omran, Fatimah	Reghenzani, Alan
Omran, Riane	Reslan, Bilal
Osbourne, Robert	Rizk, Manal
Oxford, B	Roda, Eddie
Oxford, Chris	Rois, Ibtissom
Oxford, P	Romano, Piero
Ozenc, Imren	Rooney, Maria
Ozturk, Mahmut	Rowe, Laraine
Page, Jason	Saab, Ali
Pallietu, Petricia	Saab, Ms Sonia
Paras, Nick	Saab, Sarwat
Paraskevopoulos, Maria	Sabbagh, George
Parras, Perry	Sabharwal, Harman

Author	Author
Sabragh, S	Strong, Brian
Sakr, Ali	Strong, Annie
Saleh, Samantha	Sullivan, Claire
Salim, Ali	Summers, William
Salim, Najah	Svenson, Doriana
Samartzis, Peter	Svenson, Karina
Samhat, Abbas	Taifalos, A.
Santos, Duarte	Tanielu, Siao
Santos, Isabel	Taoube, Jamille
Schulz, Benna	Taoube, Tamam
Schulz, Frank	Taw, Behg Hock
Scuba, George	Taylor, Kristine
Scully, Shaun	Tehfe, Kadijeh
Selvayokan, Nirropan	Thollar, Doug
Sewell, Maree T.	Thollar, Barbara
Shafiezadeh, Kaveh	Tom, Matthew
Sharah, Daniel	Tonks, Simon
Sharah, Adele	Tramontini, Sofia
Sharah, S.	Tukandra, E.
Shaw, George	Vili, Adrienne M.
Shaw, Lily	Wadsley, Alexis
Sikkes, Alex	Wehre, Bilal
Skiba, Catherine	Whiteford, R.
Slaveski, Sandra	Whiteman, Ty
Sleiman, Maha	Whiteoak, Deborah
Smith, Bill	Whiteoak, Kristy Lee
Smith, Neville	Whiteoak, Shannon
Smith, Kim	Whitewall, Mary
Sobby, Amil	Wikaira, Lesley
Soummalsa, Sue	Williams, David
Stedman, Patrick	Williams, Melinda
Stevan, Zabrcamec	Wilmott, Nicholas
Stojanoski, Liljana	Wilmott, Anne
Stojanovski, John	Wilmott, Claire
Stolikas, N.	Wilmott, Margaret
Stout, Penny	Wilson, Jodie
Strauapede, Paul	Wong, Wesley

Author	Author
Yamandilovski, Ken	Ziher, V.
York, K.J.	Zreik, Najah
Young, Jason	Zreik, Taysir
Young, Leonie	
Young, Uma	
Youssef, Abbas	
Zafiropoulos, Anastacia	

Four letters were received from anonymous authors.

Appendix 3 Witnesses

Date	Name	Position and Organisation
Friday 18 February 2005	Mr Jon Issacs	Chairman, Sydney Harbour Foreshore Authority
	Dr Rob Lang	Chief Executive Officer, Sydney Harbour Foreshore Authority
	Mr Gerard van Rijswijk	Chairman, Protectors of Sydney Foreshore Inc
	Ms Jenny Cole	Member, Protectors of Sydney Foreshore Inc
	Mr Gus Kuiters	Member, Protectors of Sydney Foreshore Inc
	Ms Alice Murphy	Mayor, Leichhardt Council
	Mr Fabian Marsden	President, The Rocks Chamber of Commerce
	Ms Maire Sheehan	Convener, Protectors of Public Lands
	Mr Phil Jenkyn	Spokesperson, Defenders of Sydney Harbour Foreshores
Monday 21 February 2005	Professor Paul Adams	President, Coastal Wetlands Society
	Ms Lesa de Leau	Councillor, Rockdale Council
	Mr Robert Sendt	NSW Auditor-General
	Mr Stephen Horne	Assistant Auditor General - Performance Audit, The Audit Office
	Ms Jean Stuart	President, Pyrmont Community Group
	Ms Janet Matthews	Member, Pyrmont Community Group
	Dr Ted Harkness	Member, Pyrmont Community Group
	Mr Charles Perry	Deputy President, Friends of Pyrmont Point
	Ms Narelle Thirkettle	Community Representative, UnitingCare Harris Community Centre
	Ms Jennifer Westacott	Director-General, Department of Infrastructure Planning and Natural Resources (DIPNR)
	Mr Gary Prattley	Executive Director, Deputy Director-General, Metropolitan Land and Resource Planning, DIPNR
Friday 29 April 2005	Ms Elizabeth Elenius	Convenor, Pyrmont Action
	Mr Jon Isaacs	Chairman, Sydney Harbour Foreshore Authority
	Dr Rob Lang	Chief Executive Officer, Sydney Harbour Foreshore Authority

Appendix 4 Tabled Documents

Friday 18 February 2005

1. Opening addresses by Mr Jon Isaacs, Chairman, Sydney Harbour Foreshore Authority, and Dr Rob Lang, CEO, Sydney Harbour Foreshore Authority, before the committee- *tabled by Dr Lang.*
2. Booklet titled “Ultimo & Pyrmont: Decade of Renewal” by Sydney Harbour Foreshore Authority- *tabled by Dr Lang.*
3. Map of usable open space in Pyrmont 1992 (Pre Sydney Regional Environmental Plan No. 26 City West)- *tabled by Dr Lang.*
4. “Turning the lights back on”- *tabled by Mr Gerard van Rijswijk.*
5. Memo from Stephane Kerr, Assistant Manager Planning Assessments, Sydney Harbour Foreshore Authority, to Gerry Gleeson, Chairman and Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 4 February 2004, re: Status of Development Applications for Luna Park- *tabled by Mr Gus Kuiters.*
6. Memo from Stephane Kerr, Assistant Manager Planning Assessments, Sydney Harbour Foreshore Authority, to Gerry Gleeson, Chairman and Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 10 February 2004, re: Master Plan status for Luna Park site- *tabled by Mr Gus Kuiters.*
7. Memo from Stephane Kerr, Assistant Manager Planning Assessments, Sydney Harbour Foreshore Authority, to Gerry Gleeson, Chairman and Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 11 February 2004, re: Luna Park- advice from Deacons- *tabled by Mr Gus Kuiters.*
8. Memo from Stephane Kerr, Assistant Manager Planning Assessments, Sydney Harbour Foreshore Authority, to Gerry Gleeson, Chairman and Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 19 February 2004, re: Luna Park update- *tabled by Mr Gus Kuiters.*
9. Various documents and correspondence relating to the planning policies relating to Luna Park- *tabled by Mr Gus Kuiters.*
10. News Release from Minister for Infrastructure and Planning & Minister for Natural Resources re: restored Pyrmont returned to city of Sydney- *tabled by Mr John McInerney.*
11. Open Letter to Rocks retail tenants from Fabian Marsden, President, The Rocks Chamber of Commerce Inc.- *tabled by Mr Fabian Marsden.*

