



**28 JUNE 2002**

**Meeting No 1357**

**MINUTES** of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 3.25pm on 28 June 2002 pursuant to Notice 11/1357 dated 24 June 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 3.25pm those present were:-

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

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

#### Opening Prayer

The Lord Mayor opened the meeting with prayer.

**ITEM 1. CONFIRMATION OF MINUTES****Minutes of Council Meeting of 3 June 2002**

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

That the minutes of the meeting of Council of 3 June 2002, as circulated to Councillors, be confirmed.

Carried.

**Minutes of Extraordinary Meeting of Council of 17 June 2002**

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

That the minutes of the extraordinary meeting of Council of 17 June 2002, as circulated to Councillors, be confirmed.

Carried.

**Minutes of Extraordinary Meeting of Council of 24 June 2002**

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

That the minutes of the extraordinary meeting of Council of 24 June 2002, as circulated to Councillors, be confirmed.

Carried.

**Order of Business**

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

That, in accordance with Clause 12(2) of the Local Government (Meetings) Regulation 1999, the order of business be altered such that the remaining items on the agenda be dealt with in the following order:

3. Determination of Number of Councillors
4. Matters for Tabling
5. Report of the Planning Development and Transport Committee - 24 June 2002
6. Report of the Priorities and Outcomes Committee - 25 June 2002
- 2A. Budget Statement 2002/-03
- 7/8. 2002/03 Budget and 2002-2005 Corporate Plan
9. Action Plan for People with Disabilities 2002-2005
13. Questions on Notice
14. Notices of Motion
10. Public Relations and Communications Consultancy Tenders New Year's Eve Celebrations 2002-2005, and Chinese New Year Celebrations 2003-2006
11. Review and Consolidation of Employment Related Personnel Policies
12. Policy on Legal Assistance for Councillors and Council Employees
- 2B. Hilton Hotel/Capital Centre - Through Site Link

Carried.

**ITEM 3. DETERMINATION OF NUMBER OF COUNCILLORS (C13-00109)**

**MEMORANDUM BY THE GENERAL MANAGER**

To Council:

Section 224 of the Local Government Act 1993 requires that

- (1) A council must have at least 5 and not more than 15 councillors (one of whom is the mayor);
- (2) Not less than 12 months before the next ordinary election, the council must determine, in accordance with subsection (1), the number of its councillors for the following term of office;
- (3) If the council proposes to change the number of councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum.

Section 16 of the Local Government Act also requires a constitutional referendum to be held if a Council wishes to divide its area into wards or abolish all wards in its area.

Correspondence has recently been received from the Electoral Commissioner for New South Wales to the effect that:

- (i) Details regarding ward boundaries as a result of either the introduction of wards or changes to the boundaries of existing wards should be submitted to the Electoral Commissioner for New South Wales and the Australian Statistician by no later than 10 September 2002;
- (ii) A referendum to increase or reduce the number of Councillors must be held before Saturday 7 September 2002 for the result to apply at the September 2003 local government elections.

Notwithstanding possible boundary changes, I am not aware of any reason why Council would wish to divide its area into wards or increase or decrease the number of councillors. When Council previously considered the number of Councillors in 1994 and 1998, it resolved not to alter the number of seven councillors.

Accordingly, it is not proposed to take any action in respect of the holding of a constitutional referendum to seek approval for such a change.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to Council on 28 June 2002, on Determination of Number of Councillors, it be resolved that Council -

- (A) note the ability of Council to vary the number of councillors and divide the local area into wards; and

(B) confirm the following:

- (i) that the number of councillors shall be maintained at seven; and
- (ii) the Council area shall not be divided into wards.

(SGD) ROBERT DOMM  
General Manager

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

That arising from consideration of a Memorandum by the General Manager to Council on 28 June 2002, on Determination of Number of Councillors, it be resolved that Council -

(A) note the ability of Council to vary the number of councillors and divide the local area into wards; and

(B) confirm the following:

- (i) that the number of councillors shall be maintained at seven; and
- (ii) the Council area shall not be divided into wards.

Carried unanimously.

#### **ITEM 4. MATTERS FOR TABLING**

Moved by Councillor Turnbull, seconded Councillor Greiner -

That the Disclosure of Pecuniary Interests Returns and reports be received and noted.

Carried.

**ITEM 5. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 24 JUNE 2002**

**PRESENT**

Councillor Lucy Turnbull  
(Chairman)

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

At the commencement of business at 6.18 pm 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 owing to an urgent commitment.

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:

5. Development Application: 157 Liverpool Street, Sydney
6. Development Application: Park Regis, 27 Park Street Sydney
4. Design Competition: 27-29 Commonwealth Street, Sydney
7. Stage 2 Development Application: 137-139 Bathurst Street Sydney
1. Progress Report on Development Applications
2. 2001 Development Monitoring Report
3. Review of Central Sydney Local Environmental Plan 1996 - Significant Research Analyses and Issues Arising

The meeting of the Planning Development and Transport Committee concluded at 7.20 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 24 June 2002 be received, and the recommendations set out below for Items 5.1 to 5.4, inclusive and Item 5.7 be adopted, with Items 5.5 and 5.6 being noted.

Carried.

The Committee recommended the following:-

**PART "A" - DETERMINED BY COUNCIL**

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

**5.1**

That arising from consideration of a report by the Manager Development to the Planning Development and Transport Committee on 24 June 2002, in regard to the progress report for the month of May 2002, it be resolved that the subject report be received and noted.

Carried.

**2001 DEVELOPMENT MONITORING REPORT (S003607)**

**5.2**

That arising from consideration of a report by the Acting Specialist Research Planner, Planning Policy, to the Planning Development and Transport Committee on 24 June 2002, in regard to the 2001 Development Monitoring Report, it be resolved that the 2001 Development Monitoring Report, as circulated at the meeting of the Planning Development and Transport Committee, be received and noted.

Carried.

**REVIEW OF CENTRAL SYDNEY LOCAL ENVIRONMENTAL PLAN 1996 - SIGNIFICANT RESEARCH ANALYSES AND ISSUES ARISING (SO16796)****5.3**

That arising from consideration of a report by the Research Manager to the Planning Development and Transport Committee on 24 June 2002, on Review of Central Sydney Local Environmental Plan (LEP) 1996 - Significant Research Analyses and Issues Arising, it be resolved that the research paper and the issues to be addressed as part of the comprehensive 5 year review of Central Sydney LEP 1996, as shown at Attachments A and B to the subject report, be received and noted.

Carried.

Note - The Planning Development and Transport Committee congratulated the Research Manager, Phil Raskall, and relevant Council staff on the research undertaken.

**DESIGN COMPETITION: 27-29 COMMONWEALTH STREET, SYDNEY (D2001/00515)****5.4**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 24 June 2002, in relation to the Design Competition held in respect of the proposed residential development at 27-29 Commonwealth Street Sydney, which has been subject to a Stage 1 development consent (D01/00515), it be resolved that: -

- (A) Council notes the completion of the competitive design process;
- (B) having regard to the material supplied and the design outcome, Council -
  - (i) does not object to the design outcome for the purpose of progressing the development assessment process;
  - (ii) notes that the process satisfies the provisions of part 12.2 (Design Competitions) of Central Sydney Development Control Plan 1996;
- (C) Council further expresses its concern regarding the difference between the design entry and the Stage 2 development application; and also its concern that the Stage 2 development application may not indicate the required level of design resolution which will be necessary to achieve design excellence;

- (D) Council notes that this advice does not fetter Council's discretion in the determination of the Stage 2 development application for the subject development, including matters which may arise in the detailed assessment of the proposal's compliance with Central Sydney Local Environmental Plan 1996 and Development Control Plan 1996, and issues which may arise from it through the public consultation process.

Carried.

Mr Leigh Cashell addressed the meeting of the Planning Development and Transport Committee on Item 5.4

**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 5.5 and 5.6 were determined by the Planning Development and Transport Committee under delegated authority.

Carried.

**DEVELOPMENT APPLICATION: 157 LIVERPOOL STREET, SYDNEY (D2002/00039)**

**5.5**

Moved by Councillor Turnbull, seconded by Councillor Coulton -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 24 June 2002 in relation to Development Application D2002/00039 made by The Stockland Trust Group for the site at 157 Liverpool Street, Sydney for the partial demolition of the existing building and the construction of a new facade and building podium and associated internal work and the modification of the basement car park to contain 64 spaces, it be resolved that:-

- (A) In this instance, the Consent Authority agrees to waive the requirement for the preparation of a development plan given the proposal satisfies the requirements of Clause 28B(4)(d) and (e) of Central Sydney Local Environmental Plan 1996 in that:
- (i) The proposal does not increase the overall height of the building;
  - (ii) The proposal does not substantially increase the FSR of the building;
  - (iii) The proposal will not substantially impact on the adjoining buildings;
  - (iv) The proposal exhibits design excellence; and
  - (v) The proposal represents an appropriate and modest 'infill' development which will enhance the buildings' contribution to the public domain.

(B) 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 the following:
  - (a) Development Application No. D2002/00039 dated 29 January 2002;
  - (b) The Statement of Environmental Effects prepared by APT Peddle Thorp, dated January 2002 as amended by the following:
    - (i) letter from the Stockland Trust Group dated 12 June 2002;
    - (ii) facsimile prepared by APT Peddle Thorp & Walker transmitted on 14 June 2002 and titled "Area Schedule Amended DA"; and
    - (iii) letter from Peddle Thorp & Walker dated 17 June 2002.
  - (c) Drawings numbered DA-00 to DA-07 Rev B dated 04.06.2002, DA-07A Rev B dated 04.06.2002 and DA-08 to DA-10 Rev B dated 04.06.2002 prepared by Peddle Thorp & Walker;
  - (d) Photomontage dated June 2002; and
  - (e) Materials Board prepared by Peddle Thorp & Walker and dated January 2002.

and as amended by the following conditions:

#### **APPROVED DESIGN**

- (2) The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

**Note:** Refer to Condition 23- Design Details.

### **FLOOR SPACE RATIO**

- (3) The following applies to Floor Space Ratio:-
- (a) The Floor Space Ratio of the proposal must not exceed 12.40:1 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 16,715sqm.
  - (b) Prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the total and component Floor Space Areas (by use) in the development, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).
  - (c) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, documentary evidence (ie. a Heritage Floor Space Allocation Certificate issued by Council) must be produced and acknowledged by Council that 856sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of the existing building FSR (11.1:1) as specified in the Central Sydney Local Environmental Plan 1996.

### **BUILDING HEIGHT**

- (4)
- (a) The height of the building podium (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 56.665(AHD) approximately equivalent to slab level of Level 8.
  - (b) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the height of the building, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

### **PHYSICAL MODELS**

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

**Note:**

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

**ELECTRONIC MODEL - BUILDINGS 'AS BUILT' AND UNDERGROUND UTILITIES AND SERVICES**

- (7) Prior to the issue of a Certificate of Occupation under the Environmental Planning and Assessment Act 1979, an accurate 1:1 electronic model of the approved development must be submitted to Council for the electronic City Model.
  - (a) The data required to be submitted within the surveyed location shall include and identify:-
    - (i) buildings 'as built' above and below ground;
    - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
    - (iii) the property boundaries and the kerb lines adjacent to the site.
  - (b) The data is to be submitted as a DXF file on physical media (floppy disc or CD). Preferably, all plans are to be referenced to the Integrated Survey Grid of NSW (ISG), Australian Map Grid (AMG) or Map Grid of Australia (MGA).
  - (c) Within the DXF file each identified structure, feature, utility or service shall be distinguished by a combination of layering and/or symbology schema. The submitted plans shall be accompanied by a comma delimited text file, detailing the layering and/or symbology schema.
  - (d) The electronic model shall be constructed in accordance with the City's electronic data protocol. The protocol provides specific details of the information required to be shown and is available at the One Stop Shop. Council's Manager, Spatial Information should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

**Note:**

- (i) The submitted model/data must be amended to reflect any further approvals under section 96 of the Environmental Planning and Assessment Act 1979, that affect the location of any of the underground services or structures and/or external configuration of building above ground.

**CONSISTENCY OF DRAWINGS**

- (8) In the event that the approved plans incorporate inconsistencies of detail between the relevant plans and elevations, the details shown in the elevations and photomontage shall take precedence.
- (9) The architect of the project, Peddle Thorp & Walker, should not change without prior notice to Council.

**CONSTRUCTION ACTIVITIES**

- (10) At all times, construction activities are to be undertaken in a manner which will not impede pedestrian access around the site. Unimpeded pedestrian access to the Museum Station entrance shall be ensured at all time during construction.

**DEMOLITION & EXCAVATION**

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

**SECTION 61 CONTRIBUTION**

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

- (a) **Cash Contribution Required**

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

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

- (b) **Amount of Contribution**

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

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

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

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

(d) **Timing of Payment**

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

**REPORT TO BE COMPLIED WITH**

- (13) The development shall be in accordance with the recommendations of following reports:
- (a) The Wind Environment Statement prepared by Windtech Consultants Pty Ltd and dated 26 October 2001;
  - (b) The Solar reflectivity Analysis prepared by Windtech Consultants Pty Ltd and dated 31 October 2001;
  - (c) Energy Performance Report prepared by Adamus Consulting Practice and dated 24 January 2002; and
  - (d) The Building Code of Australia Compliance Assessment Summary prepared by Holmes Fire & Safety and dated 24 January 2002.

**STRATA PLAN APPROVAL**

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

**VEHICULAR SPACES**

- (15) The following car parking requirements apply:-
- (a) The approved vehicle spaces shall be allocated on the development site as follows:  
  
64 business/commercial premises spaces;

**LOADING BAY**

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

**EXTERNAL LIGHTING**

- (17) A separate development application is required to be lodged for any proposed external floodlighting or illumination of the building. Such application shall be submitted and approved by Council prior to the installation of any external lighting.

**BUILDING NAME**

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

**APPROVAL FOR THE RETAIL AND CAFÉ/BAR AREA**

- (19) A separate development application must be submitted at the appropriate time for the specific use and fitout of the retail and cafe/bar areas proposed on the ground floor level of the building.

**PLACE OF PUBLIC ENTERTAINMENT**

- (20) No public entertainment, as defined under the Local Government Act, 1993 is to be provided on the site without the prior separate approval of Council. The Occupier shall obtain approval from Council under Section 68 of the Local Government Act 1993 for any proposal to use the premises or part thereof as a Place of Public Entertainment.

**SIGNS**

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

## Schedule 1B

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

#### BCA COMPLIANCE

- (22) 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.

#### DESIGN DETAILS

- (23) The final design shall be provided for the following aspects of the proposal:
- (a) The awning: Final design details of the awning at a scale of 1:50 including materials and finishes and under awning lighting. The awning/canopy must comply with the City of Sydney Awnings Policy 2000.
  - (b) The termination of the building podium: The applicant is to provide details of alternative treatments for the termination of the building to improve the definition of the termination. In this regard, an amended proposal which is more reflective of the original proposal should be considered.
  - (c) Glazing: The applicant is to erect a large panel (at least 2m x 1m in size) of the proposed glazing on the subject site to enable the Director City Development to approve the final glass selection or an alternative glass. The intent of the on-site assessment of the proposed glazing is to enable an assessment of the glazing quality (ie. neutrality, transparency, subtlety, colour and reflectivity) to be made.

