

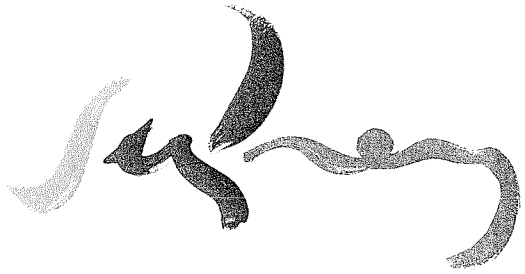
## INQUIRY INTO MANAGEMENT OF THE SYDNEY HARBOUR FORESHORE AUTHORITY

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**Date Received:** 10/09/2004

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**Subject:**

**Summary**



10 September 2004

The Hon. Jenny Gardiner MLC  
Chair of Committees  
General Purpose Standing Committee No. 4  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Ms Gardiner

**RE: SUPPLEMENTARY SUBMISSION TO THE SHFA INQUIRY**

Sydney Harbour Foreshore Authority has prepared a supplementary submission to the Inquiry into the Authority's management by the Legislative Council's Standing Committee No. 4.

The purpose of the supplementary submission is to clarify issues raised and provide additional information on assertions made in other submissions to the Inquiry by both individuals and organisations.

The submission is forwarded herewith.

Yours sincerely

**Rob Lang**  
Chief Executive Officer

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*Harbour Foreshore Authority*

**SUPPLEMENTARY SUBMISSION TO STANDING COMMITTEE NO. 4  
PARLIAMENTARY INQUIRY INTO  
“The Management of the  
Sydney Harbour Foreshore Authority”**

Supplementary Submission By  
The Sydney Harbour Foreshore Authority

Endorsed by the Chief Executive Officer of  
The Sydney Harbour Foreshore Authority

10 September 2004

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## 1 INTRODUCTION

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Sydney Harbour Foreshore Authority has prepared a supplementary submission to the Inquiry into the Authority's management by the Legislative Council's Standing Committee No 4.

The purpose of this supplementary submission is to clarify issues raised and provide additional information on assertions made in other submissions to the Inquiry by both individuals and organisations.

In broad terms, the submissions to the Inquiry can be classified as being focussed on the following matters (noting that some submissions covered more than one issue):

Issues	Number of Submissions
Precincts	
1. Luna Park	67
2. Cooks Cove	8
3. Pyrmont – Ultimo	3
4. The Rocks	5
Functions	
1. Planning Assessment	13
2. Place Development	17
3. Place Management	8
Management	
1. Governance	3
2. Accountability	1

In addition, five submissions<sup>1</sup> contained supportive comments on SHFA and how it manages and undertakes its responsibilities. SHFA has chosen not to comment on those submissions.

The Authority trusts this information will be of assistance to the Committee.

## 2 PRECINCTS

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### 2.1 Luna Park

By far the largest number of submissions<sup>2</sup> received related to Luna Park. Issues raised can be summarised as:

- Opposition to office building, opposition to office building/cinema complex
- Sydney Harbour/green belt/environmental issues
- Inappropriate conduct/corruption/conflicts of interest/probity

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<sup>1</sup> Submissions 15, 16, 44, 56, 110.

<sup>2</sup> Submissions 1, 2, 3, 6, 8, 9, 13, 28, 29, 30, 31, 33, 34, 38, 41, 47, 48, 49, 51, 55, 58, 59, 60, 61, 62, 63, 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109.

- Luna Park operation issues
- Planning process
- Financial transparency/viability issues.

### *2.1.1 Background*

In 1998 the State Government awarded redevelopment of Luna Park to Metro Edgely Pty Ltd following a competitive tender.

Luna Park Reserve Trust (the Trust) was at this time managed by an Administrator following the failure of the Park in 1996.

Metro Edgely and the Trust entered into a Deed of Agreement for Lease and Sublease in August 1999.

The original intention was that parts of Luna Park would be reopened in time for the Sydney 2000 Olympics.

The State Government intervened in February 2001 as it considered Luna Park was a project of State Significance which was being frustrated by local planning issues. Luna Park was brought under the provisions of Schedule 1 of SEPP 56 (Minister as consent authority) and Sydney Harbour Foreshore Authority was appointed to manage the affairs of the Trust.

The Trust ensures compliance of the lessee with the conditions of lease, the plan of management and the Luna Park Site Act.

SHFA was therefore not involved in the 1998 tender process, the evaluation of tenders or the drawing up of the original Agreement for Lease and Sublease.

Neither was SHFA involved in the assessment of various development applications approved by the Minister in 2002 and 2003. These were assessed by the then Department of Planning.

SHFA therefore does not have first hand knowledge of many of the issues raised in submissions, but has nevertheless addressed them where possible.

### *2.1.2 Objection to Office Building on Site C*

A Development Application (DA) for commercial development on Cliff Top site C was lodged<sup>3</sup> with SHFA (as the planning assessment authority) by Metro Edgely on 29 January 2004.

At the same time, Metro Edgely carried out a media campaign with respect to their proposal including presentation of images of a 14 storey building.

This generated widespread media coverage and statements of opposition from members of the local community and the North Sydney Council Mayor with respect to the particular design and height of the proposed building. SHFA has no commercial interest in these aspects, has no predetermined view on the merits of this particular design and is only interested to the extent that the DA would need to be assessed against the relevant planning controls for determination by the Minister.

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<sup>3</sup> DA 30-01-04.

As a result, SHFA's assessment branch sought legal advice on the permissibility of the project and the relevant planning controls for the site. Metro Edgley requested the clock be stopped on any advertising/assessment of the proposal while the issue of the relevant planning controls was resolved.

It became clear there were conflicting legal views on the relevant statutory instruments applicable to the site against statements made in Parliament and in legislation.

On 15 March 2004, the Minister for Infrastructure, Planning and Natural Resources advised the Legislative Assembly that it was clear that the intention of Parliament, when it amended the Luna Park Site Act in 1997, was to make commercial development on the cliff top permissible to enable Luna Park to be redeveloped and operated as an economically viable venture.

The Minister announced he would take necessary action under SEPP 56 so that the policy reflects the spirit and intent of the Luna Park legislation.

In addition, the Minister appointed an independent Expert Committee to recommend planning controls for development on the cliff top. The Minister also advised the public will be invited to comment on the draft controls when they are available.

When SEPP 56 is amended, or alternatively, if it is replaced by another planning instrument, SHFA will then assess any development application received for the cliff top in accordance with the new planning controls. SHFA is currently awaiting the Minister's advice.

Some submissions also raised the question as to what knowledge SHFA had of the development proposal in 2003.

SHFA, as manager of the affairs of the Trust, was briefed by Metro Edgley/Multiplex on 24 June 2003 on the results of a design competition held with respect to the site.

SHFA, as manager of the affairs of the Trust, gave landowner's consent to lodgement of a development application for cliff top sites B and C on 14 January 2004.

On 23 January 2004 SHFA, as manager of the affairs of the Trust, gave landowner's consent to lodgement of a development application<sup>4</sup> for a cinema complex at Luna Park. The legality of this development application is not under challenge, but Metro Edgley also requested the clock be stopped on this proposal so no assessment of it has been undertaken.

### *2.1.3 Sydney Harbour/Green Belt/Environmental Issues*

These issues in the main relate to governance of Sydney Harbour and have been separately addressed in Section 3.2.1 of this submission.

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<sup>4</sup> DA 139-01-04. However it should be noted that when SHFA gives consent, as landowner, to the lodgement of a development application, the applicant is advised that; 1. this in no way limits any rights the authority may have as landowner; and 2. this does also not imply development consent to the development application, rather, the development application will be assessed on its merits in line with the provisions of the Environmental Planning and Assessment Act 1979.

#### *2.1.4 Inappropriate Conduct/Corruption/Conflicts of Interest/Probity*

SHFA in its role as manager of the affairs of the Trust, has at all times acted in accordance with the Crown Lands Act, the Luna Park Site Act, the Luna Park Plan of Management and the Deed of Agreement for Lease and Sublease of 12 August 1999 and 23 December 2002<sup>5</sup>.

It has been suggested in some submissions that SHFA acted inappropriately in advising the Luna Park DA applicant that if they disagreed with SHFA's views on the relevant planning regimes or the legality of the proposed building on the cliff top, they could appeal to the Minister and seek his intervention under certain sections of the Act. Such advice is not inappropriate and is commonly given by planning authorities on request. Applicants have the right to know what avenues of appeal and recourse are legally available to them. However, in this case, the applicant has clearly indicated that such advice was not necessary and that they were fully aware of the legal options available to them as they have extensive experience in DA and planning matters and have a detailed understanding of the specific statutory instruments covering the Luna Park site.

It has also been suggested that SHFA has a conflict of interest in relation to the Luna Park site. This is not the case. SHFA's interest lies in the preservation of the heritage rides and buildings at Luna Park, ensuring the lessee (Luna Park Sydney) satisfies all its obligations under the Luna Park Plan of Management and the various leases, and administering the Luna Park Site Act on behalf of Government. SHFA has no commercial interest in the form or design of the commercial buildings on the cliff top site. SHFA's only role is to ensure that the applicant meets whatever planning guidelines are provided to the Authority by the Minister.

