



**4 MARCH 2002**

**Meeting No 1348**

**MINUTES** of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 5.30pm on 4 March 2002 pursuant to Notice 2/1348 dated 28 February 2002.

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### **PRESENT**

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

Councillors - Dixie Coulton, Nick Farr-Jones, Kathryn Greiner, Robert Ho, Fabian Marsden and Lucy Turnbull.

At the commencement of business at 5.55pm those present were:-

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

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

#### Opening Prayer

The Lord Mayor opened the meeting with prayer.

#### **Welcome**

At this stage of the meeting, the Chairman (the Lord Mayor) introduced and welcomed Ms Janina Jancu, the newly appointed Chief of Staff, Office of the Lord Mayor.

**ADDITIONAL MATTER FOR COUNCIL**

FILE NO:

DATE: 4/3/02

**MINUTE BY THE LORD MAYOR**To Council:

Attached for consideration by Council at its meeting on 4 March 2002 is a confidential Memorandum by the General Manager on the appointment of the Director, Corporate Services.

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 Greiner -

That consideration of the confidential Memorandum by the General Manager on the appointment of the Director, Corporate Services be deferred to the end of the meeting and dealt with as a confidential item.

Carried.

Note - the confidential Memorandum by the General Manager, as referred to in the Minute by the Lord Mayor, was circulated to all Councillors at the meeting of Council.

**ITEM 1. CONFIRMATION OF MINUTES****Minutes of Council Meeting of 11 February 2002**

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

That the minutes of the meeting of Council of 11 February 2002, as circulated to Councillors, be confirmed.

Carried.

Note - The Minutes of the meeting of Council held on 22 October 2002 will be submitted for confirmation to the meeting of Council on 25 March 2002.

**ITEM 2. MINUTES BY THE LORD MAYOR**

FILE NO:

DATE: 28/2/02

There were no other Minutes by the Lord Mayor at this meeting of Council.

**ITEM 3. APPOINTMENT OF DIRECTOR, CORPORATE SERVICES**

Note - This Memorandum by the General Manager, which was introduced by a Lord Mayor's Minute, was dealt with as a confidential item at the end of the meeting.

**ITEM 4. MATTERS FOR TABLING**

Moved by Councillor Greiner, seconded by Councillor Turnbull -

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

Carried.

**Reports of Committees**

Note - There were no reports from Standing Committees at this meeting of Council. No Committee meetings had been held the previous week, Monday, 25 February 2002.

**ITEM 5. INVESTMENTS HELD BY COUNCIL AS AT 31 DECEMBER 2001 AND 31 JANUARY 2002 (AO2-00360)**

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

That arising from consideration of a report by the Senior Accounting Officer (Creditors) to Council on 4 March 2002, on Investments held by Council as at 31 December 2001 and 31 January 2002, it be resolved that the report be received and noted.

Carried.

**ITEM 6. POLICY ON GAMING AREAS (S015674)**

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Manager Development to Council on 4 March 2002, in relation to a policy response to the management of gaming areas within licensed premises, it be resolved that -

- (A) the existing Policy on Trading Hours for New and Existing Premises be amended to incorporate controls for gaming areas as provided in Attachment A to the subject report, as amended at the meeting of Council, and be adopted as an interim policy;
- (B) the interim policy be advertised for public comment for a period of 28 days and a report be provided to Council analysing public comment and recommending further amendments, if any;
- (C) the policy contents be incorporated into the current review of the Central Sydney Development Control Plan 1996.

Carried.

**ITEM 7. CROSS CITY TUNNEL, RTA COMPULSORY ACQUISITION OF LAND INCLUDING A SUB-SURFACE LEASEHOLD INTEREST OF PART OF LOT 7003 DP93729, HYDE PARK SOUTH - CONSENT (S017852)**

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

That arising from consideration of a report by the Senior Property Manager to Council on 4 March 2002, on Cross City Tunnel, RTA Compulsory Acquisition of Land including a sub-surface leasehold interest of part of Lot 7003 DP93729, Hyde Park South - Consent, it be resolved that -

- (A) Council grant consent to the compulsory acquisition of a lease by the RTA for a term of 4 years 11 months for that part of the stratum beneath Hyde Park shown on the sketch shown at Attachment A to the subject report;
- (B) authority be delegated to the General Manager, with the concurrence of the Lord Mayor, to the shortening of the standard 90 day period of the Proposed Acquisition Notice to a 7 day period, in view of the sub-surface nature of the acquisition; and
- (C) Council's Attorney be authorised to execute all necessary documentation.