The amendments shall be submitted for the approval of Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

#### PUBLIC ART

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

## **LANDSCAPING OF THE SITE**

(25) The site must be landscaped and maintained to the approval of Council. A detailed landscape plan, to scale, drawn by a landscape architect or approved landscape consultant, must be lodged and approved by Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. The plan must include:

- (a) Location of existing and proposed structures on the site including existing trees (if applicable);
- (b) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (c) Location, numbers and type of plant species;
- (d) Details of planting procedure and maintenance;
- (e) Details of drainage and watering systems;

Special attention must be paid to the treatment of landscaping above a slab.

## **PUBLIC DOMAIN PLAN**

(26) The following requirements apply:-

- (a) Three copies of a detailed Public Domain Plan shall be prepared by an architect, urban designer or landscape architect and shall be approved by Council (to be lodged with the Public Domain Officer at City Projects) prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.
- (b) The Public Domain Plan shall be as follows:-
  - (i) Drawn at 1:100 scale.
  - (ii) Show the entire layout of flagstone paving where this paving is required.
  - (iii) Nominate the location, type and material of all existing and proposed public pavement elements including trees, paving, kerbs and gutters, pedestrian ramps, vehicle crossings, street furniture, utility poles, parking meters, pedestrian and traffic signals, service pits and stormwater pits.

- (iv) Include a longitudinal section of the pavement showing existing and proposed levels at 10 metre intervals at the building alignment, the kerb and the gutter on a common datum line. This longitudinal section is to be drawn at 1:100 horizontal scale and 1:10 (exaggerated) vertical scale. This section is to ensure that any significant longitudinal gradient change, such as flattening for vehicle entries, occurs within the building line and not at the public pavement.
  - (v) Include 1:50 scale cross sections through pedestrian ramps and vehicle crossings.
  - (vi) Include specifications of the proposed works.
- (c) The Public Domain Plan shall comply with the specifications and details of the Central Sydney Paving Design Policy 1996 and Council's Specifications and the Central Sydney Street Tree Policy 1994.
- (d) The Public Domain Plan shall incorporate the standard specifications and detail of the Central Sydney Paving Design Policy 1996 and Council's Specifications adapted to suit the specific site requirements as advised by the Public Domain Officer and may include:-
- (i) Adjustment to paving grades to provide a maximum crossfall of 2.5% from building line to top of kerb.
  - (ii) Repaving in accordance with Central Sydney Paving Design Policy 1996 and Council's Specifications. All granite paving (where applicable) is to be sealed in accordance with Council's specifications.
  - (iii) The relocation or provision of new vehicle crossovers and pedestrian ramps including the consequent relocation of existing service pits, traffic signals, kerb corner radii, signs, street furniture and street trees.
  - (iv) The retention of existing street trees and the provision of new street trees to comply with the Central Sydney Street Tree Policy 1994.
  - (v) The repair and where required the resetting of all stone kerbing to 150mm above the gutter height and the replacement of concrete kerbing with stone kerbing. Where adjustments require substantial kerb and gutter demolition, the carriageway shall be reconstructed to the centre line of the carriageway.
  - (vi) The retention and repair of any existing pavement lights.
  - (vii) The retention and repair of any existing serviceable stone gutters.

- (viii) The realignment and level adjustment of service pit lids to correspond to new kerb ramps and paving. New service pit lids in flagstone paving to be infill type, with stone infill to match stone paving surrounds. New service pit lids in asphalt paving to be infill type, with cement mortar infill coloured to match adjoining asphalt.
- (e) Random checks by Council officers may be made throughout the construction process to advise the contractor of non-complying elements. However, no parts of the work are to be considered approved until receipt of the City of Sydney letter of approval. The City of Sydney will require all non complying parts to be rectified prior to issue of this letter.

**Note:**

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

**RECEPTACLES FOR CIGARETTE BUTTS**

- (27) 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.

**TOILETS AVAILABLE FOR USE BY PUBLIC**

- (28) Provision shall be made for the inclusion of toilet facilities at ground floor level of the building. Such facilities shall be located adjacent to the entrance foyer or lift lobby and shall remain available for public use during the normal opening hours of the building. The facilities shall be signposted. Details of the location shall be approved by the Certifying Authority prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

**ACCESS & FACILITIES FOR PERSONS WITH A DISABILITY**

- (29) 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.

**TELECOMMUNICATIONS PROVISIONS**

- (30) The following requirements apply to telecommunication facilities in the building:-
- (a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
  - (b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
  - (c) The details of (a) and (b) above shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the Environmental Planning and Assessment Act 1979.
- (31) A separate DA must be submitted at the appropriate time for any external receiving device proposed to be installed. For each form of transmitter, there shall be only one common receiving device installed on the subject development.

**GLAZING**

- (32) All external glazing on the ground floor shopfront of the development must be clear and untinted.
- (33) 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**

- (34) 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.

**FOOD PREPARATION AREAS**

- (35) The ceiling of the food preparation area shall be constructed of set plaster or other rigid smooth faced material painted with a washable paint of a light colour.

**CAR PARK AND SERVICE VEHICLE LAYOUT**

(36)

- (a) The layout plan of the carpark is to be in accordance with Australian Standard AS 2890.1 - 1993 "Parking Facilities Part 1: Off Street Car Parking". All parking spaces are to be linemarked.
- (b) The layout of the service vehicle areas is to comply with Australian Standard AS 2890.2 - 1989 "Off Street Parking Park 2 - Commercial Vehicles Facilities".
- (c) The details shall be submitted to and approved by the certifying authority prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

**STORMWATER AND DRAINAGE**

- (37) 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.

**UTILITY SERVICES**

(38) To ensure that utility authorities are advised of the development:-

- (a) A survey is to be carried out of all utility services within the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (b) Prior to commencement of work the applicant is to negotiate with the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

**ALIGNMENT LEVELS**

(39) The following shall be submitted to Council:-

- (a) A separate application including footpath alignment levels must be submitted for approval for the design of the building.

- (b) Such application must be accompanied by a plan prepared by a Registered Surveyor showing the existing location, size and levels (AHD) of all service covers, trees, poles and street furniture, kerb, gutter and alignment levels at 10m cross/sections, alignment levels at proposed and existing vehicular and/or pedestrian entrances within the footway adjacent to and extending 20 metres past either side of the site.
- (c) These levels as approved by Council are then to be incorporated into the plans submitted with the Application for a Construction Certificate.

## **WASTE STORAGE AND HANDLING**

(40)

- (a) The design of the building and the methods of storage and handling of waste and recyclable material must comply with the Code for Waste Handling in Buildings adopted by Council 17 October 1994. The Code requires the submission of a Waste Management Plan, except for minor partition work (Annexure "A" of Code).

The project may require a garbage room, which must be large enough to store, and allow easy removal of the waste, which will be generated by the proposed use. Allowance must be made for the separation of putrescible waste from waste suitable for recycling.

- (b) The Waste Management Plan for the project must be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. The Waste Management Plan must be submitted by the Architect or other appropriately qualified person experienced in Waste Handling Design and Environmental Management.

### **Note:**

Special requirements exist in Council's Code for premises such as medical and dental surgeries, food premises, skin penetration premises, laboratories and the like.

The Code recognises the constraints imposed by existing buildings and design issues. In circumstances where full compliance is not possible, an "Alternative Solution" must be submitted to the Certifying Authority.

(41) The following provisions apply to recycling areas:

- (a) The building design must incorporate separate garbage rooms constructed in accordance with Council's Code, for the separation of commercial waste from residential waste, including recyclable materials.

- (b) The building must incorporate design features which will allow waste to be minimised and managed within each individual unit or office, on each floor of the building, and within the garbage/recycling storage and collection area.
- (c) The building design must allow easy access to the garbage and recycling areas by residents and tenants, but prevent their use by non-residents/tenants.

### **SANITARY FACILITIES**

- (42) Sanitary and other facilities must be provided in accordance with the Building Code of Australia, Part F2.

### **STRUCTURAL LOADING ON EXISTING BUILDING**

- (43) 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).
- (44) Any metal fixings for facade panels or curtain walls to a building must be stainless steel (Grade 303) unless the element/component is designed principally as a flexural member as follows:-
  - (a) The fixing shall be designed so that in the event of imminent corrosion failure, the deformation in the fixing/s should cause the panel to displace downward (and preferably outward at the bottom of the panel).
  - (b) The flexural member/component may then be Hot Dipped Galvanised Steel and designed so that the design life of the fixing is minimum 100 years, using:-
    - (i) Average Corrosion Rate of Hot Dipped Galvanised Coating to be 2 microns per year; and
    - (ii) The Average Corrosion Rate of mild steel in the facade environment taken to be 20 microns per year; and
    - (iii) The Pitting Rate of mild steel taken to be 10 times the Average Corrosion Rate; and
    - (iv) After the section has corroded full thickness at Pitting Corrosion Rate, the Average Corrosion Rate doubles.

- (45) For areas not complying with the deemed to satisfy provisions of the BCA an alternate solution will be required to demonstrate compliance with the performance requirements stipulated in the BCA. Any alternative solution must be submitted and approved by the Certifying Authority prior to the issue of the construction certificate. The following information must be provided:-
- (a) Details of the performance requirements that the proposed alternative solution is intended to meet; and
  - (b) Details of the assessment methods used to establish compliance with those performance requirements.

#### **ALTERATIONS, ENLARGEMENT OR EXTENSION OF AN EXISTING BUILDING NOT INVOLVING CHANGE OF USE**

- (46) The certifying authority must not issue a construction certificate for the work unless it is satisfied that the fire protection and structural capacity of the existing elements of the building will not be reduced.

## **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**

- (47) 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).

#### **DEMOLITION WORK METHOD STATEMENT**

- (48) Prior to the commencement of demolition work a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority. This Statement must make appropriate provisions to ensure that pedestrian movement along Liverpool Street and to the Museum Station entrance is not impeded during the demolition work.
- (49) The Statement must be in compliance with AS2601-1991 Demolition of Structures, the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:-

- (a) Enclosing and making the site safe, any temporary protective structures must comply with the Guidelines for Temporary Protective Structures (April 2001);
- (b) Induction training for on-site personnel;
- (c) Inspection and removal of asbestos, and contamination and other hazardous materials;
- (d) Dust Control:-  

Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site.
- (e) Disconnection of Gas and Electrical Supply;
- (f) Fire Fighting:-  

Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed.
- (g) Access and egress:-  

No demolition activity shall cause damage to or adversely affect the safe access and egress of this building.
- (h) Waterproofing of any exposed surfaces of adjoining buildings;
- (i) Control of water pollution and leachate and cleaning of vehicles tyres:-  

Proposals shall be in accordance with the Protection of the Environmental Operations Act 1997.
- (j) Working hours, in accordance with this Development Consent;
- (k) Confinement of demolished materials in transit;
- (l) Proposed truck routes, in accordance with this Development Consent;
- (m) Location and method of waste disposal and recycling in accordance with the Waste Minimisation and Management Act 1995.

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

**OTHER DEMOLITION DETAILS**

- (50) Prior to the commencement of demolition work, the following additional details are required to be submitted to the Principal Certifying Authority (PCA) (Council or a accredited certifier), and a copy submitted to Council if its not the PCA:-
- (a) A Statement/Letter from an appropriately qualified Structural Engineer certifying concurrence with the structural provisions of the Demolition Work Method Statement and proposed work. If applicable, a Structural Report of the proposed building to be demolished must be attached.
  - (b) A Letter nominating the person appropriately qualified as an Occupational Hygiene Consultant for inspecting the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
  - (c) Dilapidation Report/s of adjoining buildings.
  - (d) A certified copy of the Public Liability Insurance indemnifying Council for \$10,000,000 against public prosecution for the duration of the demolition works.
  - (e) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.

**NOTIFICATION OF EXCAVATION OF EXCAVATION WORKS**

- (51) The Principal Certifying Authority and Council's City Care Unit must be given a minimum of 48 hours notice that excavation, shoring or underpinning works are about to commence.

**WATER AND SEDIMENT CONTROL STATEMENT FOR DEMOLITION AND EXCAVATION**

- (52) The following environmental protection measures are required:-
- (a) Prior to the commencement of demolition and/or excavation, a Demolition/Excavation Water and Sediment Control Statement must be submitted to and approved by the Principal Certifying Authority (Council or an accredited officer).
  - (b) Such statement must include:-
    - (i) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;
    - (ii) The proposed method of discharge;

- (iii) The procedures to be adopted for the prevention of run-off from the site onto the public way;
- (iv) The procedures to be adopted for the prevention of run-off from the site onto the public way.
- (c) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's Erosion and Sediment Control Manual and the Department of Housing Manual Managing Urban Stormwater - Soils and Construction (August 1998).
- (d) The Demolition/Excavation Water and Sediment Control Statement shall be implemented during the demolition and/or excavation period.
- (e) Any seepage or rainwater collected on site during work must not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.
- (f) The applicant must also comply with the NSW Protection of the Environmental Operations Act 1997, whereby it is an offence to pollute classified waters such as Sydney Harbour to which most of the City's street drainage is directly connected.

#### **PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN FOR DEMOLITION AND/OR EXCAVATION**

- (53) A Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to commencement of demolition and/or excavation. This Pedestrian and Traffic Management Plan must make appropriate provisions to ensure that pedestrian movement along Liverpool Street and to the Museum Station entrance is not impeded during the demolition work. It must include details of the:-
- (a) Proposed ingress and egress of vehicles to and from the construction site;
  - (b) Proposed loading and unloading arrangement;
  - (c) Proposed protection of pedestrians adjacent to the site;
  - (d) Proposed pedestrian management whilst vehicles are entering and leaving the site;
  - (e) Proposed route of construction vehicles to and from the site.
  - (f) The Pedestrian and Traffic Management Plan shall be implemented during the demolition and/or excavation period.
- (54) Prior to the commencement of excavation, the applicant should contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email [mocsinfo@mocs.com.au](mailto:mocsinfo@mocs.com.au) to ascertain the presence and type of underground utility services in the vicinity of the development.

**AWNING MAINTENANCE PLAN**

- (55) A maintenance plan for the awning must be submitted for the approval of Council prior to the commencement of construction, including the proposed methods of cleaning and a detailed maintenance schedule to ensure the structural integrity of the awning. The maintenance plan and schedule are to include annual inspection of steelwork, connections and support, regular cleaning of drains and the footpath under the awning, tri-annual repainting of the awning, regular cleaning of lighting and replacement of defective lighting, and regular cleaning of the awning glazing at least every six months or more frequently if required.

**APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**

- (56) 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.

