

THE GLEBE SOCIETY RESPONSE TO THE BAYS PRECINCT REPORT ON OUTCOMES STAGE 1 CONSULTATION PROCESS FEBRUARY 2011

The Report on the Bays Precinct stage 1 consultation process invites responses to be made by 31st May 2011. While we are unclear as to its current status, given the change of Government, the Glebe Society is formally responding to the report in the hope that the new NSW Government will rescue the Bays Precinct consultation and planning process and deliver on the urgently needed integrated plan for this iconic area.

1. BACKGROUND

The Glebe Society was a participant through its then President, Dr Lesley Lynch, on the Bays Precinct Community Reference Group (CRG) which was set up by the then Minister for Planning Kristina Keneally, in June 2009. We determinedly maintained our engagement with the process, and actively supported the continuation of the CRG, despite breaches of faith by the then Government¹ and the strong inclination of some community members to withdraw.

We did so because of the immense significance of the Bays Precinct and because the opportunity to have any kind of input into the Bays Precinct planning had been so many years coming, that we were determined to take advantage of the slightly opened door – no matter the provocation. We were concerned another opportunity might not come again in the near future.

Community members of the CRG worked long and hard with other members (from industry, unions, local and state government) to achieve a consensus around key recommendations and, most significantly, appropriate and effective planning objectives and principles for the future development of the Bays Precinct.

CRG members strove to set reasonable and realistic parameters which ‘would ensure that community needs and priorities are adequately reflected and fairly balanced with those of other stakeholders.’ The CRG Report on the Bays Precinct was presented to Government in early March 2010.²

The Glebe Society considers the CRG report to have delivered on these aspirations. This view has been confirmed in numbers of community meetings which have discussed the CRG Report.

On 5th February the then Minister for Planning, Tony Kelly, belatedly released his response to the community consultation on the future of the Bays Precinct.³

The report was slipped out without fanfare. It was too late to be of any significance in the life of the last Government. Apart from that, the Report was a disappointment in many ways.

¹ Including the announcement of several provocative development decisions in the Bays Precinct soon after the establishment of the CRG. (Baileys Refuelling Depot and the preferred lessee of B1 and B2 wharves in Blackwattle Bay)

² Towards an Integrated Strategic Plan Bays Precinct; Submission to the NSW Minister for Planning by the Sydney Harbour Bays Precinct Community Reference Group, March 2010 (Towards an Integrated Strategic Plan, CRG March 2010)

³ Bays Precinct Report on Outcomes. Stage 1 Consultation Process, February 2011 (Outcomes Report)

2. BROAD RESPONSE TO REPORT

The report does not move the strategic agenda forward in any significant way. Community groups who participated in the stage 1 process felt that the Government had responded in a very limited way to their work and their recommendations.

2.1. No strategic framework nor transitional brake on ad hoc development decisions

At the heart of the CRG report was a call to end one-off ad hoc planning decisions in the Bays and move as quickly as possible to the development of a strategic planning framework for the whole of the area. There is little in this response to Stage 1 which recognizes the centrality of this recommendation. Nor is there any useful guidance as to how we can best move in this direction.

2.2. Bland and ineffective planning principles

The report does recognise the major detailed work that went into developing broad consensus in the CRG around planning objectives and principles for the Bays Precinct.

The Glebe Society shares the CRG view that these principles provide critical protections for the public good in the future development of the Bays Precinct. Unfortunately, the report has extracted a ‘distilled’ set of principles which reduce most of this detailed work to motherhood statements which will be of little significance in any actual planning or decision making context.

2.3. No commitment to community engagement in stage 2

Effective participation of the community in the planning process has long been a bone of contention between community groups like ours and the Government. Our involvement in stage 1 was welcome, even through the process set up by Government was far from optimal. It was an article of good faith that the Government would include the community in meaningful participation for stage 2 of the Bays Precinct planning process. The CRG included a strong recommendation on this. However, beyond inviting the community to send in submissions to SHFA, the report is silent on meaningful community participation in stage 2. This may have been out of respect for the impending change of Government. The Glebe Society urges the new Government to open the door to the community on the Bays Precinct planning. It will find a wealth of knowledge and imaginative ideas and a reasonable and constructive approach.