Monday 21 February 2005

1. Opening statement by Jean Stuart, Pyrmont Community Group- *tabled by Ms Jean Stuart.*
2. Letter to Rob Lang CEO, Sydney Harbour Foreshore Authority, from Elizabeth Elenius, Convenor, Pyrmont Action re: assessment and consent processes implemented with regard to parks in Pyrmont, dated 24 September 2004- *tabled by Ms Jean Stuart.*
3. Letter to Elizabeth Elenius, Convenor, Pyrmont Action, from Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 1 October 2004, responding to her letter dated 24 September 2004- *tabled by Ms Jean Stuart.*
4. Letter to Rob Lang, CEO, Sydney Harbour Foreshore Authority, from Elizabeth Elenius, Convenor, Pyrmont Action, dated 8 November responding to his letter dated 1 October 2004- *tabled by Ms Jean Stuart.*
5. Letter to Elizabeth Elenius, Convenor, Pyrmont Action, from Rob Lang, CEO, Sydney Harbour Foreshore Authority, dated 19 November 2004, responding to her letter dated 8 November 2004 - *tabled by Ms Jean Stuart.*

6. Opening statement by Charles Perry, Friends of Pyrmont Point- *tabled by Mr Charles Perry.*
7. Leaflet titled "Pyrmont 2010?" by City of Sydney - *tabled by Mr Charles Perry.*
8. Various documents and correspondence relating to the proposed location of the emission stack for the Cross City Tunnel- *tabled by Ms Narelle Thirkettle.*
9. Questions on notice regarding Luna park, probity concerns and the disposal of public assets- *tabled by Ms Silvia Hale.*

Appendix 5 Minutes

Minutes No 25

Friday 2 April 2004

Room 1153, Parliament House at 12.00pm

1. **Members Present**

Ms Gardiner (*Chair*)

Ms Burnswoods

Ms Hale

Mr Clarke

Mr Oldfield

Ms Fazio (Griffin)

Mr Tsang (Catanzariti)

2. **Substitute Members**

The Chair advised the Committee that the Government Whip had advised in writing that Ms Fazio would be substituting for Ms Griffin and Mr Tsang would be substituting for Mr Catanzariti at this meeting.

3. **Confirmation of Minutes**

Resolved, on the motion of Ms Hale, that Minutes No 24 be confirmed.

4. **Inquiry into the management of the Sydney Harbour Foreshore Authority**

Correspondence to the Clerk-Assistant Committees from Ms Gardiner, Ms Hale, Mr Clarke and Mr Oldfield, dated 31 March 2004, requesting that a meeting of the Committee be convened to consider proposed terms of reference for an inquiry into the management of the Sydney Harbour Foreshore Authority, having been previously circulated was taken as being read.

The Committee deliberated.

Resolved, on the motion of Ms Hale, that the Committee adopt the following terms of reference:

That General Purpose Standing Committee No 4 inquire into and report on the management of the Sydney Harbour Foreshore Authority, and in particular:

- (a) the role of the Chairman, past and present Chief Executive Officers, the SHFA Board, and other executive officers in the management of land development issues under its control,
- (b) lines of communication and accountability between the Sydney Harbour Foreshore Authority and relevant Councils, the Premier and any other Ministers or their staff and advisors,
- (c) potential conflicts of interest in the Sydney Harbour Foreshore Authority's commercial relationships,
- (d) the process by which the Sydney Harbour Foreshore Authority acquired enhanced consent powers, and the role of the Sydney Harbour Foreshore Authority as a consent authority for lands that it administers,
- (e) the role of the Sydney Harbour Foreshore Authority following the sacking of the City of Sydney Council and the South Sydney Council, and the conduct of the Multidimensional Study of the Pyrmont Point site,
- (f) the transparency of planning assessment methods and processes employed by the Sydney Harbour Foreshore Authority
- (g) any other relevant matter.

Resolved, on the motion of Ms Fazio, that the Chair be authorised to place advertisements calling for submissions, with a closing date for submissions of 28 May 2004, in the Sydney Morning Herald and in the local newspapers for areas covered by the operations of the Sydney Harbour Foreshore Authority.

Resolved, on the motion of Ms Hale, that the Committee present a report by 2 September 2004.

The Chair asked Members to directly advise the Committee secretariat of the details of individuals and organisations that they considered should be alerted to the Inquiry terms of reference and call for submissions.

5. Adjournment

The Committee adjourned at 1.15pm *sine die*.

Steven Reynolds
Clerk to the Committee

Minutes No 33

Friday 2 July 2004

Jubilee Room, Parliament House, Sydney at 11.20 am

1. Members Present

Ms Gardiner (*Chair*)
Ms Burnswoods
Mr Breen (Hale) (after 2.00 pm)
Dr Chesterfield Evans (Hale) (until 2.00 pm)
Ms Cusack
Mr Roozendaal
Mr Primrose (Griffin)
Mr Oldfield

2. ...

3. Deliberative meeting

...

Committee Membership

The Chair noted Minutes of the House No 64, item 10, 29 June 2004, regarding changes to the membership of GPSC 4:

Government: Mr Roozendaal (in place of Mr Catanzariti)

...

4. Inquiry into the Management of the Sydney Harbour Foreshore Authority

Publication of submissions

The Chair indicated submissions to the inquiry, excluding those for whom confidentiality had been requested, had been distributed to the Committee.

The Chair raised the following issues regarding a decision on publication:

- Whether to agree to confidentiality for those submissions for which confidentiality has been requested
- Whether submissions which are based on a model form letter should be accepted as 'submissions'
- How to address potential adverse mention of individuals in some submissions.

The Chair indicated the secretariat should follow the usual practise of making the decision as to whether a submission was a "submission" or a form letter, provided those who wrote form letters had their contribution acknowledged.

The Committee deliberated.

Resolved, on the motion of Ms Cusack, that a decision on publication of submissions be deferred and reconsidered at a later meeting following identification by the Committee Clerk of which submissions contain possible instances of adverse mention.

5. Next meeting

The Committee adjourned at 4.40 pm until a date to be determined.

