



9 DECEMBER 2002

Meeting No 1374

MINUTES of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 5.08pm on 9 December 2002 pursuant to Notice 28/1374 dated 5 December 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 5.08pm those present were:-

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

Councillor Coulton arrived at the meeting of Council at 5.10pm during discussion on Item 4.

The General Manager, General Counsel, Director Corporate Services, Director City Development and Projects and Executive Director Projects (City Architect) were also present.

Opening Prayer

The Lord Mayor opened the meeting with prayer.

ITEM 1. CONFIRMATION OF MINUTES

Minutes of Council Meeting of 18 November 2002

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

That the minutes of the meeting of Council of 18 November 2002, as circulated to Councillors, be confirmed.

Carried.

Minutes of Extraordinary Meeting of Council of 25 November 2002

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

That the minutes of the extraordinary meeting of Council of 25 November 2002, as circulated to Councillors, be confirmed.

Carried.

Minutes of Extraordinary Meeting of Council of 2 December 2002

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

That the minutes of the extraordinary meeting of Council of 2 December 2002, as circulated to Councillors, be confirmed.

Carried.

ITEM 2. ADDITIONAL MATTER FOR COUNCIL

FILE NO:

DATE: 6/12/02

MINUTE BY THE LORD MAYOR

To Council:

Attached for consideration by Council at its Meeting on 9 December 2002 is a confidential report on Gateways Projects - Funding for Development Applications.

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 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.

ITEM 3. MEMORANDA BY THE GENERAL MANAGER

There were no Memoranda by the General Manager for this meeting of Council.

ITEM 4. MATTERS FOR TABLING

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

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

Carried.

ITEM 5. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 2 DECEMBER 2002

PRESENT

Councillor Lucy Turnbull
(Chairman)

Councillors - Dixie Coulton, Kathryn Greiner, Robert Ho and Fabian Marsden.

At the commencement of business at 6.01pm those present were -

Councillors Coulton, Greiner, Ho, Marsden, and Turnbull.

Apology

Councillor Nick Farr-Jones extended his apologies for his inability to attend the Meeting of the Planning Development and Transport Committee as he was interstate on business.

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That the apology from Councillor Farr-Jones 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:

4. Stage 1 Development Application: 110 Goulburn Street (Australian Federal Police Building) Sydney
2. Development Application: 4 Dalley Street, Sydney
3. Development Application: Washington H Soul Pattinson Building, 158-160 Pitt Street, Sydney
1. Progress Report on Development Applications

The meeting of the Planning Development and Transport Committee concluded at 6.23 pm.

Report of the Committee

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That the Report of the Planning Development and Transport Committee of its meeting of Monday 2 December 2002 be received, and the recommendations set out below for Items 5.1 and 5.2 be adopted, with Items 5.3 and 5.4 being noted.

Carried.

The Committee recommended the following:-

PART "A" - DETERMINED BY COUNCIL

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

5.1

That the report by the Manager Development to the Planning Development and Transport Committee on 2 December 2002, in regard to the Progress Report on Development Applications for the month of October 2002, be received and noted.

Carried.

DEVELOPMENT APPLICATION: 4 DALLEY STREET, SYDNEY (D2002/00502)

5.2

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 2 December 2002 in relation to Development Application D2002/00502 made by Dalley Street Pty Ltd for the site at 4 Dalley Street, Sydney, it be resolved that:

- (A) the subject report be received and noted;
- (B) the views expressed in the subject report be endorsed;
- (C) the applicant be advised of the concerns outlined in the subject report and be advised to withdraw the development application or submit a significantly amended proposal within seven (7) days; and
- (D) should the development application not be withdrawn or significantly amended within seven (7) days of the applicant being notified, authority be delegated to the General Manager to determine the application, in consultation with the Chair of the Planning Development and Transport Committee.

Carried.

Note - Mr Chris Ruhle addressed the meeting of the Planning Development and Transport Committee on Item 5.2.

PART "B" - DETERMINED BY THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE UNDER DELEGATED AUTHORITY

The Planning Development and Transport Committee recommended that Council note that Items 5.3 and 5.4 were determined by the Planning Development and Transport Committee under delegated authority.

Carried.

DEVELOPMENT APPLICATION: WASHINGTON H SOUL PATTINSON BUILDING, 158-160 PITT STREET, SYDNEY (D2002/00485)

5.3

Moved by Councillor Greiner, seconded by Councillor Turnbull -

That arising from consideration of a report by the Specialist Planner to the Planning, Development and Transport Committee on 2 December 2002 in relation to Development Application D2002/00485 made by Project Control Group Pty Ltd for the site at 158-160 Pitt Street, Sydney (Soul Pattinson) for refurbishment and conservation works and the award of Heritage Floor Space, 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. D2002/00485 dated 22 July 2002 and the Statement of Heritage Impact dated November 2002 prepared by Paul Rappoport Architect Pty Ltd and drawings numbered DA01 to DA04 (inclusive), DA11 to DA14 (inclusive), DA21 and DA22, all issue B and dated 4 November 2002, DA31 and DA32, both issue A and dated 30 October 2002, DA41 issue A dated 28 October 2002, DA42 issue A dated 4 November 2002, all prepared by Project Control Group Pty Ltd, drawings HSK-01 to HSK-04 all issue A and dated 4 November 2002, MSK-003 issue D, MSK-004 issue C and MSK-005 issue B, all dated 4 November 2002 and all prepared by ARUP Building Services, and as amended by the following conditions:

PROTECTION OF SIDE AND REAR ELEVATION WINDOWS

- (2) All windows less than 3.0 metres from a side or rear allotment boundary must be protected against the spread of fire from an adjoining property in accordance with the Performance Requirement CP2 of the Building Code of Australia if development on an adjoining property would allow the spread of fire between buildings by radiant heat flux as determined by a qualified fire safety engineer. A covenant to the approval of Council is to be placed on the title to this effect. Evidence of the creation of the covenant is to be submitted prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

Note: The covenant will be noted on the Section 149 Certificate for the site so burdened by this condition.

VEHICULAR SERVICING

- (3) The Council may within five years of the date of this consent direct the applicant in writing to provide a breakthrough and/or a service connection to the loading/unloading areas within the "Glasshouse" or "Skygarden" complex. The applicant must promptly provide that breakthrough and/or service connection to the satisfaction of Council at its own cost. The breakthrough and/or service connection must be of sufficient size to allow the servicing of the subject development via the loading/unloading areas nominated by Council within the "Glasshouse" or "Skygarden" complex. A positive covenant to this effect in terms approved by Council is to be placed on title prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

Note: This positive covenant will be noted on the Section 149 Certificate for the site.

- (4) Until such time as the breakthrough and/or service connection referred to in Condition (3) is provided and operating, alternative arrangements, such as the use of the loading dock and storage area of No. 400 George Street, shall be provided and maintained to the satisfaction of Council, to enable the off-street vehicular servicing of the development. Transfer of goods between the two properties shall be by hand only and shall not occur between the hours of 9.00am to 4.00pm daily.

APPROVED DESIGN ROOF-TOP PLANT

- (5) All roof-top plant and associated equipment shall be located within the approved building envelope, which includes roof-top plant rooms, parapets and screening devices. In satisfying Building Code of Australia provisions relating to such services, should the plant exceed the approved building envelope, then further approval is required from the consent authority.

AWARD OF HERITAGE FLOOR SPACE

- (6) The owner may be awarded 2,175sqm of heritage floor space under the provisions of the Central Sydney Local Environmental Plan 1996, if the elements set out in the following clauses are satisfied:-
- (a) The owner shall complete the conservation work approved by this development consent and future Construction Certificates under the Environmental Planning and Assessment Act 1979, prior to the registration of such heritage floor space (HFS) in Council's Heritage Floor Space Register;
 - (b) The owner shall enter into a deed with Council and register any required covenants on the title of the land on the completion of the conservation works to:-
 - (i) ensure the continued conservation and maintenance of the building; and
 - (ii) limit any future development of the site to the total area of the conserved building, which has a FSA of 1,190sqm.
 - (c) All legal documentation shall be prepared by Council's solicitor. The cost of preparation and registration of all documentation must be borne by the owner.
 - (d) The owner will only be registered as the owner of 2,175sqm of heritage floor space following the completion of paragraphs (a) - (c) of this condition.
 - (e) On the satisfactory completion of (a) - (c) above, and on application to Council, the owner will be issued with a letter of registration of HFS.

PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

- (7) Archival recording for deposit in the City of Sydney Archives must be carried out prior to the removal of any significant building fabric or furnishings from the site, during the removal of fabric on site that exposes significant building fabric or furnishings, and after work has been completed on site, as considered appropriate by the 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.
- (8) The form of recording is to be as follows:-
- (a) 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.

PROPOSED WORKS NOT TO CAUSE DAMAGE TO HERITAGE ITEM

- (9) The proposed works are to be carried out in a manner that minimises demolition, alterations, new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.

PROVISION OF SERVICES IN HERITAGE BUILDING

- (10) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.

USE OF CONSERVATION ARCHITECT

- (11) The applicant is to commission an experienced conservation architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

USE OF EXPERIENCED TRADEPERSONS

- (12) The applicant is to commission experienced tradespersons (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works.

INTERPRETATION STRATEGY

- (13) Prior to the issue of a Construction Certificate an Interpretation Strategy for the site must be submitted to and approved by the Director City Development and Projects.
- (14) The Interpretation Strategy should include, but is not limited to, the provision of details, of public art interpretation through design and/or the display of selected artefacts and/or other material, appropriate to the education of the public in the history and significance of the site.
- (15) The approved Interpretation Strategy shall be implemented to the satisfaction of the Director City Development and Projects prior to the registration of Heritage Floor Space.

SHOPFRONT DETAILS

- (16) Details of the proposed shopfronts and clerestorey glazing are to be provided and approved by the Director City Development and Projects prior to the issue of a Construction Certificate.

MATERIALS AND FINISHES

- (17) Details and samples of the proposed new materials and finishes are to be provided and approved by the Director City Development and Projects prior to the issue of a Construction Certificate.

INTERNAL PARTITIONS NOT TO ABUT WINDOWS

- (18) Where internal partitions meet external walls they shall abut window mullions, columns or other such building elements and not glazing.

ARCHEOLOGICAL INVESTIGATION

- (19)
- (a) Should any historical relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
 - (b) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

REPORTS TO BE COMPLIED WITH

- (20) The development shall be in accordance with the recommendations of the Statement of Heritage Impact prepared by Paul Rappoport Architect Pty Ltd dated November 2002.
- (21) The development shall be in accordance with the recommendations of the Conservation Management Plan prepared by Paul Rappoport Architect Pty Ltd dated November 2002.

SECTION 61 CONTRIBUTION & ITEMISED QUANTITY SURVEYORS' REPORT

- (22) Prior to the release of the construction certificate evidence must be provided that a levy has been paid to the Council pursuant to section 61 of the City of Sydney Act and in accordance with this condition.
- (23) The levy must be 1% of the cost of the proposed development calculated in accordance with the methods and procedures set out below.

- (24) The proposed development the cost of which is subject to the levy shall ONLY exclude cost of land, marketing expenses (excluding display suites etc), finance & interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment & loose electrical appliances, minor maintenance of existing retained fixtures (eg. patching, repainting) and stamp duty.
- (25) The person seeking to make payment pursuant to this condition must submit to the Council:-
- (a) a certificate from a registered quantity surveyor which states:
 - (i) that the quantity surveyor has inspected:
 - a. the plans the subject of the application for construction certificate;
 - b. all bills of quantities;
 - c. lists all the matters listed in Condition 24 above and itemises all estimates in relation to these matters;
 - (ii) certifies in an itemised report, the estimated costs of the development of all matters as set out in Condition 24 above;
 - (b) copies of all the things referred to in the certificate, including the things the quantity surveyor has inspected.
- (26) The Council will consider the documentation submitted under Conditions 24 and 25 and determine the cost of the proposed development having regard to the matters submitted and to such other matters as it considers appropriate and will notify the person accordingly.
- (27) The amount notified by the Council pursuant to Condition 26 is the amount payable under this condition prior to the release of the Construction Certificate.
- (28) 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.

BUILDING NAME

- (29) Any change to the name of the building is to be subject to the approval of Council.

SIGNS

- (30) 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.

GENERAL BUILDING CODE OF AUSTRALIA REQUIREMENTS

- (31) The building sprinklers shall comply with Australian Standard 2118 with fast response heads.
- (32) The building smoke detection system shall comply with Australian Standard 1670.
- (33) Emergency lighting and exit signs shall meet the deem to satisfy provisions of the Building Code of Australia.

Schedule 1B**Conditions to be complied with prior to issue of Construction Certificate to the satisfaction of the Certifying Authority**

- (34) 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.

PUBLIC ART

- (35) 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.

RECEPTACLES FOR CIGARETTE BUTTS

- (36) Provision must be made on the site, adjacent to the entrance/s to the building, for an adequate number of receptacles for the disposal of cigarette butts. Prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, the location and design of the receptacle/s must be approved by Council. The receptacle/s must:-
 - (a) be located entirely on private property and must not be located on or over Council's footpath;
 - (b) not obstruct any required means of egress or path of travel from the building required by the Building Code of Australia;
 - (c) not obstruct any required access/egress path for people with disabilities;
 - (d) be appropriately secured to the building;

- (e) the emptying and maintenance of the receptacle/s is the responsibility of the building owner/manager and will not be undertaken by Council; and
- (f) emptying of receptacle/s must be carried out on a daily basis.

ACCESS AND FACILITIES FOR PEOPLE WITH DISABILITIES

- (37) 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.

GLAZING

- (38) All external glazing in the development must be clear and untinted.
- (39) 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.

PAVING MATERIALS

- (40) The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like 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.

LETTER TO VERIFY SUPPORT FOR NEW LOADS

- (41) For alterations and additions to an existing building, a letter from a qualified practising structural engineer (NPER) or a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act 1979) shall be attached to the Construction Certificate Application. The letter must state that the existing structure is adequate to support the new loads and that the design will comply with the relevant Australian Standards adopted by the Building Code of Australia (Specification A1.3).

STORMWATER AND DRAINAGE

- (42) Certification that stormwater will be disposed from the site in accordance with Council's standard requirements shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate under Local Environmental Planning and Assessment Act 1979.

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 DETAILS

- (43) Prior to the commencement of demolition work, the details including plans and elevations showing distances of the subject building from the site boundaries, locations of common/party walls, and (where applicable) proposed method/s of facade retention must be submitted 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).

APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (44) 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.
 - (d) If the hoarding or scaffolding impedes the sightline of any close circuit television camera/s, the relocation of such camera/s to a position within the hoarding or scaffolding or other position as directed by Council's Contracts and Access Management Unit, shall be met at the applicant's expense. Details of any close circuit television camera/s shall be indicated on any application for a hoarding and/or scaffolding.

APPLICATION FOR BARRICADE PERMIT FOR ENCLOSURE OF A PUBLIC PLACE REQUIRED FOR CONSTRUCTION/BUILDING WORKS

- (45) Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

WASTE MANAGEMENT DURING DEMOLITION AND EXCAVATION

- (46) 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.
- (47) 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.
- (48) 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.

- (49) 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.

Schedule 1D

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

CITY OF SYDNEY COMPLIANCE INSPECTIONS

- (50) 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 Council considers it 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 without a partial or final Occupation Certificate, and to check compliance with conditions of development consent and the BCA.
 - (d) In the event that a Principal Certifying Authority (PCA) other than Council is appointed, written notice shall be given to Council (whether by the developer, builder or other person relying on the development consent) on each of the following occasions:
 - (i) Within 7 days of installation of services, such as plumbing, mechanical ventilation and the like which penetrate fire rated walls and slabs (excluding basement areas); 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) The PCA shall be advised in writing (whether by the developer, builder or other person relying on the development consent) of Council's requirements pursuant to paragraph (d).
- (f) 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.

