



3 JUNE 2002

Meeting No 1354

MINUTES of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 5.38pm on 3 June 2002 pursuant to Notice 8/1354 dated 30 May 2002.

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PRESENT

The Right Hon The Lord Mayor Councillor Frank Sartor
(Chairman)

Councillors - Dixie Coulton, Nick Farr-Jones, Fabian Marsden and Lucy Turnbull.

At the commencement of business at 5.38pm those present were:-

The Lord Mayor, Councillors Coulton, Farr-Jones, Marsden and Turnbull.

The General Manager, Director City Development, General Counsel, Director Living City Services, Director City Projects and Director Corporate Services were also present.

Opening Prayer

The Lord Mayor opened the meeting with prayer.

Apologies

Councillor Kathryn Greiner extended her apologies for her inability to attend the meeting of Council as she was overseas.

Councillor Robert Ho extended his apologies for his inability to attend the meeting of Council as he was overseas.

Moved by Councillor Turnbull, seconded by Councillor Farr-Jones -

That the apologies from Councillor Greiner and Councillor Ho be accepted and leave of absence be granted.

Carried.

ITEM 1. CONFIRMATION OF MINUTES**Minutes of Council Meeting of 13 May 2002**

Moved by Councillor Farr-Jones, seconded by Councillor Turnbull -

That the minutes of the meeting of Council of 13 May 2002, as circulated to Councillors, be confirmed.

Carried.

Minutes of Extraordinary Meeting of Council of Monday 27 May 2002

Moved by Councillor Turnbull, seconded by Councillor Farr-Jones -

That the minutes of the extraordinary meeting of Council of 27 May 2002, as circulated to Councillors, be confirmed.

Carried.

ITEM 2. AMP SPONSORED ARTS EVENT

FILE NO:

DATE: 30/5/02

MINUTE BY THE LORD MAYOR

To Council:

Late last year I had discussions with the CEO of AMP, Mr Paul Batchelor, regarding a potential partnership between the City of Sydney and AMP to develop an event profiling the visual arts in Sydney. Particular emphasis would be placed on the work of emerging artists.

AMP indicated that it was prepared to enter into a partnership with the City on an equal funding basis and would invest \$220,000 per annum for four years in such a project.

The Cultural & Community Affairs Unit has subsequently developed a program for an event to be held in Spring each year. Currently titled Art & About: The City Becomes a Canvas will present hundreds of artworks in an accessible and enjoyable environment, inserting art into the everyday fabric of the City. As The City becomes a Canvas, audiences of all ages will be invited to engage in a self-guided outdoor walking tour. City users - residents and workers, tourists, shoppers and visitors will be delighted by the flush of life, colour and culture that embraces the City.

The focus of Art and About will be on what makes our City unique – cultural diversity, celebrations and rituals, a dynamic artistic community, freedom of expression, enterprises and industry. Whilst the exhibition content will have resonance with Sydney residents and visitors, artworks may also refer to our connections with the rest of Australia, that is, suburbia, outback, country towns, idiosyncratic depictions of Australian life and more.

The components of the event include:

- a street banner art exhibition in Martin Place;
- a large-format photographic exhibition along the Grand Walkway in Hyde Park North;
- the return of last year's very successful Sculpture in the City, also in Martin Place;
- an Open-Studio weekend in collaboration with the National Art School;
- projections of artworks onto the Town Hall and AMP building at Circular Quay;
- an exhibition of artworks from the AMP and Town Hall collections; and
- a huge outdoor drawing class.

It is anticipated that the Art Gallery of NSW and the Museum of Contemporary Art as well as the City's retail partners will participate in the event.

All components of Art and About will be free to the public.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to Council on 3 June 2002, on AMP Sponsored Arts Event, it be resolved that:

- (A) Council endorse the partnership with AMP in an annual visual arts event for four years (2002-2005) with an equal annual contribution of \$220,000;
- (B) authority be delegated to the Lord Mayor to negotiate and execute an appropriate agreement with AMP;
- (C) funding for this partnership be sourced from the Cultural and Community Affairs Unit budget for 2002/2003 and be provided for in the Unit's budgets for the subsequent three years.

(SGD) COUNCILLOR FRANK SARTOR
Lord Mayor

Moved by the Chairman (the Lord Mayor), seconded by Councillor Turnbull -

That arising from consideration of a Minute by the Lord Mayor to Council on 3 June 2002, on AMP Sponsored Arts Event, it be resolved that:

- (A) Council endorse the partnership with AMP in an annual visual arts event for four years (2002-2005) with an equal annual contribution of \$220,000;
- (B) authority be delegated to the Lord Mayor to negotiate and execute an appropriate agreement with AMP, and that the Deputy Lord Mayor and the Chairperson of the Cultural and City Care Committee be consulted as to the program;
- (C) funding for this partnership be sourced from the Cultural and Community Affairs Unit budget for 2002/2003 and be provided for in the Unit's budgets for the subsequent three years.

Carried unanimously.

ADDITIONAL MATTER FOR COUNCIL

FILE NO:

DATE: 31/5/02

MINUTE BY THE LORD MAYOR

To Council:

Attached for consideration by Council at its meeting on 3 June 2002 is a confidential report on Tender No. 0204 - Street Cleaning Service: Competitive Tendering Round Two.

I bring forward this item for the consideration of Council.

(SGD) COUNCILLOR FRANK SARTOR

Lord Mayor

Moved by the Chairman (the Lord Mayor), seconded by Councillor Turnbull -

That consideration of the confidential matter, as referred to in the Minute by the Lord Mayor, be deferred to the end of the meeting and dealt with in closed session.

Carried.

Declaration of Interest

Prior to discussion on Item 3, the Chairman (the Lord Mayor) declared a non-pecuniary interest in this item, in that he is involved with the establishment of the Sydney Cancer Centre Foundation and supports the Sydney Cancer Centre concept. The Chairman (the Lord Mayor) took part in discussion and voting on this matter.

Declaration of Interest

Prior to discussion on Item 3, Councillor Turnbull declared a non-pecuniary interest in this item, in that she is also involved with the establishment of the Sydney Cancer Centre Foundation and supports the Sydney Cancer Centre concept. Councillor Turnbull took part in discussion and voting on this matter.

ITEM 3. SYDNEY CANCER CENTRE

FILE NO:

DATE: 30/5/02

MEMORANDUM BY THE GENERAL MANAGERTo Council:

Arising from the briefing to Councillors on 27 May, the Lord Mayor has asked me to prepare a Minute to Council on the Sydney Cancer Centre initiative.

Cancer is a disease that touches everyone – one in three men and one in four women will contract some form of cancer in their lifetime. Each year 28,000 people are diagnosed with cancer in NSW alone.

The prevalence of cancer in our society is matched by a growing public awareness of the disease. Nearly 60% of Australians across all age groups consider cancer to be the single most important health issue.

Cancer research and treatments are improving all the time, but much more needs to be done. It is well documented that the best practice principles of improving cancer results are:

- Volume of cases
- Sub-specialisation
- Multi-disciplinary care
- Research and standard protocols
- Research driven clinical practice

In the United States, the world leader in cancer research and treatment, these principles are well honed in what are called Comprehensive Cancer Centres. Examples are the Sidney Kimmel Cancer Centre at the John Hopkins Hospital (Baltimore) and the Memorial Sloan Kettering Cancer Centre (New York). The Lord Mayor and Professor Bishop visited these centres, as well as the National Cancer Institute in Washington DC, in February this year.

Other features of a Comprehensive Cancer Centre are: basic research, clinical research, a full range of integrated services and sophisticated modes of patient care.

As yet, Australia does not have a US style Comprehensive Cancer Centre. The closest model to it is the Sydney Cancer Centre (SCC), based at the Royal Prince Alfred Hospital.

The SCC is Australia's largest cancer treatment centre, and is involved in a wide range of research projects that improve the care and treatment of many cancers. It treats nearly 10,000 new cancer patients a year and receives 129,000 outpatient visits a year.

The SCC aims to become the first US style comprehensive cancer centre in Australia.

The benefits of having such a centre of excellence located in the heart of Sydney will be enormous. Most significant will be the benefits to the wider Sydney community – including many of the City's constituents and stakeholders, whether they are residents, workers, or visitors from other parts of metropolitan Sydney and interstate – which will have access to world class patient treatment. Enhancing research capacity and raising the quality of clinical treatment in this vital area of will lead to better health outcomes.

It should also be noted that the Royal Prince Alfred Hospital, including the SCC, would come within the City's expanded boundaries under the Government's proposed boundary changes.

A Comprehensive Cancer Centre will also create regional benefits for Sydney as it will provide a sharper focus for cancer research as well as Sydney's biotechnology sector. Cancer research is a critical component of Sydney and NSW's biotechnology research effort. Enhancing research skills and capacity in this important field is a key element in improving our expertise as a highly specialised, knowledge-based national economy with a strong science base. The importance of achieving this has been recognised in the Wills Report (1999) to the federal government, and by the NSW government in its BioFirst strategy, (2001).

One of the key means of building NSW's research base identified in BioFirst was to develop the critical mass of the research effort by encouraging collaboration and alliances among researchers with common interests. It is clear that encouraging the growth and capacity of the SCC's research activities is one means of achieving this outcome.

Sydney, as Australia's most globally connected city, is in a strong position to gain the maximum benefit of this expanding research base. The reasons for this are, firstly, the high quality of scientific research throughout Sydney, and at the SCC in particular. Secondly, it is here in Sydney that Australia's researchers are well located to connect with others at an international level and collaborate with other researchers working in similar fields. SCC is already strongly placed as an internationally connected research centre and international centre for clinical trials. It is one of its key strengths.

This strength needs to be nurtured and supported by the City of Sydney in its role as a stakeholder in building on and enhancing Sydney's role as a global city, which includes having the capacity to compete globally for and to provide high quality, specialised financial, professional and business services, which include health care services.

City of Sydney

Given the profound consequences that cancer has on our society and the clear benefits Sydney stands to gain from having a Comprehensive Cancer Centre, it is appropriate that the City assist the Sydney Cancer Centre.

The Director of the Sydney Cancer Centre, Professor Jim Bishop, briefed councillors on Monday 27 May. Some Councillors and staff have also inspected their premises at Royal Prince Alfred Hospital in Camperdown.

The proposal is for the City to provide a seeding grant either to the Sydney Cancer Centre or its Foundation of \$150,000 pa for three years. This seeding grant will allow the Sydney Cancer Centre to fund overhead costs associated with establishing a Sponsorship and Fundraising Program.