There is no substance to the allegations of inappropriate conduct, vested interests or lack of probity.

#### *2.1.5 Luna Park Operation Issues:*

These relate to traffic, congestion, security and noise and fall within the domain of the Park Operators, North Sydney Council, Police and/or DIPNR as enforcer of conditions of development consents where they were the assessing body.

SHFA has no role in relation to these matters.

#### *2.1.6 Planning Process*

A chronology has been prepared of the various development processes with respect to Luna Park. Please refer to Appendix A.

These matters fall outside SHFA's area of influence as they took place prior to SHFA being delegated an assessment role for development applications and master plans in August 2003.

#### *2.1.7 Financial Transparency/Viability Issues*

Fundamental to the decision to proceed with the Luna Park project in 1997 was that Luna Park was to be reopened as a commercially viable operation at no cost to the people of NSW.

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<sup>5</sup> The Deed of Agreement was amended in December 2002 to reflect changes in completion dates and other minor project-related matters.



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 for uses such as a hotel, shops, offices and car parking.

Fundamental to the Luna Park project is that it be funded by the private sector. 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". It is therefore clear that commercial development on the cliff top site was planned and expected and supported by Parliament, to ensure, at least in part, Luna Park's financial viability.

In response to some conjecture on the uses of the cliff top site, it should be noted that Metro Edgley is entitled to pursue the maximum development potential of the cliff top sites within the planning parameters. Whether the recommended controls by the expert panel will be the planning parameters is ultimately for the Minister to determine. The risk of obtaining consent rests entirely with Metro Edgley.

The Deed of Agreement for Lease and Sublease provides that the Luna Park Works must reach Practical Completion prior to, or concurrently with, the Practical Completion of the Office Works and the Car Park Works. This has been done and Luna Park reopened as an amusement park on 4 April 2004.

Further, the Deed makes provision for an ongoing Heritage and Infrastructure Maintenance Fund whereby 3% of Gross Revenue from Park operations is paid into a special account maintained by the Trust to ensure ongoing maintenance of the heritage rides and infrastructure of the Park at no cost to the taxpayer. This fund is now in operation.

In addition, the Trust receives a guaranteed \$500,000 pa or 2% of Gross Revenue from amusement park operations to cover the Trust's administration costs.

## **2.2 Cooks Cove**

A number of submissions<sup>6</sup> were received with respect to the Cooks Cove project. The issues raised can be summarised as:

- Why SHFA is involved in the Cooks Cove project; its relationship with Trafalgar (Harrington), Kogarah Golf Club, Rockdale City Council, Illenden Soccer Club and the various benefits flowing to these bodies from the project.
- SHFA's handling of the project; the REP and master plan process; public consultation; lack of disclosure.
- Alienation of public land; open space; wetlands; environmental issues generally.
- Status of project.

### *2.2.1 Why is SHFA involved in Cooks Cove and what is the relationship between the various parties?*

The Cooks Cove project was brought to Government by **Rockdale City Council** in approximately 1997.

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<sup>6</sup> Submissions 4, 11, 19, 20, 37, 40, 46, 112.

Initially, **Department of State and Regional Development (DSRD)** acted as the project proponent acting for the interests of the various Government agencies with land holdings relevant to the project (Sydney Water, Roads and Traffic Authority and the Department of Infrastructure, Planning and Natural Resources).

Rockdale City Council's role was (and remains) managing the relocation of sporting fields and liaison with clubs using the existing facilities. It is a significant landowner and partner in the project.

In 2000 DSRD came to the view that the project was moving beyond its area of expertise and that it was appropriate for another agency with specialist skills in property development to undertake the role of project proponent.

This proposal was endorsed by the Major Issues and Strategies Committee of Cabinet. Government decided that SHFA (due to its role in Pyrmont – Ultimo) had the appropriate skills and resources to deliver this project, but as the area was outside SHFA's legislative boundary, legal advice was that a Development Corporation should be established under the Growth Centres (Development Corporation) Act 1974.

**The Cooks Cove Development Corporation (CCDC)** was gazetted in August 2001 and in September 2001 SHFA was appointed as CCDC's agent to exercise all functions in respect of Cooks Cove. SHFA acts as project manager in day-to-day activities and in negotiations with Trafalgar Properties Ltd (now Harrington).

**Harrington Properties Limited** had an exclusive development agreement with **Kogarah Golf Club** for its part of the site. The land owned by Kogarah Golf Club is critical to the project. Note Harrington has recently advised Kogarah Golf Club it wishes to withdraw from the project and the Golf Club is reviewing its situation.

CCDC meets at a minimum every six months; as it is constituted under the Growth Centres Act its Managing Director is the Director-General of Department of Infrastructure, Planning and Natural Resources.

Parties to the project are:

- CCDC and SHFA (as described above)
- Rockdale City Council – project partner with the Government; has participated in overseeing the project planning and provided preliminary funding to develop the draft master plan and progress the project to execution of a Project Development Agreement with Trafalgar (Harrington).
- Kogarah Golf Club.
- Other Government agencies (Sydney Water, Roads and Traffic Authority and the Department of Infrastructure, Planning and Natural Resources).

Ongoing obligations of the parties are:

- conclude project delivery agreement with respect to sporting club relocation costs, transfer of Council land, agreement to profit share arrangements
- prepare and submit development applications for the project and Plans of Management
- once DA approval has been obtained, market and sell the site to a developer to implement the approved master plan.

Other affected parties include:

- Illenden Soccer Club, which is to be relocated to Bicentennial Park at no cost to the Club
- St George Budapest Soccer Club, whose lease boundary needs to be aligned
- Arncliffe Soccer and Baseball Club, which is to be relocated to Scarborough Park at no cost to the Club.

The Project arrangements have been subject to the following scrutiny:

- Advice on probity issues by Deloitte Touche Tohmatsu - May 2000
- Probity Plan put in place and reviewed by Independent Commission Against Corruption - August 2000
- Department of Commerce (DPWS) advised on compliance with NSW Government's procurement framework – April 2001
- SHFA's Probity Plan, Project Overview and Process procedures for Cooks Cove Development.

### *2.2.2 Planning Process for the project.*

The planning process to date has involved:

- preparation and gazettal of Regional Environmental Plan No 33; prepared by DIPNR, approved by the Minister for Infrastructure Planning and Natural Resources, gazetted - 25 June 2004
- preparation and making of a master plan; prepared by SHFA, endorsed by the Minister for Infrastructure, Planning and Natural Resources – 29 June 2004.

Advice from DIPNR was that simultaneous preparation of the REP and master plan was an appropriate course to follow.

Statutory requirements with respect to public exhibition of the REP (by DIPNR) and master plan (by SHFA) were complied with fully. In addition, SHFA distributed project updates through letter boxing the local community, conducted open days and site tours and had one-to-one consultation with local interest groups such as Lions, Apex.

Both the draft REP and master plan were amended by the respective authorities to reflect issues highlighted by the public exhibition process eg. increase in foreshore promenade depth, increased protection to the wetlands.

Rockdale City Council will be the approving authority for future development applications.

### *2.2.3 Environmental Issues*

Currently the 100 hectare site is home to Kogarah Golf Club, several Council sporting fields, wetlands, poor quality open space and a golf driving range.

Under the proposal approximately 70% of the site will be dedicated to open space and be used for a range of structured and unstructured recreational opportunities.

The project will result in the following benefits at no cost to the taxpayer/rate payer:

- provide a network of public open spaces and publicly accessible cross-site connections and linkages to Cooks River and Muddy Creek;
- complete a significant missing link in the Botany to Homebush Bay cycle path
- control the flow of stormwater across the site and into the adjoining rivers;
- remediation and enhancement of the wetlands (through established plans of management).

#### *2.2.4 Status of Project*

Cooks Cove is a major infrastructure project that will take the next 10 to 20 years to complete. It is an important element in the growth of Sydney around the airport corridor and will provide significant employment and economic benefits to the State.

SHFA has achieved some important milestones in recent months:

- REP 33 gazetted and master plan endorsed on 25 June 2004
- SHFA briefed Rockdale City Councillors on the project (following Council elections in March 2004) at an information session on 14 July 2004.

However, there is an ongoing program of activities over the next two years that should lead to a sale of the development opportunity to a party that can implement the vision for this State significant project. The main elements of that program are:

- November 2004: SHFA to complete variation to master plan as required by DIPNR
- June 2005: Plans of Management to be prepared as required by REP
- July 2005: lodge development applications and Plans of Management with Council and Council assesses and determines development applications
- End 2005 / early 2006: Sale proceeds with the following conditions of sale:
  - remediation of contaminated lands on the 100 hectare site
  - relocation of sporting clubs with new facilities
  - relocation of Kogarah Golf Club course and club house
  - construction of all public open spaces, paths and foreshore vegetative zone
  - construction of infrastructure in the commercial zone
  - remediation and enhancement of wetlands.