HOURS OF WORK AND NOISE

- (51) The hours of construction and work on the development shall be as follows:
- (a) All work, including demolition, excavation and building work in connection with the proposed development must only be carried out between the hours of 7.00 a.m. and 7.00 p.m. on Mondays to Fridays, inclusive, and 7.00 a.m. and 5.00 p.m. on Saturdays, 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 Code of Practice for Construction Hours/Noise 1992" and Australian Standard 2436-1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.
 - (c) Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96(2) of the Environmental Planning and Assessment Act 1979.

SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

- (52) 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, building approval (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.

PROTECTION OF STREET TREES DURING CONSTRUCTION

- (53) 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.

NO OBSTRUCTION OF PUBLIC WAY

- (54) 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.

CONTROL OF RUNOFF

- (55) 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.

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

- (56) 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.

VENTILATION SYSTEMS TO COMPLY WITH PUBLIC HEALTH REQUIREMENTS

- (57) The premises must be ventilated in accordance with the Building Code of Australia and Council's Ventilation Code.

NUMBERING

- (58) 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.

Schedule 1F

Conditions to be complied with during the use of Premises

REMOVAL OF GRAFFITI

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

NO SPRUIKERS OR AMPLIFIED NOISE

- (60) No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property. Furthermore, the sound level of any spruiking or amplified noise generated within privately owned land must not be audible on Council's footpath adjoining the subject premise.

NOISE - USE

- (61) 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

- (62) 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) 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) 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.

CARE OF BUILDING SURROUNDS

- (63) In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the building shall ensure that the forecourt and the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.

ALARM TO BE FITTED WITH TIMING DEVICE

- (64) 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.

Schedule 2

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

Carried.

STAGE 1 DEVELOPMENT APPLICATION: 110 GOULBURN STREET (AUSTRALIAN FEDERAL POLICE BUILDING) SYDNEY (D02/000604)

5.4

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 2 December 2002 in relation to Development Application D2002/00604 made by Kinder Investments Pty Ltd at the site at 110 Goulburn Street for a stage 1 development application under Section 80 (4) of the Environmental Planning and Assessment Act 1979 to extend the existing 12 level commercial office building by 8 floors including ground level works and façade upgrade, it be resolved that:-

- (A) approval be granted pursuant to clause 48(2) of Central Sydney Local Environmental Plan 1996 for retention of the existing quantum of car parking on the site (ie. 156 spaces) within a subsequent Stage 2 Development Application subject to the submission of a Traffic and Transport Assessment on the Stage 2 development on the basis that the Australian Federal Police are retained as the building's main tenant.

(B) consent be granted subject to the following conditions:-

APPROVED DEVELOPMENT

- (1) The Stage 2 development application must be in accordance with Development Application No. D2002/00604 dated 4 September 2002 and the Statement of Environmental Effects prepared by City Plan Services titled “Australian Federal Police Building Stage 1 Development Application” and drawings numbered DA01 to DA12 Issue A prepared by Kahn Finch Group dated September 2002 for Kinder Investments Pty Ltd and as amended by the following conditions.
- (2) This approval will be valid for a period of two years from the date of the approval.
- (3) No construction shall commence in relation to this stage 1 development application until a stage 2 development application is approved and a construction certificate issued in respect of the substantive building.

COMPETITIVE DESIGN PROCESS

- (4) The Stage 2 development application shall reflect and enhance the design principles of the competitive process undertaken to-date so as to facilitate design excellence in accordance with the provisions of Clause 28D of the Central Sydney Local Environmental Plan 1996.

MATERIALS AND FINISHES

- (5) The design details of the proposed building’s facade treatments including all external finishes and colours, including glazing must be submitted with the Stage 2 development application.

DESIGN DEVELOPMENT

- (6) The following matters shall be addressed in the design development of the proposal:-
 - (a) The provision of a minimum 3 metres setback to the Nithsdale Street frontage of the site to new work (above RL68.55) to achieve modulation of this facade, enhance views from adjoining buildings and improve street level conditions.
 - (b) The detailing of the eastern lift core and element that wraps around the building so as to improve its visual quality to avoid the creation of an expansive blank wall.
 - (c) The sympathetic modelling and detailing of the building’s Goulburn Street facade to reflect adjoining podium heights and building articulation as illustrated in the Urban Contextual Design Analysis prepared by The Kahn Finch Group.

- (d) The detailed design of the Nithsdale Lane through site linkage and the rear building to better activate or provide surveillance of the adjoining pedestrian link and Nithsdale Lane area.
- (e) Active uses to the site's Goulburn Street, Alberta Street and Nithsdale Lane pedestrian link in accordance with clause 2.5 of Central Sydney Development Control Plan 1996.
- (f) The provision of loading facilities in accordance with clause 5.4 of Central Sydney Development Control Plan 1996.
- (g) Bicycle and motor cycle parking in accordance with clause 5.5 and 5.6 of Central Sydney Development Control Plan 1996.
- (h) Details of the passive and active measures proposed in the building to address Council's energy efficiency requirements in accordance with clause 4.3 of Central Sydney Development Control Plan 1996. In particular the Stage 2 building should be designed to achieve a 4.5 Star SEDA energy efficiency rating.

MIDBLOCK LINK

- (7) The proposed pedestrian link from Nithsdale Street to Nithsdale Lane shall be developed prior to the submission of the stage 2 application to provide for:-
 - (a) The midblock connection shall comply with the provision of part 3.2 of Central Sydney Development Control Plan 1996, such that its width shall be expanded to 4.5 metres.
 - (b) The details of the landscape materials to be used in the link shall be provided at Stage 2 and be durable and high-quality.
 - (c) The link shall be designed to provide a continuous sense of the public domain around the site.
 - (d) Development over the link shall provide a minimum 2 storey void over the link and not be overbearing to this space.
 - (e) Active uses to and/or surveillance of the link and Nithsdale Lane area shall be improved.

TRAFFIC AND CAR PARKING

- (8) A Traffic and Transport Report on the stage 2 development shall be submitted with the Stage 2 development application. This report shall be prepared by a suitably qualified traffic/transport professional and provide for an analysis of existing traffic and transport conditions in the locality of the site and appropriateness of the level of car parking to be retained given redevelopment of the site proposed. The findings of this report, where appropriate, shall be incorporated into the Stage 2 development application.

- (9) The number of car parking spaces on the site shall not exceed those existing (ie. 156 spaces) having regard to upgrading of the car park to comply with Building Code of Australia and Australian Standards (see conditions below) and retention of the Australian Federal Police as the major tenant of the building.
- (10) The car park shall be upgraded (where appropriate) to comply with Australian Standards AS 2890.1 – 1993 and AS 2890.2 – 1989.
- (11) Car spaces adjacent the car park exit stairs in the basement levels shall be deleted.
- (12) All on-site parking shall be used for tenant parking or operational purposes concerning the main building's tenant only.

FLOOR SPACE RATIO

- (13) The following applies to Floor Space Ratio:-
 - (a) The Floor Space Ratio of the proposal must not exceed 12.03:1 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 25,004 sqm.
 - (b) An allocation of heritage floor space will apply to the development (the exact quantum to be determined prior to determination of the stage 2 development application).
 - (c) Survey plans showing the site area relied upon and floor plans showing areas included as floor space shall be submitted with the stage 2 development application
 - (d) Concessions and exemptions sought at this stage in respect to floor space are not approved and shall be confirmed within the stage 2 development application.

BUILDING HEIGHT

- (14) The height of the building (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 110 (AHD).

BUILDING ENVELOPE

- (15) The building envelope is only approved on the basis that the ultimate building design will be wholly contained within the envelope and provide an appropriate relationship with neighbouring buildings. In this regard the stage 2 development application should demonstrate consistency with the objectives and provisions of the Central Sydney LEP and DCP 1996.

PUBLIC DOMAIN PLAN

(16) 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 with the stage 2 development application.
- (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.

The Public Domain Plan shall provide details of:-

- (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, such landscaping and tree selection to be determined by the Director City Development and Projects.
- (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.
- (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.

WIND ASSESSMENT

- (17) The Stage 2 development application is to provide a full wind assessment report based on wind tunnel tests. The design of the building is to fully address all wind amelioration issues arising out of the wind report having regard to issues of urban design and heritage.