It is also proposed that where necessary the City provide in kind support and its endorsement to the Sydney Cancer Centre in order to raise their profile and fundraising capacity.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to Council on 3 June 2002, on "Sydney Cancer Centre", it be resolved that:

- (A) the subject Memorandum by the General Manager be endorsed;
- (B) Council strongly support the expansion of the research capacity of the Sydney Cancer Centre to sharpen the focus of cancer biomedical research in Sydney's biotechnology sector;
- (C) Council support the establishment of the Sydney Cancer Centre Foundation to raise funds to help and support the Sydney Cancer Centre;
- (D) Council approve a seeding grant of \$150,000 pa for three years to either the Sydney Cancer Centre (or the Sydney Cancer Centre Foundation) as appropriate and that the City provide in kind support and its endorsement to the Sydney Cancer Centre, subject to the City being given appropriate recognition for its contribution;
- (E) the General Manager be authorised to enter into an appropriate agreement to implement this resolution.

(SGD) ROBERT DOMM
General Manager

Moved by Councillor Coulton, seconded by Councillor Marsden -

That arising from consideration of a Memorandum by the General Manager to Council on 3 June 2002, on "Sydney Cancer Centre", it be resolved that:

- (A) the subject Memorandum by the General Manager be endorsed;
- (B) Council strongly support the expansion of the research capacity of the Sydney Cancer Centre to sharpen the focus of cancer biomedical research in Sydney's biotechnology sector;
- (C) Council support the establishment of the Sydney Cancer Centre Foundation to raise funds to help and support the Sydney Cancer Centre;
- (D) Council approve a seeding grant of \$150,000 pa for three years to either the Sydney Cancer Centre (or the Sydney Cancer Centre Foundation) as appropriate and that the City provide in kind support and its endorsement to the Sydney Cancer Centre, subject to the City being given appropriate recognition for its contribution;
- (E) the General Manager be authorised to -
 - (i) enter into an appropriate agreement to implement this resolution, and include as part of the agreement annual reporting to Council on the achievements of the Foundation, its strategic plans, budgets, programs and financial results; and
 - (ii) designate a senior member of staff with responsibility to monitor, assist and liaise with the Sydney Cancer Centre and Foundation and keep Councillors appropriately informed.

Carried unanimously.

ITEM 12. AMENDMENT TO COUNCIL'S CONTRACTS POLICY

FILE NO:

DATE: 31/5/02

MEMORANDUM BY THE GENERAL MANAGER

PURPOSE

1. To amend the adopted Council Contracts Policy and Procedures for the Engagement of Consultants and Contractors.
2. To review Council's standard contract for the engagement of Consultants (the Consultancy Services Deed) to ensure appropriate contracts are in place for the varying scales of consultancies and risks.

BACKGROUND

3. Council has an existing policy that covers the engagement of consultants, the Contracts Policy (Attachment A) approved 8 May 1995. In addition, Council has endorsed Procedures for the Engagement of Consultants and Contractors (Attachment B).
4. Council currently uses a Consultancy Services Deed based on the general conditions of the Australian Standard 2124. Australian Standard 2124 is a contract typically used for construction projects.

PROPOSAL

5. In order to ensure the appropriate mechanisms are in place to engage consultants in exceptional circumstances, the following clause 1.6 is recommended to be added to the Contracts Policy:

1.6 Exceptional Circumstances

The General Manager may approve contracts with an estimated cost under \$30,000 that comply with criteria for exceptional circumstances.

The Lord Mayor and General Manager may jointly approve contracts with an estimated cost between \$30,000 to \$100,000 that comply with the criteria for exceptional circumstances.

Contracts under \$100,000 may be awarded outside of the conditions outlined in clause 1.1- 1.5 if they comply with the following criteria for exceptional circumstances:

- (a) there are no other providers who can provide the service; and/or
- (b) the proposed services can be provided by a company already engaged by Council, and hence a natural advantage, such as efficiency in program, costs, and transfer of existing knowledge will be achieved by using the existing company; and/or
- (c) previous services of a related nature have been provided to Council, and the engagement of that company will yield costs savings through the transfer of their past knowledge to the proposed scope of work and efficiency in program; and/or
- (d) there is certainty that the proposed scope of work is short-term; and/or
- (e) there is reasonable certainty that the price will be within industry standards and professional rates; and/or
- (f) the works are of an urgent nature, and the need for expedition is able to be substantiated; and/or

- (g) the consultant or contractor is on Council's register for that category of service.
6. An example of an exceptional circumstance that satisfies the above criteria is the preparation of the Development Application for the refurbishment of Customs House. This requires the engagement of a Heritage Architect to prepare revisions to the Customs House Conservation Management Plan (1994) and a Heritage Impact Statement.
 7. The direct appointment of the author of the original Customs House Conservation Plan and Heritage Impact Statement satisfies sub-clauses 1.6 (c), (d) and (e). The knowledge brought to the project by the original author ensures a timely and cost efficient solution to developing the necessary DA documents. In addition, set industry standards would be used to negotiate a fee. The proposed consultant is also on Council's register of consultants and has previously responded to a public Expression of Interest.
 8. It is also recommended that Council review its standard contract for the engagement of consultants (the Consultancy Services Deed) to ensure this is in line with industry standards, in particular with the recently revised Australian Standard 4122. In addition to the review of the existing standard contract for the engagement of consultants, the objective is to ensure a range of contracts are in place that are commensurate with the complexity of services provided and risk involved. This may involve the development of a simple short form consultant engagement contract.

CRITICAL DATES

9. The adoption of this amended clause 1.6 to the Contracts Policy is recommended for immediate action.
10. The review of the existing Consultancy Services Deed is recommended to be completed by the end of June 2002.
11. The development of a short form Consultancy Services Deed for small consultancies is to be developed by the end of June 2002.

FINANCIAL IMPLICATIONS

12. There are no financial implications with respect to the adoption of the proposed Clause 1.6
13. The review of the existing contracts will be done by the internal staff with potential advice from Council's external legal advisers if necessary.

CONSULTATION

14. Corporate Services, Contracts and Assets Management, City Projects, Office of the General Manager and Legal Unit have been consulted.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to Council on 3 June 2002, on Amendment to Council's Contracts Policy, it be resolved that:-

- (A) Council approve the proposed Clause 1.6 as shown in paragraph 5 of the subject Memorandum by the General Manager as an amendment to the Contracts Policy endorsed by Council on 8 May 1995;
- (B) Council endorse the review of existing contracts for the engagement of consultants.

(SGD) ROBERT DOMM
General Manager

Moved by the Chairman (the Lord Mayor), seconded by Councillor Turnbull -

That arising from consideration of a Memorandum by the General Manager to Council on 3 June 2002, on Amendment to Council's Contracts Policy, it be resolved that:-

- (A) Council amend the Contracts Policy endorsed by Council on 8 May 1995 by:
 - (i) including the proposed Clause 1.6, as circulated at the meeting of Council; and
 - (ii) amending Clause 1.3 by deleting the words "or General Manager's delegate" and inserting in lieu the word "directly".
- (B) Council endorse the review of existing contracts for the engagement of consultants.

Carried unanimously.

Note - The revised Contracts Policy, as adopted by Council, is as follows:

CONTRACTS POLICY

PURPOSE

This policy covers the use of contracts for the provision of goods, services and facilities to or by Council. It does not cover employment contracts.

Procedures to support this policy are contained in companion documents issued and administered by the General Manager.

Council's purposes in adopting this policy are to achieve best value for money in the provision of goods, services and facilities and to demonstrate a commitment to high ethical standards in contracts practice including expecting providers of services to and for Council to maintain such standards.

BACKGROUND

The Local Government Act 1993 (the Act) gives a council a broad grant of power. Section 24 of the Act says:

"A council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law."

In order to carry out its functions, section 23 confers on a council the power "to do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions."

The effect of these provisions is that Council has the power to enter into contracts, a power constrained by this policy, by good practice and probity legislation, by section 55 of the Act and by the Regulation.

Throughout this policy, references are to sections of the Local Government Act 1993 (the Act) and the Local Government (Tendering) Regulation 1993 (the Regulation). Council's previously adopted policy on the appointment, engagement and management of consultancies is revised and replaced by this Contracts Policy. Key concepts in this policy, defined for the purposes of this policy, are:

- . expression of interest - an application from a person or organisation interested in supplying or tendering to supply goods, services or facilities to or for Council or in showing their capacity to do so.
- . quotation - written or oral response to a request to a selected group of providers for the provision of specific goods, services or facilities to specification prepared by Council

CONTRACTS POLICY

- tender - a formal written offer in response to a request for tender to provide goods, services or facilities at an agreed amount or rate and to Council's specification. Tender management is governed by the provisions of the Act and Regulation as well as by this policy.

A contract can be agreed only after quotations or tenders have been processed.

STATEMENTS OF PRINCIPLE

Council's objective in entering into contracts is to obtain goods and services to perform its functions while using public funds wisely, honestly and in compliance with legislative and public interest requirements.

Policies and procedures on contracts enable Council to secure goods and services in a competitive environment to appropriate standards of quality and cost. They should also promote high standards among providers and offer fair and equitable opportunities for all suitable providers.

This Contracts Policy is subject to and must be read alongside the Act and the Regulation which require Council to tender in certain circumstances and to use particular tender procedures. If tenders are called when there is no legislative requirement to do so, it is Council's policy that the same process be used as for situations where tenders must be called. Where quotations are used, the provisions of the Regulation do not apply.

Some contracts can only be entered into by the elected Council, for instance most contracts involving an estimated expenditure or receipt of an amount more than \$100,000, or other amount prescribed by regulation. Other contracts can be entered into by the General Manager and staff under delegation. The choice of a provider is made by a person holding an appropriate delegation in Council's Register of Delegations.

The method for negotiating and agreeing each contract must be appropriate for the desired outcome. Council will go to tender where there is a requirement to tender or one of the following situations exist:

- Council has little or no previous experience in arranging supply for a particular service or item or has no list of potential providers from whom to seek quotations.
- Council has exhausted existing contacts and wishes to obtain a new pool of potential providers.
- The nature of the service or item makes it likely that going to competitive tender will be or will be perceived to be the most appropriate process.

CONTRACTS POLICY

POLICY STATEMENTS - CONTRACTS

1 Money limits

1.1 For contracts with an estimated cost under \$10,000

- no requirement to seek written quotations
- detailed specifications must be supplied to persons providing quotations
- evidence of telephone or fax quotations and specifications must be retained on file.

1.2 For contracts with an estimated cost between \$10,000 and \$50,000

- minimum of three written quotations obtained and filed
- detailed specifications must be supplied to persons providing quotations
- documentation of process, including whether quotations were sought by open or selective method, must be retained on file
- the result should be notified in writing to all persons who provided quotations.

1.3 For contracts with an estimated cost between \$50,000 and \$100,000

- General Manager directly determines whether to use an open or a selective tender, or call for quotations as in item 1.2 above or for expressions of interest by public notice.