It should be noted that any sale proceeds need to recover the significant project costs invested to date by the Project partners as well as the land value for agencies providing land to the project and the agreed profit share (if any) to partners including Rockdale City Council.

### **2.3 Pymont-Ultimo**

A small number of submissions<sup>7</sup> were received regarding the role of SHFA in Pymont and in particular the development of the Elizabeth Macarthur Bay site. The main issues raised can be summarised as:

- Elizabeth Macarthur Bay should be a park and there is inadequate provision of open space in Pymont.
- SHFA's role in Pymont-Ultimo.
- SHFA mismanaged the Elizabeth Macarthur Bay (EMB) consultation and design process.

#### *2.3.1 Elizabeth Macarthur Bay should be a Park*

The Elizabeth Macarthur Bay (EMB) site was originally zoned part "Residential" and part "Public Recreation" in the 1992 SREP 26 plan for the reinvigoration of Pymont-Ultimo. This was reviewed in 1996 and 2000 with public exhibition and comment and was still seen at that time as the most appropriate use for the site to get the right balance between residential, commercial and open space in the Pymont-Ultimo precinct.

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<sup>7</sup> Submissions 42, 78, 115

A master plan was adopted for the site in 2002 by the Minister for Planning for a mix of residential, business and open space uses.

From an urban planning perspective (and with considerable community support at the time) there was a strong argument for open access to the foreshore, a plaza to activate the wharves for a possible ferry stop and a large component of open space to complement the residential on this site and in the immediate area. In December 2002 SHFA was given a community briefing, led by the author of Submission 42, which advocated development of the site including medium density housing, small scale retail, adequate parking, a plaza, public open space and foreshore access. A copy of this briefing is attached at Appendix B.

Accordingly, SHFA undertook a competition in 2002 to come up with an appropriate design and the community was actively involved in briefing the architects to include the elements that were seen to be most desirable.

The authors of Submissions 42 and 115 both participated in the design competition and voted for development designs. SHFA records show that at no point in the competition process did the authors of Submissions 42 or 115 advocate for the site to be 100% open space.

SHFA prepared a DA based on the winning design, but with some amendments, taking into account community feedback. It should be made clear that this design was far less dense (having approximately 60% open space) than the planning zoning for the site would have allowed and as such would not have been possible (by private developers) without SHFA's intervention.

However, subsequent to the conclusion of the design competition (refer section 2.3.3 of this submission) a lobby group formed with the agenda of providing 100% open space on the site. Community groups and residents who had previously participated in the design process for the site and who had supported the consultation process moved to public positions that advocated 100% open space.

SHFA was not in an immediate position to agree to this request as the site was zoned residential, and significant costs had been incurred to relocate the Water Police which needed to be reimbursed from the proceeds of the EMB site sale. It should be noted that SHFA was required to pay the full costs of the relocation of the Water Police and the construction of their new facilities on the other side of the harbour. The site would have not been available for conversion from its existing industrial usage if this had not occurred.

The City of Sydney (CoS) and SHFA held discussions on the future of the EMB site and on 24 May 2004 the City indicated an interest in acquiring the former Water Police site at Elizabeth Macarthur Bay, Pyrmont for \$11 million.

SHFA has entered into a Memorandum of Understanding with CoS. Key points in the MoU include:

- Site to include the provision of open space, as well as foreshore promenade, active and passive recreational uses, community and related uses as agreed between both parties.
- Both parties are to work towards freehold transfer of the EMB site which is core land.
- Sale price of \$11m with CoS responsible for the cost and associated works for remediation of the site.

- As part of the agreement, SHFA has offered additional parks and roads in Pymont for transfer to CoS for a nominal \$1 payment, as part of the handover of responsibilities to the CoS. The City has agreed to take these.

On the question of the adequacy of open space provision in Pymont-Ultimo, it should be noted that Pymont-Ultimo currently has 25.8 hectares of open space or 19.8 square metres of open space per person. This is well in excess of the 15 sqm per person specified in the original 1991 Department of Planning Guidelines for the precinct.

### *2.3.2 SHFA's Role in Pymont-Ultimo*

The City West Development Corporation (CWDC) was set up as a sunset organisation in 1994 to oversee the reinvigoration of Pymont under SREP26. SHFA took over this role in 1999 and has largely completed the remaining works.

Pymont-Ultimo today has over 13,000 residents and 22,000 workers, a huge transformation from its industrial landscape of just 10 years ago. SHFA has recently published a booklet<sup>8</sup> highlighting the achievements of the past decade in Pymont-Ultimo which has been distributed to the Committee.

SHFA is now actively working towards the orderly handover of its remaining parks, public roads and planning assessment role to the City of Sydney. It is entirely appropriate and by-design that this handover to the local government should occur now that the State's master planning role has been completed in this precinct. There is strong community desire for this to occur and this is both understandable and a measure of the success in creating a new and active community on the Pymont peninsula.

On the question of whether SHFA's actions are driven solely by the need for profit, several points should be made. Firstly, SHFA is self-funding and uses its revenues to pay for the cost of providing open space, community facilities and free public events, maintaining heritage buildings and the maintenance of public domain in its precincts. Secondly, SHFA's actions in Pymont clearly show that it has worked to achieve the right balance between commercial, retail, residential and open space uses, and has not simply sought "highest benefit" from its sites as private developers do. A private developer would not have made Pymont Point a 2.5 ha park. A private developer would not have given the Ultimo Aquatic Centre site away for \$1. A private developer would not have spent \$50 million on public parks and open space in Pymont over the past 10 years. A private developer would not have negotiated the funding for the Light Rail. Only a government organisation such as SHFA with a broad charter to achieve a vibrant sustainable community could deliver such a vision.

### *2.3.3 SHFA's management of the EMB consultation and design competition.*

#### *Community Input*

Local community consultation, much of it through the author of Submission 42, had direct effects on how this site was planned, viz:

- (i) In 2002, in response to community submissions, Minister Refshauge amended the site's master plan to reduce height on the northern and eastern sides of the site to protect views from Giba Park.

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<sup>8</sup> Pymont-Ultimo: A Decade of Renewal, May 2004 (SHFA)

- (ii) In August 2002, the author of Submission 42 wrote to Minister Refshauge advocating a design competition for the site with an independent jury. This process was subsequently established.

Local community consultation had direct effects on how the design competition was established and how architects were briefed, viz:

- (iii) The author of Submission 42 was involved in the design of the competition process and expressly agreed to it, including the use of an independent jury.
- (iv) In August 2002, the author of Submission 42 wrote to Minister Refshauge arguing that the competition process should allow for designs that varied from the constraints of the site's master plan. Entrants were briefed accordingly.
- (v) In December 2002 SHFA was given a community briefing, led by the author of Submission 42, which advocated development of the site including medium density housing, small scale retail, adequate parking, a plaza, public open space and foreshore access.
- (vi) This briefing was provided to all architects entering the design competition and designs submitted clearly reflected the input of the community briefing.
- (vii) In March 2003 the author of Submission 42 wrote to SHFA, noting the community's satisfaction with the competition process, noting "the consultative process for EMB is a model which could deliver strategies for use with communities of differing aims and objectives."

Local community consultation had direct effects on how competition designs evolved, viz:

- (viii) When the eight design submissions from Phase 1 of the competition were exhibited, one design elected to breach the master plan and propose a 14 storey building at the south end of the site in order to increase available open space. In line with community wishes (see point iv above) the entry was permitted.
- (ix) When community votes on the eight designs were counted there was an overwhelming preference for design A.
- (x) Accordingly the three architects in Phase 2 of the competition noted this support and all proposed similar building heights in their Phase 2 designs.

#### *Role of the independent jury*

Although SHFA sought community feedback on designs submitted at both Phase 1 and 2 of the competition, it was always clear in all presentations to the community that an independent jury panel would decide the competition winner. The jury included a community representative elected by the local residents, Mr Geoff Twibill.

This jury decision process was agreed to by the community and explicitly endorsed by the author of Submission 42.

Design A was more popular with those who attended the Phase 2 exhibition of the competition. However, the independent jury unanimously selected Design B.

The independent jury's decision to select Design B has subsequently become the subject of much criticism by the authors of Submissions 42 and 115 with the latter describing the process as a "sham".

The Jury's report was made public and its reasons for selecting Design B related primarily to the improvement in usable public open space and minimisation of view loss that Design B provided over Design A.

### *Mr Twibill's letter of 14 June 2003*

Both Submissions 42 & 115 refer to letters from Mr Twibill to SHFA, which, it is suggested, illustrate that entrant B was given preferential treatment and an opportunity to revise their design prior to the Jury decision, or that a member of the jury was excluded from the decision process. This is patently incorrect.

Unanimous agreement on Design B was obtained at the Jury Review meeting on 6 June 2003. Mr Twibill's 14 June 2003 letter speculates about what may have occurred if - instead of selecting one winner - two entrants had been briefed to enter what would have effectively been a third stage of the competition.

Regardless of this speculation, Mr Twibill participated in the Jury's unanimous decision that Design B, as submitted, was the superior design. Mr Twibill publicly supported this decision both before and after his letter of 14 June 2003.

