

**Submission
No 78**

INQUIRY INTO THE MANAGEMENT OF THE SYDNEY HARBOUR FORESHORE AUTHORITY

Organisation: Protectors of Public Lands

Name: Ms Maire Sheehan

Telephone: 0411 697.041

Date Received: 20/06/2004

Subject:

Summary

Submission to the Parliamentary Inquiry into the Management of the Sydney Harbour Foreshore Authority by the Protectors of Public Lands (PPL)

Introduction:

- Protectors of Public Lands is a Coalition of community action groups, environmental organisations and local councils, whose Charter is to protect and preserve significant public lands in public ownership for present and future generations.
- The Coalition is non party political and makes decisions by consensus and by unanimous resolutions.
- PPL was formed in September 2001 to stop the ever-increasing sale by Governments of significant public lands, lands that belong to the people.

Issues

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. The Chairman, CEO and Board all have governance responsibility to meet the objectives set out for the Sydney Harbour Foreshore Authority in its charter and linked legislation. It is a public organisation managing lands, for the government, on behalf of the public...

Its charter states it is to

1. Add value by redevelopment of surplus government land through a highly skilled organisation that creates new city precincts on the harbour
2. Capitalise on the economic and cultural worth of foreshore precincts, notably The Rocks, Circular Quay, Darling Harbour, as core attractions for both visitors and Sydneysiders
3. Balance economic return, vibrancy and diversity of harbour foreshores, including the working waterfront
4. Deliver excellence in its role as place manager for Sydney's premier harbour sites
5. As custodian, ensure preservation and interpretation of natural and cultural heritage around the foreshores, promoting a sense of community ownership
6. Facilitate the opening up of foreshore areas to the public, balancing protection with active use while improving and extending waterfront public domain

SHFA has overseen the redevelopment of Pyrmont and has met its charter with regards to point 1. The question is what is 'value'? The overdevelopment of Pyrmont has resulted in the highest residential densities in Australia with no street precincts on most streets and a small amount of open space that leaves the area well below well accepted benchmarks. In addition public land was sold into private hands without any test as to the value of that land to the public. Test such as its cultural, social, historic, environmental values for this and

future generations were not applied prior to a decision being made to sell public lands. Indeed SHFA become the development arm of government charged with making a return to Treasury putting highest value on point 1 of its charter to the detriment of the remainder of the charter. If one is to question the role of the Chairman, CEOs and the Board members one has to give consideration to any pressure overt or hidden that was put on SHFA to make the financial return on the sale and development of public land the strongest driver of its decisions and operations.

The total distribution to the NSW Treasury comprises two components (a) Income tax equivalent, and (b) Dividends. Income tax equivalent is calculated on taxable profit. The Authority is not required to apply tax effect accounting. Dividend payments to the NSW Treasury are based on land sales. There may be some adjustments after considering available surplus cash after taking into account the working and investment capital requirements, infrastructure and capital commitments of the Authority and existing and expected conditions in the property market. (Annual report 2003)

With dividends based on land sales the pressure to divest of land must be strong. The recent attempts to develop and sell the Water Police site at Pyrmont is an important example of the pressure to develop and make a profit on this site despite the reality that the area is already well below the acceptable benchmark for open space and is very high density and has very little public street frontages that can be counted as usable public spaces. The lack of street frontages is accounted for by the fact that most of the flat buildings have only the fortress like walls of car parks facing the street. This begs the question whether development was market driven (private car parking increases property prices) to the extent that it devalued points 2 to 6 in its charter.

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. PPL is no against the sale of any public lands however if public lands have been identified as 'surplus' to the service delivery of a particular instrumentality/agency/department there should be a test of the importance of those lands. PPL's position is the public land is of significance where it is of environmental, heritage, natural, cultural, social, historic, scientific, aesthetic, ecological or indigenous value, or is capable at present or in the future of having a value or use the benefit of which to the public outweighs any public benefit from sale or alienation by lease.

The Water Police site became available not because the Water police wanted to move to Cameron's Cove in Balmain but because the land at Pyrmont was valuable real estate that SHFA wanted to 'free up' in order to continue to meet its dividend payments to Treasury.

SHFA was set up with a mandate to get profits for Treasury. It is not surprising that the profit motive took priority and that SHFA found itself become increasingly defensive and closed in the face of public opposition. The devastation of Interim Park in Pyrmont is but one example.

2. 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.

The very fact that SHFA has a charter to develop land and a requirement to pay dividends to Treasury and there are no checks and balances in place such as the test to determine the significance of public lands that PPL proposes means that the drive for profits can overwhelm all other parts of SHFAs charter.

3. Potential conflicts of interest in the Sydney Harbour Foreshore's commercial relationships, 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.

This is a very serious issue and a breach of any pretence at independent assessment and decisions on development applications. The fact that there is a direct profit motive to Treasury involved compounds the problem. It is extraordinary that the Property Council of Australia is lobbying to have DA decision making taken away from Councillors in local government because of conflict of interest while this cosy arrangement remains unquestioned.

4. 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.

Despite the fact that SHFA and the government know that Pyrmont is very deficient in open space the redevelopment of the Water Police site was pushed and promoted without the option of a public park ever being seriously considered by SHFA. If points 2 to 5 of the Charter have any meaning this was the site in which they should have been applied and applied vigorously. If the significance test proposed by PPL was applied to this site there is no doubt it would have to be retained as public open space.