Steven Frappell
Clerk to the Committee

Minutes No 34

Wednesday 28 July 2004

Room 1108, Parliament House, Sydney at 9.35 am

1. Members Present

Ms Gardiner (*Chair*)
Ms Hale (*Deputy Chair*)
Ms Burnswoods
Mr Primrose (Roozendaal)
Mr Oldfield
Ms Griffin
Mr Ryan (Clarke)

2. ...

3. Minutes

Resolved, on the motion of Ms Burnswoods, that Minutes No 33 be confirmed.

4. Correspondence

Correspondence received

- Letter from Mr Gerry Gleeson, Chairman SHFA, advising that he will be unavailable to appear before the inquiry during the month of October, but would be pleased if the Committee could schedule its hearings before October (6 July 2004)

...

5. ...

6. Inquiry into the Management of the Sydney Harbour Foreshore Authority

Publication of submissions

Resolved on the motion of Ms Hale that the Committee publish all submissions received up to and including submission 116, *except* those requesting all or partial confidentiality.

The Committee Clerk advised members of possible adverse mentions in submissions 21 (confidential), 26 and 115.

The Committee agreed to postpone consideration of the hearing dates until a later date.

7. Next meeting

The Committee adjourned at 10.30am until 13 August 2004.

Steven Reynolds

Clerk to the Committee

Minutes No 35

Thursday 12 August 2004

Room 1108, Parliament House, Sydney at 10.00 am

1. Members Present

Ms Gardiner (*Chair*)

Ms Rhiannon (Hale)

Mr West (Burnswoods – up to 11:00 am)

Mr Tsang (Burnswoods – after 11:00 am)

Mr Primrose (Roozendaal)

Mr Oldfield

Ms Griffin

Mr Ryan (Clarke)

2. Substitute arrangements

The Chair advised that Mr West would be representing Ms Burnswoods (and Mr Tsang after 11:00 am) and Ms Rhiannon would be representing Ms Hale.

3. ...

4. Minutes

Resolved, on the motion of Mr Ryan that Minutes No 34 be confirmed.

5. Correspondence*Correspondence received*

- Letter from Mr Gerry Gleeson, Chairman SHFA, regarding the placement of inquiry submissions on the committee website (2 August 2004)
- ...

Correspondence sent

...

- Letter to Mr G Gleeson, Chairman, Sydney Harbour Foreshore Authority, in response to his letter regarding adverse mention (11 August 2004)

...

6. Next meeting

The Committee adjourned at 11.15am until 13 August 2004.

Steven Reynolds

Clerk to the Committee

Minutes No 43

Thursday 9 September 2004

Jubilee Room, Parliament House, Sydney at 10:00 am

1. Members Present

Ms Gardiner (*Chair*)
Ms Hale (Deputy Chair)
Ms Burnswoods
Mr Primrose (*Roozendaal*)
Mr Oldfield
Ms Fazio (Griffin)
Mr Ryan (Clarke)

2. ...

3.

Deliberative Meeting

Correspondence

Correspondence received

The Committee noted the following items or correspondence received:

- In relation to the inquiry into the Sydney Harbour Foreshore Authority, Letter from Mr Robert Lang, CEO of Sydney Harbour Foreshore Authority, advising that Mr Gleeson is absent on medical leave for an extended period following removal of a kidney (30 August 2004).

...

4. Next meeting

The Committee adjourned at 7.05 pm until Friday 10 September 2004.

Steven Reynolds

Clerk to the Committee

Minutes No 53

Monday 15 November 2004

At room 1108, Parliament House at 2:30 pm

1. Members Present

Ms Gardiner (*Chair*)
Ms Hale (*Deputy Chair*)
Ms Burnswoods
Ms Fazio (Roozendaal)
Mr Breen (Oldfield)
Mr Tsang (Griffin)
Ms Cusack (Clarke)

2. ...

3. ...

4. ...

5. ...

6. Inquiry into Sydney Harbour Foreshore Authority/Estimates

The Chair indicated that the secretariat would contact members as to their availability for February hearings related to Budget Estimates and the Sydney Harbour Foreshore Authority inquiries.

7. Next meeting

The Committee adjourned at 5:30 pm until Monday, 29 November 2004 at 9:30 am.

Steven Reynolds

Clerk to the Committee

Minutes No 54

Monday, 29 November 2004

Jubilee Room, Parliament House, Sydney at 9.30am

1. Members Present

Ms Gardiner (*Chair*)

Ms Hale (*Deputy Chair*)

Ms Burnswoods

Ms Griffin

Mr Oldfield

Mr Primrose

Mr Ryan

2. ...

3. ...

4. ...

5. Deliberative Meeting

...

February hearings for Estimates and Sydney Harbour Foreshore Authority

Resolved, on the motion of Ms Hale that Budget Estimates hearings be scheduled for 9 and 10 February 2005 and hearings for the SHFA inquiry be scheduled on 18 and 21 February 2005 and that the Committee continue to receive submissions up to and including 10 February

6. ...

7. Next meeting

The Committee adjourned at 5pm.

Steven Reynolds

Clerk to the Committee

Minutes No 57

Thursday 10 February 2005

At Parliament House at 9.35am

1. Members Present

Ms Jenny Gardiner (*Chair*)
Ms Sylvia Hale (*Deputy Chair*) (to 2pm)
Ms Jan Burnswoods
Mr Don Harwin (to 12.30pm)
Mr Michael Gallacher (from 2.00pm)
Ms Kayee Griffin
Ms Lee Rhiannon (from 2.00pm)
Mr Eric Roozendaal
Mr David Oldfield

2. ...

3. ...

Deliberative meeting – Inquiry into management of the Sydney Harbour Foreshore Authority

The Chair tabled the following submissions, received in relation to the inquiry into management of the Sydney Harbour Foreshore Authority:

- Supplementary submission No.18a, Mr Rob Lang, CEO, Sydney Harbour Foreshore Authority
- Supplementary submission No. 115a, Mr Charles Perry, Friends of Pymont Point
- Submission 117, Mr Terry Shapiro.

Resolved, on the motion of Mr Gallacher that, in order to better inform all those who are participating in the inquiry process, the Committee make use of its powers granted under paragraph 16 of the resolution establishing the Standing Committees, and section 4(2) of the *Parliamentary Papers (Supplementary Provisions) Act 1975*, to publish the following submissions in full: 18a, 115a and 117.

...

4. Adjournment

The Committee adjourned at 5.05pm.