Any argument to suggest that Mr Twibill is denoting preferential treatment requires a distortion of the competition timing to support its case. Mr Twibill has repeatedly rejected these suggestions and has defended the integrity of the competition process on numerous occasions.

### *Conclusion*

SHFA ran a professional and independent design competition process and has demonstrated above how the local community's input directly shaped this process.

Whilst the authors of Submissions 42 and 115 preferred Design A, the selection of Design B by the independent jury was both unanimous and a verification of the agreed process, whereby the jury would make the ultimate decision in order to preserve the independence of the process.

It is unfortunate whilst disagreeing with the jury's selection the authors have elected to attack the process which was run exactly to specifications agreed to by the community.

## **2.4 The Rocks**

A small number of submissions<sup>9</sup> were made on SHFA's role as place manager and landlord in The Rocks precinct. The main issues raised can be summarised as:

- SHFA is the development arm of government.
- SHFA's management of retail tenancies in The Rocks.
- The heritage value of the precinct should be maintained.
- SHFA's DA referral process to City of Sydney Council is flawed.

### *2.4.1 SHFA is the development arm of government.*

SHFA's primary role is that of a Place Manager. SHFA's activities as Place Manager involve a far greater range of personnel and resources than its role as a Property Developer by approximately ten to one. Property development is a relatively minor component of SHFA's activities and is substantially diminishing over time. This matter has been fully covered in SHFA's original submission to the Inquiry.

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<sup>9</sup> Submission 14, 22, 45, 52, 111



#### *2.4.2 SHFA's management of retail tenancies in The Rocks*

SHFA is working closely with its tenants and The Rocks Chamber of Commerce to invigorate the precinct and enhance the viability of businesses. Mr Marsden, the author of submission 111, was critical of SHFA's role as a landlord in that submission, but failed to give any specific examples of how SHFA could improve.

However, in a recent letter to The Rocks Retail Tenants, Mr Marsden has obviously had a change of heart (please refer to Appendix C). In that letter he acknowledges that SHFA and The Rocks Chamber executive are developing a strong responsive partnership and notes the "popular tenant marketing seminars" that SHFA has conducted, the three major events SHFA has recently staged, the television exposure, The Rocks branding and marketing campaign, etc. "This is not the profile of an organisation sitting on its hands doing nothing", he concludes. SHFA undertakes significant marketing and tenant services which add considerably to the value of tenants businesses in The Rocks.

SHFA welcomes constructive feedback and indeed any valid criticism of its role as a landlord and place manager. As can be seen from Mr Marsden's letter, we act to address any issues raised with us.

#### *2.4.3 The Heritage value of the precinct.*

SHFA adopts current best practice in the conservation, interpretation and maintenance of its heritage assets and precincts. The success of this approach is reflected in the numerous professional awards SHFA continues to win for its projects.

The Authority has, as part of its legislated charter, a commitment to preserving Sydney Harbour's heritage. As well as providing ongoing maintenance and planning assessment oversight for more than 90 heritage listed buildings in Sydney's most significant heritage precinct, The Rocks, the Authority's knowledge, skills and resources in heritage assessment is recognised by delegation from the NSW Heritage Office to conduct planning functions on its behalf.

The Authority applauds the Government's moves to unify development rules and we confirm, for the record, our commitment to the protection and conservation of Sydney's heritage assets.

As more buildings in The Rocks have been effectively conserved over the years, the necessity for SHFA to provide funding for heritage restoration work has diminished. However funding for the ongoing maintenance of heritage buildings in The Rocks has been maintained. In 2003 / 2004, SHFA spent \$1.7 million on restoration and maintenance works in The Rocks. In 2004 / 2005, it is expected that will increase to \$3.2 million.

#### *2.4.4 SHFA's Development Application referral process to City of Sydney*

As required by SEPP 56 Clause 12, SHFA refers all DA's to the relevant Local Government Authority for comment. The City of Sydney has every opportunity to respond to each and every DA in whatever way it wishes to. Such comments are forwarded to the consent authority as part of the planning assessment, so the local Council's views can be considered. It is a matter for Council to determine how it manages its response to SHFA in this process.

## **2.5 Ballast Point**

There were no specific submissions on Ballast Point but as it was the subject of some media interest in recent months, the following comments are provided.

### *2.5.1 Background and Compensation Payments*

Ballast Point, located on the Birchgrove Peninsula, is one of Sydney Harbour's most significant headlands. A prominent 2.6-hectare site, it sits directly opposite Balls Head Reserve.

The former Caltex site at Ballast Point was acquired compulsorily by SHFA on behalf of the NSW government, on 26 September 2002, with the aim of turning an ex-refinery based industrial site into a major landscaped park on the foreshores of Sydney Harbour.

The Valuer General made a determination on compensation for the parties in 2002, which included \$14.4 million for Caltex and \$10.1 million for Walker Corporation, who had an option over the site. Caltex accepted the valuation but Walker Corporation appealed this determination and won an increase in the Land and Environment Court in July 2004 to \$43.5 million based on the site being valued as residential, even though the zoning is and was zoned industrial land.

SHFA has decided to appeal the decision by the Land and Environment Court.

### *2.5.2 Current Status of Park Development*

In June 2004 the Minister granted Caltex conditional approval for a site preparation development application for demolition and remediation works.

The draft master plan was finalised for lodgement at the end of July 2004. The lodgement and public exhibition of the draft master plan commenced on 23 August 2004 and will continue to 30 September 2004.

During the master planning process, SHFA has also worked collaboratively with Leichhardt Council since December 2003 on the process to rezone the site from 'Industrial' to 'Open Space' under the Council's Local Environmental Plan 2000.

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## **3 FUNCTIONS**

### **3.1 Planning Assessment**

A number of submissions<sup>10</sup> were made on SHFA's Planning Assessment role. The submissions indicate concerns that are largely based on a misunderstanding of SHFA's role in the assessment and approval of applications. The main issues can be summarised as:

- SHFA's compliance with required process in the assessment of development applications and the potential conflict of interest in landowner/developer and planning assessment roles
- Alleged non-compliance of Doltone House with its approved conditions of consent.

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<sup>10</sup> Submissions 5, 10, 12, 17, 23, 25, 42, 53, 57, 78, 111, 115 & 116

### *3.1.1 Assessment and Approval Processes and Potential Conflict of Interest*

The Minister for Infrastructure, Planning and Natural Resources is the consent authority for development applications for areas declared to be State significant in SEPP 56, areas within the Bays Precinct, Eveleigh Precinct [ATP] and sites requiring a master plan under SREP 26 – City West; and the area subject to SREP 16 – Walsh Bay.

Under delegation from the Minister, SHFA assesses the development applications. The Minister is the consent authority for major development and master plans. The SHFA Planning Assessment Manager has delegation to approve minor works [shop fitouts, events and temporary structures, signage, etc] as set out in Schedule B of the Minister's delegations.

SHFA is required to assess all development applications in accordance with the requirements of section 79C(1) of the Environmental Planning and Assessment Act.

Development applications are notified to local residents, advertised in the newspaper and exhibited for public comment, in accordance with legislation and SHFA's notification policy. DA's are also referred to the local council for comment in accordance with SEPP 56.

For each DA, issues raised in the public submissions and the council's comments are collated and addressed in the assessment. Where it is considered necessary to mitigate negative impacts appropriate conditions of consent are included in the approval.

Like any local council which proposes to develop its own land, SHFA, if proposing to develop its own lands, engages external consultants to prepare the planning assessment for the Minister's determination. Contrary to public perceptions, only 2 major development applications have been lodged by SHFA in the past year. Both have been independently assessed by an external party.

SHFA has comprehensively addressed the potential conflict of interest questions in its earlier submission to the Inquiry. SHFA is confident that it successfully manages its dual functions of Place Management and Place Development, as specified in SHFA's charter.

### *3.1.2 Doltone House Compliance Issues*

Doltone House operates under conditions of consent attached to the approval of DA 190-07-01, issued by the predecessor of the Department of Infrastructure Planning and Natural Resources (DIPNR). Any breaches of these conditions of consent are a matter for DIPNR to investigate, rather than SHFA.

The writer of submission 5, who previously raised this issue with SHFA has been advised that DIPNR is currently investigating alleged breaches of conditions of consent. This is not a SHFA issue.

### **3.2 Place Development**

Several submissions<sup>11</sup> raised a concern regarding SHFA's ability to reconcile its statutory responsibility to "protect and enhance the natural and cultural heritage of Sydney's inner harbour foreshore" with its role as a property developer. The main issues raised can be summarised as:

- Inappropriate development of foreshore land
- Proper community consultation on development proposals.

#### *3.2.1 Appropriate development of Foreshore Land*

Submissions<sup>12</sup> can be summarised as:

- There is a need to protect green belts around the harbour - opposition to any further foreshore development.
- SHFA's role should be to protect Sydney Harbour – SHFA is failing in this role.

SHFA development proposals are prepared by the SHFA Place Development team in accordance with the requisite environmental planning instruments and master plans.