**APPLICATION FOR A ROAD OPENING PERMIT**

- (57) A separate Road Opening Permit under Section 138 of the Roads Act 1993 shall be obtained from City Care Unit of the City of Sydney prior to the commencement of any:-
- (a) Excavation in or disturbance of a public way, or
  - (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).
- (58) Documents required with the Road Opening Permit application include:-
- (a) A plan and relevant sections showing scope of works, boundaries, utility services, levels of proposed excavation, and details of method of reinstating public way;
  - (b) Evidence that public utility drawings have been inspected;

- (c) Evidence of a \$10 million dollar Public Liability Insurance Policy specifically indemnifying the City of Sydney, valid for at least the duration of the project;
- (d) A Security Deposit for reinstatement of public way.

The Road Opening Permit will be subject to further conditions that shall be complied with.

- (59) 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.

#### **PEDESTRIAN AND TRAFFIC MANAGEMENT DURING CONSTRUCTION**

- (60) A Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to commencement of construction on the site. This Plan must make appropriate provisions to ensure that pedestrian movement along Liverpool Street and to the Museum Station entrance is not impeded during the demolition work. The Plan must include details of:-
  - (a) Proposed ingress and egress of vehicles to and from the construction site;
  - (b) Proposed loading and unloading;
  - (c) Proposed protection of pedestrians adjacent to the site;
  - (d) Proposed pedestrian management whilst vehicles are entering and leaving the site;
  - (e) Proposed route of construction vehicles to and from the site.

The Pedestrian and Traffic Management Plan shall be implemented during the construction period.

#### **ENVIRONMENTAL PROTECTION DURING CONSTRUCTION**

- (61) The following environmental protection measures are required:-
  - (a) Prior to the commencement of construction work, a Water and Sediment Control Statement must be submitted and approved by the Principal Certifying Authority.

- (b) Such statement must include:-
  - (i) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;
  - (ii) The proposed method of discharge;
  - (iii) The procedures to be adopted for the prevention of run-off from the site onto the public way;
  - (iv) The procedures to be adopted for the prevention of loose material and litter from being blown onto the public way;
  - (v) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's "Erosion and Sediment Control Manual".
- (c) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's Erosion and Sediment Control Manual and the Department of Housing Manual Managing Urban Stormwater – Soils and Construction (August 1998).
- (d) The Water and Sediment Control Statement shall be implemented during the construction period.
- (e) Any seepage or rainwater collected on site during construction must not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.
- (f) The applicant must also comply with the NSW Protection of the Environment Operations Act 1997, whereby it is an offence to pollute classified waters such as Sydney Harbour to which much of the City's street drainage is directly connected.

#### **FOOTPATH DAMAGE BANK GUARANTEE**

- (62) Prior to release of a temporary structure approval under Section 68 of the Local Government Act 1993 (Hoarding Approvals), the owner of the site must provide a bank guarantee to the value of \$55,000 being equivalent to the 55 lineal metres of footway adjacent to the Liverpool and Nithsdale frontage of the development site, as security for any damage rectification.
- (63) The following protective measures shall be provided under any hoarding on the public footway during construction of the development to the satisfaction of the Council:-
  - (a) Plastic sheeting to cover the stone paving;
  - (b) Minimum 12mm thick plywood on top of the plastic sheeting; and

- (c) These measures shall be maintained in a safe and tidy condition for the duration of construction.

### **CONTROL OF VERMIN**

- (64) Measures for the eradication of vermin from the site during construction work shall be implemented prior to the commencement of any work to the satisfaction of the Principal Certifying Authority. All service ducts and cable entries to existing premises should be sealed prior to any demolition being carried out.

### **USE OF MOBILE CRANES**

- (65) Permits required for use of mobile cranes:-
  - (a) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
  - (b) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
  - (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes shall not be delivered to the site prior to 7.30am without the prior approval of Council.

### **CERTIFICATION OF MECHANICAL VENTILATION**

- (66) The details of any mechanical ventilation or air conditioning must be certified by a competent person to comply with Council's Ventilation Code, the Building Code of Australia and relevant Australian Standards, to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) prior to commencement of any mechanical services work.
- (67) To enable certification, the mechanical ventilation documentation prescribed below shall be submitted to the Principal Certifying Authority:-
  - (a) Certified plans (in duplicate), coloured so as to adequately distinguish the proposed alterations;
  - (b) A general description of the project plus mechanical ventilation drawings and documentation in duplicate, coloured to show ductwork and equipment as set out below. (Where appropriate a schematic drawing should also be submitted).

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

### **STRUCTURAL CERTIFICATION FOR DESIGN**

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

- (iv) The relevant Australian Standards listed in the BCA (Specifications A1.3);
  - (v) Any other relevant report/s or documents. Specify on Attachment S1A.
- (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

**Notes:**

- (i) An appropriately qualified practising structural engineer certifying by completing Attachment S1A must have:-
  - a. Appropriate tertiary qualifications in Civil or Structural Engineering; AND
  - b. Corporate membership of the Institution of Engineers Australia or equivalent; AND
  - c. Evidence of relevant experience in the form of a CV/Resume;
  - d. Appropriate current professional indemnity insurance.
- (ii) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
- (iii) An appropriately qualified person certifying by completing Attachment S1B must have a good working knowledge of the Building Code of Australia and Structural and Architectural drawing co-ordination so that all structural elements supporting the new work are fully certified by the project structural engineer.
- (iv) Certification of Inspection/s is also required prior to issue of the Occupation Certificate, and/or prior to use. See Schedule 1E Conditions.

## Schedule 1D

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

#### CITY OF SYDNEY COMPLIANCE INSPECTIONS

- (69) 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.
    - (iv) 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).

- (v) 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.

### **DEMOLITION WORKS**

- (70) All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with:-
  - (a) The approved Demolition Work Method Statement;
  - (b) Australian Standard AS2601-1991- Demolition of Structures;
  - (c) Relevant Codes of Practice of the WorkCover Authority (NSW);
  - (d) The Construction Safety Act 1912 and Demolitions Regulations;
  - (e) The Occupational Health and Safety Act 1983; and
  - (f) All other relevant Acts and Regulations.
- (71) Demolished combustible materials shall not be stockpiled. Material must be removed regularly.

### **HOURS OF WORK AND NOISE**

- (72) 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**

- (73) 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.

**USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE**

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

**LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS**

- (75) The applicant shall ensure that lighting of the site, whilst any work is undertaken outside of Council's standard hours of construction, is such that, at no time will the intensity, hours of illumination or location of the lighting cause injury to the amenity of the neighbourhood. If in the opinion of Council, injury is likely to be caused, the intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

**LOADING AND UNLOADING DURING CONSTRUCTION**

- (76) The following requirements apply:-
- (a) All loading and unloading associated with construction must be accommodated on site.

- (b) The structural design of the building shall be such as to permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
  - (c) If, during excavation, it is not feasible for loading and unloading to take place on site, the provision of a construction zone may be considered by Council.
  - (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
  - (e) If a construction zone is warranted, such an application must be made to Council prior to commencement of work on the site. An approval for a construction zone may be given for a specific period and certain hours of the days to reflect the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (77) 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.
- (78) 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.
- (79) 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.

- (80) Vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material.

**Note:**

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

## **Schedule 1E**

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

- (81) 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.
- (82) A Fire Safety Certificate (in accordance with Clause 174 of the Environmental Planning and Assessment Regulation 2000) must be furnished to the Principal Certifying Authority (PCA) (Council or a private accredited certifier) for all of the items listed in the Fire Safety Schedule forming part of this approval prior to any consent for occupancy/partial occupancy being granted. A copy of the Certificate must be submitted to Council if it was not the PCA.
- (83) All materials used in the building shall comply with specification C1.10 of the Building Code of Australia.
- (84) All doors serving as required exits or forming part of a required exit shall be provided in accordance with D2.19, D2.20 and D2.21 of the Building Code of Australia. Where it is proposed to fit a lockset, failsafe device or any security equipment to a door, a Compliance Certificate (in accordance with Clause 138 of the Environmental Planning and Assessment Regulation 2000) shall be obtained to the satisfaction of the Principal Certifying Authority (Council or a private accredited certifier) prior to installation.
- (85) Any door, shutter, grille or the like which is installed in a path of travel to a required exit shall be provided in accordance with D2.21 of the Building Code of Australia. Where it is proposed to fit a lockset, failsafe device or any security equipment to a door, a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act 1979) shall be obtained to the satisfaction of the Principal Certifying Authority (Council or a private accredited certifier) prior to installation.

- (86) Exit signs with directional arrows where necessary, shall be provided in accordance with E4.5, E4.6 and E4.8 of the Building Code of Australia.
- (87) The emergency lighting system serving the building shall comply with clauses E4.2 and E4.4 of the Building Code of Australia.
- (88) Signage complying with Clause D2.23 of the Building Code of Australia shall be provided to all required fire doors providing direct access to fire stairs.
- (89) Any proposed electronic locks shall comply with the following:
- (a) The electronic locking device shall be power energised to the locking mode and shall be deactivated to release upon direct or response power termination to the device to enable the door to be opened by single handed action in the direction of egress;
  - (b) The smoke detectors shall be provided on both sides of the security door, 1500mm from the centre of the door in the position described in Clause 5.7.5 of AS 1905.1 (1990);
  - (c) The locking device shall consist of an approved electronic door interlock system such that in the event of fire being detected by the building's sprinkler system and smoke/thermal alarm system (including smoke detectors required in the mechanical ventilation system by AS 1668 (1991)), the locking system will be deactivated to release by the termination of power to enable the door to be opened by single-handed action in the direction of egress;  
  
(Applicable where access to both stairs is restricted by security doors)
  - (d) An emergency switch/button, not contained in a protective enclosure, shall be provided in a conspicuous position in the lift lobby area adjacent to the subject door.  
  
The switch/button shall be available to deactivate the locking system by power termination in an emergency. A sign shall be provided to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier) adjacent to the switch/button indicating its purpose;
  - (e) Suitable directional exit signs shall be provided to the satisfaction of the PCA (Council or a private accredited certifier);
  - (f) Upon completion of work and prior to the operation of the security locking device and to the occupation of the subject tenancy, a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) shall be furnished to the Principal Certifying Authority (PCA) (Council or a private accredited certifier). A copy of the Certificate shall be submitted to Council if it was not the PCA.

- (90) The enclosing walls of the fire isolated stairway/s shall not be penetrated by any services other than as permitted by C3.9 of the Building Code of Australia.
- (91) Services passing through a floor shall either be in shafts complying with specification C1.1 or protected in accordance with C3.14 of the Building Code of Australia.
- (92) The efficient coverage and operation of any sprinkler system shall not be impaired by the partitioning layout and/or the efficient coverage and operation of any fire and smoke detection system shall not be impaired by the partitioning layout.
- (93) Any alterations to the existing sprinkler installation shall comply with the requirements of Specification E1.5 of the Building Code of Australia. A certificate from a competent person shall be submitted to the Principal Certifying Authority certifying compliance with this requirement.
- (94) The efficient coverage and operation of the fire hose and access to the fire hydrant service shall not be impaired by the partitioning layout.
- (95) Any tenancy door giving access to an exit shall be capable of being opened without a key from inside the tenancy in accordance with D2.21 of the Building Code of Australia.
- (96) All fully enclosed office/work areas not provided with natural ventilation shall be mechanically ventilated or air-conditioned in accordance with F4.5 of the Building Code of Australia and Council's Ventilation Code.
- (97) Unobstructed access shall be provided and maintained to all exits at all times from tenancies and from public areas.
- (98) All glazing materials shall be selected and installed in accordance with the relevant provisions of AS 1288 S.A.A. "Glass Installation Code".
- (99) Future partitioning shall be designed so that access to all fire stairs from all areas including public areas is available at all times and so that not less than two exits shall be readily available at all times from every point on the floor including the lift lobby area. Lockable or security doors or partitioning preventing access to at least two exits from the lift lobby area will not be permitted.

## **WASTE MANAGEMENT CERTIFICATION OF COMPLETION**

- (100) Certification of completion of waste handling works in accordance with the relevant Development Approval Conditions and Councils Code for Waste Handling in Buildings 1994, must be submitted in the form of Attachment W2 to the satisfaction of the Principal Certifying Authority (PCA), (Council or a private accredited certifier) prior to the issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979 or prior to use of the premises. A copy of the Certificate shall be submitted to Council if it was not the PCA.

Such Certification must be given by the Architect or other appropriated qualified person experienced in Waste Handling Design and Environmental Management.

- (101) Prior to issue of an Occupation Certificate and/or commencement of the use of the premises, all required contracts or arrangements for the collection and removal of wastes and recyclable material must be finalised.

## **MECHANICAL VENTILATION PERFORMANCE CERTIFICATE**

- (102) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979 and following the completion, installation, and testing of all the mechanical ventilation systems covered by the approval, a Mechanical Ventilation Certificate of Completion and Performance in the form of Attachment M2, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the Principal Certifying Authority (PCA) (Council or a private accredited certifier). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council if it was not the PCA.

## **CONTINUED PERFORMANCE OF MECHANICAL VENTILATION**

- (103) The efficient operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the partitioning layout. Adequate relief/transfer air openings must be provided to ensure the performance of systems during fire and non-fire conditions is not impaired.

## **CERTIFICATION FOR STRUCTURAL INSPECTIONS**

- (104) Prior to issue of an Occupation Certificate or use of the premises, a Structural Inspection Certificate in the form of Attachment S1C OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier) after:

- (a) The site has been periodically inspected and the structural certifier is satisfied that the Structural Works are deemed to comply with the final Design Drawings; and

- (b) The drawing revisions listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.
- (105) A copy of the Certificate with a microfilm set of the final drawings shall be submitted to Council if it was not the PCA.

**Notes:**

- (a) An appropriately qualified practising structural engineer certifying by completing Attachment S1C must have:-
    - (i) Appropriate tertiary qualifications in Civil or Structural Engineering, AND;
    - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
    - (iii) Evidence of relevant experience in the form of a CV/Resume;
    - (iv) Appropriate current professional indemnity insurance.
  - (b) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
- (106) All evaporative cooling warm water or water cooling systems installed on the premises must comply with the Public Health Act 1991 and Public Health Regulation 1991 and be registered by Council.
- (107) The premises must be ventilated in accordance with the Building Code of Australia and Council's Ventilation Code.

**TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS**

- (108) For temporary shoring, a separate application must be lodged to Council under the provisions of Section 68 of the Local Government Act 1993.
- (109) For temporary ground anchors, new permanent basement wall/s or other ground retaining elements:-
- (a) Prior to issue of a Construction Certificate, the following documents shall be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA):-
    - (i) Dilapidation Report of adjoining buildings/structures.
    - (ii) Evidence that public utility services have been investigated.

- (iii) If adjoining a Public Way:-
  - a. Evidence of a \$10 million dollar Public Liability Insurance Policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document shall be submitted to Council.
  - b. Bank Guarantee in accordance with the City's Fees and Charges. The original document shall be submitted to Council.
  
- (b) **Prior to commencement of work :-**
  - (i) The location of utility services shall be fully surveyed and the relevant Public Utility Authority requirements complied with; and
  - (ii) The following documents shall be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA):-
    - a. Structural drawings and certification as prescribed elsewhere in this Schedule.
    - b. Geotechnical Report and certification as prescribed elsewhere in this Schedule.
  