Tanya Bosch

Clerk to the Committee

Minutes No 58

Friday 18 February 2005

At the Jubilee Room, Parliament House at 9.45am

1. Members Present

Ms Gardiner (*Chair*)
Ms Hale (*Deputy Chair*)
Ms Burnswoods
Ms Fazio (Roozendaal, for 9.45am-1.00pm)
Mr Tsang (Roozendaal after 1pm)
Mr Oldfield

Ms Griffin
Mr Pearce (Clarke)

2. Substitutions

The Chair advised that Mr Pearce would be substituting for Mr Clarke for the duration of the inquiry into the Management of the Sydney Harbour Foreshore Authority. The Chair also advised that for the purposes of today's hearing, Ms Fazio would be substituting for Mr Roozendaal from 9.45am until 1.00pm and Mr Tsang would be substituting for Mr Roozendaal from 2.00pm until the end of the hearing.

3. Correspondence

Correspondence received

- Letter from Mr Gerry Gleeson, declining the Committee's invitation to appear at the hearing on 21 February (16 February 2005).

4. Inquiry into the Management of the Sydney Harbour Foreshore Authority.

Public hearing

Witnesses, the public and media were admitted

The Chair made a brief opening statement.

The following witnesses were sworn and examined:

Sydney Harbour Foreshore Authority

- Mr Jon Isaacs, Chairman
- Dr Rob Lang, Chief Executive Officer

Dr Lang tendered the following documents:

- Sydney Harbour Foreshore Inquiry - Opening Address
- Ultimo & Pyrmont: a decade of renewal
- Two maps of Pyrmont – one from 1992 and one from 2004

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

Protectors of Sydney Foreshore Inc

- Mr Gerard van Rijswijk
- Ms Jenny Cole
- Mr Gus Kuiters

Mr van Rijswijk tendered the following document:

- Turning the Lights Back On – Metro Edgley Pty Ltd

Mr Kuiters tendered the following documents:

- Memorandums from Ms Stephan Kerr to Mr Gerry Gleeson from 4 February 2004, 10 February 2004, 11 February 2004, 19 February 2004
- Proposed amendments to State Environmental Planning Policy No 56 from the Department of Infrastructure, Planning and Natural Resources

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

Leichhardt Council

- Ms Alice Murphy, Mayor, Leichhardt Council

City of Sydney

- Mr John McInerney, Deputy Lord Mayor, City of Sydney

Mr McInerney tendered the following document:

- News Release by the Minister for Infrastructure and Planning

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

The Rocks Chamber of Commerce

- Mr Fabian Marsden, President, Rocks Chamber of Commerce

Mr Marsden tendered the following document:

- Open letter to Rocks Retail Tenants

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined.

Protector of Public Lands

- Ms Maire Sheehan

Defenders of Sydney Harbour Foreshores

- Mr Phil Jenkyn

The evidence concluded and the witnesses withdrew.

The public, the witnesses and the media withdrew.

5. Next meeting

The Committee adjourned at 5:30 pm until Monday, 21 February 2005 at 12.15pm

Beverly Duffy
Clerk to the Committee

Minutes No 59

Monday 21 February 2005

At the Jubilee Room, Parliament House at 12.15pm

1. Members Present

Ms Gardiner (*Chair*)
Ms Hale (*Deputy Chair*)
Ms Burnswoods
Mr Roozendaal (until 3.00pm)

Mr Oldfield
 Ms Griffin
 Mr Pearce (Clarke)
 Mr Catanzariti (Roozendaal, after 3.00pm)

2. Correspondence

Correspondence sent

- Letter to Ms Westacott, Director General DIPNR, inviting Ms Westacott and Mr Gary Prattley to appear before the Committee on 21 February (8 February 2005)
- Letter to Mr G Gleeson, former Chairman SHFA, inviting him to appear before the Committee on 21 February (9 February 2005)
- Letter to Mr G Robinson former Chairman SHFA, inviting him to appear before the Committee on 21 February (9 February 2005)
- Letter to Lord Mayor of Sydney, Ms Clover Moore inviting her to appear before the Committee on 18 February (14 February 2005)

Correspondence received

- Letter from the Hon Don Harwin, Opposition Whip, advising that the Hon Greg Pearce will be substituting for the Hon David Clarke at all meetings of GPSC4 in relation to the SHFA Inquiry (22 December 2004)
- Letter from Mr Graeme Stevens, Manager, Ministerial Liaison, SHFA, seeking a briefing from the secretariat on parliamentary procedures relevant to the SHFA inquiry (2 February 2005)
- Copies of correspondence between various Pymont/Ultimo community organisations and Dr Rob Lang, CEO SHFA, and the Minister for Infrastructure and Planning, the Hon Craig Knowles (dated November 2004, received February 2005)
- Letter from Mr Gerry Gleeson, declining the Committee's invitation to appear at the hearing on 21 February (16 February 2005) tendered at the meeting on 18 February
- Letter from Ms Elizabeth Elenius, Convener, Pymont Action to the Director requesting an opportunity to appear before the Committee (21 February 2005) tabled during the hearing 21 February 2005

3. Deliberative Meeting

Publication of submissions

Resolved, on the motion of Ms Hale, that submissions 113,118 and 119, be published.

Appearance of Mr Robinson and Mr Gleeson

The meeting was informed by the Director that Mr Robinson was unavailable to appear at today's hearing due to work commitments.

Mr Pearce moved: That a list of possible dates be circulated to members regarding a further hearing.

Ms Burnswoods moved: That the question be amended by adding the words "at which Mr Robinson, Dr Rob Lang and Mr John Isaacs be invited to attend."

Question: That the amendment of Ms Burnswoods be agreed to – put and passed

Original question, *as amended* : that a list of possible dates be circulated to members regarding a further hearing at which Mr Robinson, Dr Rob Lang and Mr John Isaacs be invited to attend.

Put and passed

The Committee noted recent correspondence from Mr Gleeson in which he informed the Committee he was unable to attend the Committee's hearing

Resolved, on the motion of Mr Pearce: That Sydney Harbour Foreshore Authority be requested to produce to the Legislative Council General Purpose Standing Committee No 4 within seven days all files in the possession or control of Sydney Harbour Foreshore Authority of the former Chairman Mr G. Gleeson, whether in written or electronic form, provided that in relation to any electronic files the Committee does not, at this stage, require attachments to emails.

