

## VAUCLUSE/DIAMOND BAY PRECINCT MEETING

Kimberley Reserve Hall, Military Road, Vaucluse  
Thursday 24<sup>th</sup> May at 7.30pm

### DRAFT MINUTES

**Chair/Convenor:** Allan Aaron

**Secretary:** Lawrence Yeung (apology)

**Traffic Representative:** Neta Labi

**Greening Representative:** Suellen Bassetti

**DA Representative:** Gabriel Pallo (apology)

**Attendees:** Clr S Lewis, Clr W Nemesh, Clr L Goltsman, Clr S Betts, Clr E Keenan, M Shiner, S Aaron, D.Meyer, L. Rosenthal, C. Matthews, T. Filson, J. Newell, H. Goldsmith, A Matis, D. Reed, S. Reed, V. Eastin, E. Weiner, F. Weiner, J, Murphy, D. Tsar, A. Arnold, J. Murphy, E. O'conner, T. Rubin, B. Brown, A. Rulel, E. Ferman, G. Blumberg, E. Murphy, I. Kaplan, M. Kaplan, F. Rodas, D. Snith, N. Lippa, A. Lavatha, approx. 10 others not recorded in the attendance sheets

**Apologies:** Mayor J Wakefield, L Yeung, G Pallo,

No.	Item	Action
1	Opening of the Meeting	The meeting commenced at 7.30pm. Mr. Aaron welcomed the attendees, in particular council representatives (Peter Monks A/GM, Mitchell Reid, Mary Shiner) and elected officials (Clrs Betts, Lewis, Nemesh, Goltsman and Keenan). Mr Aaron noted the substantial number of attendees and surmised that this reflected interest in the main topic of the meeting being overdevelopment. Mr Aaron advised that due to the presence of several parents of young children, that the agenda would be slightly modified to accommodate the discussion on Clarke Reserve before the discussion on overdevelopment.
2	Clarke Reserve Playground	Mr Aaron summarised the situation regarding Clarke Reserve, with the management of unleashed dogs in close proximity to young children providing a potential safety hazard. Mr Aaron noted that over 50 attendees at the November 2017 meeting lodged their support for urgent action to create a safer environment for children in the playground and that safety incidents had been reported. Mr Aaron thanked Clr Nemesh for proposing a motion in November 2017 requesting council review the matter with urgency. Mr Aaron noted that nothing had happened on the issue during subsequent 6 months or so despite the Precinct writing to the General Manager in February 2018 raising this issue as one of urgency. Mr Aaron thanked Clr Betts for assisting in getting a meeting with Director of Renewal (Emily Scott) who met around 10 residents, Clrs Nemesh and Betts on site on the 22 <sup>nd</sup> May along with two council officers where the matter was discussed. Mr Aaron noted that the playground had been upgraded around 4 years ago and wasn't scheduled for further upgrades in the near term. However, it was noted that the previous consultation process appeared limited. Shortcomings of the playground included poor design of swings, absence of sun shading, unsuitable (dangerous) plants among other issues. In particular, the lack of signage advising dog owners that Clarke Reserve was not an off-leash area and the absence of a protective fence were urgent issues that needed to be addressed. Mr Aaron noted the support from Clrs Betts and Nemesh and Clr Nemesh rose to speak in support of expediting a review of the matter. He noted that Mayor Wakefield had indicated in a phone call that he was supportive of a protective