- (c) Prior to issue of Occupation Certificate, the City's Development Engineer shall be notified on 9265 9105 when the Restoration of the Public Way is complete and in accordance with the following:-
  - (i) All ground anchors shall be de-stressed and isolated from the building prior to completion of the project.
  - (ii) The temporary structure, including foundation blocks, anchors and piers shall be removed above and below the public way, prior to completion of project, down to a depth of 2m.
  - (iii) All timber shall be removed.
  - (iv) The voids then backfilled with stabilised sand (14 parts sand to 1 part cement).
  
- (d) After satisfying (c) (i) to (iv), notification in writing by the contractor shall accordingly be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA).
  
- (e) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way shall be borne by the owner of the land for works approved under this consent.

## **NUMBERING**

- (110) 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.

## **STREET NAME PLATE**

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

# **Schedule 1F**

## **Conditions to be complied with during the use of Premises**

- (112) All loading and unloading operations must be carried out via the rear entrance at all times.

## **REMOVAL OF GRAFFITI**

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

- (114) 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.

## **WINDOW CLEANING**

- (115) The owner/manager of the building shall ensure that all windows on the façade of the building are cleaned regularly and, in any event, not less than annually.

## **PORTABLE SIGNS**

- (116) Portable signs or goods for sale or display must not be placed on the footway or other public areas.

## **INTRUDER ALARMS**

- (117) 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.

## WASTE COLLECTION

- (118) Waste collection activities which are not undertaken wholly inside the building where the waste is generated, must only occur during the hours specified in the "Waste Collection Operating Hours Policy 1994".
- (119) The loading operation, including the movement of garbage receptacles, must take place within the building alignment on a level surface away from gradients and vehicle ramps. No waste is to be placed on the public way (eg. Footpaths, roadways, plazas, reserves or building colonnade areas) at any time.

## NOISE NUISANCE

- (120) Noise and vibration from the use of any plant, equipment and/or building service associated with the premises shall not cause a nuisance.

## NOISE - USE

- (121) 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 sub-clause 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.

## Schedule 2

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

Carried.

Note - Mr Peter Frageis and Mr Gerry Frageis addressed the meeting of the Planning Development and Transport Committee on Item 5.5.

### **DEVELOPMENT APPLICATION: PARK REGIS, 27 PARK STREET SYDNEY (D2002/00143)**

#### **5.6**

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 24 June 2002 in relation to Development Application 2002/00143 made by Owner's Corporation, Strata Plan 3397 for the site at 27 Park Street, Sydney (known as the Park Regis) for alteration and additions to existing building including cladding the podium, new building name signage, colonnade paving and extension of an existing ground level shop, it be resolved that -

(A) consent be refused for the following reasons:-

- (1) The proposed works are not considered acceptable in respect to the objectives and requirements of Central Sydney Local Environmental Plan 1996 concerning Design Excellence.
- (2) The proposal is not acceptable in respect to Clause 2.7 of Central Sydney Development Control Plan 1996 that requires building exteriors to address the predominant masonry character and articulation of Central Sydney, particularly at the lower levels of the building.
- (3) The proposal is not acceptable in respect to Clause 3.5 of Central Sydney Development Control Plan 1996 requiring continuous awning treatments.
- (4) The proposal would have an adverse impact on the nominated view to Town Hall along Park Street identified in clause 2.8 of 5 of Central Sydney Development Control Plan 1996.
- (5) The proposal is not acceptable in respect to Clause 8.2 of Central Sydney Development Control Plan 1996 concerning signage and its requirements in respect to the location of signage (eg podium signage discouraged).

- (6) The proposal is not sympathetic to the architectural character of the existing building, in particular the cladding panels proposed do not complement the materials or character of the existing building.
  - (7) The proposal does not promote Environmentally Sustainable Development principles and it is not in the public interest.
- (B) an inspection report be provided by a practising and appropriately qualified structural engineer on the soundness of the existing building's podium facade to the City of Sydney's Development Unit within 6 weeks of determination of development application 2002/00143.

Carried.

Note - Mr Joe Dirou and Mr Michael Granger addressed the meeting of the Planning Development and Transport Committee on Item 5.6.

#### **PART "A" (CONTINUED) - DETERMINED BY COUNCIL**

#### **STAGE 2 DEVELOPMENT APPLICATION STATUS REPORT: 137-139 BATHURST STREET, SYDNEY (D2001/00883)**

##### **5.7**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 24 June 2001 in relation to a stage 2 Development Application D2001/00883 made by De La Vega Architects Pty Ltd for the erection of a 15 storey-mixed use building providing for ground level retail, 4 lower levels of commercial office space, upper levels providing for 22 residential units and basement levels providing a 26 space car park (utilising a car stacker), storage and a gym at 137-139 Bathurst Street Sydney, it be resolved that -

- (A) Consideration of this development application be deferred and the applicant be requested to submit amended plans within 21 days from the date of this resolution, which addresses the following matters:-
  - (i) Amendment of the building to provide a minimum floor to ceiling height of not less than 2.7 metres to all sole occupancy units together with the consequent reduction of one (1) floor in order to maintain the building height approved in the Stage 1 DA consent;
  - (ii) Evidence of a secondary queuing area utilising the adjoining Metropolitan Fire Brigade station car park (not its Fire Truck garage) to service the subject development in the event of peak queuing and failure of the stacker system and approval from the NSW Fire Brigade.

- (iii) Amended documentation (ie plans showing all areas counted as floor space) be provided detailing the building's floor space utilising the definition for floor space in Central Sydney Local Environmental Plan 1996 and the amended plans shall be figured and dimensioned and incorporate RLs to Australian Height Datum for each level. The supporting survey the basis of this data shall be submitted with the amended plans.
- (iv) Evidence of appropriate mechanical redundancy within the proposed car park stacker (both in terms of hardware/motors and electronic software) should failure occur.
- (v) Satisfactory design details in respect to:-
  - (a) Rationalisation of the proposed horizontal banding of the façade whereby the irregular pattern proposed is replaced with a rational or regular design or environmental approach;
  - (b) The method of finishing and detailing of all exposed concrete fins and slab edges; and,
  - (c) External materials and finishes.
- (vi) The submission of an Energy Efficiency and Ecological Sustainable Development report for the building prepared by a suitably qualified consultant. This report shall address issues such as solar shading, thermal performance, insulation, opportunities for and installation of solar technology (eg solar heating), suitable building materials and an appropriate energy efficiency rating for the building. The results and recommendations of this report shall be reflected in the proposed development.
- (vii) Provision of bicycle storage as required under Clause 5.5 of Central Sydney Development Control Plan 1996.
- (viii) Provision of storage within each unit and a separate basement storage area as required under Clause 6.12 of Central Sydney Development Control Plan 1996.

- (ix) A separate garbage room to accommodate the waste generated by the residential component of the development, large enough to provide for the installation of an approved carousel type compactor system and facilitate the separation of putrescible from waste suitable for recycling and in a location to enable the chute discharge into the compactor system. The current garbage chute proposed traversing the ground level loading zone is unacceptable. A direct vertical chute with minimal lean is required. The garbage chute shall have access to each residential floor via separate transfer rooms on each residential level of the building to accommodate recycling receptacles and chute access hopper.
  - (x) A separate garbage room to accommodate the waste generated by the commercial and retail components of the development, large enough to provide for the separation of putrescible from waste suitable for recycling and in a location in the proximity of the trade waste collection vehicle standing area.
- (B) authority be delegated to the Chair of the Planning Development and Transport Committee to determine the application -
- (i) subject to the satisfactory outcome of issues identified in clause (A); and
  - (ii) should it be proposed that consent be granted, regard shall be had to the draft conditions of consent shown at attachment D to the subject report.

Carried.

Note - Mr Alex de la Vega addressed the meeting of the Planning Development and Transport Committee on Item 5.7.

**ITEM 6. REPORT OF THE PRIORITIES AND OUTCOMES COMMITTEE - 25 JUNE 2002**

PRESENT

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

Councillors Dixie Coulton, Fabian Marsden and Lucy Turnbull.

At the commencement of business at 5.29pm, those present were:-

The Lord Mayor, Councillors Marsden and Turnbull.

Councillor Coulton arrived at the meeting of the Priorities and Outcomes Committee at 5.40pm during discussion on Item 6.1.

**Closed Meeting**

At 5.30pm the Priorities and Outcomes Committee resolved to close the meeting to the public to discuss Items 6.1 to 6.4 inclusive on the Agenda.

The meeting of the Priorities and Outcomes Committee concluded at 6.35pm.

Report of the Committee

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

That the Report of the Priorities and Outcomes Committee of its meeting of 25 June 2002 be received and noted, and the recommendations set out below for Items 6.1 to 6.4 inclusive be adopted.

Carried.

The Committee recommended the following:-

**Closed Meeting**

At 5.29pm the Priorities and Outcomes Committee 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)(c) of the Local Government Act 1993 to discuss Items 6.1 to 6.4 inclusive 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 matters and the circumstances of communications.

Items 6.1 to 6.4 inclusive were then dealt with by Priorities and Outcomes Committee while the meeting was closed to the public and were subsequently dealt with by Council in open session.

### **COOK AND PHILLIP PARK MAINTENANCE AND OPERATIONS PLAN FOR 2002/03 (S016719)**

#### **6.1**

That arising from consideration of a report by the Senior Project Coordinator, Contracts and Asset Management to the Priorities and Outcomes Committee on 25 June 2002, on Cook and Phillip Park Maintenance and Operations Plan for 2002/03, it be resolved that -

- (A) the Maintenance and Operations Plan for 2002/03, as shown at Attachment A to the subject report, be accepted with the amendment that all categories of fee that incur an increase remain unchanged for a period of at least 12 months; and
- (B) authority be delegated to the Lord Mayor to review and, if necessary, revise clause 17 of the Maintenance and Operation Plan for 2002/03.

Carried.

### **GOULBURN STREET PARKING STATION PRICING POLICY REVIEW (S014833)**

#### **6.2**

That arising from consideration of a report by the Section Manager, Contract Strategy and Planning to the Priorities and Outcomes Committee on 25 June 2002, on the Goulburn Parking Station Pricing Policy Review, it be resolved that:

- (A) the fees for at the Goulburn Street Parking Station for 2002/2003 be:

#### Casual Rates (GST inclusive)

1 hours =	\$5.00 (1st hour of parking)
1-2 hours =	\$10.00 (2nd hour)
2-3 hours =	\$15.00 (3rd hour)
3-4 hours =	\$20.00 (4th hour)
4-5 hours =	\$27.50 (5th hour)
5-6 hours =	\$35.00 (6 <sup>th</sup> hour)
6-7 hours =	\$42.50 (7 <sup>th</sup> hour)
7-8 hours =	\$50.00 (maximum daily rate).
After hours rate =	\$8.00 (flat)
Weekend rate =	\$10.00 (flat)

Monthly Rates (GST inclusive)

Unreserved car space = \$400

Reserved car space = \$580

- (B) a cap be placed on the number of monthly car spaces to a maximum of 300 accounts per month;
- (C) the changes in the pricing in clauses (A) and (B) be trialed for three months, to be reviewed at the end of October 2002 with a view to introducing further measures aimed at meeting the curfew component of clause 5.2 of the Central Sydney Development Control Plan 1996;
- (D) the General Manager be authorised to amend the proposed 2002/2003 Schedule of Fees and Charges in accordance with clauses (A) to (C).

Carried.

**ANDREW BOY CHARLTON POOL AND CAFÉ OPERATIONS (S016387)**

**6.3**

That arising from consideration of a report by the Senior Project Coordinator, Contracts and Asset Management to the Priorities and Outcomes Committee on 25 June 2002, on the Andrew Boy Charlton Pool and Café Operations, it be resolved that -

- (A) the refurbished facility be offered by tender to quality pool or café operators for the following options:
  - (i) operation of the pool and café together; or
  - (ii) operation of the pool alone; or
  - (iii) operation of the café alone;
- (B) authority be delegated to the General Manager, with the concurrence of the Lord Mayor, to approve the terms and conditions of the operating agreement(s) and specifications to be included in the tender documentation.

Carried.

## **CITY CARE STREET TREE PROGRAM**

### **6.4**

That arising from consideration of a report by the Executive Project Manager to the Priorities and Outcomes Committee on 25 June 2002, on City Care Street Program, it be resolved that -

- (A) approval be given to the commissioning of a revised City of Sydney Street Tree Masterplan and Management Policy to be undertaken by experienced landscape/arboricultural consultants at an estimated cost as shown in the subject report, and that quotations now be sought for this work, such work to be completed by 30 November 2002;
- (B) approval be given to the calling of tenders for the Street Tree Works Package 1 at an estimated cost as shown in the subject report, to be carried out during the 2002 planting season (July - October 2002);
- (C) approval be given to the proposed implementation of an aerial bundled cabling program of 101 spans in 27 streets within the City of Sydney at an estimated cost of \$100,000, to be funded from the 2001/2002 Capital Works Budget for trees;
- (D) a Project Control Group be established, chaired by the Deputy Lord Mayor, Councillor Lucy Turnbull, and comprising Councillor Coulton, Director City Projects (or her alternate) and the Executive Project Manager, with the following functions -
  - (i) to review and oversight in detail the implementation of the functions outlined in clause (A);
  - (ii) to oversight the works referred to in clauses (B) and (C); and
  - (iii) to meet fortnightly until the revised Masterplan is adopted by Council and Street Tree Works Package 1 and Package 2 have been completed;
- (E) it be noted that the tenders for the Street Tree Works Package 2, as outlined in the subject report, will be called by February 2003.

Carried.

**ITEM 2A. BUDGET STATEMENT 2002/03****MINUTE BY THE LORD MAYOR**

To Council:

**1. INTRODUCTION**

The City of Sydney continues to set the standard in Australian local government through its innovative, proactive and stakeholder-focused agenda of review, reform and improvement.

This is reflected across the City's operations: capital works, human resources, planning and development, city safety and homelessness, financial and corporate management, service delivery, community services, enforcement services and IT.

Our capabilities are built upon the firm foundations of the City's solid financial management. Without these foundations, few of the City's many accomplishments over the past 10 years could have come to fruition.

It is our financial strength which underpins our continued improvements in facilities and service delivery for our residents and ratepayers. Financial strength is translated into strong, capable local government with the resources and ability to go 'that extra mile'.

The 2002/03 Budget is another significant milestone for the City of Sydney. Without additional burden on its ratepayers, it sets a positive and achievable agenda for the next 12 months and beyond as the City pursues major initiatives in:

- Capital Works and Community Facilities
- Improved and Expanded Service Delivery
- Increased Standards for Compliance and Accountability - both internal and external
- Enhanced Operational Efficiency
- City Access
- Enforcement and Prosecution

As detailed in this minute, examples include:

- The Customs House/Town Hall House project
- The Complaints Accountability System
- The Compliance and Prosecution Group
- Increased resources for Building Certification related issues
- Expanded audit capabilities
- A Disabilities Action Plan
- Increased Graffiti removal and;
- New Public Art and strengthened cultural partnerships

Subject to the outcome of a current legal challenge, the City also is making contingency plans for opportunities which will arise from boundary changes.