All SHFA property development is guided by SHFA's long term objectives of creating and managing places of excellence. Recognition of the quality of these developments is reflected in the numerous professional awards SHFA, and its predecessors, have won in the last decade from the Royal Australian Institute of Architects, Australian Planning Institute, Institution of Engineers Australia and the National Trust of Australia (NSW).

SHFA is striving to create a continuous foreshore walkway from Woolloomooloo Bay to Rozelle Bay. This walkway would connect a number of parks and existing open space along the foreshore. SHFA works collaboratively with a number of authorities in seeking to achieve this goal and deliver enhanced public access to the foreshore.

However, it should be noted that the management of Sydney harbour foreshore lands is not the sole responsibility of SHFA. It is a common misconception that, because of its name, SHFA's role is to manage all foreshore lands. There are in fact 28 government bodies including local councils who have responsibility for foreshore lands.

In November 2003 the Auditor-General tabled a Performance Audit on the Disposal of Sydney Harbour Foreshore Land.

The report had two key themes:

- (i) the need for an overall strategic land use and development plan for the harbour
- (ii) a revision of current governance responsibilities and structures.

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<sup>11</sup> Submissions 10, 17, 20, 25, 29, 35, 38, 41, 62, 73, 88, 92, 99, 102 & 115

<sup>12</sup> Submissions 1, 3, 29, 38, 62, 73, 88.

This is being responded to by DIPNR and the Sydney Harbour Executive (a collection of bodies<sup>13</sup> who are key stakeholders on the Harbour) in the following ways:

- (i) The development of a Sydney Harbour Statement of Priorities, being coordinated by DIPNR with significant input from the Sydney Harbour Executive. This statement provides the overarching strategic planning and management framework for Sydney Harbour drawing together key policies and instruments.
- (ii) An overall strategic plan for Sydney Harbour has been drafted by DIPNR in the form of a new SREP for Sydney Harbour: Draft SREP – Sydney Harbour Catchment 2004 was placed on public exhibition in July/August 2004 and comments are now being assessed by DIPNR.

SHFA is a strong supporter of these initiatives.

State Government has an important ongoing role to ensure the Harbour is managed in an integrated fashion and that the competing demands on the Harbour are managed and balanced in a sustainable way.

It should be noted that SHFA believes that recent changes to governance structures, including revised Ministerial arrangements, establishment of DIPNR, and the proposal to strengthen the SHFA Act to better manage surplus land held by other Government agencies on the foreshore, are valuable initiatives which will improve the overall harbour management. This last point is significant because many other agencies simply act to maximise commercial return on foreshore land development/sale whereas SHFA has a wider role, balancing a range of factors including good urban planning, public access, tourism, foreshore walks, etc.

### *3.2.2 Community Consultation on Development Proposals*

SHFA undertakes extensive community consultation at all phases of a SHFA project. In addition to strictly following all EP&A Act requirements for public consultation, SHFA engages in additional processes prior to and after the lodgement of the development application.

In the Pyrmont area, SHFA has used public information evenings, precinct community meetings, newsletters and websites to consult with and inform the local community. At Ballast Point SHFA has conducted extensive site tours, community workshops, information evenings and has established a Community Liaison Group for the project. This process of community consultation has been followed with projects at Cooks Cove and Pyrmont.

All development applications lodged by SHFA Place Development are assessed by an external planning consultant, and the planning assessment report is sent to the Minister for determination.

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<sup>13</sup> Sydney Harbour Executive consists of the following agencies and observers: Department of Infrastructure, Planning & Natural Resources, Australian National Maritime Museum, Department of Aboriginal Affairs, Department of Local Government, Department of Commerce, Department of Transport, Department of Environment and Conservation, NSW Fisheries, NSW National Parks and Wildlife Service, Premiers Department, Roads and Traffic Authority, Royal Australian Navy, Royal Botanic Gardens, State Transit Authority, Sydney Harbour Councils (observer), Sydney Harbour Federation Trust, Sydney Harbour Foreshore Authority, Sydney Opera House Trust, Sydney Olympic Park Authority, Sydney Ports Corporation, Sydney Water, Tourism Sydney, Waterways Authority, Zoological Parks Board.

### **3.3 Place Management**

Two place management issues were raised in submissions<sup>14</sup> as follows:

- Cross City Tunnel in Darling Harbour
- Commercial management of SHFA's property portfolio.

#### *3.3.1 Cross City Tunnel in Darling Harbour*

The Cross City Tunnel is not the responsibility of SHFA but is an RTA project being delivered by Cross City Motorway Consortium (CCMC). However SHFA, as a significant landowner in the area where the Cross City tunnel exits at Darling Harbour, is represented on various community & project consultative committees, run by RTA. SHFA is working through these forums (to the extent it is able) to minimise the impact of the tunnel on Darling Harbour visitors, businesses and local residents.

The Minister for Planning, following assessment by DIPNR, gave approved consent conditions for the Cross City Tunnel (CCT) in December 2002, subject to a number of conditions.

Under planning approval condition 248, the RTA was required to investigate alternative locations for the Cross City Tunnel stack. SHFA actively pursued incorporation of the stack into a possible new building on the soon to be redeveloped Darling Walk site. SHFA believed a stack enclosed within a building would assist in minimising the negative perceptions a stack can create in the public mind by substantially reducing the visual impact of a 60m high freestanding chimney. Considerable effort and resources were applied to investigating this option but the Government ultimately decided that the best location was the one originally proposed. The Darling Harbour Business Association (8 March 2004) expressed its gratitude for the considerable efforts made at all levels of SHFA to achieve a better result for Darling Harbour by the proposed relocation. As this option has now lapsed, SHFA is investigating alternative redevelopment plans for the Darling Walk site that do not include a stack.

SHFA does not have the technical expertise to comment on possible health impacts of the stack; the appropriate Government authorities are Health, EPA and DIPNR.

#### *3.3.2 Commercial management of SHFA's Property Portfolio*

SHFA Property Managers are qualified and competent staff who have extensive experience in commercial property management.

Commercial Management of SHFA's Property Portfolio comes under the auspices of SHFA's Property Services Group.

Property Services is responsible for lease negotiations with existing and potential tenants, rent reviews, sales analysis and tenant relations. The Property team carries out these functions for tenancies within The Rocks and Darling Harbour precincts.

It has been suggested that rents in The Rocks are unrealistic (we assume that to mean too high). SHFA engages an independent valuer to carry out all rent reviews and market reviews, thereby ensuring a totally objective process. Recently, benchmarks were taken to compare The Rocks retail tenants' rent against other CBD and regional centres.

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<sup>14</sup> Submissions 12, 14, 22, 43, 45, 52, 111 & 115

The Rocks tenants occupancy costs (rent as a percentage of sales) varies between 11-19% depending on product group. Similar figures for the CBD are 11-24% and regional centres 16-19%, not counting approximately 1-3% for marketing levies (which The Rocks tenants do not pay). On this basis, SHFA believes that rents in The Rocks are realistic and meet competitive market benchmarks.

Property Services receives commercial rental income from the properties under management, collecting approximately \$40 million in revenue for the 2003/04 financial year from over 83,000 sqm Gross Lettable Area, while consistently seeking ways to improve each precinct and thus the experience of visitors to these places.

Some of the major achievements in 2003/04 that demonstrate the core expertise of the Property Services Group include;

- Actual revenues for the financial year were 1% above budget targets
- Vacancy rate reduced from 6.4% to 5.4% of total Nett Lettable Area (NLA) by year-end which is ahead of comparable city benchmarks. The Property Council indicates that Sydney CBD vacancies are currently 10.3%.
- SHFA revised several leasing policies to improve the efficiency with which new tenants are found to fill vacancies, and increased its analysis undertaken to ensure rent returns meet market expectations in determining lease renewals. These processes were aimed at ensuring the best tenants were attracted to SHFA's various precincts and contributed to the overall visitor satisfaction levels. By ensuring our tenancy mix meets visitor expectations, research and subsequent results confirm that both the tenants and SHFA benefit from an increased level of spending in our precincts.

The commercial returns SHFA attains from property rentals ensures SHFA continues to deliver on its community service obligations. These payments are made for the benefit of the community throughout the year and involve a range of services for which the Authority receives no funding. The main activities include:

- a. Upgrading and maintenance of roads, bridges, parks, and public domain areas;
- b. Provision of security and cleaning services in the precincts under SHFA's care
- c. Special event management including whole-of-government initiatives, including New Year's Eve, Australia Day, ANZAC Day and St Patrick's Day
- d. Funding and manning of two visitor information centres
- e. Heritage preservation works.

In 2003-04, the Authority incurred actual expenditure of approx \$25 million in meeting these community service obligations.

Marketing & Events in the precincts is also funded in part from the commercial property returns, with such funds focused on providing regular entertainment in the precincts, communications, advertising and promotion of precinct activities and targeted campaigns highlighting major events such as New Year's Eve and Australia Day that see the SHFA precincts achieve record attendances year on year. All of these services further ensure the commerciality of SHFA managed properties is second to none in delivering tenants with the best possible opportunities to drive returns from people movements in the combined precincts totalling some 29 million each year.