		<p>fence. Cllr Lewis indicated that he was also supportive of a suitable fence and noted that the motion he had proposed at the previous Council meeting was intended to elicit immediate action from Council. Mr Aaron noted that he was encouraged at the meeting on the 22<sup>nd</sup> of May to gain signatures on a petition requesting urgent action and that a suitable petition had been circulated with the following wording - <i>We, the undersigned, petition the Mayor and Councillors of Waverley to take action to protect the safety and wellbeing of the residents' children and all other children using the playground at Clarke Reserve, Vacluse by urgently implementing a permanent fencing (or equivalent) structure around the playground at Clarke Reserve.</i></p> <p>Mr Monks was invited to respond on Council's proposed timing on this matter and advised that Council would be considering the resolutions raised regarding the issue, and potential options at their July Operations meeting.</p> <p>Resident Anita Arnold spoke indicating that she represented up to 50 mothers who are regular users of the playground, many of whom had bad experiences in the park, providing examples including dogs defecating and urinating in the playground, dogs taking food from young children, and abuse of parents by dog owners. Ms Arnold gave the example of the children's playground at Haberfield as an example of what could be applied in the context of Clarke Reserve. She expressed concern regarding Council's slow response to what parents see as immediate safety issues. She suggested that if it was a tree, council would protect it immediately, so why don't they get on to Clarke Reserve as a matter of urgency. Further discussion ensued, and Mr Aaron requested that the community, council officers and councillors work together for the community and set aside politics to realise a rational outcome on this matter.</p>
3	Overdevelopment	<p>The substantive topic of Overdevelopment was introduced by Mr Aaron who invited Mr Monks to speak about the various planning policies and instruments. Mr Monks explained key planning documents including the Local environment plan (LEP) and Development Control Plan (DCP) which are available on the council website. He advised that the LEP reflects State planning objectives and targets set by the state government for each Council to address including housing targets and employment targets.</p> <p>A new LEP needs to be developed over the next 3 years in line with current requirements from the Greater Sydney Commission.</p> <p>Mr Monks spoke on the new low rise medium density code and on the reasons why Council didn't think it would apply to large parts of Waverley. He noted that currently, DA approvals for an additional 105 residences in the area were pending.</p> <p>Mr Monks took questions from the meeting in particular regarding the issues of <i>traffic congestion and insufficient parking/garages in new developments</i>. He advised that parking/garaging is one aspect of the DCP that there is some ability to influence. Mr Monks was asked <i>if anyone in Council or State Government was concerned about quality of life and whether infrastructure was being developed in line with the increase in residents in the area</i>. Mr Monks was alerted to the <i>significant additional development in Diamond Bay</i>. In response Mr Monks acknowledged that transport infrastructure development was lagging but noted that that isn't in Council hands. He acknowledged that developments were not</p>

required to provide additional parking but that this was a matter that local council could influence via the DCP parking standards. A resident asked *Why, when arguing objections before council are objecting parties restricted to a 3-minute talk, while the developers may speak for an unlimited time?* Mr Monks did not believe that this was normal practice and was of the view that objectors are often given considerable time to speak.

Mr Monks introduced Mitchell Reid, Exec Manager – Building. Mr Reid outlined the various approval requirements as follows: (1) EXEMPT Development which do not require DA e.g., BBQs, sheds etc. There is a list of these in the LEP. (2) COMPLYING Development, for example, a second storey may be added to a single storey residence with no DA required. A “tick-the-boxes” certificate from an independent certifier is sufficient, and (3) DEVELOPMENTS REQUIRING CONSENT., These go through merit assessment by Council in light of the LEP in relation to meeting floor space ratios, height requirements, etc.

Mr Reid then described the Voluntary Planning Agreement policy and explained that this was a Council adopted policy enabled by State-wide legislation. Typical VPA’s provide for a sharing of the ‘value uplift’ (ie notional profit made by a developer whose development exceeds FSR). The policy provides a 50/50 sharing of the value uplift which is calculated by independent valuers. The funds received via this are spent on affordable housing and upgrading or new local amenities. Mr Reid stressed that any extra floor space would have to be acceptable on merit grounds and if it caused unreasonable impacts then it would not be supported regardless of any VPA offer. He also indicated that in the past, many examples of developers obtaining extra floor space where approved by the Land & Environment Court without the provision of a VPA so the VPA provides a means for the community to realise some of the benefits of such developments.