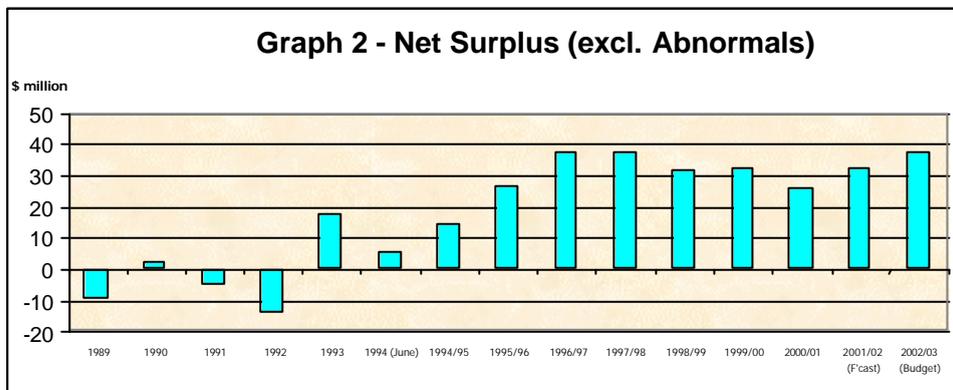
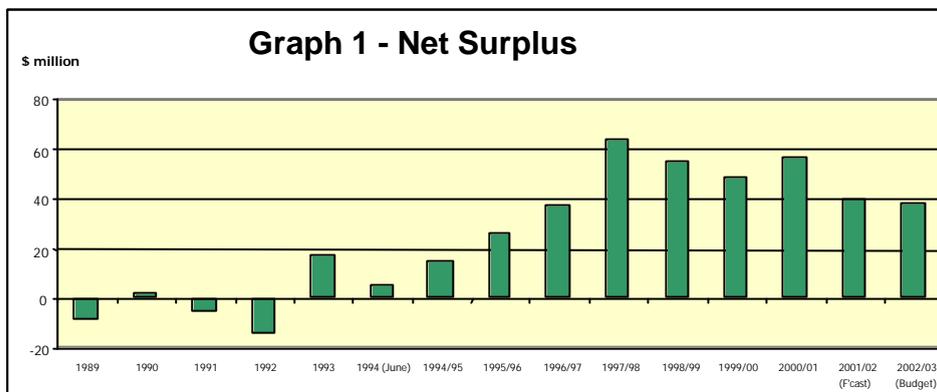
These include Neighbourhood Service Centres in Glebe and Kings Cross and revitalising and improving the key gateway roads into the City.

Sydney's position as an emerging Global City can only be enhanced by the opportunities presented by our plans for the next year.

## 2. FURTHER SURPLUSES PROJECTED

### Net surplus

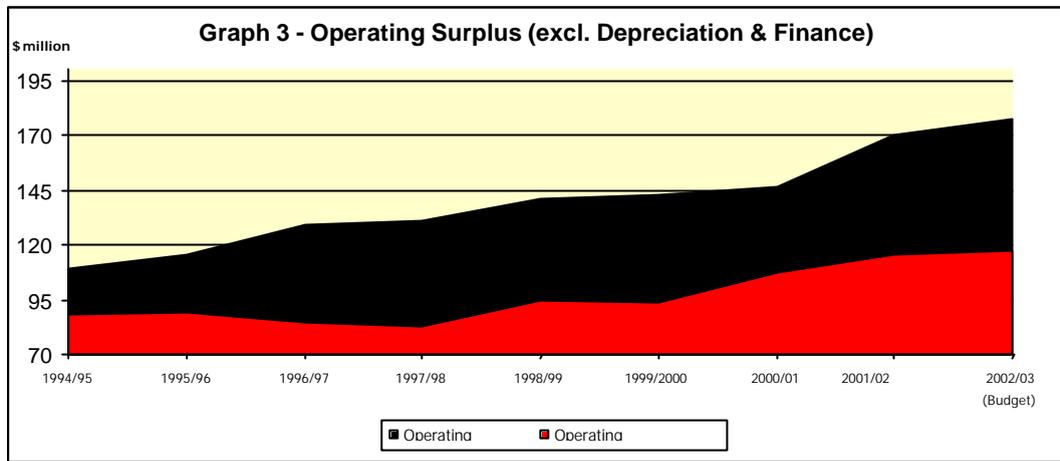
The City continued its impressive performance in 2001/02 with an estimated net surplus of nearly \$40 million forecast for the year. The productivity gains made through the competitive tendering process were protected and enhanced with a further re-structuring of the organisation taking place in November 2001. The 2002/03 Budget perpetuates this success and a net surplus for the year, of approximately \$38.8 million is estimated.



### Operating surplus

One of the City's key financial strategies, especially over the past 7 years, has been to generate operating surpluses in excess of 30% of Operating Revenue. On the basis of the Q3 year end forecast, the operating surplus in 2001/02 will be approximately 30%. However, this is expected to improve when the figures are finalised for the year.

The budget for 2002/03 projects an operating surplus of 32% of operating revenue. A corollary of this has been that Operating Expenditure has had to be kept under strict control. This has enabled the raising of sufficient internally generated funds to finance the major capital works programs undertaken and to ensure the continuing financial viability of the City.

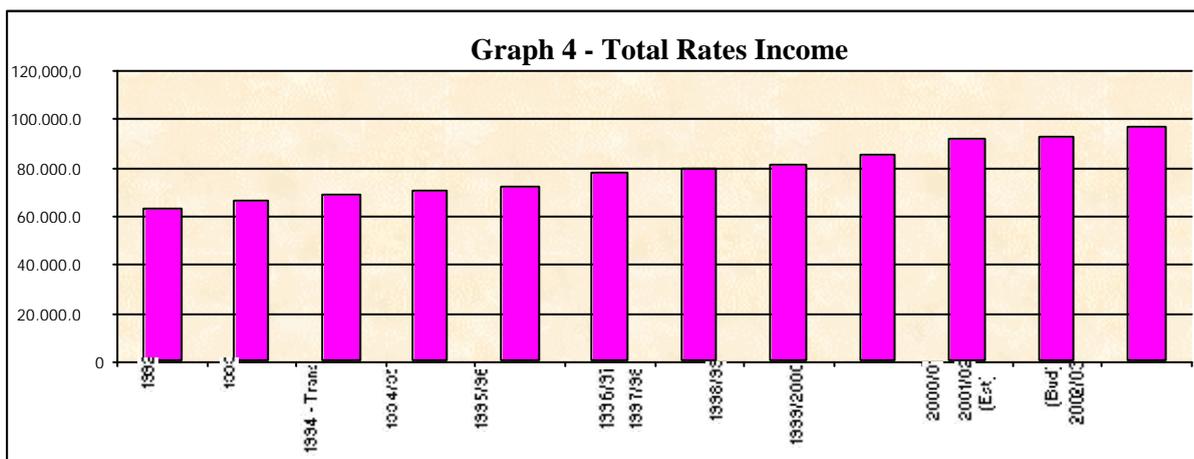


As is evident in Graph 3, the difference between Operating Income and Operating Expenses (Operating Surplus) has continued to widen, showing sustained improvement in this regard.

### 3. REVENUES

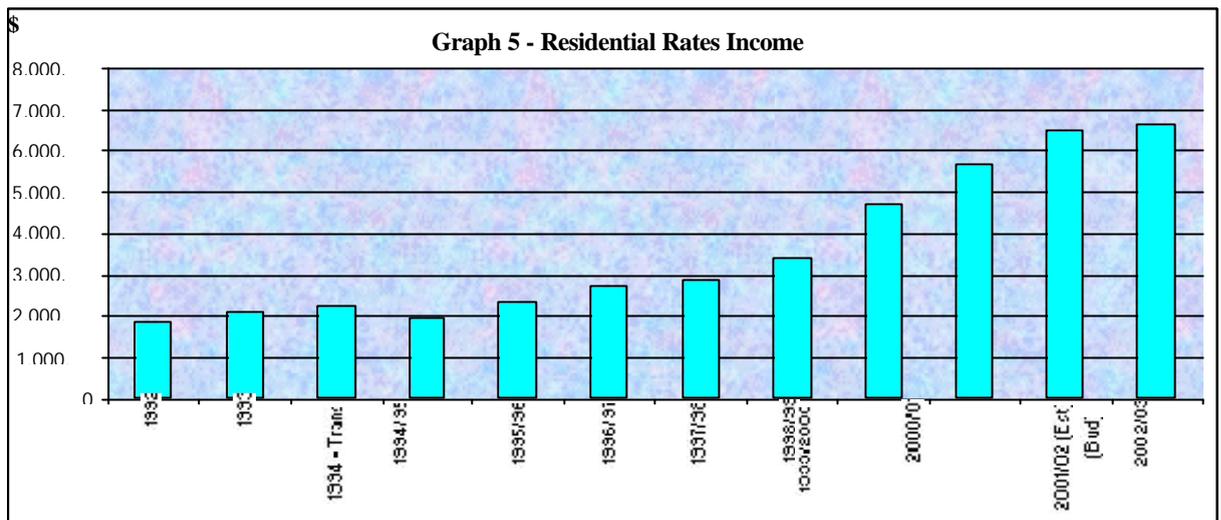
#### RATES

Total income from rates has been limited in growth to the general increase granted by the Minister for Local Government. The budget provides for an additional increase in rate income of 1.5% to partially cover the cost of 'Quality of Life' services.

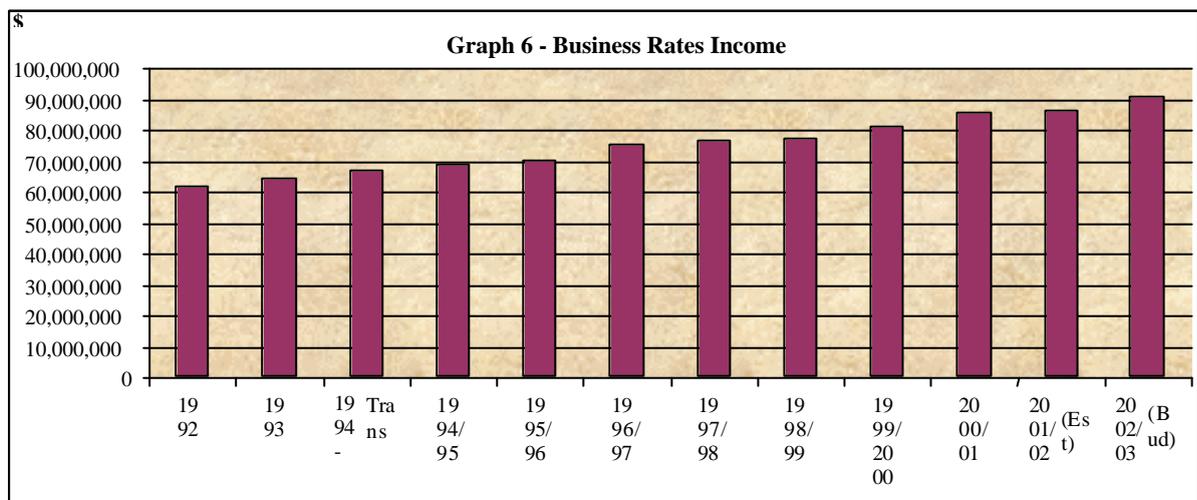


These services include graffiti removal, city safety and homeless persons programs

Individual rate increases in 2002/03 have once again been capped at 50%.

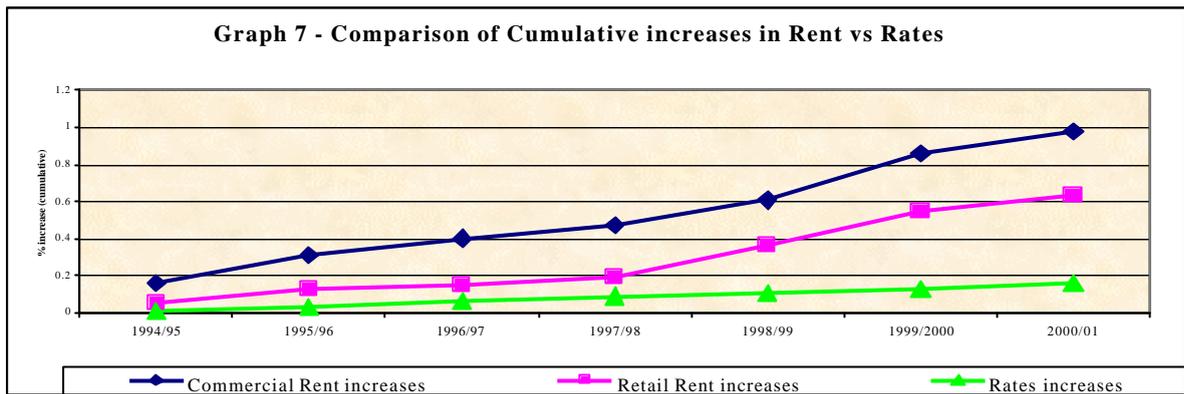


Growth in residential accommodation in the City plateaued over 2001/02, having led to a substantial increase in rates revenue from residential properties over the past decade. However, with the completion of World Square and other developments, the number of assessments should start increasing again over the next two years.



By contrast Graph 6 shows a more modest growth in commercial rates consistent with the lower growth in new commercial rate assessments, noting that rate capping by the State Government greatly limits revenue growth.

A comparison of commercial rent increases with rate increases (see Graph 7 next page) shows that while rates have increased by less than 16% over a 6 year period (1994/95 to 2000/01), commercial and retail rents have increased by over 63% and 97% respectively. Or, put another way, rates are becoming a minor part costs for both commercial and residential City ratepayers.

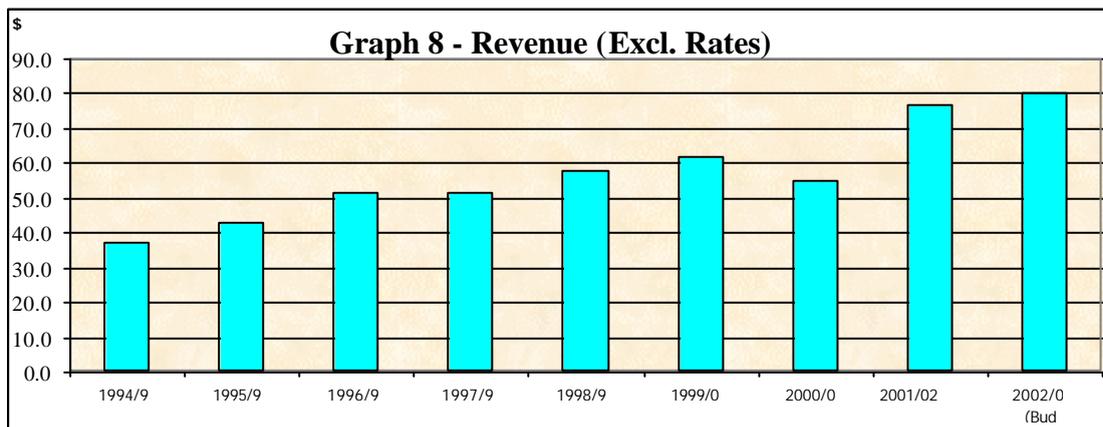


**NON RATES REVENUE**

Over the past six years the City’s dependence on rates income has decreased from 66% to 54% of total revenue. The major sources of non-rates income are:

- Construction Zone Kerbside Licences
- Parking Meters and enforcement
- Parking Station
- Trade Waste collections
- Rental from properties
- Hire of venues
- Development related fees

This naturally leads to less reliance on Rates income to fund the dynamic programs of the City with ratepayers not being called on to generate additional funds.