1.4 For contracts with an estimated cost over \$100,000

- tenders must be called unless the situation comes within one of the exceptions in section 55 of the Local Government Act, the most common ones being situations of emergency, extenuating circumstances or unavailability of competitive or reliable tenderers. The decision not to go to tender for one of the reasons set out in section 55 must be made by the elected Council.
- General Manager or Council decides method of tendering
- Council accepts one tender or follows procedure in clause 18 of the Regulation.
- where the \$100,000 limit will be reached or exceeded because a contract is to be renewed or extended, approval can only be given by the General Manager

1.5 Contracts must not involve job splitting to avoid legislative requirements, or Council's administrative procedures or policy limits on contract expenditure.

1.6 Exceptional Circumstances

The General Manager may approve contracts with an estimated cost under \$30,000 that comply with criteria for exceptional circumstances.

CONTRACTS POLICY

The Lord Mayor and General Manager may jointly approve contracts with an estimated cost between \$30,000 to \$100,000 that comply with the criteria for exceptional circumstances.

Contracts under \$100,000 may be awarded outside of the conditions outlined in clause 1.1- 1.5 if they comply with the following criteria for exceptional circumstances:

- (a) there is certainty that the proposed scope of work is short-term (being a maximum of one year); and
- (b) there is reasonable certainty that the price will be within industry standards and professional rates; and
- (c) if they satisfy at least one of the following:
 - (i) there are no other providers who can provide the service; and/or
 - (ii) the proposed services can be provided by a company already engaged by Council, and hence a natural advantage, such as efficiency in program, costs, and transfer of existing knowledge will be achieved by using the existing company; and/or
 - (iii) previous services of a related nature have been provided to Council, and the engagement of that company will yield costs savings through the transfer of their past knowledge to the proposed scope of work and efficiency in program; and/or
 - (iv) the works are of an urgent nature, and the need for expedition is able to be substantiated; and/or
 - (v) the consultant or contractor is on Council's register for that category of service.

The General Manager shall ensure that quarterly reports are provided to Councillors of contracts approved under Clause 1.6.

2 Project manager

- 2.1 Every contract must be managed by a person specially designated as project manager for that purpose and identified in the contract. This person may have the financial delegation to commit funds to the project or certify accounts for payment and may be responsible to or supported by a working group or contract committee.

3 Specifications

- 3.1 Clear specifications must be prepared prior to commencing contract negotiations for each proposed supply or purchase agreement, whether a tender is required or not.

CONTRACTS POLICY

3.2 Specifications must describe the

- expected deliverables (outcomes) of the project or contract rather than method of achieving results
- duration of contract and proposed performance timetable
- criteria and method for choosing the provider
- special conditions to be contained in the contract, including insurance and security arrangements if required
- methods, criteria and timetable for assessing performance by provider
- overall evaluation of contract
- allocation of follow-up actions.

3.3 If Council intends to weight particular aspects of a specification more heavily than others this must be made known to all prospective providers.

4 Advice to providers

4.1 Potential providers will be informed that Council has a policy on contracts. Advice to providers will highlight the most important aspects of the proposed contract and identify the project manager.

5 Choosing the provider

5.1 There is no legislative requirement to give preference to Australian or Commonwealth goods or services. Where providers offer goods or services of equal merit, Council supports the selection of Australian providers.

5.2 For all contracts, records must be maintained of the results of any financial viability checks carried out or the reasons for not carrying out such checks.

6 Authority to enter into contracts

6.1 Provided a proposed contract does not have to go to tender, authority to enter into that contract is delegated to staff by the General Manager. The Register of Delegations is the instrument for and record of delegations to staff.

7 On-going contracts

7.1 Wherever possible contracts must not be open-ended or renewable. Where contracts are renewable or need to be extended or are for a period, approval for extensions can only be given in accordance with the money limits in item 1 of this policy. When an extension or renewal would result in the total price going above one of these money limits, the process for giving approval is determined by the total amount.

7.2 Variation provisions in contracts must not be used to avoid tendering requirements.

8 Contracts and purchase agreements

CONTRACTS POLICY

- 8.1 Contracts and purchase agreements must include or refer to
- the original specifications and, where relevant, any specific additions or variations
 - a schedule of payments linked to satisfactory performance of the contract or agreement.
- 8.2 All contracts must conform to any standard Council contracts for works or services unless otherwise approved by the General Manager or Corporate Secretary.
- 8.3 Projects will be timetabled and staged by milestones, or periods of time within the total project length. Payment must be linked to this project schedule. Subject to satisfactory performance at each milestone, deliverable or period, 80% of the fee will be paid in stages to the contractor. Council will usually retain 5% of the total project fee until the project is completed to Council's satisfaction. These terms may be varied prior to agreeing a contract at Council's discretion to suit individual contracts.
- 8.4 Cost and work variations may only occur by written agreement by the parties and subject to variations being incorporated in the payment schedule and project timetable.
- 8.5 Contractors must undertake that the person(s) nominated to carry out the contract will be assigned in accordance with the contract.
- 8.6 Contracts for the regular, continuous or repeated supply of goods or services will be subject to review at Council's discretion. This requirement needs to be expressed in all such contracts.
- 8.7 Contracts and purchase agreements will contain standard conditions where appropriate.
- 8.8 The preservation and disposal of contracts and contract related documents is determined by the Local Government General Records Disposal Schedule and clause 5 of the Local Government (Savings and Transitional) Regulation 1993.
- 9 Copyright and intellectual property
- 9.1 Contracts must provide for copyright and intellectual property rights to be transferred to the Council unless otherwise agreed by the General Manager or other staff with relevant delegated authority.
- 10 Confidentiality
- 10.1 Contracts and purchase agreements may be subject to agreements between the parties about confidentiality or may contain material which justifies their being treated as confidential. However, some material may be subject to release under the Freedom of Information Act 1989.

CONTRACTS POLICY

- 10.2 No public statement or press release may be issued by the contractor without the express permission of the Council. Contractors must respect the confidentiality of Council information and not disclose information unless authorised by Council to do so.
- 11 Termination of contracts
- 11.1 Contracts must include provisions about the grounds on which Council may terminate the contract, for instance where a contractor does not fulfil their agreement; there is evidence of unethical or unprofessional conduct on the part of the contractor; or a contractor is convicted of an offence referred to in Part 4 of the Crimes Act 1900, becomes bankrupt or is put into liquidation during the term of the contract or is found corrupt under the Independent Commission Against Corruption Act 1988.
- 12 Conflict of interest
- 12.1 Contractors are encouraged to declare any potential or actual conflict of interest prior to entering any agreement with Council. Contracts must also provide that a subsequently discovered conflict of interest may constitute grounds for termination of the contract.
- 12.2 Staff and advisers with an interest in the outcome of a tender must not be involved in the process.
- 13 Reporting
- 13.1 Council's annual report will include details of each contract awarded by Council, whether as a result of a tender or otherwise, except for employment contracts and contracts for less than \$100,000 or any other amount prescribed by the regulations.
- 13.2 For each contract the annual report must include the name of the contractor, the nature of the goods or services supplied by the contractor and the total amount payable to the contractor (Act s428(2)(h)).

POLICY STATEMENTS - TENDERING

- 14 Tendering methods
- 14.1 For each tender, Council must select a tender method from:
- open tendering - tenders are called by public notice (clause 8 of the Regulation)
 - selective tendering - invitations to tender are made following a public invitation to lodge an expression of interest (clause 9 of the Regulation)
 - selective tendering from lists - providers are invited to tender if they are on lists maintained by Council (clause 10 of the Regulation).

CONTRACTS POLICY

- 14.2 Council has delegated the function of selecting the method of tendering to the General Manager by its general instrument of delegation.
- 15 Tender documents
- 15.1 Specifications and tender documents must be prepared in accordance with item 3 of this policy.
- 15.2 Tender documents must specify the method and time for lodgement of tenders and the amount of any tender deposit required by Council.
- 15.3 Tender documents must state whether non-conforming tenders will be considered and, if so, how such tenders will be assessed.
- 15.4 A completed tender form must be submitted by all tenderers as part of their tender.
- 16 Tender period and variation
- 16.1 A tender period may be shortened or extended in accordance with clauses 11 and 12 of the Regulation. An extension can be made after the closing date only by the elected Council.
- 16.2 Tenders may be varied at the request of Council or of a tenderer, in accordance with clause 16 of the Regulation and only with the agreement of Council.
- 17 Tender form
- 17.1 The tender form is used for comparing tenders with each other and establishing whether tenders conform to tender requirements.
- 18 Receipt and consideration of tenders
- 18.1 Procedures for preparation, lodgement and security of tenders otherwise than by fax are prescribed in clauses 13 and 14 of the Regulation and procedure documents issued and administered by the General Manager. Security and confidentiality are the key requirements.
- 18.2 Requirements for consideration of tenders and for receipt of tenders by fax are contained in clause 17 of the Regulation.
- 18.3 Council will accept complete tenders lodged by fax provided the tenderer can show the original tender documents were posted on or prior to the closing date, and the original documents are received by Council within the next two working days.

CONTRACTS POLICY

- 18.4 Where tenders are lodged by fax, Council must ensure confidentiality as prescribed by clause 20 of the Regulation. Tenders may be received by fax on one specified number controlled by one officer with access only to nominated officers. Other fax numbers must not be used for receiving tenders.
- 19 Opening tenders
- 19.1 Under clause 15 of the Regulation, Council is obliged to disclose the number of tenders received and whether a particular tender has been received at the time tenders are opened if requested to do so by someone present at the tender opening. Council has a duty not to disclose information about tenders except in accordance with clause 20 of the Regulation.
- 19.2 When a tender is opened the appropriate person designated by the General Manager, one representative from Audit and Review and at least one other person nominated by Council must be present.
- 20.0 Tender evaluation panel
- 20.1 Tender evaluation panels must be convened for each tender and made up of people who can ensure the process is carried out properly and according to the skills required for evaluation against the specification.
- 20.2 They will consist of the appropriate member of the Executive or their delegate, an officer from the relevant operational area and an independent officer from another area of Council or any other person with appropriate skills. The Finance Manager or their delegate may also participate in any tender evaluation panel.
- 21 Financial viability checks
- 21.1 For all tenders over \$100,000 the financial position of a recommended tenderer must be appraised by a person nominated by the General Manager before a recommendation is made to Council.
- 21.2 If a recommended tenderer is the subject of an unsatisfactory financial report, Council may decline the tender.
- 22 Decisions on tenders
- 22.1 Where tenders are required, Council must complete the tendering process by accepting a recommended tender or taking another course of action in accordance with the provisions of clause 18.
- 22.2 For situations where tendering is not required, quotations will normally be called rather than tenders. Council may either select one quotation or negotiate with the potential providers that gave a quotation, or cancel the proposal, or carry out the work itself.

CONTRACTS POLICY

22.3 Tender and quotation processes may be stopped by Council before they reach completion. This may be done by delegated authority up to, or after, the closing date in the case of quotations and up to the closing date for tenders. Only the elected Council can stop a tender process after the closing date.

