

**Submission
No 116**

INQUIRY INTO THE MANAGEMENT OF THE SYDNEY HARBOUR FORESHORE AUTHORITY

Organisation:

Name: Ms Clover Moore

Position: Lord Mayor of Sydney

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Date Received: 12/07/2004

Subject:

Summary



OFFICE OF THE LORD MAYOR

9th July 2004

Legislative Council
GENERAL PURPOSE
STANDING COMMITTEES

12 JUL 2004

RECEIVED

Mr Steven Reynolds
Director
General Purpose Standing Committee No. 4
Management of the Sydney Harbour Foreshore Authority
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Reynolds

**Submission of the Council of the City of Sydney to the NSW
Parliament's General Purpose Standing Committee No. 4 Inquiry into the
Management of the Sydney Harbour Foreshore Authority**

At its meeting of 28th June 2004, the Council of the City of Sydney endorsed the City's submission to the Inquiry into the Management of the Sydney Harbour Foreshore Authority. A copy of the Council's resolution is attached for your information.

I attach Council's submission, which responds to the Inquiry into the Management of the Sydney Harbour Foreshore Authority that the General Purpose Standing Committee No. 4 are currently undertaking.

I would be pleased to discuss the submission with the Committee.

Yours sincerely

Clover Moore MP

Lord Mayor of Sydney



**INQUIRY INTO THE MANAGEMENT OF THE
SYDNEY HARBOUR FORESHORE AUTHORITY**

SUMMARY

The submission focuses on structural issues and aspects of the roles and functions of the Sydney Harbour Foreshore Authority (the Authority) which relate to the City of Sydney (the City). The submission makes no comment on those terms of reference relating to the actions or roles of individuals within the Authority.

In summary, the City considers that the State Government should transfer responsibility for matters conventionally the responsibility of local government, such as the management and maintenance of the public domain and planning assessment and consent authority roles, back to the City of Sydney and other relevant authorities.

1. TERMS OF REFERENCE

Many of the terms of reference of the inquiry lie outside the jurisdiction and scope of the City's submission. In particular, the City makes no comment on the actions or roles of particular individuals within the Authority or alleged conflicts of interest. The City is not aware of any involvement of the Authority in the merging of the former City of Sydney and South Sydney Councils or of any inappropriate involvement of the Authority in the City's Open Space and Infrastructure Study.

2. BACKGROUND

The Sydney Harbour Foreshore Authority (the Authority) was established in 1998 under the *Sydney Harbour Foreshore Authority Act 1998*. The Authority is subject to the control and direction of the Minister for Infrastructure, Planning and Natural Resources.

The Authority's Board comprises the Chief Executive Officer, the Director-General of the Department and a maximum of five people appointed by the Minister, with one appointed as the chairperson. The current SHFA Board members are:

Gerry Gleeson (Chairman)
Jennifer Westacott (Director-General, DIPNR)
Jon Isaacs
Rob Lang (CEO SHFA)
Penny Morris
Helen Wright

The Minister is required to undertake a review of the Sydney Harbour Foreshore Authority Act after 5 years of operation. This review is expected to take place some time later this year. This provides an opportunity to consider and implement changes to the Authority's charter to allow it to respond to changing circumstances and to concentrate on its core strengths and responsibilities.

3. ROLES & RESPONSIBILITIES OF THE AUTHORITY

The Authority is responsible for protecting and enhancing the natural and cultural heritage of Sydney's inner harbour foreshore. This is clearly stated in its vision statement:

Vision

To demonstrate vision and leadership in creating quality environments that are enriching, diverse, accessible and sustainable by continually improving Sydney's significant waterfront precincts, balancing visitor, community and commercial expectations.

The Authority's roles and functions however are quite diverse. This is reflected in its charter:

Charter

- 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*

In effect, the Authority is responsible not only for matters such as the redevelopment of 'surplus' government land, but also for matters which are conventionally the core responsibility of local government, such as the maintenance of the public domain, including parks, footpaths and roads. It has also been provided with a role in the assessment of planning consents, some of which are lodged by the Authority itself.

The Authority's place management portfolio includes The Rocks, Darling Harbour, key foreshore sites in Pyrmont and the Australian Technology Park at Eveleigh. In addition, the Authority place manages a range of sites on behalf of other organisations including the Circular Quay and King Street Wharf promenades, the Museum of Contemporary Art, the Conservatorium of Music and the Overseas Passenger Terminal.