**Smartpoles**

The City has a lease agreement with Energy Australia which allows it to recover costs associated with the Smartpoles over a ten year period to June 2011. In 2001/02 Council negotiated with Energy Australia to accelerate the payments and offered to pay a total of \$23 million over 2 financial years.

This offer has been accepted in principle by both parties and the liability for this payment is now recognised. The buy-back substantially reduces Council's costs over the next 10 years.

### Queen Victoria Building

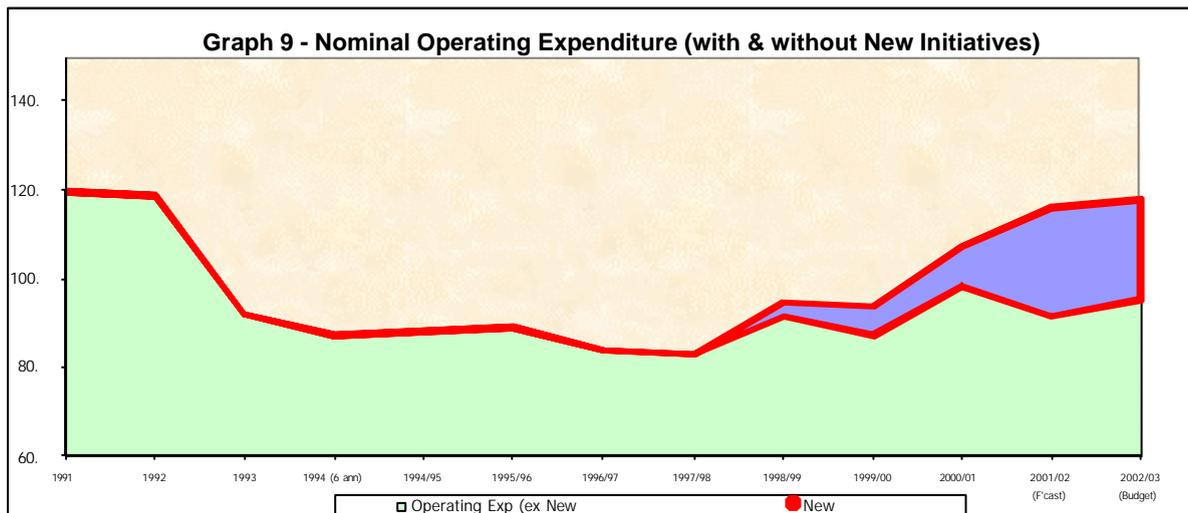
The agreement with IPOH Ltd (operators of the QVB) provides for the sharing of net profits between IPOH and the City, after recovery of capital expenditure incurred by IPOH in refurbishing the building and other selected costs. The QVB operation generated, for the first time, profits after recovery of costs and the City received its first payment in the current year 2001/02. On the basis of projections made by IPOH Ltd, the City will enjoy substantial income from this source over many decades. The income to the City for 2002/03 is projected to be \$ 7.2 million.

### St Peters Tip

Owned and operated by the City, the tip was sold early in this calendar year for a sum of \$30 million. The City had recognised that the site did not fit in with its core business and the operation was not being run at its optimum level of profitability. It was decided by the City therefore to exit the business and find more appropriate uses for the investment.

## 4. OPERATING EXPENDITURE/COSTS

Operating Expenditure has been contained through a continuation of the competitive tendering process and the re-structuring of the organisation. Despite taking over parking enforcement in the City from NSW Police in September last year, (in the process taking on 50 additional officers) and the granting of a 5% salary and wage increase to all staff through the new Enterprise Agreement, operating expenditure is budgeted to increase in 2002/03 by only 1.6% from the previous year.

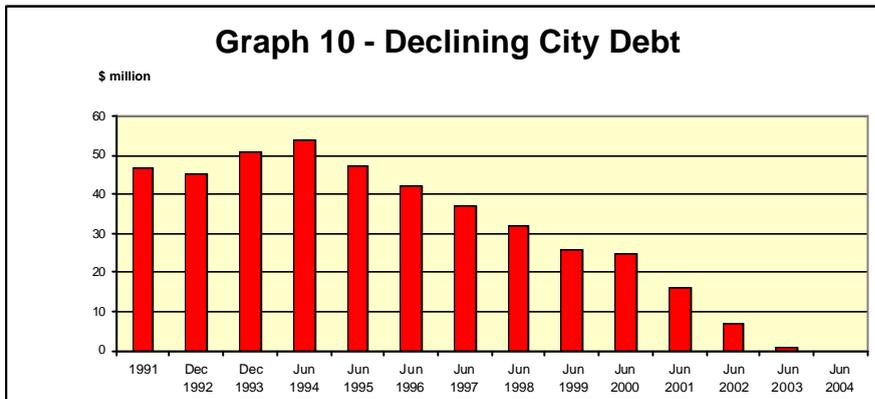


In nominal terms, the level of operating expenditure in 2002/03 (\$117.6M) is less than that incurred in 1991 (\$119.3M).

This is an exceptional achievement especially in the light of various new initiatives being undertaken and on which expenditure continues to be incurred. Facilities such as the City Recital Hall, Customs House (including the City Exhibition Space); programs such as the Homeless brokerage service and Safe City; the world-acclaimed New Year's Eve spectacular; improving the look and ambience of the City with floral displays and improved lighting, are some of the additional activities introduced during this period. *Without these additional services City expenditure has decreased by 20.3% in nominal terms and by 38.1% in real terms.*

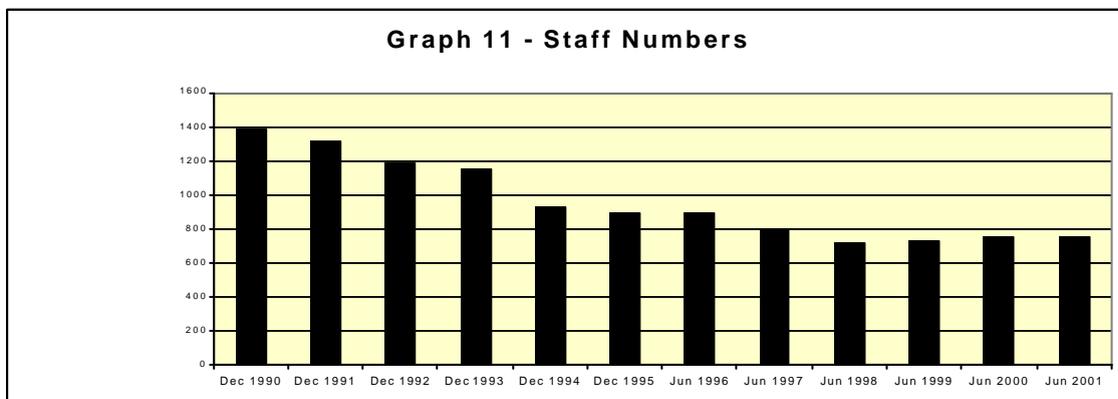
**5. CITY DEBT**

Notwithstanding major expenditure on capital works and the provision of additional services, the City has continued reducing its level of indebtedness, which reached a high in June 1994 of \$53.7 million with financing of the Capitol Theatre. Our diligent debt reduction program remains on track, with debt to be completely settled by 2003/04.



**6. ORGANISATIONAL AND PERSONNEL ISSUES**

The 2001/02 year saw the City reach agreement with its workforce on a new Enterprise Agreement which delivers both savings and efficiencies to the Council as an employer while providing additional benefits and a 5% salary and wage increase to staff. Staff numbers currently stand at approximately 715 FTE.



Key Human Resources initiatives for 2002/03 include:

### **The development of Council's people**

A Staff Training and Development Policy was adopted in January 2002 from which a training needs analysis was conducted with senior managers as the basis for the development of a comprehensive, strategic and coordinated Professional Development Program. Six pathways of education and training have been established focussing on Management, Leadership, Business, Technology, People and City Knowledge.

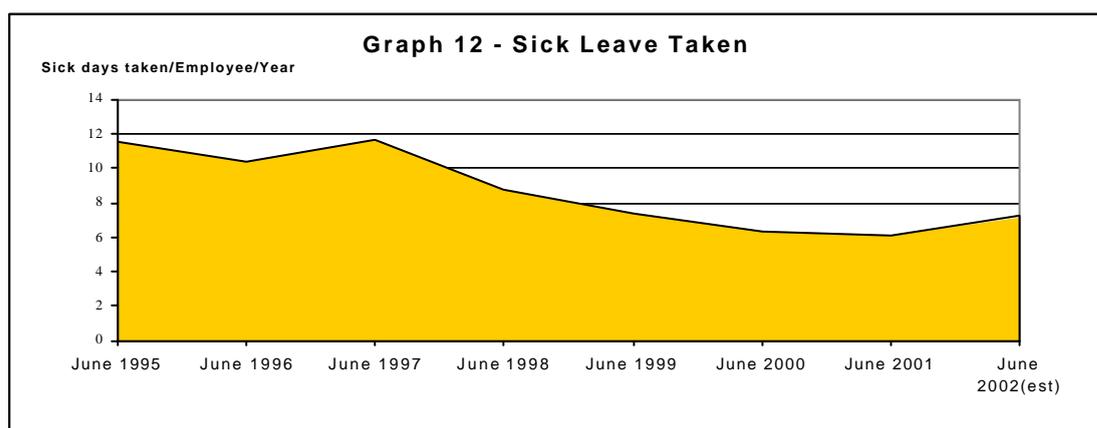
### **Improving the financial and competitive position of Council**

Staffing levels have been closely monitored and managed to achieve a 5% reduction over a year which also saw the successful induction and integration of 50 additional Parking Officers.

Council continued to manage attendance behaviour to reduce sick leave taken, provided effective injury management to reduce days lost to injury, implemented OHS injury prevention strategies to reduce lost time incidents and ensured active claims management to reduce workers compensation liability

### **Continued harmonious industrial relations**

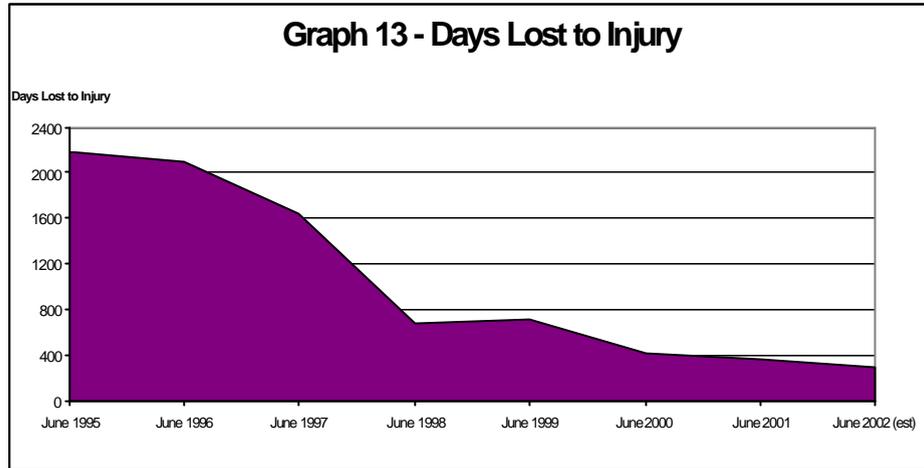
Workplace productivity improvements have been maintained and improved through the recent renegotiation of the Council wide Enterprise Agreement 2004 (this agreement has been renegotiated since 1996 and is in its third round). In addition, the Street Cleansing Local Workplace Agreement was successfully negotiated to lock in workplace reform and workplace efficiencies as part of Council's competitive tendering program. Council also successfully managed a program of organisational structural reform to ensure staffing efficiencies were maintained as a result of a post Olympics realignment.



### **Improved Health and Safety in Council workplaces**

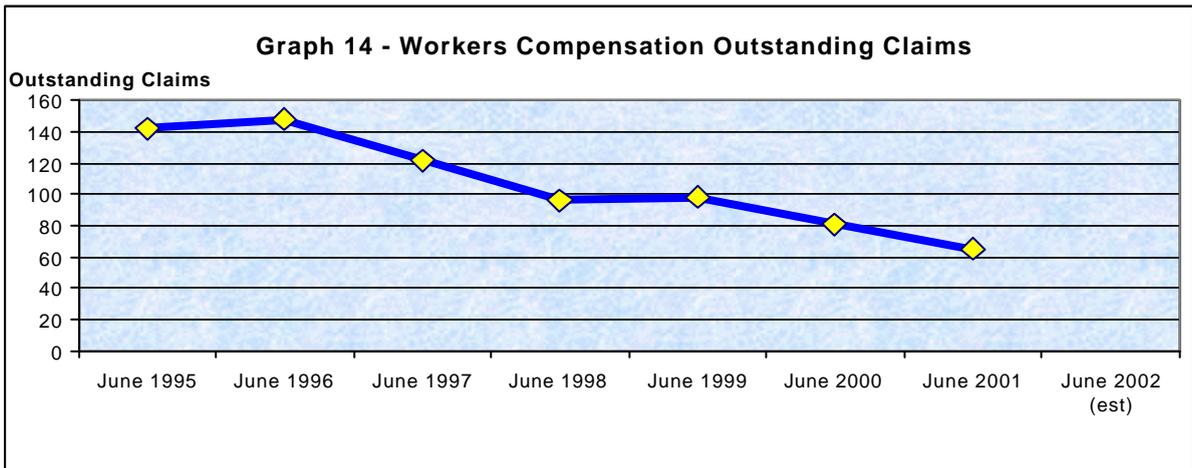
Workplace health and safety has been enhanced through the consultative arrangements of the City's OHS Committee and implementation of programs covering workplace issues such as manual handling, immunisation program, first aid training, Health promotion, occupational violence, road safety and ergonomics.

Workplace audits have also been conducted by internal staff and external professionals on hazardous substances and Dangerous Goods, local workplace inspections and for our OHS&R system compliance for self insurance.