Mr Pearce moved: That Sydney Harbour Foreshore Authority be requested to produce to General Purpose Standing Committee No 4 within seven days all directions pursuant to Section 28 of the Sydney Harbour Foreshore Authority Act from the Ministers responsible for Sydney Harbour Foreshore Authority and all notes prepared by recipient executives or officers of Sydney Harbour Foreshore Authority detailing such directions, the circumstances in which the directions were given and action taken pursuant to the directions.

Question put.

Committee divided

Ayes: Ms Gardiner, Ms Hale, Mr Pearce

Noes: Ms Burnswoods, Ms Griffin, Mr Roozendaal

Question resolved in the affirmative, on the casting vote of the Chair

Media comments regarding the Committee's inquiry

Ms Burnswoods moved: That

1. This Committee notes the media comments attributed to Ms Hale last Friday 18 February 2005, including her interview on Radio 2BL, is the latest in a series of similar breaches of the Standing Orders.
2. The Committee calls on Ms Hale to apologise and the Clerk to investigate if the matter should be referred to the Privileges Committee.

Mr Pearce moved: That the question be amended by omitting the words "and the Clerk to investigate if the matter should be referred to the Privileges Committee" and inserting instead the following paragraph after the words "Ms Hale to apologise"... 'and the Committee further notes the changing interpretation of Standing Orders in relation to the statements to the media during the course of various Committee Inquiries including for example the Standing Committee on Social Issues inquiry into Redfern/Waterloo including, the Chair making media statements without approval of the Committee and the Chair taking no action about leak of a draft of the Chair's proposed report.'

Resolved, on the motion of Ms Burnswoods, that the Committee defer consideration of Ms Burnswood's motion to a later meeting, along with consideration of a deferred motion moved by Ms Griffin at meeting No 55 regarding the unauthorised disclosure of Committee proceedings.

4. Inquiry into the Management of the Sydney Harbour Foreshore Authority.

Public hearing

Witnesses, the public and media were admitted

The Chair made a brief opening statement.

The following witnesses were sworn and examined:

Coast and Wetlands Society

- Professor Paul Adams
- Ms Lesa de Leau

The evidence concluded and the witnesses withdrew:

The following witnesses were sworn and examined.

The Audit Office

- Mr Robert Sendt, NSW Auditor-General
- Mr Stephen Horne, Assistant Auditor-General – Performance Audit

The evidence concluded and the witnesses withdrew:

The following witnesses were sworn and examined.

Pymont Community Group

- Ms Jean Stuart
- Dr Ted Harkness
- Ms Janet Matthews

Friends of Pymont point

- Mr Charles Perry

Ms Stuart tendered a copy of her opening statement and various items of correspondence between the CEO of SHFA, Dr Rob Lang and the convener of Pymont Action, Ms Elizabeth Elenius.

Mr Perry tendered a copy of his opening statement and a brochure produced by the City of Sydney entitled *Pymont 2010?*

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined.

Uniting Care Harris Community Centre

- Ms Narelle Thirkettle

Ms Thirkettle tendered various documents and correspondence relating to the Cross City Tunnel.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined.

Department of Infrastructure Planning and Natural Resources (DIPNR)

- Ms Jennifer Westacott, Director General
- Mr Gary Prattley, Executive Director, Metropolitan Land and Resource Planning

Ms Hale tendered several questions on notice regarding : Luna park, probity concerns about and the disposal of public assets.

The evidence concluded and the witnesses withdrew.

The public, the witnesses and the media withdrew.

Deliberative meeting

Resolved, on the motion of Ms Hale, that the Committee publish the documents tendered by Ms Stuart, Mr Perry and Ms Thirkettle, during today's hearing. The Chair noted that it may be more appropriate that some of these questions be answered by SHFA and others by DIPNR.

5. Next meeting

The Committee adjourned at 5.00pm.

Steven Reynolds

Clerk to the Committee

Minutes No 60

Monday 21 March 2004

At Parliament House at 1:05pm

1. Members Present

Ms Jenny Gardiner (*Chair*)

Ms Sylvia Hale (*Deputy Chair*)

Ms Jan Burnswoods

Mr Greg Pearce (substituting for Mr David Clarke)

Ms Kayee Griffin

Mr Eric Roozendaal

Mr David Oldfield (arrived at 1:15pm)

2. Substitute arrangements

The Chair advised that Mr Greg Pearce was substituting for Mr David Clarke.

3. ...

4. Deliberative – Budget Estimates and Sydney Harbour Foreshore Authority

Correspondence Received

- Copy of Deloitte's report from Department of Planning, Infrastructure and Natural Resources (previously distributed) tabled and, on the motion of Mr Pearce, made public

...

Sydney Harbour Foreshore Authority

The Committee discussed the proposed list of witnesses.

Resolved, on the motion of Ms Hale, that the Committee invite Ms Elizabeth Elenius, the convener of Pymont Action to provide evidence at the Committee's hearing on 29 April 2005.

Resolved, on the motion of Ms Hale, that the Committee invite Ms Elizabeth Farrelly to provide evidence at the Committee's hearing on 29 April 2005.

Ms Griffin moved:

That the Committee hearing on 29 April commence at 1:00pm.

Ms Hale moved the following amendment:

That the Committee hearing on 29 April commence at 9:30am.

Question: That the amendment of Ms Hale be agreed to.

The Committee divided.

Ayes: Miss Gardiner, Ms Sylvia Hale, Mr David Oldfield, Mr Greg Pearce

Noes: Ms Burnswoods, Ms Griffin, Mr Roozendaal

Original question, *as amended*: That the Committee hearing on 29 April commence at 9:30am.

The Committee divided.

Ayes: Miss Gardiner, Ms Sylvia Hale, Mr David Oldfield, Mr Greg Pearce

Noes: Ms Burnswoods, Ms Griffin, Mr Roozendaal

Question resolved in the affirmative.

Resolved, on the motion of Ms Hale that the Committee hearing on 29 April commence at 9:30am.

Resolved, on the motion of Ms Hale, that the following correspondence to the Committee be made public:

- Answers to questions taken on notice by the NSW Audit Office during the hearing on 21 February 2005
- Recent correspondence from Mr Greg Robinson
- A response from SHFA to the Committee's recent request for information and documents
- Answers to questions taken on notice by SHFA during the hearing on 18 February 2005

5. Adjournment

The Committee adjourned at 3:22pm.