Carried.

## **ITEM 8. QUESTIONS ON NOTICE**

Note - At this stage of the meeting, the Chairman (the Lord Mayor) drew Councillors' attention to a Supplementary Answer by the Lord Mayor in relation to Question 1, circulated prior to the meeting, to be incorporated in the Minutes of the meeting.

### **STREET FURNITURE (S018718)**

1. By Councillor Greiner -

#### **Question**

Lord Mayor, on the corner of King and Elizabeth Street sits one of the advertising billboards which you have spread throughout the city. On the top left hand corner is the word "telephone".

Is there a reason for there NOT being a telephone on this board when it clearly states that it should be there?

How is the public interest served by the absence of the telephone and the replacement with advertising?

What public benefit is gained by there not being a telephone?

If there is no public benefit, why is this structure still there?

Included with this issue is the non-operating bus stop on the corner of College and William/Park Streets. If this is no longer an operating bus stop, why is it still there?

#### **Answer by the Lord Mayor**

The Manager, Contracts and Asset Management advises that -

“The billboard is a double-sided poster bollard supplied by the City's street furniture contractor, JC Decaux. The reason for the structure is that the advertising interest from the suite of street furniture covers the significant element of cost associated with the supply and maintenance of quality street furniture. Under the street furniture contract, the City must allow a minimum number of advertising panels in order to receive this benefit.

JCDecaux advises that there is no readily accessible telephone infrastructure in the area to convert the structure to a telephone. The telephone graphic that was printed in the upper corner of the bollard has been rectified by JC Decaux.

With regard to the bus shelter on the corner of College and William/Park Streets, the State Transit Authority advised Council officers on 17 December 2001 that it was no longer required for state buses. Since this time, Council officers have identified alternative locations and the shelter is planned to be moved pending the outcome of any consent or approvals processes.”

**Supplementary Answer by the Lord Mayor**

Whilst the Officer is correct to say that overall the advertising on street furniture supports the functional items and provides further revenue to Council, Council has had a very clear policy, since commencement of the contract, that there is to be no advertising on any structure that does not support a functional purpose. Therefore, if the telephones have been removed, then the entire structure should be removed and relocated. The answer as given is not a correct statement of policy.

Accordingly, I have directed that the General Manager check out the real situation and, if it is as you state, to have the entire structure removed or relocated.

I would ask staff to be more careful in interpreting Council's policy on this in the future.

**COOK & PHILLIP PARK (S018718)**

2. By Councillor Greiner -

**Question**

Lord Mayor, the saga of Cook and Phillip Park continues with yet more money to be expended to improve its filtration mechanism.

Would you please furnish to Council a list of all of the repairs made to Cook & Phillip Park pool, as well as the Council forecourt, since its construction, including cracks, leaks, dressing areas, pool equipment, cafes and the like?

**Answer by the Lord Mayor**

The Director City Projects advises that:

“Two Council Resolutions have outlined repairs regarding Cook & Phillip Park. These are as follows:

1. Council Resolution of 1 November 1999 covers modifications to change rooms.
2. Council Resolution of 22 October 2001 covers the asset enhancement program which includes water (filtration mechanism referred to above) and air quality upgrade, courtyards, energy efficiency upgrade and plant room improvements.

In addition, the attached list details works undertaken since practical completion. A number of these works are defects which have been repaired at no cost to Council.

**Cook & Phillip Park**

<b>Description</b>	<b>Comment</b>
<b>Stage 1 (Functional Improvements)</b>	
Modifications to change rooms	Completed June 2000
Café Fitout	Completed end 1999
<b>Stage 2 (Maintenance Shutdown works)</b>	
New Boiler	Completed Aug 2000
Entry Heating	Completed July 2000
Remove Bridges, rusting mesh & install Lexen	Completed July 2000
Remove rusting from SS ductwork	Completed July 2000
Modify Rock Garden	Completed July 2000
Install timber slats to concrete seating	Completed Nov 2000
Replace bent louvres to plant room	Completed Dec 2000
Infill Office Window in Sports Court	Completed Oct 2000
Remove Shade Structure	Completed May 2001
<b>Stage 3 (Interior design Issues)</b>	
Tiling to Walls	Completed Dec 2000
New Lights to South Alcove	Completed Aug 2000
Paint Gymnasium	Completed Nov 2000
Mirrors to gymnasium	Completed Dec 2000
Design & Management fees	Completed Dec 2000
Replace louvres in entry, café and court	Completed Dec 2000
New lights to gym	Completed Dec 2000
<b>Stage 4 (Leaks)</b>	
Ongoing defect rectification of all water leaks throughout the complex	98% Complete
<b>Stage 5 (Assett Enhancement)</b>	
<b>(i) Shade Structures</b>	Completed Jan 2002
<b>(ii) U.V. Pool Filtration</b>	Completed Mar 2002