22.4 Tenderers must be notified about the outcome of the tender process in accordance with clause 19.

23 Confidentiality

23.1 Clause 20 of the Regulation contains mandatory provisions on the confidentiality of tenders.

POLICY STATEMENTS - CONSULTANCIES

24 Nature of consultancies

24.1 A consultancy is a person or body engaged on a temporary basis to provide expert professional, technical or management services.

24.2 There has been a question about whether the tendering provisions in the Local Government Act and regulations apply to all consultancies or only to situations where services are being provided to Council, not by Council. Council has received legal advice that these provisions do not apply to contracts for services. Nevertheless, Council will apply the tendering process to contracts to provide consultancy services to Council. The General Manager may in appropriate circumstances reduce the time for receipt of expressions of interest and tenders for consultancies.

25 Proposals

25.1 Consultancies must be justified in the sense that there are no other appropriate alternatives for Council; that is there is no equivalent expertise or resources within the organisation; independent advice or expertise is required or that the existing workload precludes the use of existing resources.

25.2 Proposals must include terms of reference and objectives contained in specifications. Specifications must be prepared in accordance with item 3 of this policy.

25.3 Proposals must include details of the criteria to be used in determining that the specification has been fully addressed, and the personnel to be involved in the selection process. Proposals must describe how the consultancy will be managed and must identify the project manager, the project management strategy, the composition of the evaluation team, the deliverables (outcomes), and the criteria and method for evaluation of the consultant's performance.

CONTRACTS POLICY

- 25.4 Proposals must recommend a maximum budget for the assignment and confirm that funds are available. Proposals must not proceed unless funding has been provided for in the current year.
- 25.5 Proposals must include a payment schedule through all stages of the consultancy and in accordance with item 8.2 of this policy.
- 25.6 Proposals must not be split to avoid tendering requirements or Council's administrative procedures or contract money limits. Proposals that allow for open-ended or renewable agreements to be made must be justified and approved in those terms.
- 25.7 If a proposal concerns an extension to a consultancy for more than 6 months or involving total expenditure of more than \$50,000, approval must be obtained from the General Manager in accordance with item 1.4 of this policy and quarterly reports must be submitted to the General Manager.
- 26 Consultancy contracts
- 26.1 Consultancy contracts must be prepared in accordance with item 3 of this policy.
- 26.2 For contracts and purchase agreements involving less than \$100,000, contract conditions that satisfy item 8 of this policy should be used.
-

ITEM 4. MATTERS FOR TABLING

Moved by Councillor Turnbull, seconded by Councillor Farr-Jones -

That the Disclosure of Pecuniary Interest returns be received and noted.

Carried.

ITEM 5. REPORT OF THE FINANCE, PROPERTIES AND TENDERS COMMITTEE - 27 MAY 2002

PRESENT

The Right Hon The Lord Mayor Councillor Frank Sartor
(Chairman)

Councillors Dixie Coulton, Kathryn Greiner and Lucy Turnbull.

At the commencement of business at 6.11pm those present were:-

The Lord Mayor, Councillors Coulton, Greiner and Turnbull.

Councillor Fabian Marsden was also present.

Apology

Councillor Nick Farr-Jones extended his apologies for his inability to attend the meeting of the Finance, Properties and Tenders Committee owing to urgent work commitments.

Councillor Robert Ho extended his apologies for his inability to attend the meeting of the Finance, Properties and Tenders Committee as he was overseas.

Moved by the Chairman (the Lord Mayor), seconded by Councillor Greiner -

That the apologies from Councillor Farr-Jones and Councillor Ho be accepted and leave of absence granted.

Carried.

The meeting of the Finance, Properties and Tenders Committee concluded at 6.13pm.

Report of the Committee

Moved by the Chairman (the Lord Mayor), seconded by Councillor Turnbull -

That the Report of the Finance, Properties and Tenders Committee of its meeting of 27 May 2002 be received, and the recommendation set out below for Item 5.1 be adopted.

Carried.

The Committee recommended the following:-

COMPULSORY ACQUISITION BY RAIL ESTATE OF LAND IN CHALMERS STREET, SYDNEY ADJOINING CENTRAL RAILWAY STATION - CONSENT (S019323)

5.1

That arising from consideration of a report by the Senior Property Manager to the Finance, Properties and Tenders Committee on 27 May 2002, on the Compulsory Acquisition by Rail Estate of Land in Chalmers Street, Sydney adjoining Central Railway Station - Consent, it be resolved that -

- (A) Council grant consent to the compulsory acquisition of the land and easements by Rail Estate for that part of Chalmers Street shown at Attachment B to the subject report;
- (B) authority be delegated to the General Manager to determine the compensation payable for the land;
- (C) Council's Attorney be authorised to execute all necessary documentation.

Carried.

PROPERTY SERVICES – TENDERS/QUOTATIONS BY SPOTLESS SERVICES LIMITED (S01 4056)

5.2

Note - no report was circulated and this matter was not discussed at the meeting of the Finance, Properties and Tenders Committee, nor at the meeting of Council.

ITEM 6. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 27 MAY 2002

FILE NO:

DATE: 4/6/02

PRESENT

Councillor Lucy Turnbull
(Chairman)

Councillors - Dixie Coulton, Kathryn Greiner and Fabian Marsden.

At the commencement of business at 6.30 pm those present were -

Councillors Coulton, Greiner, Marsden and Turnbull.

Apologies

Councillor Nick Farr-Jones extended his apologies for his inability to attend the meeting of the Planning Development and Transport Committee owing to urgent work commitments.

Councillor Robert Ho extended his apologies for his inability to attend the meeting of the Planning Development and Transport Committee as he was overseas.

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That the apologies from Councillor Farr-Jones and Councillor Ho be accepted and leave of absence from the meeting be granted.

Carried.

Order of Business

The Planning Development and Transport Committee resolved, in accordance with Clause 12(2) of the Local Government (Meetings) Regulation 1999, that the order of business be altered, such that the agenda items be dealt with in the following order:

2. Planning NSW Referral: Towns Place, Walsh Bay
4. Section 82(A) Review Report: Quarryman's Hotel, 214-216 Harris Street, Pyrmont
5. Development Application: 21 Alberta Street, Sydney
6. Development Application: 144-150 Liverpool Street, East Sydney
1. Progress Report on Development Applications
3. Central Sydney Local Environmental Plan 1996 - Draft Amendment: Hickson Road

The meeting of the Planning Development and Transport Committee concluded at 8.00 pm.

Report of the Committee

Moved by Councillor Turnbull, seconded by Councillor Coulton -

That the Report of the Planning Development and Transport Committee of its meeting of Monday 27 May 2002 be received, and the recommendations set out below for Items 6.1 to 6.5, inclusive, be adopted, with Item 6.6 being noted.

Carried.

The Committee recommended the following:-

PART "A" - DETERMINED BY COUNCIL

PROGRESS REPORT ON DEVELOPMENT APPLICATIONS (A03-00138/1)

6.1

That arising from consideration of a report by the Manager Development to the Planning Development and Transport Committee on 27 May 2002, in regard to the progress report for the month of April 2002, it be resolved that the subject report be received and noted.

Carried.

PLANNING NSW REFERRAL: TOWNS PLACE, WALSH BAY (O2001/00080)

6.2

That consideration of this matter be deferred to the meeting of Council on 3 June 2002.

Carried.

Note - This matter was dealt with by Council as Item 7 on the Business Paper.

Note - Mr Gavin Carrier, Mr Malcolm Sholl, Mr Norm Snowden and Mr Chad Ford addressed the meeting of the Planning Development and Transport Committee on Item 6.2.

CENTRAL SYDNEY LOCAL ENVIRONMENTAL PLAN 1996 - DRAFT AMENDMENT: HICKSON ROAD (S011712)

6.3

That arising from consideration of a report by the Director City Development to the Planning Development and Transport Committee on 27 May 2002, on Central Sydney Local Environmental Plan 1996 - Draft Amendment: Hickson Road, it be resolved that:

- (A) the Draft Amendment to Central Sydney Local Environmental Plan 1996 be appropriately numbered in the sequence of amendments to the plan, and submitted to the Minister for Planning, seeking gazettal;
- (B) the delegation functions in relation to Section 69 of the Environmental Planning and Assessment Act 1979 be utilised in this case; and
- (C) those who made submissions regarding the Draft Amendment be advised of this resolution.

Carried.

SECTION 82(A) REVIEW REPORT: QUARRYMAN'S HOTEL, 214-216 HARRIS STREET, PYRMONT (D/2001/00743)

6.4

That arising from consideration of a report by the Manager Development to the Planning Development and Transport Committee on 27 May 2002, in relation to a Section 82A Review under the Environmental Planning and Assessment Act 1979 of D/01/00743 in relation to 214-216 Harris Street, Pyrmont, it be resolved that the earlier determination of refusal be upheld.

Carried.

Note - Mr George Smith and Mr Mario Tosatto addressed the meeting of the Planning Development and Transport Committee on Item 6.4.

DEVELOPMENT APPLICATION: 21 ALBERTA STREET, SYDNEY (D2001/00716)

6.5

That consideration of this matter be deferred to the meeting of Council on 3 June 2002.

Carried.

Note - This matter was dealt with by Council as Item 8 on the Business Paper.

Note - Mr Bob Nation addressed the meeting of the Planning Development and Transport Committee on Item 6.5.

“PART B” - DETERMINED BY PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE UNDER DELEGATED AUTHORITY

The Planning Development and Transport Committee recommended that Council note that Item 6.6 was determined by the Planning Development and Transport Committee under delegated authority.

Carried.

DEVELOPMENT APPLICATION: 144-150 LIVERPOOL STREET, EAST SYDNEY (D2002/00120)

6.6

Moved by Councillor Turnbull, seconded by Councillor Coulton -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 27 May 2002 in relation to Development Application 2002/00120 made by Lion Pacific International Pty Ltd for the site at 144-150 Liverpool Street, East Sydney for demolition of the existing buildings and construction of a part 7 and 8 storey mixed used building containing 35 residential units, 5 commercial tenancies (fronting Liverpool Street) and 16 basement car parking spaces and its strata subdivision, it be resolved that consent be granted subject to the following conditions:-

Schedule 1A

Approved Development, Contributions and Covenants

Note: Some conditions in Schedule A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

Note 2: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

APPROVED DEVELOPMENT

- (1) Development must be in accordance with Development Application No. D2002/00120 dated 26 February 2002 and the Statement of Environmental Effects prepared by City Plan Services, dated February 2002 and drawings numbered:-

9836-02-01-02 F
9836-02-01-03 F
9836-02-01-04 F
9836-02-01-05 F
9836-02-01-06 F
9836-02-02-01 G
9836-02-02-02 G
9836-02-03-01 G
9836-02-03-02 G
Materials and Finishes Board No. 9836

prepared by Engelen Moore dated 13 and 15 May 2002 and as amended by the following conditions:

- (2) The architect of the project as approved should not be changed without prior consent of Council.