Tanya Bosch

Clerk to the Committee

Minutes No 62

Friday 29 April 2005

At Parliament House at 9.30am

1. Members Present

Ms Jenny Gardiner (*Chair*)

Ms Sylvia Hale (*Deputy Chair*)

Mr Greg Pearce

Ms Jan Burnswoods

Mr Greg Connolly (substituting for Ms Kayee Griffin)
Mr Eric Roozendaal
Mr David Oldfield

2. Substitute arrangements

The Chair advised that Mr Greg Connolly was substituting for Ms Kayee Griffin.

3. Inquiry into the Management of the Sydney Harbour Foreshore Authority - Public Hearing

Witnesses, the public and media were admitted.

The Chair made a brief opening statement.

The following witness was sworn and examined:

Pymont Action

- Ms Elizabeth Elenius, Convenor

The evidence concluded and the witness withdrew.

The following witnesses, previously sworn, were examined:

Sydney Harbour Foreshore Authority

- Mr Jon Isaacs, Chair
- Dr Rob Lang, CEO

The evidence concluded and the witnesses withdrew.

The public, the witnesses and the media withdrew.

4. Deliberative meeting

Minutes

Resolved on the motion of Ms Hale: That Minutes 55 and 59 be adopted

Resolved on the motion of Ms Burnswoods: That Minutes 58 be adopted.

The Committee noted the following items of correspondence

Correspondence received

- Letter from Dr Harkness concerning complaint against a member of GPSC4 (26 February 2005) *attached*, previously circulated
- Letter from Dr Robert Lang responding to the Committee's request for documents held by SHFA (4 March 2005) *attached*, previously circulated
- Letter from Dr Robert Lang, responding to Questions on Notice taken during the hearing on 18 February (4 March) previously circulated
- Letter from Mr Robert Sendt, Auditor-General, responding to Questions on Notice taken during the hearing on 21 February (4 March 2005). Previously circulated
- Letter from Mr Greg Robinson declining the Committee's invitation to attend a hearing of GPSC4 (7 March 2005) *attached*, previously circulated
- Letter from Ms Narelle Thirkettle, who appeared before the Committee on 21 February, providing additional material concerning the relocation of the Cross City Tunnel Stack (10 March 2005) *attached*

- Letter from Ms Jennifer Westacott responding to Questions taken on Notice at the hearing on 21 February (16 March 2005)
- Letter from Mr Charles Perry to the Director concerning a letter to the editor from Dr Lang published by the SMH on 17 March 2005 (17 March 2005) *attached*
- Letter from Letter from Mr Gerard van Rijswijk, Chairman, Protectors of Sydney Foreshore, responding to Questions on Notice taken during the hearing on 18 February (30 March 2005). Previously circulated, *attached*
- Letter from Mr Gerard van Rijswijk, Chairman, Protectors of Sydney Foreshore, proving further information to the Committee in relation to its SHFA inquiry (30 March 2005) *attached*
- Letter from Mr Peter Hearne, Managing Director, Luna Park Sydney, responding to statements made by the Protectors of Sydney Foreshore during the hearing on 18 February (4 April 2005) previously circulated *attached*

Correspondence sent

- Letter to Dr Robert Lang from the Director, requesting certain documents held by the Sydney Harbour Foreshore Authority (23 February 2005)
- Letter to Mr Greg Robinson from the Chair, inviting him to appear before the Committee on one of three potential hearing dates (2 March 2005)
- Letter to Ms Jennifer Westacott from the Principal Council Officer seeking responses to Questions taken on Notice during the hearing on 21 February (23 February 2005)
- Letter to Dr Harkness from the Director, acknowledging receipt of his letter of complaint and advising that the letter had been circulated to Committee members on a confidential basis (3 March 2005) *attached*

Publication of documents

Resolved, on the motion of Mr Pearce: That the Committee publish the following documents

- Submission 120, Pyrmont Action, tabled at hearing on 21 February
- Answers to QON and additional material provided by Mr van Rijswijk
- Correspondence from Luna Park Sydney
- Answers to QON provided by DIPNR

Return date for QoN

Resolved on the motion of Ms Burnswoods: That the return date for responses to Questions on Notice taken by Dr Lang and Mr Isaacs, be 16 May 2005.

Inquiry reporting date

Resolved on the motion of Mr Pearce: That the Committee meet to deliberate on the Chair's draft report on 20 June 2005 and the inquiry reporting date be 24 June 2005.

Committee response to letters of complaint

Resolved, on the motion of Mr Pearce: That a letter be drafted by the Clerks, and circulated to the Committee prior to its dispatch, advising Dr Harkness that his letter of 26 February will be made public at the conclusion of the inquiry

Resolved, on the motion of Mr Roozendaal: That the Committee send a letter to Mr Perry, informing him that the subject matter of his complaint had been raised during the hearing on 29 April, and directing him to the relevant section of the hearing transcript.

...

5. Adjournment

The Committee adjourned at 12.30pm until Monday 20 June.

Steven Reynolds
Clerk to the Committee

Minutes No. 65

Monday 20 June 2005

Room 1108, Parliament House at 9.30am

1. Members Present

Ms Jenny Gardiner (*Chair*)
Ms Sylvia Hale (*Deputy Chair*)
Ms Jan Burnswoods
Dr Arthur Chesterfield Evans (Oldfield)
Mr Greg Donnelly
Ms Kayee Griffin
Mr Greg Pearce (Clarke)

2. Substitute arrangements

Dr Chesterfield-Evans advised that he was substituting for Mr Oldfield for the meeting. The Chair requested advice in writing from Mr Oldfield. Dr Chesterfield-Evans indicated he would provide this advice as soon as practicable.

3. Confirmation of minutes

Resolved, on the motion of Ms Burnswoods, that Minutes No. 62 and 64 be confirmed.

4. Correspondence***Correspondence received***

- Letter from Director General DIPNR, Ms Jennifer Westacott to the Director, correcting aspects of her evidence provided on 21 February 2005 (12 March 2005)
- Letter from Mr Gerard van Rijswijk commenting on answers to QON provided by the Director General, DIPNR, (2 May 2005)
- Letter from Dr Robert Lang, SHFA, responding to questions of notice taken at the hearing on 29 April 2005 (16 May 2005)
- Answers to QON from DIPNR from Budget Estimates 2004-2005 (submitted after budget estimates report tabled) (27 May 2005)
- Letter from the Hon David Oldfield, advising the Committee that for the purposes of the deliberative meeting, Dr Chesterfield-Evans would be substituting for Mr Oldfield (20 June 2005)

Correspondence sent

- Letter to Mr Charles Perry from the Director regarding Dr Lang's Letter to the Editor published in the *SMH* on 17 March 2005 (5 May 2005)
- Letter to Dr Ted Harkness from the Director regarding his letter of complaint (23 May 2005)

5. Recent correspondence from Protectors of Sydney Foreshores

The Committee noted recent correspondence from Mr Gerard van Rijswijk tabled by the Chair, dated 17 June 2005

6. Consideration of Chair's draft report on the Management of the SHFA

The Chair tabled her draft report, which having been previously circulated, was taken as being read.