Denis ?? asked *why these contributions should not be considered as legalised bribery and another resident asked how such payments could be legal given Council is dealing with developers.* Mr Aaron read a previously submitted question on this topic “*Are councillors concerned that Voluntary Contributions are perceived by many ratepayers as equivalent to “bribes” from developers? Are councillors concerned that Council officers may see voluntary contributions as contributing to Councils revenue base and thereby causing a conflict of interest among officers who would have no reason to discourage such contributions? Finally, would Councillors consider either stopping cash-based voluntary contributions (versus the previous contribution of real property) or reducing ratepayers rates by the amount equivalent to cash receipts obtained through voluntary contributions?* Clr Nemesh disagreed with the perception of a bribe noting that the VPA is not a guarantee of DA acceptance, even when millions of dollars are at stake. Clr Lewis noted that Voluntary Contributions can only be used for affordable housing and amenities in the local area. Not having Voluntary Contributions gives developers free hand to cash in on extra development that they would get anyway through Land & Environment Court. In relation to the VPA leading to potential corruption, Clr Lewis noted that he believed that Waverley Council has most honest and non-corruptible Council officers. Clr Betts described the history and evolution of the VPA, with cash now being received in lieu of bricks and mortar after change in NSW affordable housing

policy in 2012. Following further substantial discussion about merits of council accepting voluntary contributions, Mr Aaron asked for a show of hands to indicate whether residents were in favour of council accepting voluntary contributions. Nobody in the room indicated that they were in favour of accepting voluntary contributions and the majority of the room were against them.

Following some further discussion and questions from the audience, Mr Reid advised that he was happy to take questions from the public (email: [Mitchell.reid@waverley.nsw.gov.au](mailto:Mitchell.reid@waverley.nsw.gov.au)).

Mr Aaron thanked Mr Monks and Mr Reid for their presentations and they left the meeting and questions for Councillors were invited questions submitted prior to the meeting (which had been circulated) were read-

Hillary Goldsmith and David Reed asked the following regarding Diamond Bay/Old South Head Rd – *My question is about the overdevelopment about to happen in Old South Head Rd and Diamond Bay Road area which is already (without the proposed developments) over crowded and congested as far as parking and infrastructure and public transport (or lack of it) is concerned. The roads cannot handle more traffic without some form of traffic control taking place. Are there any plans to address these issues before development occurs? AND Is overcrowding in a small community like Diamond Bay/Isabel Ave ever considered by council? Does council have a long-term plan for this small area because it seems that the overdevelopment will turn it into a slum in years to come.*

Clr Lewis responded that Council has no say whatsoever in individual development applications, only in long term planning and providing the infrastructure for developments. He noted that at last Council meeting a resolution was passed that would lay groundwork for widening Military Rd at 3 “pinch points” to improve traffic flow. Public transport is problematic for Councils because they want more public transport but don’t have a say. Clr Nemesh agreed and added that Council also looks at issues like the local environment/greening to improve the quality of life. In relation to transport services he encouraged the community to decide about whether to pursue reintroduction of bus services that were removed. Clr Goltsman rose to advise that while Councillors cannot intervene, they often advocate on behalf of local residents and he encouraged residents to contact their councillors in this regard.

In relation to preventing over development, Mr Aaron read the following submitted question “*Are councillors prepared to assist our (and other Precincts) to devise effective strategies to:*

- (a) determine what our local council area residents would define as acceptable levels of development*
- (b) ensure that these residents to accurately reflect such levels of development in its planning documents (LEP and DCP)*
- (c) advocate, in a non-partisan manner to the state government to realise residents’ requirements.*