SURRENDER OF CONSENT

- (3) The applicant shall surrender the existing consent given in Notice of Determination No. 2000/00497 dated 20 November 2000, in accordance with the Environmental Planning and Assessment Amendment Regulation 2000, prior to issue of a Construction Certificate for any part or stage of the development.

BUILDING HEIGHT

- (4)
 - (a) The height of the building (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 54.82 (AHD), that being 22 metres above the average street level of the site's Liverpool Street frontage.
 - (b) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the height of the building, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

FLOOR SPACE RATIO

- (5) The following applies to Floor Space Ratio:-
 - (a) The Floor Space Ratio of the proposal must not exceed 4.93:1 calculated in accordance with the Central Sydney Local Environmental Plan 1996. For the purpose of the calculation of FSR, the Floor Space Area of the development is 3,259 sqm.

- (b) Prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the total and component Floor Space Areas (by use) in the development, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

- (6) An archival recording for deposit in the City of Sydney Archives must be carried out prior to demolition of the existing buildings on the site as considered appropriate by a conservation architect commissioned for the project.
 - (a) The archival record of significant building fabric or furnishings from the site must be submitted to Council prior to the commencement of any demolition work and prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.
 - (b) The archival record of significant building fabric or furnishings from the site that is exposed during demolition or construction and after work has been completed on site is required to be submitted to Council prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979.

The form of recording is to be as follows:-

- (c) Photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s), photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising:-
 - (i) 35mm colour slides, numbered and referenced to the site and building plans, and presented in archival quality storage sheets;
 - (ii) 35mm or 120mm black and white film, numbered and referenced to the site and building plans, with negatives developed to archival standards, and one copy of a contact sheet printed on fibre-based paper to archival standards;
 - (iii) selective black and white enlargements to be advised by Council, printed on fibre-based paper to archival standards to a minimum size of 20cm x 25cm, illustrating the location and context of the site/building, the relationship of adjacent buildings, building elevations, and important interior and exterior architectural spaces and features of the building/site;
 - (iv) A summary report of the photographic documentation, detailing;
 - a. the project description, method of documentation, and any limitations of the photographic record; and

- b. photographic catalogue sheets, which are referenced to a site plan and floor plans no larger than A3, and indicating the location and direction of all photos (black & white prints and slides) taken.
- (v) Written confirmation that the Council reserves the right to use the photographs for its own purposes and for genuine research purposes.

PHYSICAL MODELS

- (7) Prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, an accurate 1:500 scale model of the approved development must be submitted to Council for the City Model in Town Hall House; and
- (8) Prior to the issue of the Occupation Certificate under the Environmental Planning and Assessment Act 1979, an accurate 1:500 scale mode of the development as constructed must also be submitted to Council for placement in the City Model at the City Exhibition Space.

Note:

- (a) The models shall be constructed in accordance with the Model Specifications, available from the One Stop Shop. Council's model maker should be consulted prior to construction of the model for Town Hall House. The Manager City Exhibition Space should be consulted prior to the construction of the model for City Exhibition Space.
- (b) The models are to comply with all of the conditions of the Development Consent.
- (c) The models must be amended to reflect any further approvals under S96(2) of the Environmental Planning and Assessment Act 1979, that affect the external appearance of the building.

RESTRICTION ON RESIDENTIAL DEVELOPMENT

- (9) The following restriction applies to buildings approved for residential use:
 - (a) The residential accommodation portion of the building must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the Central Sydney Local Environmental Plan 1996.

- (b) All approved residential units in the building must be either owner occupied or occupied by a tenant with a residential lease under the Residential Tenancy Act 1987. A certificate signed by the owner or the body corporate (if the development is strata subdivided) or a solicitor (holding a current certificate to practice), must be forwarded to Council within 12 months of the completion of the development, and every 12 months thereafter, certifying that all units approved in the residential building are either owner occupied or are subject to residential leases under the Residential Tenancy Act 1987.
 - (c) A restrictive covenant is to be created pursuant to Section 88E of the Conveyancing Act, 1919, restricting any change of use of levels [*insert*] from residential as defined in the Central Sydney Local Environmental Plan 1996. The covenant is to be executed prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979 to the satisfaction of the certifying authority (Council or a private accredited certifier). All costs of the preparation and registration of all associated documentation is to be borne by the applicant.
- (10) The following conditions apply to car parking:-
- (a) The on-site car parking spaces, exclusive of service the space, are not to be used by those other than an occupant, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or resident of a residential unit in the building.
 - (b) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyancing Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
 - (c) Any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act, 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking part - lots in the strata scheme.

DEMOLITION/SITE RECTIFICATION

(11) The following conditions apply to the development:-

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued under the Environmental Planning and Assessment Act 1979 for construction of the substantive building.

- (b) Prior to issue of the Construction Certificate, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the General Manager of the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:-
- (i) a bank guarantee to be provided in the sum of \$200,000 dollars as security for the costs of such works provided that:-
- a. the maximum liability under the Deed shall not exceed \$200,000 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and costing for works which meet the objectives of the condition.
- (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
- a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the structure has commenced to be erected;
- that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
- e. make the building safe and attractive at ground level;
 - f. allow the ground level to be landscaped and made attractive from any public vantage point; or
 - g. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage point; or
 - h. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in an unattractive building site appearance, then the Council will have the readily enforceable rights to:
 - (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii)e. - h. to take place on the site; and
 - (ii) in the event of default, shall have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

SECTION 61 CONTRIBUTION

- (12) A contribution under Section 61 of the City of Sydney Act 1988 shall be paid in accordance with the following:

- (a) **Cash Contribution Required**

In accordance with the adopted "Central Sydney Contributions Plan 1997" a cash contribution must be paid to Council in accordance with this condition.

Payment shall be by BANK CHEQUE made payable to the City of Sydney.

- (b) **Amount of Contribution**

The amount of the contribution will be equivalent to 1% of the development cost, at the Construction Certificate stage, as determined in accordance with the "Central Sydney Contributions Plan 1997".

- (c) Certification of the calculation of the contribution in accordance with the "Central Sydney Contribution Plan 1997" shall be submitted for the approval of Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

If the Construction Certificate is to be issued by a private accredited certifier, they must seek Council's endorsement of the calculation prior to the issue of the Construction Certificate.

For developments over \$2 million in cost, the certification of the building costs must be prepared by a Registered Quantity Surveyor.

- (d) **Timing of Payment**

The contribution must be paid prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

STRATA PLAN APPROVAL

- (13) A separate Application for Subdivision must be made to Council or an accredited certifier to approve the Strata Plan in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

VEHICULAR SPACES

- (14) The following car parking requirements apply:-

- (a) The approved vehicle spaces shall be allocated on the development site as follows:
- (i) 15 residential spaces;
 - (ii) Nil shop spaces;
 - (iii) 1 service/loading space located adjacent to the lift core (eg space No. 5);
- (b) 1 car wash bay with appropriate plumbing and drainage identified as common property (can be the service/loading space).
- (c) 1 of the above car parking spaces is to be for people with mobility impairment, in accordance with AS 2890.1.
- (d) All spaces must be allocated and marked according to this requirement. If the development is to be strata subdivided, the carpark layout must respect the above allocation and the service/loading space is to be identified as common property.
- (e) The stacked car parking spaces (Nos 7 and 8) are to be allocated to one unit and allocated to the same strata lot.

- (15) All costs of traffic management measures shall be borne by the applicant.

LOADING BAY

- (16) The existing loading dock must be maintained for use in connection with the proposed development.

NO PARTICIPATION IN RESIDENT PERMIT PARKING SCHEME

- (17) Residents are not eligible to participate in the resident permit parking schemes.

Note:

This prohibition on participation in the resident permit parking scheme will be recorded on the Section 149 Certificate for this property under the Environmental Planning and Assessment Act 1979.

EXTERNAL LIGHTING

- (18) Any proposed naming of the development which intends to incorporate the name of a city street, park or place, is subject to the separate approval of Council.

SEPARATE DEVELOPMENT APPLICATION FOR USE OF COMMERCIAL UNITS

- (19) A separate development application must be submitted at the appropriate time for the specific use of the Liverpool Street commercial tenancies.

SIGNS

- (20) A separate development application for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council prior to the erection or display of any such signs.

Schedule 1B

Conditions to be complied with prior to issue of Construction Certificate to the satisfaction of the Certifying Authority

COMPLIANCE WITH THE BCA

- (21) Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

CERTIFICATION OF MECHANICAL VENTILATION

- (22) The details of any mechanical ventilation or air conditioning must be certified by a competent person to comply with Council's Ventilation Code, the Building Code of Australia and relevant Australian Standards, to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) prior to commencement of any mechanical services work.

To enable certification, the mechanical ventilation documentation prescribed below shall be submitted to the Principal Certifying Authority:-

- (a) Certified plans (in duplicate), coloured so as to adequately distinguish the proposed alterations;

- (b) A general description of the project plus mechanical ventilation drawings and documentation in duplicate, coloured to show ductwork and equipment as set out below. (Where appropriate a schematic drawing should also be submitted).
 - (i) Supply Air Ducts, Shafts and Fans - Blue
 - (ii) Return Air Ducts, Shafts and Fans - Pink
 - (iii) Outside Air Ducts, Shafts, Intakes and Stair Pressurisation - Green
 - (iv) Exhaust Air Ducts, Shafts, Fans, Discharges and Smoke Spill - Orange
 - (v) Mixing Boxes and Conditions - Yellow
 - (vi) Fire Dampers and Electric Heaters - Red
- (c) Drawings which show where applicable the existing and proposed air intakes, air discharges and cooling towers and their relative position to each other, the boundaries of the site, openable windows, and adjoining buildings;
- (d) A Mechanical Ventilation Design Certificate pursuant to Section 93 of the Local Government Act 1993 in the form of Attachment M1, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) together with the Curriculum Vitae of the Design Engineer or other appropriate Certifier must be submitted to Principal Certifying Authority (PCA). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council by the PCA;
- (e) Documentary evidence in support of requests for departure from the prescribed or deemed provisions of the Building Code of Australia or any other requirements.

STRUCTURAL CERTIFICATION FOR DESIGN - MAJOR WORKS

- (23) Prior to the commencement of work, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy of same submitted to Council (if it was not the PCA):
 - (a) Structural Drawings showing all new fully detailed structural elements, prepared by an appropriately qualified practising Structural Engineer, corresponding with and attached to a Structural Certificate (see (b));
 - (b) Structural Certificate/s for Design, of all new fully detailed structural elements and for checking any structural elements supporting the new work, submitted in the form of Attachment S1A completed by the Project/Principal Engineer and S1B completed usually by the Architect, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979), after the structural drawings have been checked and comply with:

- (i) The relevant clauses of the Building Code of Australia (BCA);
 - (ii) The relevant conditions of Development Consent;
 - (iii) The Architectural Plans incorporated with the Construction Certificate; and
 - (iv) The relevant Australian Standards listed in the BCA (Specifications A1.3);
 - (v) Any other relevant report/s or documents. Specify on Attachment S1A.
- (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

Notes:

An appropriately qualified practising structural engineer certifying by completing Attachment S1A must have:-

- (i) Appropriate tertiary qualifications in Civil or Structural Engineering; AND
- (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
- (iii) Evidence of relevant experience in the form of a CV/Resume;
- (iv) Appropriate current professional indemnity insurance.