**QUESTIONS WITHOUT NOTICE****COOK & PHILLIP PARK (S018724)**

1. By Councillor Greiner -

**Question**

Lord Mayor, in relation to my second Question on Notice, I asked for a simple list of the repairs made to the Cook and Phillip Park Pool. As you will see from the answer, I was provided with three Council resolutions. The problem is that the first Council resolution written here of 1 November 2001 does not exist, and no meeting was held on the second date of 30 June 2000.

**Answer by the Lord Mayor**

Councillor Greiner, the Director City Projects advises that some dates were incorrectly quoted in that answer. That answer has been withdrawn and substituted with another quoting the correct dates.

**ISYS (S018724)**

2. By Councillor Greiner -

**Question**

Lord Mayor, my question is through you to the Secretariat, and I am happy for it to go on notice. Secretariat kindly pulled this information about Cook and Phillip Park out of ISYS for me today. At the top of the ISYS statement there is always a code for the actual Council meeting. Next to that there is a bracketed date. That is the date that the information is entered into ISYS. For example, the meeting that was held on 1 November is entered on 4 November.

For the meeting that was held on 1 May, the actual recommendation on Cook & Phillip Park was not entered until 14 August, which strikes me as an extraordinarily long period of time.

Why does it take so long for material to be entered into ISYS, in particular, reference to Cook & Phillip Park Maintenance and Operational Plan?

**Answer by the Lord Mayor**

Councillor Greiner, I will take that question on notice and the Chief Clerk Secretariat will respond.

**BUS SHELTER - 69-79 CLARENCE STREET (S018724)**

3. By Councillor Greiner -

**Question**

Lord Mayor, Council apparently is in receipt of letters dated 28 August 2000, 8 February 2001 and 11 July 2001 which, to date, have not been answered. They relate to the bus shelter outside 67-69 Clarence Street, which has an advertising panel preventing commuters from seeing their oncoming buses - a fundamental design flaw and one endemic in these bus shelters.

I would like to ask -

1. Why is it that Council has not responded to this correspondence?
2. Will Council please liaise with JCDecaux to redesign the posters to enable commuters to see oncoming buses, with downsized advertising copy to be utilised?

**Answer by the Lord Mayor**

Councillor Greiner, I give you an undertaking that we will respond to those letters within a week.

**COUNCIL'S PROPERTY ASSETS (S018724)**

4. By Councillor Greiner -

**Question**

Lord Mayor, in Council's Annual Report, we list our property assets and the current condition and the target condition. We have almost \$1.3 billion worth of property assets and fifty percent of them are in a current condition of "fair".

Have we determined how we are going to manage our assets and bring them all up to the target condition of either "good" or "excellent" over a certain period of time?

**Answer by the Lord Mayor**

Council has never been involved in this aspect. As far as I am aware, the City is in extremely good shape and no-one would describe the condition of the public assets of our City as "fair". In fact, the vast majority of the City's assets are in very good condition.

General Manager, this may be a lesson, as no-one reads annual reports because they are a statutory nonsense. Maybe this is an example of how these statutory requirements end up with published information that is of questionable value, done by some insufficiently qualified junior functionary. Let us have a look at them and see whether there is any veracity in that list. If there is, we will address it. The City's assets are in very good shape. I can tell you that it is a lot better than most of the cities in developed countries around the world.

**THE CITY OF SYDNEY OUTDOOR CAFÉ POLICY (S018724)**

5. By Councillor Greiner -

**Question**

Lord Mayor, arising from Mark Skelsey's article in the weekend paper, why is Council, à la the analogy of trying to crack a nut with a sledge hammer, pursuing legal action against one café owner in Bligh Street for clear plastic blinds and one little tobacconist in Goulburn Street for items on her wall and flags outside. We are pursuing two tiny business operators unnecessarily.

**Answer by the Lord Mayor**

Councillor Greiner, in relation to the café in Bligh Street, on 12 November 2001, Council unanimously adopted The City of Sydney Outdoor Café Policy, which states in Clause 3.2: "Full height solid screens and any type of enclosure, including plastic screens, are not permissible and not justified in Sydney's mild but sometimes windy climate."