The Authority also place manages parks and other public open spaces within its precincts, including approximately nine hectares of parkland in Pyrmont/Ultimo, as well as Tumbalong Park in Darling Harbour, and Dawes Point Park and First Fleet Park in The Rocks.

The Authority is a significant landowner in the City of Sydney. The Authority has an extensive property portfolio of commercial, semi-commercial and community service assets. According to the Authority, the commercial assets, including leased properties and carparks, are valued at approximately \$559 million or 40 per cent of their total assets and portion of the return on commercial assets is used to fund Community Service Obligations (CSO's) worth approximately \$20 million per annum.

According to the Authority, these CSOs comprise maintenance of the public domain, parks, roads and foreshores and the provision of visitor services throughout the Authority's various precincts.

4. Responding to Changing circumstances

The environment in which the Authority is operating has changed significantly since it was established. The Authority acknowledges that its land sales program is coming to an end in 2005/2006. In Pyrmont, for example, the redevelopment of surplus government land is effectively completed. The Authority is understood to be gearing itself for an expanded role in place management.

There is a clear and understandable rationale to have the Authority manage specific government-owned foreshore properties, such as those in the Rocks and Darling Harbour, as well as the Museum of Contemporary Art, the Overseas Passenger Terminal and the like. Property/tenancy management is a major activity and core focus of the Authority and the City supports the Authority having this ongoing role.

The City's view is that there is a strong argument that as place management of the public domain is the core business of local government, responsibility for this should be transferred to the City of Sydney and other appropriate councils.

This is particularly relevant in the case of Pyrmont, which is now effectively an inner city community in which the Authority holds a comparatively small number of commercially leased properties. On the other hand, the Authority is responsible for larger property portfolios in both the Rocks and Darling Harbour, which gives some support to the argument that the Authority should continue in a place management role of the public domain in these precincts. Notwithstanding this, the City considers that responsibility for this role is best transferred to the City as it remains a core function of local government, which the City is well capable of fulfilling. This should be considered by the State Government, as it would allow each organisation to concentrate on its core strengths and responsibilities.

The City considers that, following the 5 year review of the Authority's Act legislation, the State Government should transfer to the City responsibility for all those functions and responsibilities which are the core business of local government. Proper processes, involving full public consultation, should be developed by the State to ensure a smooth and gradual transfer. This will enable the Authority to concentrate on matters that should be its core focus. The Authority should be accountable to the community and its decisions and processes should be open to community consultation and review.

The City of Sydney is a strong and successful local government authority, governed by democratically elected and publicly accountable community representatives. The City's ability to efficiently and effectively undertake the roles and tasks required of local government is well recognised and respected. There is no reason why responsibility for matters which are conventionally the domain of local government should not be transferred back to the City.

Some progress towards the goal of transferring responsibility for matters which would conventionally be managed by local government to the City has already been achieved. For example, negotiations between the Authority and the City have resulted in in-principle agreements to transfer to the City public open space areas such as Pyrmont Point Park, Giba Park and Jones Street Pocket Park in Pyrmont, along with roads in Pyrmont including Refinery Drive, Mount Street, Bowman Street (part), Cadigal Avenue, Point Street (part), Pirrama Road (part) and Quarrymasters Drive. The City has also reached an in-principle agreement with the Authority to acquire the former Water Police site on the Pyrmont foreshore.

5. Planning Assessment & Consent Authority Roles

For several years the Department of Infrastructure, Planning and Natural Resources was the assessment authority for development proposals put forward by or on behalf of the Sydney Harbour Foreshore Authority. In August 2003 however, the Authority was given substantially expanded powers by the Minister. As a result, the Authority assesses development applications (including its own), and makes an assessor's recommendation to the Minister for determination.

While the City understands that this simply transferred assessment responsibility from one State Government agency to another, the City considers that responsibility for planning assessment in its local government area should be vested in the City.

Assessment of development is a core function of local government, and the City has a solid and effective record in respect of managing development and land use in its local government area. By contrast, this is a non-core function of the Authority. There is no compelling reason why responsibility for planning assessment cannot be transferred to the City. The City considers that this should be formally considered by the Minister as part of the 5 year review of the Authority.

The City also considers that the Ministerial consent authority role should be increasingly devolved to local government. The City is aware that the State often has a legitimate role and interest in major development, particularly in and around the foreshore. It is important to note however that this is already provided for in the City of Sydney Act, through the establishment of the Central Sydney Planning Committee (CSPC) as the consent authority body for major development in the local government area (with the exception of areas under the jurisdiction of the Minister). The CSPC is chaired by the Lord Mayor and has two other councillors on its committee. However, it allows an indirect level of State involvement in the planning assessment and determination process through the appointment of four State Government representatives with specialist expertise in development related fields on the committee. The CSPC, together with the City's planning controls, ensure that both local and regional matters are considered in development assessment.