An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.

- (v) An appropriately qualified person certifying by completing Attachment S1B must have a good working knowledge of the Building Code of Australia and Structural and Architectural drawing co-ordination so that all structural elements supporting the new work are fully certified by the project structural engineer.
- (vi) Certification of Inspection/s is also required prior to issue of the Occupation Certificate, and/or prior to use. See Schedule 1E Conditions.

PUBLIC ART

- (24) High quality art work shall be provided within the development in publicly accessible locations eg. near main entrances, lobbies and street frontages, in accordance with the Central Sydney DCP 1996 and the 'Public Art Policy'. Details of the art work must be submitted for the approval of Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

PUBLIC DOMAIN PLAN

- (25) The following requirements apply:-
- (a) Three copies of a detailed Public Domain Plan shall be prepared by an architect, urban designer or landscape architect and shall be approved by Council (to be lodged with the Public Domain Officer at City Projects) prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.
 - (b) The Public Domain Plan shall be as follows:-
 - (i) Drawn at 1:100 scale.
 - (ii) Show the entire layout of flagstone paving where this paving is required.
 - (iii) Nominate the location, type and material of all existing and proposed public pavement elements including trees, paving, kerbs and gutters, pedestrian ramps, vehicle crossings, street furniture, utility poles, parking meters, pedestrian and traffic signals, service pits and stormwater pits.
 - (iv) Include a longitudinal section of the pavement showing existing and proposed levels at 10 metre intervals at the building alignment, the kerb and the gutter on a common datum line. This longitudinal section is to be drawn at 1:100 horizontal scale and 1:10 (exaggerated) vertical scale. This section is to ensure that any significant longitudinal gradient change, such as flattening for vehicle entries, occurs within the building line and not at the public pavement.
 - (v) Include 1:50 scale cross sections through pedestrian ramps and vehicle crossings.
 - (vi) Include specifications of the proposed works.
 - (c) The Public Domain Plan shall comply with the specifications and details of the Central Sydney Paving Design Policy 1996 and Council's Specifications and the Central Sydney Street Tree Policy 1994.

- (d) The Public Domain Plan shall incorporate the standard specifications and detail of the Central Sydney Paving Design Policy 1996 and Council's Specifications adapted to suit the specific site requirements as advised by the Public Domain Officer and may include:-
- (i) Adjustment to paving grades to provide a maximum crossfall of 2.5% from building line to top of kerb.
 - (ii) Repaving in accordance with Central Sydney Paving Design Policy 1996 and Council's Specifications. All granite paving (where applicable) is to be sealed in accordance with Council's specifications.
 - (iii) The relocation or provision of new vehicle crossovers and pedestrian ramps including the consequent relocation of existing service pits, traffic signals, kerb corner radii, signs, street furniture and street trees.
 - (iv) The retention of existing street trees and the provision of new street trees to comply with the Central Sydney Street Tree Policy 1994.
 - (v) The repair and where required the resetting of all stone kerbing to 150mm above the gutter height and the replacement of concrete kerbing with stone kerbing. Where adjustments require substantial kerb and gutter demolition, the carriageway shall be reconstructed to the centre line of the carriageway.
 - (vi) The retention and repair of any existing pavement lights.
 - (vii) The retention and repair of any existing serviceable stone gutters and where appropriate (particularly to Charlotte lane) the public domain adjoining the site shall be up-grading.
 - (viii) The realignment and level adjustment of service pit lids to correspond to new kerb ramps and paving. New service pit lids in flagstone paving to be infill type, with stone infill to match stone paving surrounds. New service pit lids in asphalt paving to be infill type, with cement mortar infill coloured to match adjoining asphalt.
- (e) Random checks by Council officers may be made throughout the construction process to advise the contractor of non-complying elements. However, no parts of the work are to be considered approved until receipt of the City of Sydney letter of approval. The City of Sydney will require all non complying parts to be rectified prior to issue of this letter.

Note:

3 Copies of the Public Domain Plan are to be lodged with the Manager Design, City Projects.

NOISE REDUCTION

(26) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, an acoustic assessment report must be submitted to and approved by Council or the private accredited certifying authority addressing the requirements of the Central Sydney DCP 1996 Amendment No.5 Internal Residential Amenity. The approved drawings and specifications for construction are to be in accordance with the following:

(a) The report shall indicate measures to preserve the amenity for residents/apartment users such that the repeatable L_{Aeq} (1 hour) level will not exceed the following levels:-

(i) In a naturally ventilated - windows closed condition:

- | | | |
|----|---|------|
| a. | Sleeping areas (night time only: 2200-0700) | 35dB |
| b. | Living areas (24 hours) | 45dB |

(ii) In a naturally ventilated - windows open condition, (ie windows open up to 5% of the floor area, or attenuated natural ventilation open to 5% of the floor area):

- | | | |
|----|---|------|
| a. | Sleeping areas (night time only: 2200-0700) | 45dB |
| b. | Living areas (24 hours) | 55dB |

(iii) Where a naturally ventilated - windows open conditions cannot be achieved, it is necessary to incorporate mechanical ventilation or air conditioning.

(iv) The following repeatable maximum L_{Aeq} (1 hour) levels shall not be exceeded when doors and windows are shut and mechanical ventilation or air conditioning is operating. These levels correspond to the combined measured level of external sources and the ventilation system operating normally:-

- | | | |
|----|---|------|
| a. | Sleeping areas (night time only: 2200-0700) | 38dB |
| b. | Living areas (24 hours) | 46dB |

(b) In the preparation of the report:

(i) The environmental noise monitoring at the site of the proposed development shall be undertaken for not less than 3 week days, or not less than 2 weeks where the site is affected by noise from part-time operations;

(ii) The repeatable maximum L_{Aeq} (1 hour) for the daytime period (0700-2200 hours) and for the night time period (2200-0700 hours) is to be identified, and

- (iii) The L_{Aeq} (1 hour) noise levels within living rooms and bedrooms with windows and doors both open and closed shall be shown.
- (c) All residential buildings and serviced apartments are to be designed and constructed in accordance with the above criteria. The completed work must comply with the above conditions prior to issuing an Occupation Certificate (see condition in Schedule E of this consent).

ACOUSTIC PRIVACY BETWEEN UNITS

- (27) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, an acoustic assessment report must be submitted to and approved by the Certifying Authority (Council or a private accredited certifying authority) addressing the requirements of the Central Sydney DCP 1996 Amendment No.5 Internal Residential Amenity. The approved drawings and specifications for construction are to be in accordance with the following:
- (a) In order to assist acoustic control of airborne noise between units:
 - (i) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like.
 - (ii) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an FSTC of not less than 55.
 - (iii) A floor separating sole occupancy units must not have a FSTC of less than 50.
 - (b) In order to assist acoustic control of impact noise between units:
 - (i) A floor shall have an Impact Isolation Class (IIC) of not less than 50 if it separates habitable rooms of sole occupancy units or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like.
 - (ii) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an IIC of not less than 55.
 - (iii) Walls between sole-occupancy units shall comply with impact sound resistance standards specified in the BCA.
 - (c) Council or the private Principal Certifying Authority must ensure that the completed work complies with the above conditions prior to issuing an Occupation Certificate (see condition in Schedule E of this consent).

GLAZING

- (28) All external glazing in the ground floor commercial tenancies must be clear and untinted.

REFLECTIVITY

- (29) The visible light reflectivity from building materials used on the facade of the building should not exceed 20% and must be otherwise designed so as not to result in glare that causes discomfort or threatens safety of pedestrians or drivers.

AWNINGS

- (30) The awning/canopy must comply with the City of Sydney Awnings Policy 2000.
- (31) The awning shall be provided with lighting to ensure pedestrian safety. Such lighting shall be at a minimum level of 10 lux in the horizontal and vertical plane.

Details of the lighting is to be submitted for the approval of Council prior to issue of the Construction Certificate under the Environmental Planning and Assessment Act 1979.

CAR PARK ENTRY FINISH

- (32) Car park roller doors shall be designed and constructed for quiet operation.

PAVING MATERIALS

- (33) The surface of any material used or proposed to be used for the paving of the commercial tenancies recesses, foyer and the like areas which are used by the public must comply with AS/NZS 3661.1:1993 "Slip Resistance of Pedestrian Surfaces Part 1: Requirements", Appendices A and B.

ACCESS FOR PERSONS WITH A DISABILITY

- (34) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access Policy. Prior to issue of a Construction Certificate under Environmental Planning and Assessment Act 1979, a certificate certifying compliance with this condition OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act 1979) must be provided, and copy submitted to Council.
- (35) Access to the building shall be in accordance with the requirements of "The City of Sydney Access Policy December 1992".
- (36) One unit and car space shall be designated for persons with disabilities and shall be designed so as to allow for future fit out in accordance with AS 1428.1 - 1993 "Design for Access and Mobility".

FLOOR TO CEILING HEIGHT

- (37) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, the certifying authority (Council or a private accredited certifying authority) must ensure that all living rooms (excluding some bedroom and bathroom areas as shown in the approved plans) in sole occupancy units shall have a minimum floor to ceiling height of not less than 2.7 metres.

TELECOMMUNICATIONS PROVISIONS

- (38) The following requirements apply to telecommunication facilities in the building:-
- (a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - (b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
 - (c) The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the Environmental Planning and Assessment Act 1979.

EXTERNAL RECEIVING DEVICES

- (39) A separate DA must be submitted at the appropriate time for any external receiving device proposed to be installed. For each form of transmitter, there shall be only one common receiving device installed on the subject development.

Schedule 1C**Conditions to be complied with prior to commencement of demolition or work or construction to the satisfaction of the Principal Certifying Authority****DEMOLITION WORK METHOD STATEMENT**

- (40) Prior to the commencement of demolition work a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.

The Statement must be in compliance with AS2601-1991 Demolition of Structures, the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:-

(a) Enclosing and making the site safe, any temporary protective structures must comply with the Guidelines for Temporary Protective Structures (April 2001);

(b) Induction training for on-site personnel;

(c) Inspection and removal of asbestos, and contamination and other hazardous materials;

(d) Dust Control:-

Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site.

(e) Disconnection of Gas and Electrical Supply;

(f) Fire Fighting:-

Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed.

(g) Access and egress:-

No demolition activity shall cause damage to or adversely affect the safe access and egress of this building.