In managing such competitive precincts, SHFA has a range of leasing arrangements that ensure a competitive commercial return to SHFA on behalf of the taxpayers for such a substantial investment in property, infrastructure, heritage preservation and promotions. The fundamental basis of striking lease agreements with prospective new tenants is using

independent market valuations as the starting point. Such valuations come from commercial valuers engaged by SHFA to ensure an arms length starting point in the negotiation process.

Thereafter, lease rentals generally increase each year by CPI or market rent reviews (usually every 3-5 years depending upon the lease term) where, again, independent valuers are used. Where a tenant disagrees with the independent valuation, processes exist for the tenant to obtain their own independent valuation and negotiate a final rental if there exists any material difference. Such rental terms are not unlike the private sector and given SHFA's role managing some of the best property in Australia, such practices should be expected. In a government sense, SHFA's role with the tenants is very much a commercial contract that SHFA depends upon in order to deliver its community service obligations referred to earlier.

There will always be tenants who on face value disagree with SHFA's handling of commercial arrangements and depending upon the ongoing success of such tenants' commercial ventures, this is not to be unexpected in an economy that has its ups and downs. SHFA deals sensitively with cases of hardship and works with Tenants to maintain a vibrant business environment. At all times, SHFA has a transparent process that it is prepared to outline and discuss confidentially with each and every tenant with the normal tenancy tribunals applying to those not satisfied with SHFA's actions.

SHFA is therefore confident that, with almost 500 tenancies under management, it is operating effectively in meeting tenant and community expectations in the commercial management of its property portfolio.

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## **4 MANAGEMENT**

### **4.1 Governance & Declarations of Interest**

Several submissions<sup>15</sup> questioned SHFA's governance and declaration of interest processes.

The SHFA Act provides that Board members must disclose any pecuniary interests relating to matters under discussion and if a conflict arises must not be present during those discussions. The Act requires all such disclosures to be recorded.

Board members are also bound by the provisions of the SHFA Code of Conduct for Board Members, which follows guidelines issued by the Premier's Department. In such cases where an interest is declared, the SHFA Act and Code of Conduct requirements have been duly and properly followed in all instances.

### **4.2 Accountability**

One submission<sup>16</sup> asserted that SHFA is not answerable to or elected by the people and should become a division of the new Greater Sydney Council (City of Sydney).

SHFA is a statutory authority established under legislation enacted by the NSW Parliament. It has many functions including the promotion, coordination, management and economic development and use of the foreshore area including the provision of infrastructure.

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<sup>15</sup> Submissions 24, 26, 92.

<sup>16</sup> Submission 26.



However, it also has the function of promoting, coordinating, organising, managing and conducting cultural, educational, commercial, tourist, recreational, entertainment and transport activities and facilities. Together with the function of managing land (as a landlord) and managing the public domain, SHFA seeks to achieve good urban outcomes for its precincts across a broad range of criteria, on behalf of the State and across several local government boundaries.

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 ([www.shfa.nsw.gov.au](http://www.shfa.nsw.gov.au)); regular newsletters; publications and extensive consultation with the community in relation to its projects. Members of the community can seek access to information about SHFA's events, programs and projects through contacts on our website as well as access to relevant documents and files through the FOI legislation.

SHFA is fully answerable to the people of NSW, as is any other government authority.

## 5 CONCLUSION

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The Sydney Harbour Foreshore Authority continues to deliver value to the State, both economically (through its role as a landlord and facilitator of business for its tenants which generate significant economic activity for the state) and socially (through its public domain, tourism, entertainment, educational and cultural heritage roles).

The Authority believes that the major focus of criticisms of Luna Park are not a SHFA responsibility and that other comments are based on a poor understanding of SHFA's role and the value it brings to its precincts.

It is hoped that this supplementary submission is helpful in clarifying any misinformation or misconceptions that may have been raised in public submissions to the Inquiry.

Signed on behalf of The Sydney Harbour Foreshore Authority:



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**Robert Lang**  
Chief Executive Officer  
Sydney Harbour Foreshore Authority

*10th September 2004*

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Date

## LUNA PARK – CHRONOLOGY

- 1999 Metro Edgley lodge DA's with North Sydney Council for first stage of redevelopment incorporating removal of Big Dipper (DA 316/00) and alterations/additions to Crystal Palace and Coney Island (DA 427/00). Council grants consent for demolition of Big Dipper on 20 December 1999 and alterations to Coney Island and Crystal Palace on 27 March 2000.
- 2000 Council approved staged (master plan) development of Luna Park (DA 772/00) on 23 October 2000. The Master Plan DA included an apartment hotel on cliff top A and a restaurant on cliff top C and options for a car park including underground car park at cliff top B and C. This consent was not been acted on and has been superseded.
- 2001 February 2001, Minister lists Luna Park as Schedule 1 under SEPP 56 making Minister consent authority. In addition, SHFA was appointed by the Minister for Land & Water Conservation to manage the affairs of the Luna Park Trust.
- 2001 June 2001, Stage 1 DA for Master Plan of Luna Park (DA 154-06-01) lodged with Planning. Approved in January 2002 by Minister. Covers broad parameters to guide the future development of the Park including building envelopes, hours of operation, land uses and pedestrian and vehicle entry/exit points and approval for strata commercial office building.
- 2002 May 2002, Stage 2 DA lodged with Planning for Phase D; bulk excavation works, construction of car park and café/brasserie; approved in January 2003.
- 2002 June 2002, further Stage 2 DA lodged with Planning for Phase E; detailed design including cliff stabilisation works, erection of Luna Circus, children's rides; approved in January 2003.
- 2003 Construction works commence.
- 2003 August 2003, SHFA delegated to perform planning assessment role on development applications and master plans, for all areas under SHFA's control (transferred from DIPNR).
- 2004 January 2004, DA's lodged with SHFA for commercial office development, open space on cliff top sites B and C and cinema complex at Luna Park.
- 2004 March, Minister Knowles announces intention to amend SEPP 56 to clarify that commercial development is permitted on cliff top site.
- 2004 April, Luna Park reopens to the public.

## LUNA PARK – CHRONOLOGY

- 1993 – 1995 Reconstruction of the Park takes place.
- 1995 Park reopens; operations of Big Dipper curtailed through Supreme Court action.
- Mid 1995 Luna Park Reserve Trust dismissed by Government, James Millar appointed as Administrator.
- 1996 State Government closes Park after unprofitable trading and mounting debt.
- 1997 Stakeholders and community negotiations about future of Luna Park.
- 1997 Draft Plan of Management publicly exhibited.
- 1997 Luna Park Site Act amended to enable a wider range of uses within the Park and commercial development under long term leases on the cliff top.
- 1998 Minister for Land and Water Conservation adopts Luna Park Plan of Management. Introduces new uses to improve the viability of the Park in accordance with the parameters of the Luna Park Site Act including commercial development of the cliff top.
- 1998 Department of Public Works and Services commence a Call for Proposals process on behalf of the Trust and Department of Land and Water Conservation.
- 1998 A proposal for rezoning the three cliff top sites from mixed use/entertainment to commercial prepared for the Trust by Department of Urban Affairs and Planning. North Sydney Council agrees to rezone Site A but rejects the rezoning of B and C.
- 1998 Luna Park is a Schedule 2 site under SEPP56 and requires a master plan for the site. North Sydney Council is the consent authority and the relevant authority for the adoption of a master plan. The plan of management is accepted as the Master Plan for the site by the Minister for Urban Affairs and Planning by waiving the need for a master plan.
- 1998 Detailed Call for Proposals issued to Metro Edgley and Tourism Leisure. General criteria for assessment include consistency with the Luna Park Site Act and Plan of Management, design and quality, financial offer, commercial viability, delivery experience and plans and operational experience and strategies.
- 1999 Metro Edgley and the Trust enter into Deed of Agreement for Lease and Sublease.

# Pymont Community Group

*working for a better environment*

App B

Memo to the Architects

Elizabeth Macarthur Bay Architectural Competition

Tuesday December 3, 2002

The members of the Pymont Community Group are very pleased to be able to address the Architects in the Competition for the Elizabeth Macarthur Bay site. The following people will be presenting our views to you today:

Jean Stuart, President – Pymont Community Group

Peter Duffield, Architect

Janet Matthews, Owner of a recently completed apartment building in Pirrima Road

Meredith Lee, Representative for the Bowman Street residents

Hal Corbould, Chair, Quay Point Owners' Corporation

Geoffrey Twibill, Elected Community Representative and Executive Committee Member of the Jacksons Landing Community Association

Tom Uren, Minister for Planning in the Whitlam Government.

We have also prepared this folder of materials for each of you to retain. The contents of the folder is as follows:

1. CD containing the presentation delivered to Architects on 3/12/2002
2. A binder of documents containing:
  - a. Our Statement of Objectives for the Architectural Competition.
  - b. A "worked example" prepared by the Pymont Community Group to explore the site's potential and financial feasibility while achieving the optimum planning, design, social and environmental outcomes.
  - c. Copy of letter to Dr Refshauge, Minister for Planning from John McInerney, City Plan Services, noting points for consideration due to the significance of the site.