Chapter One considered.

Resolved, on the motion of Mr Pearce: That paragraphs 1.0-1.22 of Chapter One be adopted.

Chapter Two considered.

Resolved, on the motion of Ms Hale: That paragraph 2.12 be deleted.

Resolved, on the motion of Ms Burnswoods: That the first question posed by Mr Pearce in the quotation appearing in paragraph 2.32 be paraphrased by the secretariat.

Resolved, on the motion of Mr Pearce: That Chapter Two, as amended, be adopted, subject to further discussion of the issues raised by Ms Hale in relation to paragraph 2.37 and 2.16.

Chapter Three considered.

Resolved, on the motion of Ms Hale: That the following sentence be inserted immediately following paragraph 3.14, "The Friends of Pymont Point also argued that the statistics on open space in Pymont were distorted by the inclusion of hard to access regional facilities such as Wentworth Park and Tumbalong Park."

Resolved, on the motion of Ms Hale: That paragraph 3.21 be amended by:

- Inserting the word "some" after the word "of" and before the word "community" in the first sentence.
- Omitting the words: "A new residents group, Friends of Pymont Point, was established in August 2003 with the goal of ensuring that the area reverted to public open space, with support from several other existing community groups" and inserting instead "Other community members had sought to preserve the area as open space, culminating in the establishment of a new residents group – the Friends of Pymont Point with the goal of ensuring the area revert to open space."

Resolved, on the motion of Ms Burnswoods: That paragraph 3.21 be amended by inserting at the end of the paragraph the following words, "The Government agreed to the request to sell the site which had previously been valued at approximately \$30million".

Dr Chesterfield Evans tabled written advice on his substitution from Mr Oldfield.

Resolved, on the motion of Ms Hale: That paragraph 3.22 be amended by:

- inserting the words "some members of" after the word "by" and before the word "the" in the first sentence
- omitting "and appeared to be broadly supported"
- inserting the words "of the competition" after the word "criticisms" and before the word "included"
- adding a third dot point "Failed to include the option of retaining the land as open space"

Ms Hale moved: That paragraph 3.29 be omitted

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly, Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Ms Burnswoods moved: That the first sentence in paragraph 3.40 be amended by inserting at the end of the sentence, “that is, building a park next to an existing 3.6 hectare park.”

Question put

Committee divided.

Ayes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly, Ms Griffin

Noes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the affirmative

Resolved, on the motion of Ms Hale: That paragraph 3.41 be omitted.

Resolved, on the motion of Mr Pearce: That paragraph 3.42 be amended by:

- omitting the words “on the contrary” and “perfectly sound” from the second sentence and inserting the following words at the end of the sentence, “by using the revenue from development”.
- omitting the words “As the Committee has heard” and “that are crying out for parks” from the third sentence and attaching a footnote to the phrase “spoilt for parks” (Farrelly E, Open Land, but its closed discussion’ SMH, 3 February 2004)

Ms Hale moved: That the final sentence of paragraph 3.43 be omitted

Mr Pearce moved an amendment: That paragraph 3.43 be amended by omitting the words “Even one of SHFAs staunchest critics” and inserting instead “The” at the beginning of the final sentence and by inserting the word “also” after the word “Group” and before the word “complimented”.

Amendment of Mr Pearce put

Committee divided

Ayes: Ms Burnswoods, Ms Griffin, Ms Gardiner, Mr Pearce, Mr Donnelly

Noes: Ms Hale, Dr Chesterfield-Evans

Amendment resolved in the affirmative

Original question put.

Committee divided

Noes: Ms Burnswoods, Ms Griffin, Ms Gardiner, Mr Pearce, Mr Donnelly

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Resolved, on the motion of Ms Hale: That paragraph 3.45 be amended by omitting the second sentence and inserting instead, “It may not have avoided a campaign for total open space, given that sections of the community strongly felt that an option for open space should have been included in the competition.”

Ms Hale moved: That paragraph 3.72 be omitted.

Ms Burnswoods moved an amendment: That the first sentence of paragraph 3.72 be omitted and inserting instead “It should be noted that”

Amendment of Ms Burnswoods put.

Committee divided

Ayes: Ms Burnswoods, Ms Griffin, Ms Gardiner, Mr Pearce, Mr Donnelly

Noes: Ms Hale, Dr Chesterfield-Evans

Amendment resolved in the affirmative

Original question put

Committee divided

Noes: Ms Burnswoods, Ms Griffin, Ms Gardiner, Mr Pearce, Mr Donnelly

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Resolved on the motion of Dr Chesterfield Evans: That the word “many” in the second sentence of paragraph 3.72 be omitted and replaced with “some”.

Resolved, on the motion of Ms Hale that paragraph 3.80 be omitted.

Resolved, on the motion of Mr Pearce: That Chapter Three, as amended, be adopted.

Chapter Four considered.

Resolved, on the motion of Dr Chesterfield Evans: That Chapter Four be adopted.

Chapter Five considered.

Resolved, on the motion of Ms Hale: That the sub-heading prior to paragraph 5.29 be changed to “The agreement for lease” and that paragraph 5.29 be amended by omitting the words “lease agreement” from the first sentence, inserting instead “agreement for lease.”

Resolved on the motion of Ms Hale: That paragraph 5.30 be omitted and inserting instead the following sentence: “While the registered lease is publicly available, the agreement for lease is not”

Ms Hale moved: That paragraph 5.33 be omitted and inserting instead “The Committee again notes that the lack of clarity and ability to “pass the buck” between government instrumentalities in relation to development decisions undermines community faith in the development decision process.”

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly, Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Resolved, on the motion of Ms Hale: That Chapter Five, as amended, be adopted.

Chapter Six considered

Resolved, on the motion of Dr Chesterfield Evans: That the sub heading preceding paragraph 6.4 be changed to “Should SHFA have bid for the SuperDome?”