2.4. Failure to address fragmented responsibilities

Local communities have lived for years with the frustrations that have come from the fragmentation of responsibility for the Bays Precinct across 15-16 agencies. The CRG strongly recommended the Government take action to get better coordination and capacity by setting up a dedicated Bays Precinct authority – albeit with caveats for its transparency and accountability. The report’s response is very weak, suggesting that these major problems would be resolved by the (then) amalgamation of SHFA with the Land and Management Property Authority(LMPA). Apart from the ongoing question of authority and coordination with the other players, the solution does not in any way address the issue of expertise.

The CRG was very conscious of the need to have processes and structures which could ‘bring into play the best and most creative ideas for the future use and character of this part of Sydney harbour.’ There is no history to suggest an expanded LMPA would be likely to deliver on this.

3. A STRATEGIC FRAMEWORK FOR FUTURE PLANNING DECISIONS IN THE BAYS PRECINCT

The Report fails to add any useful guidance for the central task of garnering expertise and vision to develop a worthy strategic plan/master plan for the Bays Precinct.

There are only two passing references to a Precinct Master Plan in the Report and these are in the section entitled *New Development Authority*.⁴ This is a major and disappointing weakness in the Report.

The CRG was clear that its development of planning objectives and principles for the Bays Precinct was a prelude to the essential development of a coherent strategic plan/master plan for the whole of the Bays Precinct.

*The CRG interpreted its primary task as being to advise on a strategic and integrated planning framework for the Bays Precinct and, in so doing, set parameters which would ensure that community needs and priorities are adequately reflected and fairly balanced with those of other stakeholders.*⁵

There is urgency about this. In its absence, Governments continue to make one off, ad hoc development decisions with no consideration of how these will complement or hinder other more integrated and imaginative options for the future.

The CRG was adamant that the existing Master Plans for parts of the Bays Precinct needed to be replaced by a whole- of- precinct strategy. These Master Plans⁶ incorporate some positive zonings and principles, but they are dated and were developed as one offs for only parts of the Precinct. Without the broader vision of what was possible and desirable, if a whole precinct view was taken, they are unable to incorporate or respond to broader strategic opportunities. To illustrate this potential, some members of the CRG developed exploratory versions of what such a strategic plan could look like if vision, imagination and expertise are collectively brought to bear.⁷

The Glebe Society fully supports the CRG emphasis on the urgency of developing an integrated strategic plan for the whole of the bays Precinct which incorporates the objectives and the principles developed by the CRG community representatives.

We also strongly support the call by the CRG for the Government to stop one off developments in the Bays until an integrated strategy for the whole Precinct is developed and approved. We also – reluctantly given our recent experiences in Rozelle and Blackwattle Bays – accept that some transitional process might be necessary for approvals to be given for developments already planned under existing Master Plans. We will fight very hard to ensure that any such approvals are within the parameters recommended by the CRG: ie. any approved development should be consistent with the CRG Objectives and Planning Principles and an approved Master Plan.

The Glebe Society recommends the Government endorses the CRG recommendations that:

All future planning and development decisions relating to the Bays Precinct to be on the basis of the agreed Principles and an integrated strategic plan for the whole Precinct incorporating a long term (c20 years) vision.

⁴ Outcomes Report, p 13

⁵ Towards an Integrated Strategic Plan, CRG, March 2011

⁶ There are a number of existing Master Plans for sites within the Bays Precinct: Rozelle and Blackwattle Bays Maritime Precincts 2000/2002; Glebe Island and White Bay Masterplan, 2000; Bank Street, Pyrmont Master Plan, 2005.

⁷ The most developed of these submissions was done by five CRG members: **Future of the Bays Precinct Sydney**, March 2010.

And pending the development of this integrated strategic plan: No new development proposals for the precinct be considered or approved unless they comply with the Objectives and Planning Principles for the Bays Precinct that have been publicly exhibited in Stage 2 and approved, and with an approved Master Plan based on those approved Planning Principles.

The Glebe Society also recommends that the Government set a time line of two years for the completion of this strategic plan/master plan for the Bays Precinct.

4. PROPOSED PLANNING PRINCIPLES

The CRG –against all expectations – managed to achieve a high degree of consensus around appropriate and effective planning objectives and principles.

Many of the CRG principles are common sense, familiar and uncontentious and are found in many existing planning instruments. A few are tougher and more precise than generally found. These were deliberately strong/precise to provide more effective protection for the community interest and the public good in the face of strong commercial/developer interests.

While the report references all of the CRG’s objectives and many of the principles, its ‘distilled’ principles strip away many of these important parameters needed to protect community interests and the public good.

The Glebe Society considers that the report’s ‘distilled’ planning principles for the Bays Precinct are bland and generalized where they most need to be tight and strong.