(h) Waterproofing of any exposed surfaces of adjoining buildings;

(i) Control of water pollution and leachate and cleaning of vehicles tyres:-

Proposals shall be in accordance with the Protection of the Environmental Operations Act 1997.

(j) Working hours, in accordance with this Development Consent;

(k) Confinement of demolished materials in transit;

(l) Proposed truck routes, in accordance with this Development Consent;

(m) Location and method of waste disposal and recycling in accordance with the Waste Minimisation and Management Act 1995.

(41) The demolition by induced collapse, the use of explosives or on-site burning is not permitted.

ARCHAEOLOGICAL MONITORING DURING EXCAVATION

- (42) Excavation of the site requires the works to be monitored by an archaeologist and any remains are to be suitably recorded. To this affect, the applicant must make application to the Heritage Office or the City of Sydney for an archaeological monitoring permit under Section 140 of the Heritage Act 1977.

WATER AND SEDIMENT CONTROL STATEMENT FOR DEMOLITION AND EXCAVATION

- (43) The following environmental protection measures are required:-
- (a) Prior to the commencement of demolition and/or excavation, a Demolition/Excavation Water and Sediment Control Statement must be submitted to and approved by the Principal Certifying Authority (Council or an accredited officer).
 - (b) Such statement must include:-
 - (i) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;
 - (ii) The proposed method of discharge;
 - (iii) The procedures to be adopted for the prevention of run-off from the site onto the public way;
 - (iv) The procedures to be adopted for the prevention of run-off from the site onto the public way.
 - (c) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's Erosion and Sediment Control Manual and the Department of Housing Manual Managing Urban Stormwater - Soils and Construction (August 1998).
 - (d) The Demolition/Excavation Water and Sediment Control Statement shall be implemented during the demolition and/or excavation period.
 - (e) Any seepage or rainwater collected on site during work must not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.
 - (f) The applicant must also comply with the NSW Protection of the Environmental Operations Act 1997, whereby it is an offence to pollute classified waters such as Sydney Harbour to which must of the City's street drainage is directly connected.

PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN FOR DEMOLITION AND/OR EXCAVATION

- (44) A Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to commencement of demolition and/or excavation. It must include details of the:-
- (a) Proposed ingress and egress of vehicles to and from the construction site;
 - (b) Proposed protection of pedestrians adjacent to the site;
 - (c) Proposed pedestrian management whilst vehicles are entering and leaving the site;
 - (d) Proposed route of construction vehicles to and from the site.
 - (e) The Pedestrian and Traffic Management Plan shall be implemented during the demolition and/or excavation period.

WASTE MANAGEMENT DURING DEMOLITION AND EXCAVATION

- (45) A Waste Management Plan for the demolition and/or excavation of the proposed development must be submitted to the satisfaction of the Principal Certifying Authority (and a copy submitted to Council if it is not the PCA) before commencement of work on the site.
- (46) Certification that the plan is in accordance with the Development Approval Conditions, Council's Code for Waste Handling in Buildings and the Waste Minimisation and Management Act 1995, must be submitted in the attached form W3 to the satisfaction of the Principal Certifying Authority. Such Certification must be submitted by an appropriately qualified person experienced in Waste Handling Design and Environmental Management.
- (47) The Waste Management Plan must address demolition and excavation, as applicable. The Plan must describe procedures by which waste will be minimised, managed and recycled and must address the following issues:-
- (a) Compliance with the requirements set out in Annexure ("A") of the Code for Waste Handling in Buildings adopted by Council 17 October 1994.
 - (b) Details of recycling and the removal of spoil and rubbish from the site in the course of demolition and excavation operations including:-
 - (i) Type and quantities of material expected from demolition and excavation;
 - (ii) Name and address of transport company;
 - (iii) Address of proposed site of disposal;

- (iv) Name/address of company/organisation accepting material;
 - (v) Types and quantities of materials that are to be reused or recycled, on and off site and procedures involved;
 - (vi) Name of company/contractor undertaking on and off site reuse and recycling, and address of recycling outlet;
 - (vii) Material for disposal and justification of disposal;
 - (viii) If details of items (ii) to (vii) are not known at the time of preparation of the Waste Management Plan, the information must be supplied immediately after the letting of the contracts.
- (48) All requirements of Waste Management Plans must be implemented during the demolition and/or excavation period of the development.

Note:

The Principal Certifying Authority must be notified of any proposed change in any of the above details throughout the course of work.

- (49) Prior to the commencement of excavation, the applicant should contact the “Dial Before You Dig” service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au to ascertain the presence and type of underground utility services in the vicinity of the development.

APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (50) A separate application is to be made to Council for Approval under Section 68 of the Local Government Act 1993 to erect a hoarding or scaffolding in a public place and such application is to include:-
- (a) Architectural, construction and structural details of the design in accordance with the Policy for the Design and Construction of Hoarding (September 1997) and the Guidelines for Temporary Protective Structures (April 2001).
 - (b) Structural certification prepared and signed by an appropriately qualified practising structural Engineer.
 - (c) Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.

PEDESTRIAN AND TRAFFIC MANAGEMENT DURING CONSTRUCTION

- (51) A Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to commencement of construction on the site and must include details of:-

- (a) Proposed ingress and egress of vehicles to and from the construction site;
- (b) Proposed protection of pedestrians adjacent to the site;
- (c) Proposed pedestrian management whilst vehicles are entering and leaving the site;
- (d) Proposed route of construction vehicles to and from the site.
- (e) The Pedestrian and Traffic Management Plan shall be implemented during the construction period.

Schedule 1D

Conditions to be complied with during work on site to the satisfaction of the Principal Certifying Authority

HOURS OF WORK AND NOISE

- (52) The hours of construction and work on the development shall be:
 - (a) All work, including building/demolition and excavation work in connection with the proposed development must only be carried out between the hours of 7.30 a.m. and 5.00 p.m. on Mondays to Fridays, inclusive, and 7.30 a.m. and 3.00 p.m. on Saturdays, with safety inspections being permitted at 7.00 a.m. on work days and no work must be carried out on Sundays or public holidays.
 - (b) All work, including demolition, excavation and building work must comply with "The City of Sydney Building Sites Noise Code" and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

- (53) A site notice(s) is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:-
 - (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
 - (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;

- (c) A copy of the first page of the development approval and construction certificate (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is to state that unauthorised entry to the site is not permitted. If demolition is being undertaken, the words, Danger - Demolition Site, with an international logo must be displayed.

USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE

- (54) This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the "City of Sydney Code of Practice for Construction Hours/Noise 1992" and Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites". A separate application for approval to use any of these appliances must be made to Council.

LOADING AND UNLOADING DURING CONSTRUCTION

- (55) The following requirements apply:-
- (a) All loading and unloading associated with construction must be accommodated on site.
 - (b) The structural design of the building shall be such as to permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
 - (c) If, during excavation, it is not feasible for loading and unloading to take place on site, the provision of a construction zone may be considered by Council.
 - (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
 - (e) If a construction zone is warranted, such an application must be made to Council prior to commencement of work on the site. An approval for a construction zone may be given for a specific period and certain hours of the days to reflect the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

STREET TREES

- (56) All street trees shall be protected at all times during construction, in accordance with Council's Tree Preservation Order. Any tree on the footpath which is damaged or removed during construction shall be replaced, to the approval of Council and the Principal Certifying Authority.
- (57) To comply with the Protection of the Environment (Operations) Act 1997 whereby it is an offence to pollute classified waters such as Sydney Harbour to which most of the City's street drainage is directly connected:-
- (a) concrete trucks, concrete pumps and their attachments, and trucks used for the disposal of spoil shall not be washed out on the public way;
 - (b) any water collected from on-site washing down of concrete trucks, concrete pumps or their attachments and trucks used for the disposal of spoil shall not be pumped, directed or allowed to flow to the street stormwater system;
 - (c) any seepage or rain water collected on site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council and evidence of approval is to be submitted to the Principal Certifying Authority prior to discharge into such system.
- (58) The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of Notice by Council to stop all work on site.
- (59) Vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material.

Note:

The Protection of the Environment Administration Act 1991, provides for the revocation of transporters' licences where drivers dump wastes illegally.

Schedule 1E

Conditions to be complied with prior to issue of Occupation Certificate and prior to commencement of use, to the satisfaction of the Principal Certifying Authority

OCCUPATION CERTIFICATE

- (60) An Occupation Certificate (in accordance with Clause 155 of the Environmental Planning and Assessment Regulation 2000) must be obtained from the Principal Certifying Authority (PCA) (Council or a private accredited certifier) and a copy furnished to Council in accordance with Section 79L of the Environmental Planning and Assessment Amendment Regulation 1998 prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building. A copy of the certificate shall be submitted to Council if it was not the PCA.

FIRE SAFETY

- (61) A Fire Safety Certificate (in accordance with Clause 174 of the Environmental Planning and Assessment Regulation 2000) must be furnished to the Principal Certifying Authority (PCA) (Council or a private accredited certifier) for all of the items listed in the Fire Safety Schedule forming part of this approval prior to any consent for occupancy/partial occupancy being granted. A copy of the Certificate must be submitted to Council if it was not the PCA.

CITY OF SYDNEY COMPLIANCE INSPECTIONS & PRIVATE PCA BUILDINGS

- (62) The purpose of this condition is to ensure that the Council is given sufficient notice prior to the issuing of the Occupation Certificate to carry out inspections of soon to be completed buildings, where necessary. In doing so, this ensures that the Council is able to provide an independent analysis of whether the building is constructed to a standard that complies with the BCA and in accordance with the development consent.
- (a) The applicant and building owner are to note that it is an offence under S.109N of the Environmental Planning and Assessment Act 1979, to occupy or use a building in whole or in part, unless an Occupation Certificate has been issued in relation to the building or the part.
- (b) A maximum penalty of 25 penalty units applies under the provisions of the Environmental Planning and Assessment Act 1979, for the contravention of the above requirements.

- (c) Council officers may undertake random inspections from time to time during construction and toward the end of building works to ensure that buildings or part of buildings are not occupied with a partial or final Occupation Certificate, and to check compliance with conditions of development consent.
- (d) In the event that a Principal Certifying Authority (PCA) other than Council is appointed, the builder or developer shall give written notice to Council.
 - i. Within 7 days of installation of services, such as plumbing, mechanical ventilation and the like which penetrate fire rated walls and slabs; and
 - ii. 7 days prior to the installation of false ceilings or cornices which abut fire rated walls and slabs; and
 - iii. 14 days prior to the final inspection to be carried out by the PCA for the purpose of issuing an Occupation Certificate.
- (e) This reserves time for Council or persons appointed by Council to conduct any random inspections Council may choose to do, prior to the issue of the Occupation Certificate, in order to ensure that buildings or part of buildings are not occupied without a partial or final occupation certificate, and to undertake random audits of certified works.