Consequently, the City considers that the Minister's consent authority role in key foreshore sites could be transferred to the CSPC for major development and to Council for other development. This would enable a greater degree of local government involvement in both the assessment and determination of development. It is recommended that these suggestions be considered by the Minister as part of the 5 year review.

A further advantage of devolving responsibility to the City is that perceived conflicts of interest in the Authority's role would be avoided, particularly where the Authority is responsible for assessing its own applications.

It is true that the City also occasionally finds itself in similar situations, ie responsible for assessing and determining its own applications. There are however a number of factors which mitigate against any conflict or perceived conflict in the case of the City:

- (i) City councillors are democratically elected, and can be directly voted out by the local community if they are displeased with their the nature of their of decision making
- (ii) Significant development proposals are heard in committee meetings that are open to the public, with assessment reports that are publicly available prior to the public meetings.
- (iii) Unlike the Authority, the redevelopment of surplus government land is not part of the City's charter or one of its core responsibilities, whereas planning assessment and consent authority roles are core functions of local government, but are only ancillary to those of the Authority.
- (iv) The City ensures that where a pecuniary or other conflict of interest may be involved, assessment is undertaken or reviewed by third parties (these options are equally open to the Authority).

It is important to note that important steps have already been taken to gradually transfer planning and assessment responsibilities to the City.

For example, the Draft Central Sydney Local Environment Plan 2002, which is expected to be shortly gazetted by the State Government, amends the balance of consent roles in Ultimo Pymont for the master plan sites.

The consent role is to be divided between the City and the Minister, through the application of two basic monetary thresholds. For public domain development applications, the Council will be the assessing authority and the consent authority for applications with an estimated cost of up to \$5 million. The Minister is then to be the consent authority for public domain development applications with an estimated cost of \$5 million or greater, with the Authority being the assessing authority for such applications.

For development applications for private development with an estimated cost of up to \$20 million, the City is to be the assessment authority and the consent authority. For private development with an estimated cost of \$20 million or greater, the Minister will be the consent authority, with the Authority being the assessment authority.

The new Council has written to the Minister asking for the threshold of \$20million to be changed to \$50million. The Minister has expressed in-principal support and asked that the City discuss the details with his Department.

In addition, the Department of Planning, Infrastructure and Natural Resources recently publicly exhibited similar proposals for Walsh Bay and other sites in the City's local government area.

In summary, having the City as the assessment and consent authority body for development proposals, which is a core responsibility of local government, will assist in separating the Authority's role as a developer of land, and allow the Authority to concentrate on its core functions.

6. Conclusion

The City considers that the forthcoming 5 year review of the Authority provides an important opportunity for the Government to review the role of the Authority and transfer to the City those functions currently undertaken by the Authority, which are core functions of local government.

ITEM 3B. INQUIRY INTO THE MANAGEMENT OF THE SYDNEY HARBOUR FORESHORE AUTHORITY

FILE NO:

DATE: 25/6/04

MINUTE BY THE LORD MAYOR

To Council:

The Sydney Harbour Foreshore Authority is responsible for the commercial and public management of 400 hectares of some of Australia's most valuable, prestigious and historically significant real estate.

Prime sites under SHFA's care and control that fall entirely within the City of Sydney's local government area include: The Rocks, Darling Harbour, and Pyrmont/Ultimo. SHFA also place manages the Circular Quay promenades and the King Street Wharf promenade.

The Legislative Council has resolved to conduct an inquiry into the Management of the Sydney Harbour Foreshore Authority, and in particular into:

- (a) the role of the Chairman, past and present chief executive officers, the Sydney Harbour Foreshore Authority's 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, and*
- (g) any other relevant matter.*

As SHFA's legislative boundaries fall largely within the City of Sydney's local government area, and as SHFA replicates most of Council's services and operations in their area of responsibility, it is important that the City makes a considered submission to this inquiry.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to Council on 28 June 2004, attaching a draft submission to the Legislative Council's Inquiry into the Management the Sydney Harbour Foreshore Authority (Attachment A), it be resolved that Council endorse the submission.

(SGD) COUNCILLOR CLOVER MOORE MP

Lord Mayor