# Pymont Community Group

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- d. Copy of letter to Geoffrey Twibill from Jacqui Goddard, Conservation Director, National Trust, noting its concerns regarding sustainable development on the site based on an understanding of its history and context.
- e. Copies of letters to Dr Refshauge, Minister for Planning and Geoffrey Twibill and a Statement on behalf of the Pymont Community from Richard Leplastrier.
- f. The front page of a Community Petition bearing 403 signatures in response to the Elizabeth Macarthur Bay Draft Master plan.
- g. Pymont: success or failure? Architecture Bulletin, April/May 2002

Paying attention to the historical resonance of a place adds meaning and depth to the experiences of the people who live there, whether they are long-term residents or new arrivals. From the time of European settlement, Pymont Point has been used for mixed purposes – industrial, residential and recreational. Aside from the obvious industries generated by the sandstone quarries and the sugar refinery, early activities included large timber yards, making use of the wharfage for shipping to deliver timbers from along the NSW coast.

And notwithstanding its industrial bent, two of the most powerful social meanings generated in this place were through the creation of Interim Park on the upper headland, winner of the 1993 SMH Australia Day Award for Outstanding Community Service, and sold off for development in 1996 and the well loved harbour baths which were demolished in 1946. Both served as a meeting place and social hub for the community.

If the new development cannot meet this concept through the provision of a strongly defined gathering place for the community, then it will not provide a quality of life that historically has been the case in Pymont. May we wish you all clear responsive minds in thinking of the future of this beautiful place.

We value this opportunity to meet with you and provide you with an insight into how we, as members of the Pymont community, would like to see this unique site developed. We would be pleased to provide any additional information that you may require and our contact details are given at the foot of the page.

Yours sincerely



Jean Stuart  
President

# **Pyrmont Community Group**

*working for a better environment*

## **Elizabeth Macarthur Bay - Architectural Competition**

**This architectural competition is for the planning, design and development of the last significant harbourside land remaining in public ownership on Pyrmont Point.**

A proposed statement of objectives for the Architectural Design Competition for Elizabeth Macarthur Bay, the Water Police site:

- a. To achieve optimum Planning, Design, Social and Environmental outcomes.
- b. To balance Building Development with Public Open Space for both active and passive uses.
- c. To utilise building forms, landscape and subsidiary elements to define and consolidate a variety of attractive external areas appropriate to this harbourside locality and to achieve high levels of residential amenity.
- d. To create the Public Plaza foreshadowed in SHFA's Annual Report: "The goal is to ensure that Elizabeth Macarthur Bay will become a vibrant waterfront neighbourhood, with a plaza.....".
- e. To flank the plaza with local retail and small-scale business activity<sup>1</sup> and with generous provisions for wet weather protection and summer shade.
- f. To produce a range of distinctive Medium Density Housing which will satisfy proven market demand<sup>2</sup>.
- g. To recognise and respect sustainability principles, with particular attention to solar orientation, energy conservation and natural through ventilation.
- h. To incorporate adequate parking space below podium level – and service vehicle access which will support the viability of the foregoing components and activities.

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<sup>1</sup> For example, boutique fashion, salon, interiors, gallery, bookshop/newsagency, pharmacy, patisserie, hot bread, delicatessen, coffee shop, possible a Metro/Express-type mini food market, accountant and/or other small offices.

<sup>2</sup> For example, designed specifically EITHER for Owner Occupation OR as affordable Rental Housing – rather than "more of the same" 1, 2 & 3 Bedroom Flats.

Market research and financial analysis conducted locally indicate that distinctive Town Housing and/or Courtyard Housing, supplemented in the SW sector of the site by Rental Apartments, will achieve the ultimate in both land value for the Government and social outcomes for the community.

# Pymont Community Group

*working for a better environment*

- i. To include Traffic Planning studies, taking into account related elements such as Bus Stops, the future Ferry Wharf, Water Taxi access, Pedestrian Routes, Cycleways and Visitor Berthing to, through and within the Public Domain.
- j. To ensure that views to and from Sydney Harbour may be enjoyed by all incoming residents while being preserved for Giba Park, the Clifftop Walk, the Heritage Terraces, the Public Housing (including the views through the Lawson St Archway) and the lower floors of Quay Point<sup>3</sup>.
- k. To establish Elizabeth Macarthur Bay as an active social and community focus for Pymont.

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<sup>3</sup> There may be no economic justification for exceeding 3 floors above podium level for the Town House/Courtyard House component, nor any need for the roofscapes to be cluttered with lift over-runs and mechanical equipment.

Consider the possibilities of:

- Low-rise rooftop landscaping, AND
- View preservation over and through low-rise buildings as an alternative to a "view corridor" between them.

0 5 10 15 20 25  
117

Ferry Wharf



Aiba Park

Landscaped Visual Linkage

Berthing Piles

QUAY POINT

Archway

Sea Wall

Archway

Water Taxi Pontoon

Board Walk

PUBLIC Shade Structure

Views preserved over 3 storey building (approx same height as roof over police boat storage)

PLAZA

Herbert St

THE ELIZABETH

ENGINEERS WORKSHOP

HARRIS STREET

8

Bus Stop

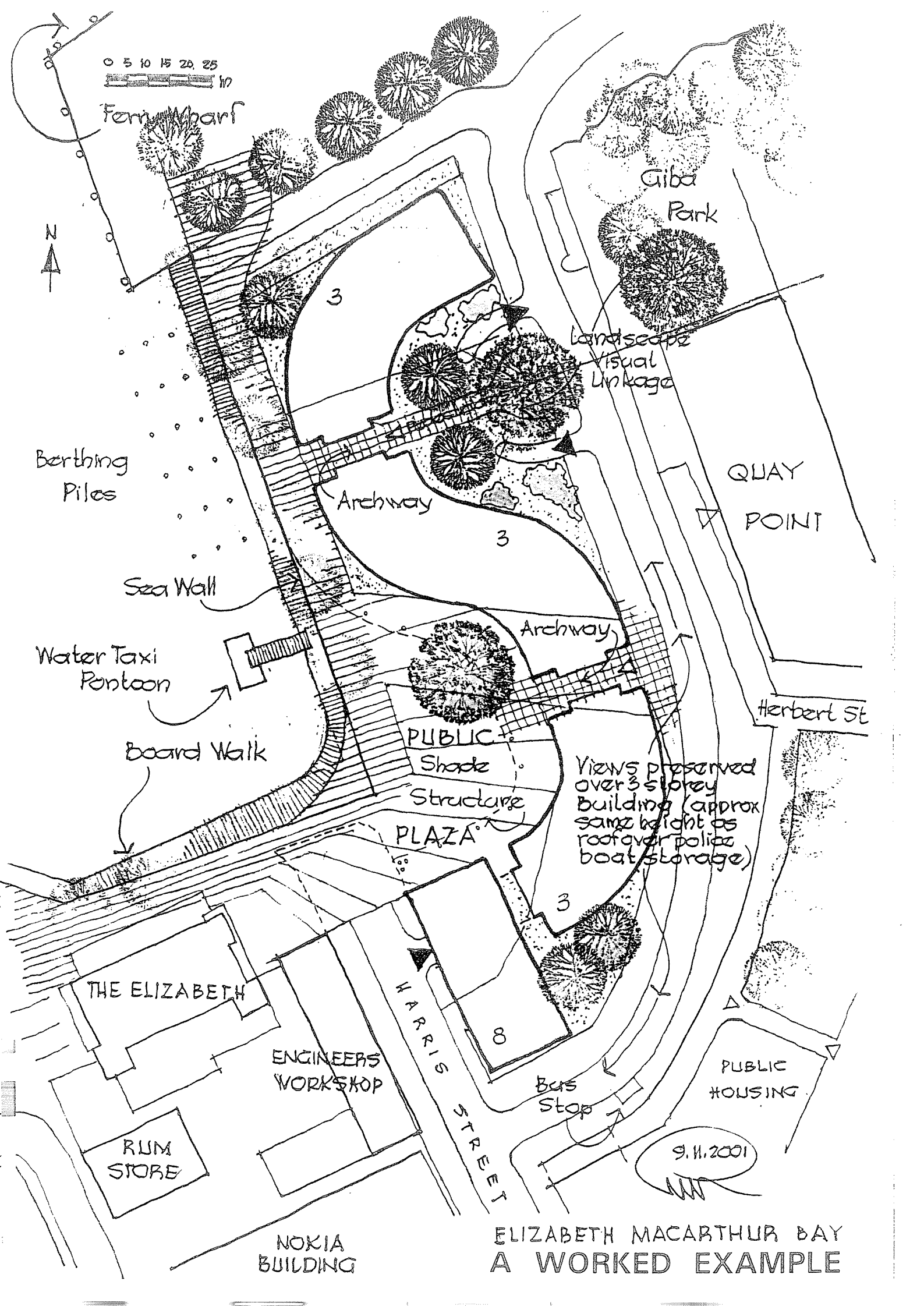
PUBLIC HOUSING

RUM STORE

9.11.2001

NOKIA BUILDING

ELIZABETH MACARTHUR BAY  
A WORKED EXAMPLE





# PROPOSED REVISIONS

SHFAPLAN.LET

## TO THE ELIZABETH MACARTHUR BAY DRAFT MASTER PLAN ("DMP")

### PYRMONT COMMUNITY GROUP RECOMMENDATIONS

FEBRUARY 2002

*Please read in conjunction with the Pyrmont Community Group's commentary on the Elizabeth Macarthur Bay DMP including the drawings which illustrate how stated objectives could be achieved with better outcomes if the DMP's development envelopes were less rigid.*

