

Destinations Rockdale



Report on Future Planning Principles following community consultation

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8 March 2006

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Précis

Rockdale City Council has endeavoured to reverse perceived past planning stasis by undertaking a fundamental review of its central commercial and community corridor – Bay Street and its end points, Brighton-le-Sands and Rockdale Town Centre. This was a strategic visioning exercise which was designed to be free of vested interest constraints so that the community and Council could see how Rockdale could become a major centre of commercial and retail activity while remaining true to its historical and cultural roots.

There are no legislative requirements applying to “visioning” exercises of the Destinations Rockdale style; although subsequently the Department of Planning has included visioning in its standard Memorandum of Understanding for funding of whole-of-LGA LEP reviews (reflecting the appropriateness of the approach). The process was designed to meet State Government contracting and related legislation regarding the engagement of architects, economists and other consultants.

The Destinations Rockdale scheme was released upon completion for staff and community consultation over more than four months and this report summarises the results.

Broadly speaking, there was strong support for the need for and nature of the fundamental review and for the individual projects, but with strong opposition to one specific element and minor doubts about others. There was little opposition to the majority of elements in the package. A fair general judgement based on feedback is that the scheme has broad support and should be pursued by the Council through the levels of government over time, with the required public consultation at each stage. This was confirmed through parallel community and business surveys reported elsewhere.

In line with broad principles applying to planning, it is suggested that Council keep within the bounds of the advertised scheme even though that is not a statutory requirement, but with reasonable adjustments resulting from the consultation phase. The main change is re-alignment of the By Pass Road and strong advocacy of the local road deviation within the F6 reservation, preferably underground from north of Bestic Street to south of President Avenue. All other aspects were supported by the majority of respondents in ways described in this report.

Recommendation

It is recommended that Council approve the planning principles set out in this report as the basis for ongoing work on the Destinations Rockdale LEP and other aspects and for negotiation with State authorities and other parties.

Guidelines

There are broad principles to be observed under Council's Probity Principles and Guidelines as well as under broader governmental policies and procedure guides. Those principles applying to planning matters are:

(a) **FAIRNESS**

The Council must act fairly, in the sense of affording procedural fairness, in the making of administrative decisions which affect rights, interests and legitimate expectations, subject only to the clear manifestation of a contrary statutory intention.

(b) **IMPARTIALITY**

The Council must act without bias and impartially. It must not prejudge the issues in a particular matter nor predetermine the outcome of that matter.

(c) **TRANSPARENCY**

Decisions and determinations made by the Council should be transparent. Access to documents must be provided in accordance with applicable legislation (such as the Act and the Freedom of Information Act, 1989 (NSW)).

(d) **SOUND AND SUPPORTABLE DECISIONS**

The Council must make decisions and determinations on the basis of logically probative material. The information and materials used in decision making must logically reveal the existence or non-existence of facts relevant to the issues to be determined, or reveal the likelihood or unlikelihood of the occurrence of some future event the occurrence of which would be relevant.

(e) **ADEQUATE ENQUIRY**

The Council must initiate and make enquiries where it is obvious that material is readily available which is centrally relevant to a decision to be made in circumstances where the available material contains some obvious omission or obscurity or is otherwise inadequate or insufficient in probative value.

(f) **NO FETTERING OF DISCRETION**

In the exercise of those statutory functions, the Council must not fetter itself in advance as to how it will exercise its statutory discretion, whether by way of conduct, contract, estoppel or otherwise.

(g) **CONFLICT MANAGEMENT**

The Council, entrusted with a statutory discretion, must exercise that power itself in an independent manner. It must not exercise the relevant power at the direction or behest of a third party. Individual councillors must appropriately resolve any conflicts between private and personal interests and the impartial performance of their public and professional duties.

(h) **MERITORIOUS DECISIONS**

The Council must examine in detail each matter before it on the merits, and must not automatically apply an overall policy or specific decision without considering the particular circumstances of the matter before it.

(i) **ACTING WITHIN POWER**

The Council must exercise a power strictly for the purpose for which the relevant power was conferred or imposed and not for any improper or ulterior purpose.

(j) **RELEVANCE**

In making any decision or determination, the Council must in its deliberations take into account all relevant considerations and matters that it is obliged to have taken into account in connection with the particular decision or determination and not take into account irrelevant considerations.

(k) **REASONABLENESS**

The Council must exercise its functions reasonably and rationally. Any decision or determination of the Council must not lack reasonable proportionality.

In addition, PwC Legal's briefings to Council explained that planning considerations must be kept separate from commercial considerations in order to resolve the inherent conflicts that Councils have under the Local Government Act. They advised that Council explicitly endorse the preferred planning principles drawn

from Destinations Rockdale after public consultation and prior to negotiation with State agencies and the like.