BUILDING CODE OF AUSTRALIA MATTERS

- (18) Discharge of exits to Alberta Street shall meet the requirements of BCA Part D.
- (19) Exit travel distances in the ground floor lobby shall meet the requirements of BCA Part D.
- (20) Egress from the mid and upper level plant rooms shall comply with BCA Part D. Egress from the roof terrace shall meet the requirements of BCA Part D.
- (21) Access to the Fire Control Room shall meet the requirements of BCA Part E.

- (22) Each of the floors served by a passenger lift shall be served by an Emergency lift as required by BCA Part E.

DETAILS OF ACCESS FOR PEOPLE WITH DISABILITIES

- (23) The Stage 2 development application must demonstrate access and facilities for people with disabilities in accordance with Part D3 of the Building Code of Australia and Council's Access Policy.

EXTERNAL LIGHTING

- (24) Details shall be provided with the Stage 2 development application which identifies the number, type, size, design luminosity and location of lighting in relation to the exterior of the building and public spaces.

WASTE MANAGEMENT

- (25) The stage 2 development application shall ensure that the design of the building and the method of storage and handling of waste and recyclable material comply with Council's Code for Waste Handling in Buildings (adopted 17 October 1994). The Code requires the submission of a Waste Management Plan.

TRAFFIC AND ACCESS REQUIREMENTS

- (26) All costs of traffic management measures associated with the development shall be borne by the developer.

SECTION 61 CONTRIBUTION & ITEMISED QUANTITY SURVEYORS' REPORT

- (27) Prior to the release of the construction certificate evidence must be provided that a levy has been paid to the Council pursuant to section 61 of the City of Sydney Act and in accordance with this condition.
- (28) The levy must be 1% of the cost of the proposed development calculated in accordance with the methods and procedures set out below.
- (29) The proposed development the cost of which is subject to the levy shall ONLY exclude cost of land, marketing expenses (excluding display suites etc), finance & interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment & loose electrical appliances, minor maintenance of existing retained fixtures (eg. patching, repainting) and stamp duty.

- (30) The person seeking to make payment pursuant to this condition must submit to the Council:-
- (a) a certificate from a registered quantity surveyor which states:
 - (i) that the quantity surveyor has inspected:
 - a. the plans the subject of the application for construction certificate;
 - b. all bills of quantities;
 - c. lists all the matters listed in condition 29 above and itemises all estimates in relation to these matters;
 - (ii) certifies in an itemised report, the estimated costs of the development of all matters as set out in condition 29 above;
 - (b) copies of all the things referred to in the certificate, including the things the quantity surveyor has inspected.
- (31) The Council will consider the documentation submitted under condition Nos 29 and 30 and determine the cost of the proposed development having regard to the matters submitted and to such other matters as it considers appropriate and will notify the person accordingly.
- (32) The amount notified by the Council pursuant to condition 31 is the amount payable under this condition prior to the release of the Construction Certificate.
- (33) 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.

Schedule 2

The prescribed conditions in accordance with Clause 78 of the Environmental Planning and Assessment Regulation 1998 apply to the development.

Carried.

Note - Mr John Roth addressed the meeting of the Planning Development and Transport Committee on Item 5.4.

ITEM 6. AMENDMENT TO CENTRAL SYDNEY SECTION 61 CONTRIBUTIONS PLAN - WORKS PROGRAM UPDATE & PROCEDURAL AMENDMENTS (S000247)

Moved by Councillor Turnbull, seconded by Councillor Ho -

That arising from consideration of a report by the Manager Building Services and Planning Policy to Council on 9 December 2002, concerning the proposed Amendments to the Central Sydney Section 61 Contributions Plan - Works Program Update and Procedural Amendments, it be resolved that Council -

- (A) endorse the proposed amendments as set out in Attachment A to the subject report, and as further amended at the meeting of Council, and refer the Draft Plan to the Minister for Planning for his concurrence, as required under Section 61(5) of the City of Sydney Act 1988;
- (B) authority be delegated to the Lord Mayor under clause 31(1) of the Environmental Planning and Assessment Regulation 2000, after the granting of concurrence by the Minister for Planning.

Carried unanimously.

ITEM 7. LIVERPOOL STREET - EASTERN DISTRIBUTOR TRAFFIC MANAGEMENT PROPOSAL (S006586)

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Manager Traffic and Access to Council on 9 December 2002, in relation to Liverpool Street - Eastern Distributor Traffic Management Proposal, it be resolved that: -

- (A) Council not support the proposed road closures of Liverpool Street and Francis Street as contained in the recommendations for the Whitlam Square Local Area Traffic Management Study commissioned by the Roads and Traffic Authority, as it is not in the interests of pedestrian and public safety or local amenity;
- (B) Council adopt the preferred scheme for Liverpool Street at Whitlam Square, which involves the creation of a pedestrian plaza in conjunction with kerb channelisation and footway widening at the intersection of Liverpool Street with Oxford Street, whilst at the same time maintaining vehicular access from Oxford Street into Liverpool Street.

Carried unanimously.

**ITEM 8. BICYCLE COURIERS - ACCORD AND CODE OF CONDUCT
(S010317)**

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Road Safety Officer to Council on 9 December 2002, on the Bicycle Courier Accord and Code of Conduct, it be resolved that:

- (A) Council approve and adopt the Bicycle Courier Accord, as shown at Attachment A to the subject report, as amended at the meeting of Council at clause 2.6 of Appendix 1, and delegate authority to the General Manager to make any minor amendments required as part of the implementation phase; and
- (B) the Road Safety Officer implement the Accord, in consultation with the Office of the Lord Mayor and the Office of the General Manager, including launch and liaison with other agencies.

Carried unanimously.

**ITEM 9. INVESTMENTS HELD BY COUNCIL AS AT 30 NOVEMBER 2002
(S02-0960)**

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 9 December 2002, on Investments Held by Council as at 30 November 2002, it be resolved that the report be received and noted.

Carried.

**ITEM 10. POLICY ON PROSECUTION AND ENFORCEMENT PRIORITIES
(S022349)**

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

That arising from consideration of a report by the City Prosecutor to Council on 9 December 2002, on Policy on Prosecution and Enforcement Priorities, it be resolved that Council adopt the Policy on Prosecution and Enforcement Priorities as shown at Attachment A to the subject report, as amended at the meeting of Council.

Carried unanimously.

Note - the Prosecution and Enforcement Priorities Policy, as adopted by Council, is as follows:

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

Compliance and Prosecution Group

In August 2002 the City established a new Compliance and Prosecution Group under the management of the Executive Director, Compliance and Prosecution (City Prosecutor).

The City Prosecutor is directly responsible for the management of the Group including existing City staff employed in Law Enforcement, Parking Enforcement, Building Regulation and Compliance, Environmental Health, Security and CCTV.

The Group is intended to significantly enhance the City's capacity to achieve compliance with its lawfully exercised powers and responsibilities, by way of an enhanced capability to prosecute, initiate legal actions and enforce orders, where deemed necessary to do so.

The enhanced compliance and prosecution function is intended to influence a positive change to the amenity of the City's local government area, including in respect to the behaviour in and around licensed premises, brothels, restricted premises, restaurants, places of entertainment and any other relevant businesses or premises where the public tends to congregate and the potential for anti-social behaviour exists or the health and safety of the public may be in issue.

The City Prosecutor will determine, in consultation with the General Manager, which matters referred from the Group should be prosecuted in court and which other legal action should be initiated in the public interest and in accordance with Council policy. The General Manager must consult with the Lord Mayor in respect to any proposed legal action that may have substantial policy and/or cost implications for Council. The City Prosecutor will pursue matters directly in court wherever possible, however the engagement of external lawyers will continue to be considered, where appropriate, on a case by case basis. The Group's staff will also be provided with the necessary training and support to pursue prosecutions themselves where deemed appropriate.

This Policy addresses issues in respect of which enunciation is desirable relating to decisions to prosecute. It is anticipated that as the City Prosecutor continues to operate there will be other specific issues that will need to be addressed through policies.

1. Principal Legislation

The following legislation is enforced, fully or partially, by the Compliance and Prosecution Group;

- Local Government Act 1993
- Protection of Environment Operations Act 1997
- Environmental Planning and Assessment Act 1979
- Liquor Act 1982

and various other Acts.