1. FURTHER PLANNING AND DESIGN STUDIES BY ARCHITECTS ADVISING THE GROUP CONFIRM THAT ADOPTION OF THE DMP IN ITS PRESENT FORM WOULD RESULT IN AN EXTREMELY DISAPPOINTING "BUILT ENVIRONMENT" IN TERMS OF HOUSING QUALITY AND THE CHARACTER OF EXTERNAL SPACES ON (AND SURROUNDING) THIS LAST SIGNIFICANT SITE IN PUBLIC OWNERSHIP ON PYRMONT POINT.
2. WE BELIEVE THAT SHFA SHOULD NOW SEEK SUBMISSIONS FROM SELECTED ARCHITECTS AND PLANNERS (THROUGH A DESIGN COMPETITION) FOR REVISED MASTER PLANNING CONCEPTS WHICH WILL FACILITATE THE ACHIEVEMENT OF DESIGN EXCELLENCE IN SUBSEQUENT DEVELOPMENT APPLICATIONS.
3. THE UNIQUE HARBOURSIDE LOCALITY AT ELIZABETH MACARTHUR BAY OFFERS ATTRACTIVE LIVING, WORKING, RETAIL, BUSINESS AND RECREATIONAL OPPORTUNITIES WHICH DESERVE RECOGNITION THROUGH SUPERIOR PLANNING AND INNOVATIVE DESIGN.
4. THE POTENTIAL OF THE "PUBLIC PLAZA", WHERE PYRMONT'S MAJOR AXIS MEETS THE HARBOUR, IS SERIOUSLY COMPROMISED IN THE CURRENT DMP.
5. FOR EXAMPLE, FIGURE 11 ("Site Set-outs and Building Heights") INDICATES A 20m WIDE x 5 STOREY HIGH BUILDING RIGHT IN THE CENTRE OF THE PREFERRED PLAZA SITE.
6. NOTES REGARDING FIGURE 11 AND OTHER RECOMMENDED REVISIONS TO THE DMP ARE SUPERIMPOSED ON A COPY OF FIGURE 11 WHICH FOLLOWS.
7. UPDATED TRAFFIC STUDIES AT THIS SIGNIFICANT JUNCTION (FOR PEDESTRIANS, CYCLISTS, CARS, BUSES, FERRIES, AND OTHER WATER TRANSPORT) WILL INFLUENCE THE REVISED DMP AND SHOULD INCLUDE ADEQUATE ACCESS BETWEEN LAND AND WATER.
8. WE COMMEND THE FOREGOING TO THE ATTENTION OF SHFA IN ITS RECONSIDERATION OF THE DRAFT MASTER PLAN AND LOOK FORWARD TO THE OPPORTUNITY OF SHARING OUR THOUGHTS WITH SHFA DURING THE FURTHER COMMUNITY CONSULTATION WHICH THE MINISTER HAS REQUESTED.



GEOFFREY TWIBILL

Bachelor of Architecture (First Class Honours & University Medal - Syd Univ)  
Fellow - Royal Australian Institute of Architects  
Foundation Fellow - Institute of Arbitrators Australia

Enclosure

For and on behalf of  
THE PYRMONT COMMUNITY GROUP

Telephone Contacts - Secretariat : 9660 6702  
Architects : 9571 4495

## OPEN LETTER TO ROCKS RETAIL TENANTS

Dear Fellow Trader,

Against a background of declining inbound tourism, The Rocks Chamber has been advocating for a substantial revitalisation of the Rocks Precinct. SHFA has responded positively with an undertaking to implement measures to invigorate the precinct, and by so doing enhance the viability of our businesses. Such work takes time and will involve a consultative process, and with our support the Authority will be able to deliver some noticeable improvements in the coming months.

It is in SHFA's interest to optimise its return on its asset and facilitate a vital retail precinct, as it is obviously in our interests. Dr Rob Lang is keen to ensure that Rock's tenants are aware of his efforts to work with our community to frame initiatives for our joint benefit. To his credit he will not disclose or promise initiatives which are premature or he can't deliver, and this deserves recognition and requires patience.

In tough times SHFA becomes an easy target, but this downturn is affecting Kings Cross, Darling Harbour and other areas that have nothing to do with SHFA. Historically at times our relationship with SHFA has been problematic, but in these difficult times it is important to work with the Authority for the common good. Dr Robert Lang and his directors are gaining the confidence of The Rocks Chamber executive and we are developing a strong responsive partnership. This relationship has the flexibility to allow mutual support, as well as constructive criticism, in developing a strong vision for the Rocks which will be followed through by the Authority.

The Authority has updated two policies (Outdoor Seating & Commercial Signage) in response to the Chamber's requests, involving extensive consultation with tenants. Popular tenant marketing seminars have been held. Ongoing big event trading out forums have been facilitated with tenant representation from hotels, retail, restaurant and service sectors, the purpose of which is to streamline the management of big event days. Art on the Rocks, Moonlight Markets, Aroma Fest etc. each having different themes, not only has an impact in immediate visitation, but also creates an active perception of the Rocks which generates repeat visits. SHFA facilitated 73 international film media for various travel programmes profiling the precinct specifically. The Rocks has been featured in several domestic programmes including Getaway, Funniest Home videos, The Great Outdoors, Sydney Weekender, the Big Arvo as well as Qantas in-flight domestic & international. You will see Rocks branding on buses, billboards, taxis and in cinema ads at a budget figure of \$500,000. The Sydney Visitors Centre offers free brochure display to Rock Tenants. The Authority is not sitting on its hands doing nothing.

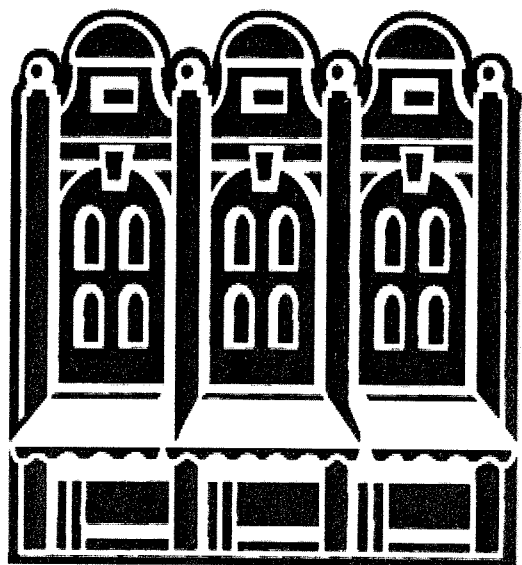
The Argyle Centre has had a difficult trading period and needs to be re-thought. The Rocks Centre has not worked optimally. The Clocktower tenants are finding trading difficult. And there are vacancies. The Rocks Chamber has been pushing the Authority to give certainty to tenants by way of a sustainable retail mix with appropriate lease conditions, and this is the ideal opportunity to reconfigure to maximise benefits for individual tenants and the Rocks as a whole. The holdovers are necessary in this context and it is not the Authority's intention to lose tenants and we continue to seek assurances from the Dr Robert Lang on this specific issue. Notwithstanding, all of the Rocks Chamber executive understands the acute anxiety which comes of such uncertainty around our livelihoods as we have experienced similar circumstances. We encourage all to join the Chamber so that we might more effectively advocate on your behalf.

The Rocks Chamber has a strong role to play with the Authority. Our influence increases with your support. The Chamber is aware of negative operational issues with SHFA (which we continue to address), but our role here is to seek the best outcomes for all at a strategic level. SHFA is in the same boat and is seeking the best outcomes for the precinct. We must move forward together.

I look forward to speaking with you at the Member's Forum as advertised overleaf.

Fabian Marsden,  
President, The Rocks Chamber of Commerce Inc.

# Important Rocks Chamber Forum Follow-up



THE ROCKS  
CHAMBER OF  
COMMERCE

All Welcome

**Tuesday 24th August 2004**

**Time: 6.00pm for 6.30pm**

Westpac Banking Museum

Lev 1, 47 George St. The Rocks

(entry in Atherton Place)

## Agenda

1. Sponsor Recognition
2. Para-Olympic Fundraiser
3. Inaugural City of Sydney business awards
4. SHFA representative feedback on issues raised in previous forum
5. Discussion
6. Drinks & canapés

**RSVP by Mon 23rd—02 9247 2625  
(For catering purposes please)**