*Will Councillors assist in addressing these concerns?”*

		<p>Clr Lewis noted that council did want more feedback on the DCP and encouraged residents to read the DCP and make submissions. Clr Betts advised that she would be happy to work with the precinct to encourage Council to look for other areas to upzone, which in her experience generally takes about a year. She also suggested working to revise the current parking requirements which are problematic in multi-unit dwellings since there is no obligation for developers to provide adequate parking. Mr Aaron requested that Councillors assist the Precinct to help summarise relevant aspects of the DCP and put some resourced in place to enable the precinct to make submissions. Troy Filson (Mill Hill Precinct Co-Convenor) suggested that changes need to be made at a State level noting that one of Council's own publications says that Waverley has 1/3 less open space than desirable and implementing State government targets will lead to lowering our quality of life. He suggested that Council argue the matter with State Government rejecting State guidelines. Mr Aaron advised that he had arranged to meet with State representative Gabrielle Upton in July to discuss the matter.</p> <p>A resident asked why the Council had been inactive when the obvious signs of overdevelopment began.</p>
4	Conveners Report	<p>Mr Aaron noted that at the last Precinct Meeting on 11 February, residents were requested to provide input on various matters of concern and that these formed the basis for the various activities that the Committee have undertaken since. The Committee has met about 6 times since the precinct meeting and had several meetings with various council officers and councillors. Following our last meeting, the Precinct wrote to the General Manager (copying ward councillors). Mr Aaron circulated the letters sent to Council's GM and Planning Director. Mr Aaron proceeded to summarise the key issues raised, and outcomes to date.</p> <p>In relation to:</p> <ul style="list-style-type: none"> <li>(a) overdevelopment, the action led to the discussion which preceded.</li> <li>(b) Traffic matters (esp. intersection diamond bay road and old south head road) will be addressed in the traffic report</li> <li>(c) Bus stops will be addressed in the traffic report</li> <li>(d) Clarke Reserve, significant activities and effort devoted to this issue as discussed earlier in the meeting</li> <li>(e) Grumpy Baker extension of trading will be addressed in the DA report</li> <li>(f) Trees will be addressed in the greening report</li> <li>(g) Boat parking will be addressed in the Traffic report</li> <li>(h) Ocean outfalls – Mr Aaron advised that he nominated to participate in Sydney Water's community reference group which would be assisting in identifying solutions to the raw sewage outfalls at Vaucluse and Diamond Bay</li> <li>(i) Airbnb – Mr Aaron noted that he had been advised that Waverley has one of the highest concentrations of short-term letting in Sydney and that Council had made a submission in April 2016 to the NSW Parliamentary Inquiry addressing the matter in relation to accountability, regulation, economic impacts and amenity issues.</li> </ul>

5	Secretary's Report	<p>In Mr Yeung's absence, Mr Aaron presented the Secretary's Report and noted the following key outgoing correspondence. Letter to General Manager Waverley Council regarding issues raised at the Precinct Meeting 11th February; Letter to the Director of Planning regarding concerns over development and specifically concerns related to a development at 17 Isabel Ave; Letter to Council regarding objections on behalf of some residents regarding increased trading hours by Grumpy Baker; Invitation to State Minister, Gabrielle Upton to join the Precinct at a forthcoming meeting to discuss overdevelopment.</p>
5	DA Report	<p>In Mr Pallo's absence, Mr Aaron presented the DA Report and noted the following activities: Grumpy Baker objection in relation to trading hours; Das at 7 Jensen Ave, 9 Diamond Bay Road, 33-39 Hamilton St (Woollahra).</p> <p>Mr Aaron noted that more than one resident adjacent to the development at 17 Isabel Ave Diamond Bay believe they were not notified of the S96 variation and hence is concerned that there may be a systemic failure by council in approving such variations and approvals. Mr Aaron asked whether the meeting would like the Precinct to write to Council requesting an independent review of this particular approval noting that it would be unlikely to change the approval status but may highlight a flawed process. The meeting noted that several other development applications appear to have suffered from lack of notification to neighbours such as the development at 9 Diamond bay Rd.</p> <p><b>Motion:</b> J. Newel proposed that "the Precinct request a review of the advertising process in relation to 17 Isabel Avenue". Seconded by A. Rulel. The motion was approved by a show of hands.</p>
6	Traffic Report	<p>Ms Labi presented the Traffic Report.</p> <p>(a) In relation to the intersection – Diamond Bay Road and Old South Head Road, council had visited the site and responded that "Old South Head Road is a state road and any changes to OSH Road or the intersections along the road would need RMS approval. There have only been 2 reported accidents at this intersection, one in 2012 and one in 2013. After the 2013 accident RMS installed kerb extensions and a refuge island north of the intersection, which provide a safer crossing for pedestrians and reduces vehicle speed. Also, additional No Stopping was installed by Council north of the intersection. Having regard that there have been no accidents since 2013, they doubt that RMS or Council would support any changes." Following discussion, residents still believed that this intersection required improvement and the following motion was proposed and passed with a show of hands.  <b>Motion:</b> Moved: Ivan Kaplan Seconded: Gabi Blumberg  That the Precinct pursue with Council possible avenues to increase visibility at the intersection including removing a couple of parking bays in front of bowling club.</p> <p>(b) In relation to the Bus Stop hazard at Military / OSH Road with no footpath at the point of dismount causing issues for elderly people</p>