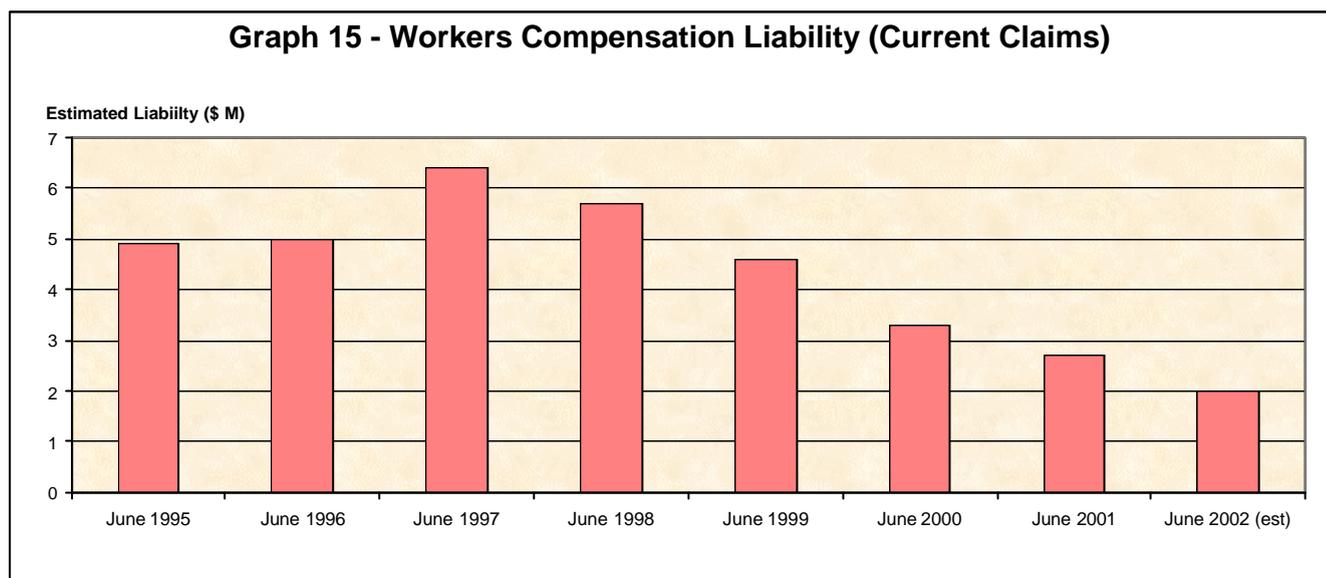
The City strives to improve the health and safety of its workforce through a wide range of initiatives ranging from major OH&S programs to ‘healthy lifestyle’ information and advice to staff.

The programs continue to pay tangible dividends for the City through reduced days lost to injury or ill health.



While there has been a slight increase in the number of injury incidents, since June 2001, days lost to injury continue to decline.

The City’s liability for outstanding workers compensation claims continues to be reduced, with current estimates indicating a 60% reduction since the late 90’s.



## 7. CAPITAL WORKS

### 2001/02

Capital expenditure in 2001/02 reduced somewhat from previous years as efforts were primarily directed at the beginning of the year towards the project to re-furbish the MCA building. With the responsibility for the MCA being transferred to the Sydney Harbour Foreshore Authority, this project has since concluded and the MCA's viability has been assured.

The major projects undertaken during the year were, ABC Pool, Ultimo Pedestrian corridor, Wattle St Pedestrian bridge, Ultimo Aquatic Centre design competitions, refurbishment of floors in Town Hall House to facilitate renting of space and re-sheeting of roads & footways, thus maintaining the high standard of roads in the City.

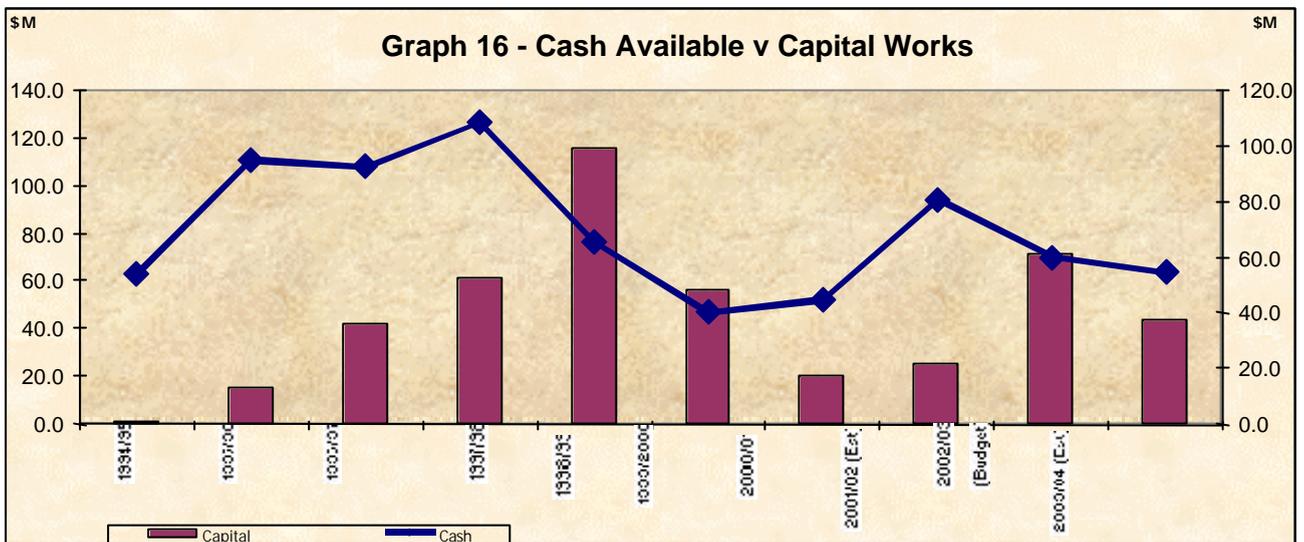
### 2002/03

In 2002/3 the City will continue its reputation for developing and delivering ambitious projects which deliver important facilities to the people of Sydney.

Principal among the City's 2002/03 capital works projects will be the significant reconstruction of Customs House to allow major new uses. These will include a cutting-edge public library befitting its proposed new home in the iconic Customs House. The incidental reconfiguration of Town Hall House will create greater commercial and operational opportunities.

Other projects in 2002/03 will include:

- Completion of the ABC Pool Upgrade (reopening October 2002)
- Commencement of the Ultimo Aquatic Centre
- Improved access and facilities for Sydney Town Hall
- Town Hall precinct upgrading
- Asset enhancements at Cook & Phillip Park
- Options investigated for the redevelopment or consolidation of the Bay St and Wattle St depots



As Graph 16 demonstrates, the City has ample cash to fund its capital works program without having to resort to further borrowings.

## 8. NEW INITIATIVES

### Complaints Accountability System

In May 2002, Council endorsed the implementation of the Complaints Accountability System (CAS), which is an integrated complaints and issues management system that will produce strategic data to target problem premises, locations or issues.

The objectives of the CAS are:

1. Expeditiously deal with complaints and maximise stakeholder satisfaction.
2. Use complaint data to target problem premises, locations and issues the city and new areas.
3. Provide a record of all dealings between the City, complainants and complainers that is sufficient for evidentiary purposes.
4. Provide a staff performance measure in respect of customer satisfaction.

The CAS will produce a hierarchy of detailed reports that will provide both quantitative and qualitative data to relevant staff, managers, the General Manager, the Lord Mayor and Councillors. Most notably, the City intends to publish an annual report card of errant premises and related issues.

The CAS, combined with the proposed City Prosecution and Compliance Unit, will place the City in a far stronger position to vigorously deal with new challenges the City will face once its boundaries change.

The budgeted cost for the implementation of CAS is \$60,000. This will cover the recruitment of analyst to implement the CAS and the required system enhancements.

### **Compliance and Prosecution Group**

Under the management of the City Prosecutor, and attached to the Office of the General Manager, the proposed Group will deliver to the City an enhanced capacity to achieve compliance with its lawfully exercised powers and responsibilities.

The intention is to bring about a positive change to the amenity of the City's local government area, including in respect to the behaviour of 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.

Apart from the new position of City Prosecutor, the Group is proposed to be comprised of existing City staff employed in Law Enforcement, Parking Enforcement, Building Regulation and Compliance, Environmental Health and CCTV.

### **Building Certification and Compliance**

To respond to evidence of defects in some completed city buildings, the City is expanding the staffing, resources and skills-base of its building certification and compliance capability. This greater focus on the issue will involve random checks of buildings during construction; new development conditions allowing a higher degree of inspections; a new policy on inspections of existing buildings and a submission to the State Government on reform of current requirements for building inspections.

### **Audit and Accountability**

To achieve enhanced organisational accountability and complement management changes, Council decided to strengthen and expand its internal audit functions. The City of Sydney has revised its Internal Audit process and appointed Deloitte Touche Tohmatsu to provide internal audit services for the council.

Their brief is to monitor and review the City's administrative and financial systems and controls, ensure regulatory and policy compliance, identify areas for improvement and to assist council achieve value for money for its services.

The auditors report to an Audit Committee which comprises representatives of Council, the General Manager and independent external members.

Supplementing the audit function, and as part of the Council's drive for greater accountability and value for money, all City community facilities, including recreation, aquatic and activity centres, will have an annual revenue and expenditure statement prepared and their financial performance will be monitored quarterly.

Further, there will be new and regular reports - monthly to the General Manager and the Lord Mayor and quarterly and annually to the Council and Councillors - on various aspects of organisational performance.

### **Information Technology Upgrade**

Work has commenced on the replacement of Council's core IT business systems and the upgrade of major elements of its technology infrastructure. A total sum of \$6 million over the next two years has been allocated.

A comprehensive review is underway of both our business requirements and opportunities to implement innovative means of better servicing the needs of council and its stakeholders and is planned for tender by August this year - and substantial implementation by July 2003.

Coupled with upgrades to technical components ranging across a variety of areas from our data network through to handheld technology; these developments will give the City the capability to better manage its internal business affairs, reduce the duplication in systems and information storage and implement new services for managing both the City's assets and improve our ability to service our stakeholders.

These changes mean our customers will have their requirements dealt with deal more responsively and effectively with their needs; and while from the City's perspective there will be tangible benefits flowing, for example from better management of the City's extensive and varied asset base.

### **Parklands Initiative**

The City will negotiate the transfer of Government lands (those currently managed by the City of Sydney) to its ownership as community land. These lands include Cook & Phillip Park, Prince Alfred Park, Wentworth Park (subject to relocation of the greyhound racing facility), Observatory Hill, Belmore Park, Lang Park and Wynyard Park based on existing limitations as to permissible uses.

### **Parking Meters**

The City will finalise the tender for new parking meter technology, opening the way for the introduction of non-cash payments systems such as smartcards, credit cards and M-commerce, as well as combating the high rate of meter vandalism. The City will be trialing meters from two or three suppliers for several months before finalising the tender.

### **Parking Enforcement**

Following the transfer of parking enforcement responsibilities in the City from the NSW Police to the Council in September 2001, improved enforcement levels have led to significant improvements in parking space availability and reduced inconvenience and safety risks associated with illegal parking. The City will develop new methodologies and systems to improve enforcement levels, increase parking space availability and reduce inconvenience and safety risks to city users. The aim is to achieve a 90% compliance rate for all street parking in the City within 12 months.

### **Access Action Plan**

As detailed in a separate Council paper, the City has developed a comprehensive new Disability Action Plan 2002-2005. Supported by significant capital funding, the DAP identifies a range of practical goals and achievements that build upon current services to boost access in the City. The 2002/03 budget provides \$850,000 for associated programs and capital works.

### **Graffiti removal**

Building on the success of the City's Graffiti removal strategy introduced in 1999, this program is set to expand in the next year with the onset of new legislation allowing the City to remove graffiti, bill posters and the like from private property which is accessible from public land. The increased cost of this work, budgeted at \$1 million shall be funded in part from the 'Quality of Life' services special levy with this year's rates, sharing the cost burden across all ratepayers.

### **Public Art**

The City's commitment to public art is again demonstrated in the 2002/03 budget with the allocation of \$500,000 to the public art program. The City's Sydney Sculpture Walk has won local and international renown and the funding in this budget will allow opportunities to expand this collection.

### **Customer Service**

The City's commitment to continual improvement in customer service continues with the 2002/03 budget. This includes upgrades to the City's Information Technology infrastructure (see below), improvements to the physical layout and services at Town Hall House and Sydney Town Hall and (if the City's boundaries are expanded as proposed) the establishment of Neighbourhood Service Centres in Kings Cross and Glebe. The NSC's (see also 'Contingent Issues') will bring access to council services, advice and information to the new areas proposed to join the City under boundary changes. The Kings Cross NSC also will provide a centre for Law and Parking Enforcement Officers, Health and Building Inspectors and other City staff to provide a strong council presence in the area.

### **Service Enhancements**

The 2002/03 budget provides significant allocations to improving and expanding services which ensure the city maintains its high standards of presentation.

These include:

- A \$228,000 increase in funding for Street Sweeping
- A \$1.5 million boost for City Property Maintenance including improved access and facilities for Sydney Town Hall
- An extra \$1 million for removal of graffiti from publicly accessible private properties
- Street Tree maintenance and care increased by \$20,0000

## **9. OTHER INITIATIVES**

### **Further Growth in Cultural Partnerships**

The City will continue its strong cultural partnerships which make possible key Sydney events including:

- Sydney Festival (City/State Govt./Channel 9)
- Sydney Writers Festival (City/State Govt.)
- Biennale (City/State Govt./Transfield)
- New Years Eve (City/Channel 9/Daily Telegraph/2UE)
- Art & About (City/AMP)

Furthermore, the City presents or is a key sponsor of:

- Sydney Film Festival (three year sponsorship)
- Chinese New Year
- The Asian and Spanish Film Festivals
- Cabaret Convention

The 2002/03 budget will allow the City to support further initiatives by arts and cultural organisation in the year ahead.

### **The Local Government Association**

Subject to successfully negotiating a more appropriate relationship, the City proposes to rejoin the Local Government Association in 2002/03.

### **City Plan**

The City will complete the five-year review of its major planning instruments. Amendments will be exhibited shortly. In doing so, the City will consolidate three planning instruments: the Central Sydney LEP, the Central Sydney Heritage LEP and the Regional Environment Plan No. 26 (Ultimo/Pymont). This will simplify planning in the City.

### **Floorspace and Employment Study**

The City will be finalising its 2002 Floorspace and Employment Study, a census of building use and the workforce in the City of Sydney LGA. This study will become a key tool in development of city services, community programs, transport plans and planning and development strategies in the years ahead.

### **Support for Sydney Cancer Centre**

The City has resolved to provide \$450,000 over three years to support efforts to develop the Sydney Cancer Centre at Royal Prince Alfred Hospital as Australia's first Comprehensive Cancer Centre, based on the United States model. This funding will assist the Cancer Centre in employing an executive director to coordinate major fundraising to supplement its patient care and research initiatives.

## 10. CONTINGENT ISSUES

A number of the City's projects and plans for the next year are contingent upon circumstances largely beyond its control, however the City has made provision for these opportunities as they arise or will reevaluate the situation should they not be able to proceed.

The City has prepared a comprehensive services plan for our neighbouring areas, including Kings Cross, Glebe and Forest Lodge, after the Government announced its proposed intention to change the City's boundaries to encompass those suburbs. Those plans are on hold pending the outcome of current legal action.

Of concern to the City has been South Sydney Council's disregard for the Minister for Local Government's guidelines concerning council spending during the transfer process. Assets have been sold, capital works programs announced and contracts entered into relating to the areas proposed to be transferred to the City.