Planning principles

Council needs to make a decision in principle as to the elements of Destinations Rockdale that it intends to pursue through negotiations with the Government, developers, the community and others. Further detailed decisions and consultation processes will come down the implementation path.

Destinations Rockdale contained illustrations and descriptions of the 16 elements that make up the overall policy and project package. Council always intended to clarify details of specific projects after the broad principles had been defined and discussed with the community. The Destinations Rockdale package was not described as final, definitive or committed.

Since Destinations Rockdale was released, the Metro Strategy was released by the Minister for Planning and the Premier has stated that road usage would be reduced through the provision of more public transport. The Minister anticipated further information on infrastructure which has not emerged yet. In addition the Sydney Airport Corporation Limited has announced an intention to seek Federal approval to various commercial, retail and possibly recreational activities within the Airport's boundaries. This has profound implications for regional infrastructure and industry. It makes the need to develop a successful mainstreet strategy in the Destinations Rockdale corridor all the more critical especially if the employment targets of the Metro Strategy are to be achieved in a sustainable manner. A planning background report has been prepared for submission to Council in the near future; but Destinations Rockdale requires no special revision on these grounds.

Considering feedback from the community and stakeholders and these relevant planning context developments, it is suggested that Council pursue the following planning purposes and objectives (italicised text) in relation to each of the Destinations Rockdale sites (these are plain English statements) through commercial and State Government negotiations, a Destinations LEP, and supporting DCPs:

1. **Marina** – *facilitate and advocate the development of a commercially attractive and environmentally responsible marina with appropriate public access and job generation, subject to NSW Maritime and Cabinet approvals; the location and scale to be decided through expert investigations (not necessarily co-located with the pier) – and ensure that Council does not have a heavy long-term maintenance or operational liability. This is not within Council's jurisdiction but it could be a Council responsibility depending on the outcome of discussions*
2. **Breakwater** - *facilitate and advocate an environmentally responsible breakwater which is capable of long-term cost-effective maintenance within revenue streams from commercial facilities. This is not within Council's jurisdiction but it could be a Council responsibility depending on the outcome of discussions. It is potentially another groyne in line with Bay protection measures. The marina is structurally dependant on this which might become complex in commercial terms, subject to NSW Maritime and Cabinet approvals*
3. **Pier** – *develop a public facility that incorporates commercial shops, cinema and Icon building, with long-term costs kept within revenue streams from commercial facilities. Again this is not within Council's jurisdiction but Council could co-venture via a PPP, strata the retail and commercial facilities, and use proceeds to maintain the structures including the swimming pool enclosure, subject to NSW Maritime and Cabinet approvals*
4. **Beach front cafes, apartments and boulevard reforms** – *facilitate the development of on-shore activities to complement the pier and existing cafes, namely mixed-use apartment buildings, cafes within the landscape profile with public viewing facilities on top, and exercise/recreational facilities on the beach. This is tied up in the Cook Park Plan of Management and Government's approval rights. Apartments need LEP/DCP covering a zone extending some 700 m back from the Grand Parade which itself is to be transformed into a local road as traffic/road developments permit*
5. **International Hotel** – *promote the development of a high quality international hotel with active street frontages, through a Stage 1 DA, other agreements with developers, a design competition, and enforcement of design standards. Council could sell its land with covenants, or retain equity*

interest in short- or long-terms by joining in a PPP. Bidders to have architectural, financial and operator standing