		<p>council’s response was “The Bus Stop outside 374 Military Road is only temporary until the development on the corner of Military Road and OSH Road is complete. It will then be moved back to its original location. However, in the interim will arrange for a temporary hard stand.” Following discussion, residents proposed and passed the following motion with a show of hands.</p> <p><b>Motion:</b> Moved: J Newell    Seconded: J Murphy That the Precinct requests that Council inspect and enforce safety regulations at 374 Military Road construction site.</p> <p>(c) In relation to the relocation of Bus Stop on corner of Military / Kimberley Street to further down Military (near Oceanview Ave) Council Response was: “The location of bus stops remains the responsibility of TfNSW /RMS and any changes to same requires the approval of both. As part of a rationalisation program earlier this year, RMS closed Bus Stops at Military Road and Kimberley Street and Military Road and Eastern Avenue and replaced them with a new one at Military Road and Ocean view Avenue outside 305 Military Road. These Bus Stops have been the subject of a number of emails and submissions have been made by Council to RMS. Roopa Jogunoori from the RMS recently advised that the Bus Stop closures and new Bus Stop are to remain as they are. Therefore the bus shelters at Military Road and Kimberley Street and Military Road and Eastern Avenue will be removed. There is nothing more that Council can do.”</p> <p>(d) In relation to boat &amp; trailer parking – especially on Young Street Ms Labi noted that Council has agreed to check currency of registration of parked trailers and boats and that NSW Government had introduced legislation that would permit local councils to impound boats that have been parked without being moved for more than 28 days and that council’s must opt-in to this new legislation and, to date, Waverley Council, has not opted in. Mary Shiner (Council) noted that there had been a motion passed at its April 2018 Council meeting, requesting that council investigate the status of councils opting in to the legislation and progress with addressing associated operational issues and report back based on previous community consultation and experiences of other councils. Mr Aaron indicated that the Precinct can request some interim measures while Council considers opting into the legislation. The following motion was passed by a show of hands: <b>Motion:</b> Moved: Gilbert Weiner    Seconded: Elizabeth O’Connor That Precinct write to Council requesting that they expedite their review about opting in to state legislation on unattended boats and in the meantime urgently consider temporary parking control measures</p>
7	<b>Greening Report</b>	Ms Bassetti presented the greening report noting that several tree related issues had been discussed with council in the past few months and that the next meeting will focus on tree policy, greening, Bushcare, composting and environmental issues as well as on community building activities.
8	<b>Previous Minutes of Meeting</b>	The previous minutes had been circulated to those present at the commencement of the meeting along with Council’s response report. Interest of time, Mr Aaron

	<b>(February) and Matters Arising</b>	requested that, if considered appropriate, someone propose that the minutes be accepted as read. <b>Motion:</b> Proposed: John Murphy Seconded: Shereen Aaron That the minutes of the February meeting be accepted as a true and fair record.
	<b>Closure</b>	There being no further business, Mr Aaron closed the meeting at 10.00pm