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

2. Principles of Prosecution

The purpose of this policy is to identify for the benefit of the public, including those within the regulated community, and other prosecutorial organisations:

- (a) The basis on which the City will make a decision to prosecute;
- (b) The factors to be taken into account in deciding which persons are the appropriate defendants;
- (c) The factors to be taken into account in deciding which charges to lay;

This Policy is not legally binding on the City or any other organisation. It reflects the current policies of the City. Those policies will be kept under review and any changes will be notified publicly.

3. The Decision to Prosecute

3.1 The basic pre-requisite of any prosecution is that the available evidence establishes a prima facie case. However, not every suspected breach can or should be prosecuted and the dominant factor in the exercise of that discretion is public interest. Prosecution will be used, therefore, as part of the City's overall strategy for achieving its objectives. Each case will be assessed to determine whether prosecution is the appropriate strategic response. It will be used as a strategic response where it is in the public interest to do so.

Factors to be considered

3.2 Factors which alone or in conjunction arise for consideration in determining whether the public interest requires a prosecution include:

- (a) The seriousness or, conversely, the triviality of the alleged offence or that it is a 'technical' nature only;
- (b) The harm or potential harm to the environment, health, safety or amenity caused by the offence;
- (c) Any mitigating or aggravating circumstances;
- (d) The degree of culpability of the alleged offender in relation to the offence;
- (e) The availability or efficacy of any alternatives to prosecution;
- (f) Whether the offender had been dealt with previously by non-prosecutorial means;
- (g) Whether the breach is a continuing or second offence;

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

- (h) Whether the issue of Court orders are necessary to prevent a recurrence of the offence;
 - (i) The prevalence of the alleged offence and the need for deterrence, both specific and general;
 - (j) The length of time since the alleged offence;
 - (k) The age, physical or mental health or special infirmity of the alleged offenders or witnesses;
 - (l) Whether there are counter-productive features of the prosecution;
 - (m) The length and expense of a Court hearing;
 - (n) The likely outcome in the event of conviction having regard to the sentencing options available to the court;
 - (o) Any precedent which may be set by not instituting proceedings;
 - (p) Whether the consequences of any conviction would be unduly harsh or oppressive; and
 - (q) Whether proceedings are to be instituted against others arising out of the same incident.
- 3.3 The City adopts the cardinal principle that a prosecution must not be brought for improper purposes. A decision whether or not to prosecute will not be influenced by:
- (a) any elements of discrimination against the person e.g. race, nationality, political associations;
 - (b) personal empathy or antipathy towards the offender; or
 - (c) the political or other affiliations of those responsible for the prosecution decision.

4. Selecting The Appropriate Defendant

- 4.1 In regulatory offences, it will often be the case that more than one person may be liable for prosecution arising out of one incident. However, it is not always appropriate to prosecute every person who may be liable for an offence.
- 4.2 In addition to the factors set out in 3.2 above, there are some further considerations that may be taken into account in determining the appropriate defendant/s. These are:

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

- (a) Who is primarily responsible for the alleged offence, that is, who was primarily responsible for the acts or omissions giving rise to the alleged offence or the material circumstances leading to the alleged offence or who formed any relevant intention;
- (b) In relation to the matters set out in (a) above, what was the role of the proposed defendant; and
- (c) The effectiveness of any Court orders that might be made against the proposed defendant.

4.3 Corporate Liability

The law imposes liability on corporations as well as individuals. Where an offence is committed by employees, agents or officers of a corporation in the course of their employment, proceedings will usually be commenced against the corporation. Where, however, the offence has occurred because the employee, agent or officer has embarked on a venture of their own making and volition, outside the scope of their employment, proceedings may be instituted against the employee, agent or officer and not against the corporation. Another factor which will be considered is the existence and effective implementation of any compliance programs of the corporation.

4.4 Employees' Liability

The guiding principle in deciding whether to charge an employee is the degree of culpability involved. Factors relevant to assessing the degree of culpability include:

- (a) Whether the employee knew or should have known that the activity in question was illegal;
- (b) The seniority of the employee and the scope of the employee's employment duties; and
- (c) Whether, having regard to the employee's seniority and employment duties. The employee had taken reasonable steps to draw to the attention of the employer or any other relevant person the impropriety of the practice.

An employee who, in good faith, followed a specific management procedure would not normally be prosecuted for an offence occasioned by following that procedure.

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

5. Charges

5.1 The charge or charges laid must reflect adequately the nature and extent of the conduct disclosed by the evidence with the aim of providing a basis for the Court to impose an appropriate penalty.

5.2 Charge-bargaining

‘Charge-bargaining’ involves negotiations between the defence and the prosecution in relation to the charges which will proceed to hearing. As a result of these negotiations, the defendant may opt to plead guilty to fewer than all the charges initially laid, or to a lesser charge or charges, in return for the prosecution offering no evidence on the remaining charges. However, if appropriate charges are laid initially there is little scope for charge-bargaining and hence there will be only limited circumstances where bargaining will be considered.

A charge-bargaining proposal will not be entertained by the City unless:

- (a) The remaining charges reflect adequately the nature of the conduct of the defendant; and
- (b) Those charges provide the basis for an appropriate sentence in all the circumstances of the case.

6. Offences Against the Protection of the Environment Operations Act 1997

In the case of offences against the Protection of the Environment Operations Act 1997, the EPA Prosecution Guidelines will be applied as applicable and practicable.

7. Issuing Infringements Based Upon Reports From The Public

The power of an authorised officer to issue a penalty notice generally arises under the Act which creates the offence. Generally, the power is in terms identical to s679 (1) of the Local Government Act which states:

“An authorised person may serve a penalty notice on person if it appears to the authorised person that the person has committed an offence under this Act...being an offence prescribed by the regulations.”

An authorised officer should not issue a penalty notice without being satisfied that an offence appears to have been committed. However, this does not mean that the officer needs to have personally witnessed the offence. Objective evidence could be provided to the officer by a member of the public which makes it appear that an offence has been committed.

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

When assessing that evidence, the following guiding principles should be used:

- (a) An authorised officer who has not personally witnessed an offence may only issue an infringement if the officer is a Supervisor or Team Leader and has the approval of the City Prosecutor.
- (b) The evidence must be supported by a statutory declaration or affidavit of the witness confirming the circumstances of the offence and confirming that the witness will attend court to give evidence if necessary.
- (c) It must be apparent to the officer from the objective evidence such as photographs or similar that the offence was committed. It will not be sufficient if a member of the public witnesses an offence and is prepared to give oral evidence because that person is not an authorised officer.
- (d) The authorised officer needs to take care when assessing the credibility of the evidence. In particular, there needs to be consideration of whether the witness has a particular motive for reporting the alleged offence, such as a neighbourhood dispute, a competing business or being part of a special interest group which may unfairly target sections of the community contrary to paragraph 3.3 above or infringes upon the City's sole right to set enforcement priorities and/or to exercise its lawful discretions in an unfettered manner. Care also needs to be taken as commonly the witness will not have training or experience in reporting infringements.
- (e) Authorised staff must not allow their powers to be used to pursue the agendas of external parties or interest groups. Nor should City enforcement priorities be de facto altered or diverted by the pursuit of infringement reports from external parties.

8. Enforcement Priorities

Notwithstanding the enforcement priorities listed below, the General Manager may from time to time direct that particular attention be given to certain enforcement areas for a specified period. Such direction shall be with the concurrence of the Lord Mayor or at the direction of Council.