Resolved, on the motion of Ms Burnswoods; That a new paragraph be inserted after paragraph 6.9: “SHFAs bid for the Superdome was \$22.8 million. This was at least \$3 million dollars less than the bid made by the successful tenderer, Publishing & Broadcasting Ltd” and to insert an appropriate footnote

Resolved, on the motion of Mr Pearce, that the sub heading preceding paragraph 6.12 should be changed to “Committee view” and that paragraph 6.12 be omitted, inserting instead “The Committee was unable to question the former Chair Mr Gleeson and in the absence of any further explanation from the Premier has not formed any conclusion on the bid process”.

Dr Chesterfield Evans: That the following words be inserted at the end of paragraph 6.12 “When SHFA displayed independence it was speedily brought to heel.”

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly , Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Resolved, on the motion of Mr Pearce: That Chapter Six, as amended, be adopted.

Chapter Seven considered.

Resolved, on the motion of Ms Burnswoods: That the first paragraph of the introduction be amended by adding a colon after the word “methods” and by inserting the word “that” after the word “Second”

Ms Hale moved: That the following words be inserted after the first sentence of the second paragraph in the introduction “It was also suggested that the Treasury requirement that SHFA realise its assets before seeking funds from Treasury be removed because it (a) places unacceptable pressures on the Authority to sell public lands, (b) undermines public confidence in claims that development or sale decisions are subject to genuinely independent assessment, and (c) fosters the perception that the Authority is subject to major conflicts of interest.”

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly , Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Ms Hale moved: That Recommendation 2 be amended by omitting the words “the Department of Infrastructure, Planning and Natural Resources” and inserting instead “relevant local government authorities”

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly , Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Mr Pearce moved: That Recommendation 2 be omitted and inserting instead “That the relevant legislative and administrative arrangements be amended so that SHFA’s planning and consent functions are removed”.

Question put

Committee divided.

Ayes: Ms Gardiner, Mr Pearce, Ms Hale, Dr Chesterfield-Evans

Noes: Ms Burnswoods, Mr Donnelly, Ms Griffin

Question resolved in the affirmative.

Resolved, on the motion of Dr Chesterfield Evans: That Recommendation 3 be amended by omitting the words “establish a funding “ inserting instead “adequately fund a”

Resolved, on the motion of Ms Burnswoods: That paragraph 7.23 be amended by omitting the word “and” in the middle of the first sentence and inserting instead “however, SHFA is subject to the consultation requirements under the *Environmental Planning and Assessment Act (1979)*”

Resolved, on the motion of Ms Hale: That paragraph 7.24 be omitted.

Mr Chesterfield Evans moved: That the following recommendation be inserted into the Chair’s draft report, “That all leases and agreements for leases be made public in relation to properties managed by SHFA.”

Question put

Committee divided.

Noes: Ms Gardiner, Mr Pearce, Ms Burnswoods, Mr Donnelly , Ms Griffin

Ayes: Ms Hale, Dr Chesterfield-Evans

Question resolved in the negative.

Resolved, on the motion of Mr Pearce, That Chapter Seven, as amended, be adopted

Resolved, on the motion of Ms Hale: That paragraphs 1.23-1.27 be adopted

Resolved, on the motion of Mr Pearce: That the report, as amended, be adopted by the Committee and signed by the Chair.

Resolved, on the motion of Mr Pearce: That the Committee secretariat be authorised to make any grammatical or typographical changes to the report prior to tabling of the report.

Resolved, on the motion of Mr Pearce: That the report, with accompanying documents, be tabled in the House in accordance with Standing Order 231.

Resolved, on the motion of Ms Burnswoods: That the Chair's draft foreword be circulated to Committee members under standing order 229

The Chair indicated that dissenting statements should be received by 5.00pm on Wednesday 22 June 2005.

5. Adjournment

The Committee adjourned at 1.10 pm.

Beverly Duffy
Clerk to the Committee

Appendix 6 Dissenting statement

DISSENTING REPORT - SYLVIA HALE MLC

The Inquiry into the Sydney Harbour Foreshore Authority was prompted, in part, by community disquiet about the development of Luna Park and by a widespread perception that, in areas such as Pymont-Ultimo, the Authority had been influenced more by the profit-generating possibilities of sale or redevelopment of land than by any concern for the welfare or amenity of existing or future residents.

Contributing to this perception, and to community frustration, was the assertion by SHFA that, although it made recommendations to the Minister for Planning, ultimately it was the Minister, and not the Authority, who determined whether or not a development or sale was approved. When questioned, however, the Authority was unable to provide details of any of its recommendations with whose substance the Minister had disagreed.

Numerous witnesses gave evidence of their disquiet about development at Luna Park. For the Committee to conclude that ‘many of the criticisms directed toward SHFA in relation to the Luna Park Reserve are misdirected, as most development decisions regarding the site were made previously and will continue to be made, by DIPNR, the Minister for Planning and the Premier’ is to be blind to community perceptions that therein lies much of the problem. It would have been more appropriate, I believe, for the Committee to find that ‘the lack of clarity and the ability to “pass the buck” between government instrumentalities in relation to development decisions undermines community faith in the development decision process’.

Evidence was also presented to the Inquiry that residents found that local councils such as the City of Sydney were more transparent in their decision-making procedures than was SHFA. Councils are composed of elected representatives, are constrained by established notification procedures, facilitate public submissions, and make decisions that are subject to public scrutiny. In light of the degree of resident unhappiness about SHFA’s processes, I believe the Committee had grounds to recommend that SHFA’s planning and consent powers be transferred to the relevant local government authorities.

In its submission to the Inquiry, the Protectors of Public Lands (PPL), a coalition of community action groups, environmental organisations and local councils, noted that SHFA’s 2003 Annual Report stated that ‘Dividend payments to the NSW Treasury are based on land sales’, causing PPL to observe that ‘with dividends based on land sales the pressure to divest [itself] of land must be strong. It further noted that ‘the Treasury “rule” that requires government instrumentalities/agencies/departments to “realise” its assets before it can come to Treasury seeking funds for its public service delivery forces the sale of public lands’.

On the basis of evidence from the Protectors of Public Lands (submission 78) and other witnesses, I believe that it was open to the Committee to conclude that Treasury pressures place unacceptable pressures on the Authority to sell public lands, undermine public confidence in claims that

development or sale decisions are subject to genuinely independent assessment, and foster the perception that the Authority is subject to major conflicts of interest.

The Report contains a litany of complaints about the Authority, to which the findings and recommendations of the Report are an inadequate response. Given that instrumentalities such as the Redfern-Waterloo Authority are being modelled upon SHFA, I believe an opportunity has been missed to recommend substantial improvements that would help to restore public confidence in the planning and consent procedures that affect key areas of the city.