6. **Road By-Pass** – *promote the development of a “local road” by-pass within the existing F6 reservation, preferably underground from north of Bestic Street to south of President Avenue.*¹ The previous deviation towards the Moorefield Estate is re-aligned eastwards. The project is not within Council’s jurisdiction, dependant on Cabinet approval and possibly a State PPP arrangement. Commonwealth AUSLINK funding may be involved. The objective is to move – not increase – traffic flows on the Grand Parade (and not divert vehicles from the M5 and Princes Highway) and blend them with the Southern Cross Drive/M5 as at present, with the Government to be disabused of concerns over the historical but now abandoned St Peters termination. The Grand Parade is to be an accessible and efficient public transport corridor in a manner that the By-Pass cannot be. The Council to seek the appointment of a Community Reference Panel to assist in detailed design and consultation aspects of the RTA project
7. **Bay St boulevard** – *facilitate the long-term transformation of the building and road fabrics in Bay Street to residential, personal services, café and like activities.* Tree plantings are under RCC control broadly speaking; mixed-use zoning is required in long term and undergrounding of overhead wires requires negotiation with electricity bodies (not short-term). The model is Norton Street Leichhardt which has a blend of existing and new buildings, with the feel of an urban village and a scale that is consistent with the existing community. The main method will be the Destinations Rockdale LEP and supporting DCP
8. Turning the drain into a **Canal** – *negotiate an agreement with Sydney Water that over say 5 years produces an engineering design that permits the Canal to be used as a drain during wet weather and a progressive implementation/funding plan based on development contributions from Destinations Rockdale sites, with Sydney Water as the responsible authority*
9. **Civic precinct (North Canal)** – *develop a progressive plan to reconfigure the site so as to retain grassed fields, and provide alternative and improved indoor sporting facilities, public space around the Canal, library, Town Hall and Council offices.* These are dependant on resumptions, rezoning/reclassification and lease negotiations as well as Sydney Water approval. PPP elements might include residential components depending on the outcomes of a design competition (keeping architectural integrity intact). Council policies require an independent approval assessment of the DA
10. **Canal residential (South Canal)** – *negotiate a long-term development vision with the landowners based on apartments, Canal, open space and community sports* – dependant on rezoning and DCP conditions as well as Sydney Water approval
11. **Masonic site** – *promote the development of a high quality live/work/play precinct with active street frontages through a Stage 1 DA, other agreements with developers, a design competition, and enforcement of design standards.* Rezoning is required and resumptions needed for full site if that is the preferred path. The RSL Club and others owners may be able to negotiate directly with a developer but a PPP would be involved under any scenario except rezoning then sale
12. **7 Ways and Elliptical road** – *negotiate a long-term plan with the RTA and State Transit depending on Cabinet approval. A road closing is implicit*
13. **Station and Dome** – *negotiate a long-term development vision with the landowners based on redevelopment of the Station airspace and access arrangements, and the provision of the Dome and market facilities, possibly involving a State PPP, Council/developer contributions and LEP and DCP provisions*
14. **Cinema complex and commercial suites** – *facilitate the development of a new commercial complex.* Rezoning may be necessary, the Airport’s OLS- and noise-related restrictions will restrict activities as well as height (see Background Report)
15. **New Civic Park and underground parking** – *facilitate the development of a new surface park and underground parking station.* Council’s existing leases and classifications need to be resolved then a development agreement (based on sale of land in return for park and related works) can deliver a park. It is assumed that shopowners can open rear openings. Long-term

¹ It may be that engineering analyses of the F6 route may look at alignment alternatives but that would be an RTA responsibility.

16. **Bryant Street work/play precinct** – *plan the long-term relocation of the Council's central operations and facilities to Bay Street and prepare the site for sale with an agreement to wait for and support the West Botany Street civic development.*

These are the recommended principles on which the Council can base its further negotiations, investigations and particularly the Destinations Rockdale LEP.

Additional considerations

Council has adopted Principles and Guidelines Statements for Planning and for Non-Planning (including PPP) matters.

In addition, the State Government's and Council's policies and guidelines require a separation between planning and commercial streams of policy-making and strategy development; and between the policy-setting rôle of Council and the implementation responsibilities of the General Manager. A separate submission has been prepared on these matters.

Among the important underlying policy matters are the provision of adequate parking through the development of individual sites, the balancing of commercial and retail space with market need assessments over time, the preservation of heritage assets (buildings, facilities etc), and provision of facilities for various demographic and ethnic groups, whether residents or visitors. Council will observe such policies through specific planning documents, draft policies and the like.

The Department of Planning has introduced a new panel review process for LEPs which took effect on 22 February 2006. Under §54 of the Environmental Planning and Assessment Act, a council is required to notify the Director-General of the Department of its intention to prepare a draft LEP. The Panel will review these notifications and provide preliminary advice on each proposal by evaluating it against the set criteria, advising the Director-General and/or Minister about the proposed draft LEP, and advising the council whether or not to proceed with drafting the LEP. The final draft of the LEP may be reviewed again by the Panel to ensure that its advice has been taken before the LEP is submitted to the Minister for approval. The LEPs will be evaluated against set criteria depending on whether the LEP is a Spot-rezoning LEP, reclassification LEP, Precinct LEP, Policy LEP, Comprehensive LEP or Surplus Government Land LEP.

As emphasised in briefings to Council, a professional approach to probity, project management, negotiations, communication, planning and financial analysis will be required to see Destinations Rockdale to successful completion.

Conclusion

The Council has now given the community a real opportunity to comment on the Destinations Rockdale program, and Council's decisions on the underlying planning principles and projects will give it the basis for negotiating with the State and Federal Governments and their agencies and with other stakeholders in order to achieve outcomes for its community.

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