COMPLIANCE CERTIFICATE FOR ACOUSTIC PRIVACY

- (63) Prior to issue of an Occupation Certificate, a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier). This must certify compliance with the Acoustic Privacy conditions in Schedule B of this consent, being the requirements in Clauses 6.1.13 – 6.1.16 of the Central Sydney DCP 1996 Amendment No. 5 - Internal Residential Amenity. A copy of the Certificate shall be submitted to Council if it was not the PCA.

COMPLIANCE CERTIFICATE FOR NOISE REDUCTION

- (64) Prior to issue of an Occupation Certificate, a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifying authority). This must certify compliance with the Noise Reduction conditions in Schedule B of this consent, being the requirements in the Central Sydney DCP 1996 Amendment No. 5 - Internal Residential Amenity. A copy of the Certificate shall be submitted to Council if it was not the PCA.

MECHANICAL VENTILATION PERFORMANCE CERTIFICATE

- (65) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979 and following the completion, installation, and testing of all the mechanical ventilation systems covered by the approval, a Mechanical Ventilation Certificate of Completion and Performance in the form of Attachment M2, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the Principal Certifying Authority (PCA) (Council or a private accredited certifier). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council if it was not the PCA.
- (66) Services passing through a floor shall either be in shafts comply with specifications C1.1 or protected in accordance with C3.14 of the Building Code of Australia.
- (67) The premises must be ventilated in accordance with the Building Code of Australia and Council's Ventilation Code.
- (68) All evaporative cooling warm water or water cooling systems installed on the premises must comply with the Public Health Act 1991 and Public Health Regulation 1991 and be registered by Council.
- (69) Prior to commencement of the use, the owner or occupier of the premises must apply to Council for the registration of water-cooling systems (cooling towers and evaporative condensers), evaporative cooling systems and warm-water systems which heat and deliver water at less than 60°C at each outlet installed on the premises.
- (70) Plans and specifications are to be submitted to Council for any proposed food premises and associated food preparation and storage areas.

LOT CONSOLIDATION

- (71) All land titles within the site must be consolidated into one lot. A plan of consolidation in a form capable of registration shall be lodged with the Land Titles Office prior to issue of a Occupation Certificate under the Environmental Planning and Assessment Act 1979.

NUMBERING

- (72) Prior to issue of an Occupation Certificate street, numbers and the building name, shall be clearly displayed at either end of the ground level frontage in accordance with the "Policy on Numbering of Premises within the City of Sydney". If new street numbers or a change to street numbers are required, a separate application shall be made to Council.
- (73) Prior to issue of an Occupation Certificate, shop numbers must be clearly displayed in accordance with the "Policy on Numbering of Premises within the City of Sydney".

STREET NAME PLATE

- (74) Council's standard street name plate shall be affixed to all street frontages of the building, visible to both pedestrian and vehicular traffic. The signs shall be obtained and installed at no cost to Council. (Contact the Team Leader – Urban Domain, Service Planning Policy).

REMOVAL OF GRAFFITI

- (75) The owner/manager of the site shall be responsible for the removal of all graffiti from the building within 48 hours of its application.

COMMEMORATIVE PLAQUE

- (76) The following is required:
- (a) A commemorative plaque must be incorporated in the new building, in a prominent position at ground floor level at or near the main entrance to the building, to commemorate the major participants in the development. The details contained on the plaque are to include the names of the developer, architect, and consent authority and the year in which the building was completed.
 - (b) The proposed location of the plaque and details of its proposed size, colour and materials, and text must be submitted for the approval of Council prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979.
 - (c) The approved plaque must be installed prior to Occupation.

Schedule 1F**Conditions to be complied with during the use of Premises****NOISE - USE**

- (77) The use of the premises including music and other activities must not give rise to any one or more of the following:
- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

- (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to midnight daily and 0dB above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
- (c) During the period 12 midnight to 7.00 a.m. the use shall be inaudible in any habitable room of any residential premises.
- (d) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) must be carried out in accordance with AS 2973 for vibration measurements. AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

NOISE - MECHANICAL PLANT

- (78) Noise associated with mechanical plant must not give rise to any one or more of the following:
 - (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
 - (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to 10.00 p.m. daily and 0dB above the L90 background between 10.00 p.m. and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
 - (c) A sound level at any point on the boundary of the site greater than 50dBA.
 - (d) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

The method of measurement of vibration in (a) and sound levels in (b), (c) and (d) must be carried out in accordance with AS 2973 for vibration measurements. AS 1055 for outdoor sound level measurements, and AS 2107 for indoor sound level measurements.

CLEANING

- (79) The owner/manager of the building shall ensure that all windows and louvers on the façade of the building are cleaned regularly and, in any event, not less than annually.
- (80) In addition to Council's daily street sweeping and cleansing operations, the owner/manager (The Body Corporate) of the building shall ensure that the ground level areas and the surrounds of the building are to be kept clean and free of litter during normal working hours.

ALARMS

- (81) Any intruder alarm must be fitted with a timing device in accordance with the requirements of Clause 22 of the Noise Control (Miscellaneous Articles) Regulation 1995, and Australian Standard 2201.

GARBAGE COLLECTION

- (82) The loading operation, including the movement of garbage receptacles, must take place within the building alignment on a level surface away from gradients and vehicle ramps. No waste is to be placed on the public way (eg. Footpaths, roadways, plazas, reserves or building colonnade areas) at any time.

AIR CONDITIONING

- (83) Air conditioning or refrigeration systems which contain R11 or R12 or any other controlled substance as defined in the Ozone Protection Regulation 1997, must not be installed in the building. Air conditioning and refrigeration systems must use environmental friendly refrigerants.

Schedule 2

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.

Carried.

**ITEM 7. PLANNING NSW REFERRAL: TOWNS PLACE, WALSH BAY
(O2001/00080)**

Moved by Councillor Turnbull, seconded by Councillor Marsden -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 27 May 2002, and to Council on 3 June 2002, in relation to the Planning NSW referral DA No. 351-11-2001 made by Walsh Bay Finance Pty Ltd for the site known as Towns Place, being the land bounded by Towns Place, Hickson Road and Dalgety Road, Walsh Bay for demolition of the existing buildings and construction of a new residential development containing 65 apartments, residential and commercial car parking (268 spaces) and the retention and refurbishment of the historic ablutions block and weighbridge, it be resolved that:-

- (A) the subject report be received and noted;
- (B) a copy of the submission, incorporating the comments made by the Central Sydney Planning Committee at its meeting of 16 May 2002, as shown at Attachment I to the subject report, be forwarded to Planning NSW for consideration in the determination of the development application.

Carried.

**ITEM 8. DEVELOPMENT APPLICATION: 21 ALBERTA STREET, SYDNEY
(D2001/00716)**

Moved by Councillor Turnbull, seconded by Councillor Coulton -

That arising from consideration of a report by the Director City Development to the Planning Development and Transport Committee on 27 May 2002, and to Council on 3 June 2002, in relation to Development Application D2001/00716 made by Pennjag Pty Ltd for the site at 21 Alberta Street for demolition of the existing building and construction of a 10 storey residential building, it be resolved that:-

- (A) authority be delegated to the General Manager to determine the development application, in consultation with the Chairperson of the Planning Development and Transport Committee, having regard to the proposed unit mix;
- (B) should the process of addressing the unit mix lead to a determination for approval, regard shall be had to the draft conditions shown at Attachment E to the subject report.

Carried.

ITEM 9. INVESTMENTS HELD BY COUNCIL AS AT 28 FEBRUARY 2002, 31 MARCH 2002 AND 30 APRIL 2002 (AO2-00360)

Moved by the Chairman (the Lord Mayor), seconded by Councillor Farr-Jones -

That arising from consideration of a report by the Acting Senior Accounting Officer (Creditors) to Council on 3 June 2002, on Investments Held by Council as at 28 February 2002, 31 March 2002 and 30 April 2002, it be resolved that the subject report be received and noted.

Carried.

ITEM 10. QUESTIONS ON NOTICE

There were no Questions on Notice for this meeting of Council.

QUESTIONS WITHOUT NOTICE

COWPER WHARF ROAD (S018730)

1. By Councillor Coulton -

Question

Lord Mayor, could I ask again about Cowper Wharf Road and as to why the lights still aren't synchronised?

Answer by the Lord Mayor

I invite the Director City Development to respond.

Director City Development

Lord Mayor, the matter was reported on to Councillors through the Councillors' Information Service last year and I have asked the Acting Manager Traffic and Access to reprint and redistribute that report through the Councillors' Information Service.

Answer by the Lord Mayor (continued)

Does further action have to be taken? I ask that the Director City Development take the question on notice and have the matter further investigated.

PROPOSED BOUNDARY CHANGES (S018727)

2. By Councillor Turnbull -

Question

Lord Mayor, what is the present status of the legal proceedings that South Sydney Council took against the State Government in connection with the boundary changes?

Answer by the Lord Mayor

South Sydney Council succeeded in the Land and Environment Court and an appeal has been lodged. My understanding is that the matter was listed today in the Supreme Court and the judge has held over till tomorrow week to decide whether expedition will be granted. It is in the Supreme Court to go to the Court of Appeal.

We hope that expedition will be granted.

ITEM 11. NOTICES OF MOTION

There were no Notices of Motion for this meeting of Council.

Closed Meeting

At 6.00pm, Council resolved -

That the meeting be closed to the public in accordance with the provisions of Section 10A(2)(d)(i) of the Local Government Act 1993 to discuss Item 13 on the agenda as this matter comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the persons who supplied it;

and further resolved that the meeting be closed for this item on the basis that discussion of this matter in open session would, on balance, be contrary to the public interest, specifically, there is a need to preserve confidentiality having regard to the subject matter and the circumstances of communications.

Item 13 was then dealt with by Council while the meeting was closed to the public.

ITEM 13. TENDER NO. 0204 - STREET CLEANING SERVICE: COMPETITIVE TENDERING ROUND TWO (S019637)

Moved by the Chairman (the Lord Mayor), seconded by Councillor Turnbull -

That arising from consideration of a report by the Project Coordinator, Contracts and Asset Management, to Council on 3 June 2002 Meeting, on Tender No. 0204 - Street Cleaning Service: Competitive Tendering Round Two, it be resolved that:

- (A) the Tender for the provision of Street Cleaning Services be awarded to Living City Services;
- (B) the budget for 2002/2003 for Street Cleaning be increased by \$205,021 to \$8,379,941 and increases to this amount in subsequent years are to be in accordance with the Consumer Price Index;
- (C) Council note the Schedule of Rates and Other Services tendered by the successful tenderer, and that the Services will not occur until funding is made available;
- (D) Council's Attorney execute all relevant documents.

Carried unanimously.

Monday 3 June 2002

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At 6.02pm the meeting concluded.

Chairman of a meeting of the Council of the City
of Sydney held on 28 June 2002 at which
meeting the signature herein was subscribed.