Individual units within the group have enforcement priorities as listed below -

8.1 *Building Compliance*

- (a) Complaints relating to building safety or fire safety
- (b) Checking buildings which were occupied after private certification
- (c) Compliance with essential services certificates

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

- (d) Complaints or observations of unauthorised brothels
- (e) Checking licensed premises for breach of Place of Public Entertainment approvals
- (f) Unauthorised signs
- (g) Obstructions to footpaths

8.2 *Environmental Health*

- (a) Complaints relating to adulterated food
- (b) Legionella inspections
- (c) Swimming pools and spas
- (d) Food premises inspected
- (e) Temporary food premises also inspected
- (f) Skin penetration premises inspected
- (g) Boarding houses inspected
- (h) Hairdressers/Beauty Salons inspected

8.3 *Law Enforcement**Matters Requiring Immediate Response*

- (a) Emergency situations, (accidents, fire, serious crime)
- (b) Incidents affecting public safety or damage to property
- (c) Responding to complaints from the public or external agencies
- (d) Abandoned vehicles (causing obstruction or safety issue)
- (e) Companion animal (transport to pound)
- (f) Pollute Waters (individual and corporate)
- (g) Intentions and orders (other than arising from specific requests)

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

Other Priorities

- (h) Littering offences
- (i) Checking compliance with City permits
- (j) Building sites (noise, work out of hours – other than complaints)
- (k) Skateboarding (during school holidays – other than complaints)
- (l) On-street sellin
- (m) Parking enforcement (parks and open spaces)
- (n) Uncontainerised waste (other than complaints)
- (o) Footpath licences (other than complaints or target team)
- (p) Busking, spruiking and touting (other than complaints)
- (q) Companion animals (other than impounds)
- (r) Light traffic restrictions (other than complaints)
- (s) Investigation of permit parking issues (other than complaints)
- (t) Abandoned Vehicles (other than those causing an obstruction or safety issue)
- (u) Skateboarding (outside of school holidays – other than complaints)
- (v) Patrolling

8.4 Parking Enforcement

8.4.1 The principal purposes of parking enforcement undertaken by the City of Sydney are to:

- (a) Assist in ensuring the safety of pedestrians, drivers of motor vehicles and other road users
- (b) Ensure the equitable use of available parking spaces in a situation where demand is greater than supply
- (c) Ensure effective traffic flow within the LGA through enforcement of bus lanes, clearways and other zones as necessary

PROSECUTION AND ENFORCEMENT PRIORITIES POLICY

The secondary purposes of parking enforcement undertaken by the City of Sydney are to:

- (d) Enhance the City's on-street capability to identify service delivery, security threats and asset maintenance issues and report to Police where appropriate.

8.4.2 For parking purposes the LGA is divided into precincts. The precincts are categorised into five levels of priority depending upon access needs.

8.4.3 Major parking enforcement priorities:

- (a) Immediate response to emergency situations (accidents, fire, serious crime) acting within their own powers and/or under the direction of appropriate Authorities
 - (b) Pitt Street Mall
 - (c) Responding to complaints (red signs complaints are given the highest priority)
 - (d) Red sign offences
 - (e) Clearway offences (tow aways)
 - (f) Reporting signage and parking ticket machine problems
 - (g) Enforcement of ticket and permissive parking offences
 - (h) Joint operations with Department of Transport (against Taxis)
 - (i) Stolen vehicle checks
 - (j) Particular locations or particular target groups (e.g. Coaches) or particular offences (e.g. park on path or strip)
 - (k) Identifying counterfeit Mobility Parking Scheme Permits (and infringing the offending vehicle)
-

ITEM 11. POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE SUBJECT OF LEGAL PROCEEDINGS (S020547)

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

That arising from consideration of a report by the General Counsel to Council on 9 December 2002, on Policy on Legal Assistance for Councillors Who Are the Subject of Legal Proceedings, it be resolved that -

- (A) it be noted that the draft amendment to the Policy was placed on public exhibition for a period of 28 days;
- (B) it be noted that no comments were received following advertising of the proposal;
- (C) the Civic Office, Expenses and Facilities Policy be amended by the addition of clause 22.2, the Policy on Legal Assistance for Councillors Who Are the Subject of Legal Proceedings, as shown at Attachment C to the subject report.

Carried.

Note - clause 22.2, the Policy on Legal Assistance for Councillors Who Are the Subject of Legal Proceedings, as adopted by Council, is as follows:

POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE SUBJECT OF LEGAL PROCEEDINGS

Purpose

This policy is made under the Local Government Act 1993, especially sections 252 to 254 and 731, and having regard to the provisions of Department of Local Government circular to Councils number 00/22 dated 7 April 2000.

The policy identifies the circumstances in which the Lord Mayor, Deputy Lord Mayor and Councillors will be entitled to be indemnified or reimbursed in respect of their reasonable legal expenses of, and any other loss, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against them) ("Costs") in defending an action in defamation (or other action, such as for injurious falsehood, misleading or deceptive conduct under the Trade Practices Act 1974 (Cth) or Fair Trading Act 1987 (NSW) or negligent misstatement) arising from a public statement made by any of those persons in relation to their discharge of the functions of civic office or in the exercise and management of Council's functions.

This policy will constitute an amendment to Council's Civic Office, Expenses and Facilities policy.

Statement of Principles

This policy will only apply in respect of defamation proceedings, or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

The Councillors are the elected governing body of the City of Sydney. In discharging their civic, statutory and policy making functions, they may be required or requested to make public statements, which may be on matters of substantial controversy, and which may be critical of disparaging of, or adverse to the interests of, a third party.

To assist them to discharge their civic, statutory and policy making functions in that respect, and to ensure that they are able to exercise those functions fully, freely and robustly, if defamation proceedings or other proceedings against them are foreshadowed or commenced arising from such public statements, they should be entitled to be indemnified by Council for their Costs of responding to or defending such action, from the time such action is foreshadowed by the complainant. Such indemnity should be afforded automatically provided they have met a threshold test of propriety (set out in the Policy Statement below) to be applied and determined by the General Counsel.

POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE SUBJECT OF LEGAL PROCEEDINGS

The Lord Mayor of the City of Sydney plays a special role as a spokesperson in respect of the development of the City of Sydney and matters which affect the population of the City of Sydney and the greater Sydney area, in compliance with Council's Charter. Recognising the special role of the Lord Mayor, this policy provides for the Lord Mayor to be indemnified or reimbursed for his or her Costs of defending an action in defamation or other action in respect of all statements made in respect of all such matters, provided they otherwise meet the threshold criteria.

The role of Councillors under the Local Government Act 1993 is to direct and control the affairs of Council. In doing so, Councillors may have a duty to address Council and/or the public on matters of policy, the findings of reports, legal matters and other matters of controversy. This policy therefore provides for Councillors to be indemnified or reimbursed for their Costs of defending an action in defamation or other action in respect of all statements made in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor, provided they otherwise meet the threshold criteria.

To ensure that indemnity or reimbursement in respect of Costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

POLICY STATEMENT

General

Where proceedings have been foreshadowed or commenced against any of the Lord Mayor, the Deputy Lord Mayor and Councillors arising from a public statement or statements made or acts done by any of them, and, in the opinion of the General Counsel the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (i) The statement was made or the act was done in relation to discharging the functions of civic office;
- (ii) The Councillor concerned was acting in good faith; and
- (iii) The statement or the act in question was reasonable in the circumstances and not made or done maliciously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (i) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and

**POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE
SUBJECT OF LEGAL PROCEEDINGS**

- (ii) any other loss, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

in responding to or defending such proceedings PROVIDED THAT the amount of such indemnity or reimbursement shall be reduced by the amount of any moneys that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives - Required Procedure

1. The Councillor must, as soon as practicable, notify the General Counsel that there is a possibility of a claim against the Councillor. This notification must:
 - (a) be in written or electronic form;
 - (b) include all details concerning the possible claim; and
 - (c) include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2.
 - (a) If proceedings are threatened (and not commenced), the General Counsel must form a view as to whether the Three Criteria are satisfied, and must notify the Councillor concerned in written or electronic form.
 - (b) If the General Counsel considers that the Three Criteria are satisfied, the General Counsel may exercise the discretion to represent the Councillor concerned either through the Council's own legal unit, or through one of the Council's panel firms of solicitors as considered appropriate.
3. If proceedings are commenced, the General Counsel must promptly seek external legal advice as to whether the Three Criteria are satisfied, and must notify the Councillor concerned in written or electronic form.
4. If General Counsel:
 - (a) forms the view that the Three Criteria are not satisfied under clause 2(a);
or
 - (b) receives external legal advice under clause 3 (a) that the Three Criteria have not been satisfied,

the Councillor may request a review of that advice in accordance with this clause 4. The General Counsel must then seek an opinion as to whether the Three Criteria are satisfied from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Counsel and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

**POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE
SUBJECT OF LEGAL PROCEEDINGS**

5. If the Three Criteria are satisfied then the following procedure must be followed.
6. The Councillor concerned may nominate a legal practitioner that the Councillor considers should represent them. If the General Counsel considers that such representation is appropriate then the procedures in clause 9 must be followed.
7. If the General Counsel considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Counsel must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
8. In the event that a Councillor does not nominate a legal practitioner then the General Counsel must select a legal practitioner and the procedures in clause 9 must be followed.
9. The General Counsel must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Counsel sees fit including:
 - (a) terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - (b) accounts being considered and approved by the General Counsel prior to payment; and
 - (c) all instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Counsel.
10. Notwithstanding the provisions of paragraphs 2(b) and 9 above, once proceedings have actually been commenced then the procedures set out in paragraph 9 above must be followed.