Some examples.

4.1. No further alienation of publicly owned foreshores in the Bays Precinct

There is very strong community opposition to further alienation of the Harbour foreshores still in public ownership.

The ‘distilled’ principles do include retaining ‘public ownership of the Bays Precinct’. But they are silent on the critical second clause: a prohibition on ‘long term leases unless for public use’.

Long term leases (over the 30 years - which is a comfortable period for good returns on most investments- and up to 99 years) constitute effective alienation of public ownership. (We understand, for example, that the proposed super yacht marina developments on public owned foreshores in Rozelle Bay are seeking a 99 year lease).

The ‘distilled’ principles do incorporate a specific protection for the waters as well as the Foreshore: “Recognise the waters of Sydney Harbour as a component of the public domain.” The Glebe Society is pleased to see this included. It is particularly relevant given the surprising decision by the previous Government to approve the excision of part of the harbor waters for the Lend Lease Hotel at Barangaroo.

4.2. Foreshore Access

Community access to the Harbour foreshores is a major issue.

Much CRG deliberation went into developing an agreed, reasonable position on this. The CRG specified: ‘**continuous**’ public access to the foreshore except where precluded by health, safety or security issues and, consistent with accepted recent practice, a requirement for a specified setback for any development fronting the Bays.

The norm in recent times for such set backs has been 10 metres. On the basis of experience with the hugely popular, but dangerously congested, Blackwattle Bay Foreshore Walk (a minimum of 10 metre setback) the CRG recommended a 20 metre setback.

The ‘distilled’ principles have reduced these principles to the ultimate in the non-specific and ineffective. They use weak parameters: ‘promote foreshore access’ and ‘emphasise the public domain through foreshore access and pedestrian streetscapes’

In any contested planning debate these will be all but useless.

4.3. Protection of Heritage Items

There are very significant heritage items in the Bays Precinct –most notably the White Bay Power Station and the old Glebe Island Bridge.

The preservation and, where feasible adaptive reuse of these, are strongly supported by the community and the CRG recommendations reflected this. Its recommendations were detailed and specific. *The CRG Objective is to:*

*Recognise the Bays’ significant maritime and industrial history in planning decisions.
Conserve all heritage items and, where feasible, provide for adaptive reuse of significant structures.*

The supporting principles are:

Recognise the significance of the area as part of Sydney’s maritime and industrial history including by:

- *Incorporating reference to and the creative interpretation of the Precinct’s maritime and industrial history into any redevelopment.*
- *Conserving and adapting, where feasible, the significant fabric of the Precinct, including all heritage and other structures*⁸

The ‘distilled’ version softens these to the abstract and non-specific ‘utilise heritage features as project drivers’ and, while it does call for conservation and adaptive re-use, it does not specify heritage ‘items’ or ‘significant structures’.

These parameters could easily be interpreted as requiring no more than an historical/heritage ‘flavour’ in any redevelopment.

It is clear that these 80 hectares of publicly owned foreshores, so close to the CBD, will be hugely attractive to developer interests. We need to better protect the public interest in the redevelopment of the Bays Precinct than we have managed in other parts of Sydney Harbour.

The Glebe Society strongly urges the Government to take up the CRG’s recommended principles in relation to the critical matters of protecting public ownership of foreshore lands; foreshore access and protection of heritage items.

The Glebe Society also urges the Government to consider incorporating all the Objectives and Principles developed by the CRG into the stage 2 consultation.

⁸ Towards an Integrated Strategic Plan, CRG, March 2011

The Glebe Society recommends the NSW Government incorporates all the Objectives and Principles developed by the CRG into the stage 2 consultations on the Bays Precinct.

In particular we recommend that the critical principles relating to ongoing alienation of publicly owned foreshores, foreshore access and protection of heritage items are expressed in the stronger and more specific terminology of the CRG principles rather than the less effective terminology of the reports 'distilled' principles.

5. MEANINGFUL COMMUNITY CONSULTATION FOR STAGE 2

The Report fails to deliver on one of the strongest of the CRG's recommendations, and long standing calls from community groups, for continued and more meaningful community participation in Stage 2 of the planning process.

The report does not have much to say about how Stage 2 will progress matters to assess the undigested, diverse and conflicting land use proposals that have come forward. There is no discussion of any formal process which would involve **all parties** in the strategic planning.

There is one sentence which indicates a closed group of public sector representatives will take on this role in relation to land use options for the Bays:

*'These issues will be addressed by the NSW Government through reference to the NSW Government Bays Precinct Taskforce.'*⁹

This is not a process the community could have confidence in.