Mark Skelsey has decided that he has become the aesthetic guru of the City. This particular applicant appealed to the Small Permits Appeals Panel (SPAP) and SPAP reconsidered carefully and decided the blinds were inappropriate. It is a Council policy, unanimously adopted. If you want to change the Policy, I suggest you put up a Notice of Motion and we can debate that.

It has always been our policy not to allow enclosures. It was reaffirmed in November and you voted for it. They happen in some overseas cities where the winter climate is extremely harsh, but they do not happen here.

SPAP reviewed the matter on 15 November 2001. Council's policy was adopted on 12 November. In terms of the review, it was after the policy had been further adopted, but Council has always knocked these back on the basis we felt that, once you start this, you will be opening a Pandora's Box of alienation of space. I think this person's argument is that it is not on public land, but it is still in the public domain. If that is the issue, let us have a debate on the issue and see whether Mark Skelsey wants the city to end up with all these plastic enclosures in it.

In relation to the tobacconist in Goulburn Street, I know nothing about this matter. I shall invite the Deputy Lord Mayor to respond.

**Deputy Lord Mayor**

Lord Mayor, this relates to a Convenience Store's decorations and signage in general. I think it was in late 2001, Council adopted a new Development Control Policy for External Signage, which was also endorsed by the Central Sydney Planning Committee. In that policy, it was clearly stated that there would be no external flags or bunting permitted outside buildings. Although it may seem extremely trivial if you use it as one example, if you magnify those flags and bunting outside every single Convenience Store in the whole of the City, you suddenly have a real urban design issue on your hands - as you would have with plastic screens on every awning.

**Answer by the Lord Mayor (continued)**

I invite the General Manager to provide a further response.

**General Manager**

Lord Mayor, Mrs Yeng Ping Chen runs a tobacconist shop in Goulburn Street. She has made a number of complaints over a long period of time to just about every public authority in Sydney - Members of Parliament, the Ombudsman, the Anti-discrimination Tribunal and Councillors. I have investigated the situation. I have been down twice to see her at her shop. Numerous visits have occurred by Council officers. It is a very simple issue really. She has been asked to comply with Council policy vis a vis her proliferation of flags and advertising material plastered not only over her shop, but on adjacent walls. On one of my visits, I reached a compromise with her, to which she agreed. No sooner had she agreed to that than, shortly afterwards, she started to reimpose the flags and banners that she had agreed to take down. I am satisfied that Council officers have acted appropriately.

The second element of her complaint is that she has been prosecuted and no-one else has. I have visited the site with the relevant Council officers, who have issued the orders. A number of orders have been issued against shops in that area. A number of shops have complied with the orders. Unfortunately Mrs Yeng Ping Chen's argument is that, until every shop complies, she does not want to. That is tantamount to saying: "If everyone wants to breaks the law, then I am entitled to as well."

**Answer by the Lord Mayor (continued)**

I urge Councillors to not start encouraging blatant violations of Council policy. If you have a concern about a Council policy that is being interpreted too strictly, by all means raise it. There is an appeal process that the Deputy Lord Mayor chairs. In this case, the General Manager has personally been down. You will ruin the amenity gained in the City if you start letting people openly flout our policies on these matters. I would urge Councillors to be responsible in these matters because it is a Pandora's Box.

**Call to Order**

During discussion on Question Without Notice 5, the Chairman (the Lord Mayor) called Councillor Greiner to order for disrupting Question Time.

**Point of Order**

During discussion on Question 5, Councillor Greiner raised a Point of Order and suggested that the General Manager had erred on a matter of fact in his answer. The Chairman (the Lord Mayor) ruled that no Point of Order was involved.

**ITEM 9. NOTICES OF MOTION**

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

**Closed Meeting**

At 7.02pm, Council resolved -

That the meeting be closed in accordance with the provisions of Section 10A(2)(a) of the Local Government Act 1993 to discuss Item 3 on the agenda as this matter comprised discussion of personnel matters concerning a particular individual;

and it was 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 3 was then dealt with by Council while the meeting was closed to the public.

**ITEM 3: APPOINTMENT OF DIRECTOR, CORPORATE SERVICES**

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 4 March 2002, on Appointment of Director, Corporate Services, it be resolved that Council -

- (A) receive and note the subject Memorandum by the General Manager;
- (B) authorise the Lord Mayor to approve remuneration at variance to Council's policy on Directors' remuneration, if necessary.

Carried unanimously.

At 7.22pm the meeting concluded.

Chairman of a meeting of the Council of the City  
of Sydney held on 25 March 2002 at which  
meeting the signature herein was subscribed.