(Note: The General Counsel should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by the Lord Mayor, or any Councillor or Council employee against any of the Lord Mayor and the Councillors, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

**POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS WHO ARE THE
SUBJECT OF LEGAL PROCEEDINGS**

- (a) the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- (b) the statement:
- (i) is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
 - (ii) is in accordance with the Local Government (Meetings) Regulation 1999 and Council's Code of Meeting Practice dated April 2001, as amended from time to time; and
 - (iii) does not breach any other law.
-

ITEM 12. QUESTIONS ON NOTICE

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

QUESTIONS WITHOUT NOTICE

REFURBISHMENT OF PHILLIP LANE (S018724)

1. By Councillor Greiner -

Question

Lord Mayor, I would like to ask about the refurbishment of Phillip Lane . You and I are both in receipt of correspondence from residents of the Astor building, because this has been an ongoing and difficult issue.

My question is: how long are we expecting the slip lane outside the Astor building, as it leads to Macquarie Street, to be blocked off, as it has been for about the last three weeks? I am hopeful that you will suggest that it is only a matter of another few days.

Answer by the Lord Mayor

Thank you Councillor Greiner. Mr Gallagher from the Owners' Corporation has written to seek advice on the current works, which arise from Lend Lease's rectification of the Aurora Place site.

My office has written to Mr Gallagher today undertaking full consultation once information is provided by Council officers tomorrow.

MONORAIL (S018724)

2. By Councillor Greiner -

Question

Lord Mayor, perhaps you have been misquoted, but there was a newspaper article concerning the introduction of the light rail through the centre of the City. You are quoted as saying that the light rail would be very beneficial, with which I think we would all agree, but a particular quote that stuck in my mind is that it will "phase out the Monorail".

I wasn't quite sure how one phased out the Monorail. Were you planning to remove it link by link or were you planning to remove it altogether to an alternate site? Perhaps you can explain to us what you meant by "phase out the Monorail". I just have this wonderful vision of the Monorail coming round the corner and stopping dead because the Lord Mayor has removed certain sections of the track from time to time. Perhaps you could elaborate?

Answer by the Lord Mayor

Councillor Greiner, I am fazed by the question. I don't remember saying that. All I can say is that I have always stated publicly, and I have been stating it for years, that because some people have become dependent on the Monorail, eventually when we end up with a robust and efficient light rail system and bus interchange, it may be that the Monorail becomes redundant. That is what I meant if I said anything like you have suggested. I don't remember saying "phase out". But its need will diminish.

It is probably a precursor to removing the Monorail that we need a light rail system in place, and I think we are all unanimous in that we would like to see the Monorail go, but it is not something that will happen in the short term.

NATIONAL DROUGHT RELIEF CAMPAIGN (S018726)

3. By Councillor Marsden -

Question

Lord Mayor, would you be able to provide an update on the Farmhand national drought relief campaign? I believe that Liverpool Council, Blacktown Council and some other Councils have made donations to the drought relief exercise pushed by the City.

Answer by the Lord Mayor

Thank you Councillor Marsden. I know that Councils within the Western Sydney Regional Organisation of Councils have raised a certain amount of money. Parramatta City Council had made enquiries because they were wanting to contribute more money. The City of Sydney is on the table with \$100,000 and we are prepared to increase that up to \$300,000 - if the total amount of the other 37 Councils exceeded \$100,000 we would match them.

I am not sure where it is up to. I have closed our offer as from 31 December 2002 because we can't keep that offer open forever. We have to plan financially, so our offer closes on 31 December.

Blacktown and Liverpool offered \$5,000 each. If the other 37 Councils had all offered \$5,000, we would be up for some more money. At the moment it is not looking like they will reach \$100,000 between them, which I think is a great pity.

COUNCIL'S BOUNDARIES - LITIGATION (S018727)

4. By Councillor Turnbull -

Question

Lord Mayor, could you please advise Council what the present status of the legal proceedings between the City of Sydney and South Sydney is?

Answer by the Lord Mayor

I congratulate the Deputy Lord Mayor for her keen interest, over a long period of time, in legal matters and issues relating to the City's well-being.

Council as of last week signed documents to conclude all the proceedings with South Sydney Council, which means there are four cases that are now no longer proceeding, that are finished.

There was an appeal we were lodging against South Sydney's rates decision, when they changed their rates. There was a case South Sydney was running against the City of Sydney's Plan of Management. There was a case they were running against us on contempt when they were trying to injunct us to stop us from adopting our Plan of Management. There was the case the City of Sydney was running to prevent South Sydney from selling \$120 million worth of property.

The net outcome is that all the matters have been settled and there are suitable and appropriate undertakings in relation to property, which means that that issue won't be going forward until the boundaries are resolved.

I think overall we end up missing out in terms of rate revenue we have lost in the short term but everything else has been resolved to our satisfaction.

TRAFFIC ACCIDENT - PARK STREET (S018729)

5. By Councillor Farr-Jones -

Question

Lord Mayor, I understand that there was a fatality last week on Park Street. I was wondering whether the Police report has been received and if it has, or when it is received, if it could be circulated to Councillors?

Answer by the Lord Mayor.

Yes, Councillor Farr-Jones. I have not received the final report but at the time I was advised that it involved a truck and that the driver might not have been aware of the accident. I'm not sure if details have been confirmed.

I am also advised that there had been requests to change some signage in that street and that Council had actually changed the signage the day before.

BUILDING RECTIFICATION WORKS (S018727)

6. By Councillor Turnbull -

Question

Lord Mayor, what is the present status of the issues we have with Meriton concerning fire safety?

Answer by the Lord Mayor

Councillor Turnbull, there were three developments which had issues requiring rectification. All agreements have now been signed by body corporates, Meriton and the City of Sydney. The last agreement, I think, was signed a week ago with Regis Towers and the rectification program has commenced.

I think works in one of the buildings are half completed, works in another building are substantially commenced and the work in the Regis Towers will commence early next year, which means that by the first half of next year all the defects relating to any life safety or fire safety issues will have been completely rectified. It has developed into quite a useful model for any other buildings where this may occur in the future.

Can I also add that the Quality of Building legislation has been introduced into the Parliament and, whilst that doesn't provide us with all the things we wanted, it will provide us with some assistance in doing our work. It clarifies the role of the Principal Certifying Authorities, it provides for much better auditing of accreditation procedures, and the big benefit it provides us with is that every year when building owners fail to complete and lodge on time their annual certification that their emergency services - fire sprinklers and so on - are up to scratch, a cumulative penalty system has been introduced.

The introduction of this system, which was advocated by the City of Sydney, means it is no longer in the interests of body corporates and other building owners to take months and months to have their fire sprinklers and their emergency systems checked. That will save a huge amount of work and, I think, will greatly enhance the quality of fire readiness in City buildings.

ITEM 13. NOTICES OF MOTION

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

Closed Meeting

At 5.35pm Council resolved -

That, due notice of the intention to close the meeting having been given, the meeting be closed in accordance with the provisions of -

- Section 10A(2)(d)(i) of the Local Government Act 1993 to discuss Items 14, 15, 16, 17, 19 and 20 on the Agenda as these matters comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it; and
- Section 10A(2)(c) of the Local Government Act 1993 to discuss Items 18 and 22 on the Agenda as these matters comprised discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;

and it was further resolved that the meeting be closed for these items on the basis that discussion of these matters 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.