There are no community representatives on this Taskforce although it is proposed that it be the body advising on the many land use proposals that have come forward during stage 1. (Will it also be advising on the responses to the "distilled principles" in the Report? This is unclear from the Report.)

Community experience with the Taskforce during stage 1 was very frustrating. The CRG formally requested some common membership to ensure good and effective communication on relevant issues and possibilities. This was rejected by Government. As it is common and sensible practice to have some overlap between advisory bodies and Taskforces working on the same agenda, we were not convinced by the grounds for rejection of the request: ie that the Taskforce would be advising Cabinet and therefore the Cabinet –In –Confidence rules applied. As there is a long road between the developmental work of a Taskforce and formal advice to Cabinet, we regarded this as a spurious justification for refusal.

As an alternative, the CRG then requested direct interaction with the Taskforce suggesting one or two meetings where there could be mutual exchange of perspectives and thinking. The Minister indicated this could happen. It did not, despite several promptings from the CRG.

There is no indication in the report of any formal advisory role for the community in stage 2 despite firm indications by the then Minister that there would be and the strong recommendations from the CRG on this.

⁹ Outcomes Report, p4. This sentence is at the end of the section summarising stage 1 options for land uses in the Bays Precinct.

Community groups have been pushing for many years for an active and genuine participation with other stakeholders in planning decisions for the Bays Precinct. This Report fails to deliver on that longstanding and legitimate community expectation.

The Glebe Society recommends:

The NSW Government opens the door to meaningful community involvement in the stage 2 planning for the Bays Precinct and implements the CRG recommendation to this effect :

The NSW Government maintains its current commitment to community participation in the Bays Precinct Planning Process into Stage 2 and establishes a range of mechanisms to include a broad range of interested people. This should include the establishment of a formal and adequately supported community advisory committee with balanced representation from the Precinct as a key part of this consultation process. It is recommended that there be an effective direct linkage between this committee and the Bays Precinct Task Force. (Rec 4)

6. DEDICATED PLANNING AND DEVELOPMENT AUTHORITY

While the Report acknowledges numbers of submissions called for the establishment of a dedicated authority to plan and manage the Bays Precinct redevelopment, its- and the previous Government's - response is totally inadequate:

.....The Sydney Harbour Foreshore Authority has been incorporated into the Land and Property Management Authority (LPMA). Further the NSW Government has endorsed the LPMA as the key land and precinct management agency for the core Sydney Harbour foreshore areas, including those from Balmain to Circular Quay.

This decision has provided a strong structural and operational base for the completion of the Darling Harbour South and Circular Quay Master Plans and provides a strong platform from which to complete a precinct master plan for the bays area and the subsequent redevelopment process¹⁰

This would not have been acceptable as a solution to the uncoordinated and dysfunctional planning and management of the Bays Precinct. It was not likely that this expanded agency would have had the authority to coordinate the other 14-15 agencies involved in the Bays Precinct area or the expertise/vision to lead the creation of an imaginative and contemporary strategic plan for the Precinct.

This proposal has been overtaken by the new Government's early restructure of the public sector. Most of SHFA has ended up in the Department of Planning and Infrastructure.

While the full implications of the new structures are not yet clear, the Glebe Society considers the CRG argument in favour of a dedicated authority for the Bays Authority should be given close consideration by the Government.

We do not have confidence that effective strategic planning, let alone implementation, for the future of the Bays Precinct can be achieved with the ongoing fragmentation of responsibilities. With the best will in the world, multiple agencies tend to get caught in their own silos and diverted by competing agendas.

¹⁰ Outcomes Report, p 13

We share the CRG's caution about the kind of entity that would be appropriate:

The CRG is wary of the all powerful authority exempt from scrutiny, appeal or relevant planning, environment and heritage legislation. What is needed is an authority with adequate powers and resources to drive the strategic planning and manage the implementation over the next decade or so- but within appropriate constraints.¹¹

The Glebe Society recommends that, further to its consolidation of public sector functions, the Government gives close consideration to the CRG proposal to establish a dedicated authority to co-ordinate and manage the Bays Precinct within Sydney Harbour. This authority should have relevant expertise and community representation. It should be publically accountable and its powers should be subject to relevant planning, heritage and environmental legislation and its decisions subject to appropriate appeal mechanisms.

¹¹ Towards an Integrated Strategic Plan, CRG, March 2011