Items 14 to 20 inclusive and Item 22 were then dealt with by Council while the meeting was closed to the public.

ITEM 14. TENDER EVALUATION - RFT 0219 - INFORMATION SYSTEMS AND SERVICES (S018610)

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

That arising from consideration of a report by the Manager, Information Management to Council on 9 December 2002, on Tender Evaluation - RFT 0219 - Information Systems and Services, it be resolved that -

- (A) all tenders be rejected;
- (B) Council not invite fresh tenders due to:
 - (i) the response from a large number of vendors;
 - (ii) the availability of products acceptable to Council from those vendors;
 - (iii) the proposal to obtain products from a number of the vendors who submitted tenders, and the necessity to ensure the proper integration of those products,and, accordingly, a more satisfactory result would not be obtained by inviting fresh tenders;

- (C) authority be delegated to the General Manager to negotiate with the parties named in paragraph 9 of the subject report for the supply of products specified in that paragraph, at a price not exceeding the amounts specified in paragraph 25 of the subject report;
- (D) authority be delegated to the General Manager to enter into all agreements necessary or desirable to give effect to the proposal in the subject report, at a cost not exceeding the amounts specified in paragraph 25 of the subject report;
- (E) Council's attorney be authorised to execute all necessary documentation; and
- (F) Council note the Manager Information Management's assurance that this phase of the project will be completed by October 2003.

Carried.

ITEM 15. ENGAGEMENT OF NEW YEAR'S EVE STREET BANNER CONTRACT WITHOUT TENDER (S019371)

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

That, arising from consideration of a report by the Producer, Sydney New Year's Eve to Council on 9 December 2002, on Engagement of New Year's Eve Street Banner Contract Without Tender, it be resolved that:

- (A) Council not invite Tenders for the production of 720 NYE banners in the following extenuating circumstances:
 - (i) quotations were invited from 4 Sydney banner production companies and received from 3 of the companies;
 - (ii) the quotation for production of banners from Southern Cross Visual Communications is comparable to the cost of banners from 2001;
 - (iii) the time frame is too short for a further tender process,and, accordingly, a satisfactory result would not be achieved by inviting Tenders;
- (B) Council endorse the engagement of Southern Cross Visual Communications to supply 720 banners at the cost specified in paragraph 1 of the subject report, and authority be delegated to the General Manager to enter into a contract for that purpose;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 16. ENGAGEMENT OF NEW YEAR'S EVE STAGE LIGHTING SERVICES CONTRACT WITHOUT TENDER (S019371)

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

That arising from consideration of a report by the Producer, Sydney New Year's Eve to Council on 9 December 2002 on Engagement of New Year's Eve Stage Lighting Services Contract Without Tender, it be resolved that:

- (A) Council not invite Tenders for the provision of stage lighting services in the following extenuating circumstances:
- (i) quotations were invited from all the Sydney stage lighting services companies and received competitive quotes from all the companies;
 - (ii) the quotation for stage lighting services for Events 4 (a), (b), (e) and (h) above from Bytecrafft Entertainment Pty Ltd is comparable to the cost of equivalent service for NYE 2001;
 - (iii) the time frame is too short for a further tender process,
- and, accordingly, a satisfactory result would not be achieved by inviting Tenders.
- (B) Council approve the engagement of Bytecrafft Entertainment Pty Ltd to supply the services described in paragraph 10 of the subject report at the cost specified in that paragraph, and authority be delegated to the General Manager to enter into a contract for that purpose;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 17. ENGAGEMENT OF NEW YEAR'S EVE PARTY (SOH) CATERING CONTRACT WITHOUT TENDER (S019371)

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

That arising from consideration of a report by the Producer, Sydney New Year's Eve to Council on 9 December 2002 on Engagement of New Year's Eve Party (Sydney Opera House) Catering Contract Without Tender, it be resolved that:

- (A) Council not invite Tenders for the provision of catering services for the NYE Party at the Sydney Opera House in the following extenuating circumstances:
- (i) the Agreement between the Lord Mayor of Sydney and the Sydney Opera House Trust requires the City to use the House's contracted caterer;
 - (ii) the quotation for provision of catering services for the NYE Party from Truffle Group Pty Ltd is comparable to the cost of catering for 2001,
- and, accordingly, a satisfactory result would not be achieved by inviting Tenders.

- (B) Council approve the engagement of the Truffle Group Pty Ltd to provide the catering services detailed in the subject report, at the cost specified in paragraph 1 of the subject report, and authority be delegated to the General Manager to enter into a contract for that purpose;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

ITEM 18. UNDER THE FREEWAY, ULTIMO – PROCEED TO IMPLEMENTATION (S015883)

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

That arising from consideration of a report by the Landscape Architect, City Development and Projects to Council on 9 December 2002, on Under the Freeway, Ultimo - Proceed to Implementation, it be resolved that:

- (A) Council approve the lodging of the Development Application with the City of Sydney; and
- (B) authority be delegated to the General Manager to invite tenders for the subsequent construction of the project

Carried unanimously.

ITEM 19. WATTLE STREET BRIDGE MATERIAL REPLACEMENT (S020452)

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

That arising from consideration of a report by the Assistant Architect, Architecture and Urban Design to Council on 9 December 2002, on Wattle Street Bridge Material Replacement, it be resolved that:

- (A) Council engage the contractor named in paragraph 20 of the subject report for the amount specified in that paragraph;
- (B) Council not invite tenders for the reasons set out in the resolution of Council on 16 September 2002;
- (C) Council approve funds to the amount in paragraph 25 of the subject report, with funds for this to be reallocated from within Capital Budget;
- (D) authority be delegated to the General Manager to enter into a contract with the contractor named in paragraph 20 of the subject report; and
- (E) Council's attorney be authorised to execute all necessary documentation

Carried.

ITEM 20. ULTIMO AQUATIC CENTRE ARCHAEOLOGICAL EXCAVATION - AWARD OF CONTRACT

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

That arising from consideration of a report by the Senior Project Manager to Council on 9 December 2002, on Ultimo Aquatic Centre Archaeological Excavation - Award of Contract, it be resolved that -

(A) Council not invite tenders for the archaeological excavation, analysis and reporting relating to the Ultimo Aquatic Centre in the following extenuating circumstances:-

- (i) that quotations were invited from all known appropriate archaeological consultants;
- (ii) that undertaking a tender process is unlikely to receive responses from other appropriate archaeological consultants;
- (iii) a tender process would delay the provision of archaeological services, and prejudice the ability of the preferred consultant to undertake the works within the time period required by Council;

and accordingly a satisfactory result would not be achieved by inviting tenders;

(B) authority be delegated to the General Manager to enter into a contract with Archaeological and Heritage Management Solutions Pty Ltd to provide the archaeological services, at a price not exceeding the amount specified in paragraph 21 of the subject report; and

(C) Council's attorney be authorised to execute all necessary documentation.

Carried.

ITEM 21. EXTENSION OF THE HOMELESS STREET OUTREACH SERVICE

Note - no report was circulated on this matter; a revised report will instead be submitted to the Extraordinary Meeting of Council to be held on Monday 16 December 2002.

ITEM 22. GATEWAYS PROJECTS - FUNDING FOR DEVELOPMENT APPLICATIONS (SO19312)

Moved by Councillor Turnbull, seconded by Councillor Greiner -

That arising from consideration of a report by the Senior Architect, City Development and Projects to Council on 9 December 2002, on Gateways Projects - Funding for Development Application, it be resolved that:

- (A) Council allocate funds up to \$300,000 for design fees and costs from Capital Works Contingency to prepare development applications for the projects outlined in paragraph 5 of the subject report;
- (B) authority be delegated to the General Manager to negotiate amendments to the consultant scopes and to commission the amended Stage 1B works as outlined in paragraph 7 of the subject report;
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

At 6.00pm the meeting concluded.

Chairman of a meeting of the Council of the City
of Sydney held on 24 February 2003 at which
meeting the signature herein was subscribed.