South Sydney Council also has introduced a rates regime which aims to reduce the revenue base for those areas proposed to be transferred to the City of Sydney. This can only lead to service cuts rather than the service enhancements those areas need. This is being challenged in the courts by the City.

In the meantime, the City has invested almost \$10 million in the purchase of a building to house the Neighbourhood Service Centre in Darlinghurst Road, Kings Cross. Should there be a long term delay in boundary changes, incorporating Kings Cross into the City of Sydney, it is expected the building would be leased out as an income-generating asset.

The City of Sydney also is undertaking preliminary design development for improvements to the CBD's key gateways: William Street, Oxford Street and Broadway.

Wentworth Park has, for many years, been viewed by the City as an opportunity to develop new passive and active recreation spaces for our residents and ratepayers in Pyrmont, Ultimo and Glebe. The 2002/3 budget contains a contingency allocation for this project should an agreement to relocate the greyhound racing facility eventuate.

## 11. CONCLUSION

The 2002/03 Budget will bring significant and lasting improvements to the City of Sydney, without impacting on its strong financial bottom-line. New programs and service delivery standards are being introduced without further burden on our ratepayers.

Throughout the next 12 months, as the projects and initiatives outlined in this statement are introduced and implemented, the City will continue to identify new opportunities to further capitalise on its ability to innovate and deliver.

### RECOMMENDATION:

That the Budget Statement 2002/03 by the Lord Mayor be endorsed and adopted.

(SGD) COUNCILLOR FRANK SARTOR  
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 28 June 2002, on Budget Statement 2002/03, it be resolved that the subject Minute by the Lord Mayor be endorsed and adopted.

Carried unanimously.

**ITEM 7/8. 2002/2003 BUDGET AND 2002-2005 CORPORATE PLAN (S019994)**

Moved by Councillor Turnbull, seconded by Councillor Marsden -

That arising from consideration of a report by the Finance Manager to Council on 28 June 2002, on 2002/2003 Budget and 2002-2005 Corporate Plan, and following the placement of the draft 2002-2005 Corporate Plan, including the 2002/2003 Budget, Schedule of Fees and Charges on public exhibition for a 28 day period from Tuesday 28 May 2002 to Monday 24 June 2002, it be resolved that:

- (A) Council adopt the Corporate Plan for 2002-2005, as shown at attachment A to the subject report, incorporating amendments made after the public exhibition period, partly in response to submissions made by South Sydney City Council, and forward it to the City's Public Relations Unit for publication, including any editorial (non-substantive) changes necessary;
- (B) Council adopt the 2002/2003 Operating Budget and Capital Expenditure Budget, shown as Appendix B to the Corporate Plan, which includes amendments to the advertised Budget as discussed in the body of the subject report. The Budget provides for the following:
  - (i) a net surplus of \$38.8M;
  - (ii) a Plant and Assets program of \$7.0M;
  - (iii) a Capital Works Program of \$64.1M plus carried forward funds to be approved by Council at the time the Q4 Report for 2001/2002 is presented;
- (C) Council adopt the Schedule of Fees and Charges, shown as Appendix A to the Corporate Plan, which includes amendments to the advertised Schedule as discussed within the body of the subject report;
- (D) authority continue to be delegated to the General Manager to vary Fees and Charges for commercial operations.
- (E) Council reaffirm that no expenditure from the General Contingency, the Boundary Adjustment Contingency, the Property Maintenance Contingency, the Reserve for Special Organisational Needs nor the Special Contingency in the Capital Works Budget, is to be made without the joint approval of the Lord Mayor and the General Manager, prior to commitment of funds and that a report will be presented to Council on a quarterly basis providing details on the expenditure of any funds drawn from contingency;

- (F) expenditure on Plant and Assets will continue to require the specific approval of the General Manager for each individual item.
- (G) Council adopt the rates for the 2002/2003 rating year in respect of all land within the City of Sydney rateable as at 1 July 2002, or which becomes rateable during the rating year, in accordance with the table below.

	Residential	Amount (\$)	Business	Amount (\$)
Minimum rate	\$350.00		\$440.00	
<u>Ad Valorem Cents in Dollar:</u>				
General	0.3399	6,622,509		
General CBD			1.4194	83,444,990
East/ Southern			1.1115	3,017,784
Pyrmont/ Ultimo			0.6151	3,109,422
Rocks			0.9937	1,238,113
Total		6,622,509		90,810,309

- (H) Council cap individual rate increases to 50% of the 2001/2002 notional rate;
- (I) Council make and levy domestic waste management charges indicated in the adopted 2002-2005 Corporate Plan for each parcel of rateable land in the residential category;
- (J) authority be delegated to the General Manager, with the concurrence of the Lord Mayor, to take all necessary action including, but not limited to, legal action that is appropriate to resolve and address all issues arising from the legal action taken by South Sydney City Council.

The motion was carried on the following show of hands -

Ayes (5) the Chairman (the Lord Mayor), Councillors Coulton, Ho, Marsden and Turnbull.

Noes (2) Councillors Farr-Jones and Greiner.

Motion carried.

**ITEM 9. ACTION PLAN FOR PEOPLE WITH DISABILITIES 2002-2005 (S011167)**

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

That arising from consideration of a report by the Manager Traffic and Access to Council Meeting on 28 June 2002, on Action Plan for People with Disabilities 2002-2005, it be resolved that:-

- (A) the draft Action Plan for People with Disabilities 2002-2005, as shown at Attachment A to the subject report, be placed on public exhibition for a period of 28 days seeking further input from the public and specifically people with disabilities and disability groups;
- (B) following completion of the public consultation period, and consideration of any suggestions and comments, the Action Plan be appropriately revised and submitted to Council for adoption;
- (C) the final Action Plan adopted by Council be lodged with the Human Rights and Equal Opportunity Commission; and
- (D) Council confirm its commitment to the allocation of \$850,000 in the 2002/2003 Budget to specifically fund high priority actions identified in the first year of the Plan, in addition to access improvements to services and facilities being funded out of capital works programs and routine maintenance budgets.

Carried.

**ITEM 13. QUESTIONS ON NOTICE****LEGAL ISSUE (S018718)**

1. By Councillor Greiner -

**Question**

Lord Mayor, on what legal advice did Council receive to take the action whereby the City of Sydney Council has issued an injunction against South Sydney Council to prevent it sending out its rate notices? Who provided the advice, and what discussion took place with the Council?

**Answer by the Lord Mayor**

South Sydney Council (SSC) in its draft Management Plan outlined its intention to create three sub categories within its local government area. Two of the three sub categories (Centre's B and C) are almost identical to those areas that the Boundaries Commission recommended that the Minister transfer across to the City, with the third sub category being the remainder of the SSC local government area. SSC's draft management plan proposed to significantly reduce both residential and business rates revenue in Centres B and C.

The City requested legal advice from Abbott Tout solicitors on the legality of SSC's creation of sub categories in the draft management plan. Due to a conflict of interest identified by Abbott Tout, the City received legal advice in this matter from Blake Dawson Waldron (BDW). BDW have instructed Bret Walker SC and Jayne Jagot to assist in this matter.

The City has received legal advice that SSC's creation of three sub categories is unreasonable and took into account extraneous considerations. SSC adopted its management plan on 19 June 2002 thereby creating three sub categories within its local government area.

As a consequence of this and on the strength of legal advice the City has commenced proceedings against SSC challenging the creation of the sub categories.

I raised with Councillors during briefing sessions in late May that SSC had issued a draft management plan creating rating sub categories and that the City was receiving legal advice.

## **QUESTIONS WITHOUT NOTICE**

### **COUNCIL FACILITIES - MILLERS POINT (S018724)**

1. By Councillor Greiner -

#### **Question**

Lord Mayor, I would like to ask the General Manager, through you, the following question.

Could the General Manager please take on board a complaint by one of the City's residents concerning the cleanliness of the Council's facilities in Millers Point, and I refer to the Abraham Mott Hall and other Council buildings in Millers Point? There is a concern that they are not as clean as they have been in the past.

Could the General Manager address this issue?

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

I request that the General Manager investigate this matter and provide a report to Councillors through the Councillors' Information Service.

### **ULTIMO COMMUNITY CENTRE (S018724)**

2. By Councillor Greiner -

#### **Question**

Lord Mayor, an inquiry came into my office today and I would like to ask the General Manager, through you, a question.

General Manager, allegedly the Council has removed the water cooler from the Ultimo Community Centre because "it is too expensive to run". Could this matter be investigated?

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

I request that the General Manager look into this matter and provide a report to Councillors through the Councillors' Information Service.

**SECURITY - RETAIL SECTOR (S018724)****3. By Councillor Greiner -**

Note - At a later stage of the meeting, while the meeting was in closed session to deal with confidential matters, Councillor Greiner raised a matter regarding security in the retail sector.

In response, the Lord Mayor undertook to raise the matter with the Minister for Police.

#### **ITEM 14. NOTICES OF MOTION**

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

#### **Closed Meeting**

At 4.52pm the 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 2B and 10 on the agenda as these matters comprised the discussion of information that would, if disclosed, prejudice the commercial position of the person who supplied it;
- Section 10A(2)(a) of the Local Government Act 1993 to discuss Item 11 on the agenda as this matter comprised the discussion of personnel matters concerning particular individuals;

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 matters and the circumstances of communications.

#### **ITEM 10. PUBLIC RELATIONS AND COMMUNICATIONS CONSULTANCY TENDERS NEW YEAR'S EVE CELEBRATIONS 2002 – 2005, AND CHINESE NEW YEAR CELEBRATIONS 2003 - 2006 (S0195616)**

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

That arising from consideration of a report by the Program Manager, Cultural and Community Affairs to Council on 28 June 2002, on Public Relations and Communications consultancy Tenders New Year's Eve Celebrations 2002-2005, and Chinese New Year Celebrations 2003-2006, it be resolved that

- (A) all tenders be rejected;
- (B) Council not invite new tenders for the provision of public relations and communication services, as a satisfactory result is not expected due to -
  - (i) the majority of service providers in the market appear to have participated in the tender process;
  - (ii) it is not considered that the City would attract a more appropriate response.
- (C) authority be delegated to the General Manager to enter into negotiations with the preferred tenderer as referred to in paragraph 35 of the subject report and, if a satisfactory result is achieved, enter into a suitable contract;

- (D) if a satisfactory result is not achieved, authority be delegated to the General Manager to negotiate with the other tenderers and, if a satisfactory result can be achieved, enter into a suitable contract;
- (E) Council's attorney be authorised to execute all relevant documents.

Carried unanimously.

#### **ITEM 11. REVIEW AND CONSOLIDATION OF EMPLOYMENT RELATED PERSONNEL POLICIES**

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

That arising from consideration of a Memorandum by the General Manager to Council on 28 June 2002, on Review and Consolidation of Employment Related Personnel Policies, it be resolved that -

- (A) the proposals contained in the subject report and the policies contained in Attachment A to the subject report be adopted;
- (B) the positions listed in page 30 of Attachment A to the subject report (and shown on page 428 of these minutes) be declared senior staff positions in accordance with section 332 of the Local Government Act 1993, and that any other position (whether management or not) where the total remuneration package exceeds the threshold for senior staff under the provisions of section 332 of the Local Government Act, namely, Level 1 General Management CES/SES, also be declared senior staff positions. This applies to existing positions as well as any new positions created in the future;
- (C) the remuneration and employment arrangements proposed in page 33 of Attachment A to the subject report be adopted.

Carried unanimously.

Note - The confidential Memorandum by the General Manager on Review and Consolidation of Employment Related Personnel Policies was circulated to all Councillors.

Note - The Employment Policies June 2002, as adopted by Council, are as follows.

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# **Employment Policies June 2002**

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**EXTRACT FROM LOCAL GOVERNMENT ACT 1993**

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**SALARY SACRIFICE POLICY**

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**EMPLOYMENT POLICIES JUNE 2002**

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**EXTRACT FROM LOCAL GOVERNMENT ACT 1993****Chapter 11 - How are councils staffed?**

**Introduction:** The Chapter provides for the employment of staff to assist councils to exercise their functions. A council should have sufficient and appropriately qualified staff for the efficient and effective management of its organisation.

The Chapter includes provision for the appointment by each council of a general manager and other senior staff and of a "public officer". Some requirements concerning employment of staff are contained in other law (for example, industrial relations legislation).

**Part 1 Organisation Structure****332 Determination of structure**

- (1) A council must determine:
  - an organisation structure
  - those positions within the organisation structure that are senior staff positions
  - the resources to be allocated towards the employment of staff.
- (2) A council may not determine a position to be a senior staff position unless:
  - (a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and
  - (b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3A of the *Statutory and Other Offices Remuneration Act 1975*) payable with respect to senior executive office holders whose positions are graded Level 1 (General Management).
- (3) For the purposes of subsection (2)(b), the total remuneration package payable with respect to a position within a council's organisation structure includes:
  - (a) the total value of the salary component of the package, and
  - (b) the total amount payable by the council by way of the employer's contribution to any superannuation scheme to which the holder of the position may be a contributor, and

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- (c) the total value of any non-cash benefits for which the holder of the position may elect under the package, and
- (d) the total amount payable by the council by way of fringe benefits tax for any such non-cash benefits.

**333 Re-determination of structure**

The organisation structure may be re-determined by the council from time to time. It must be re-determined within 12 months after any ordinary election of the council.

**Part 2 The general manager and other senior staff****334 Appointment of general manager**

- (1) A council must appoint a person to be its general manager. The person must not be a body corporate.
- (2) The position of general manager is a senior staff position.

**335 Functions of general manager**

- (1) The general manager is generally responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation, without undue delay, of decisions of the council.
- (2) The general manager has the following particular functions:
  - the day-to-day management of the council
  - to exercise such of the functions of the council as are delegated by the council to the general manager
  - to appoint staff in accordance with an organisation structure and resources approved by the council
  - to direct and dismiss staff
  - to implement the council's equal employment opportunity management plan.
- (3) The general manager has such other functions as may be conferred or imposed on the general manager by or under this or any other Act.

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**336 Filling of vacancy in position of general manager**

- (1) If a vacancy occurs in the position of general manager, the council must immediately appoint a person under section 334 to the vacant position or appoint a person to act in the vacant position.
- (2) A vacancy occurs in the position of general manager if the general manager:
  - (a) dies, or
  - (b) completes the term of his or her contract and is not re-appointed, or
  - (c) resigns from the position, or
  - (d) becomes a mentally incapacitated person and is removed from the position by the council because of that mental incapacity, or
  - (e) is sentenced to imprisonment, or
  - (f) is removed from the position for breach of or under the terms of the general manager's contract with the council.
- (3) A person may be removed from office under subsection (2)(d) only if, taking into account the person's past training, qualifications and experience relevant to employment as a general manager, the person's performance as an employee, and all other relevant factors that it is reasonable to take into account, the person because of his or her mental incapacity:
  - (a) would be unable to carry out the inherent requirements of the position of general manager, or
  - (b) would, in order to carry out those requirements, require services or facilities that are not required by persons who are not mentally incapacitated persons and the provision of which would impose an unjustifiable hardship (within the meaning of the *Disability Discrimination Act 1992* of the Commonwealth) on the council.

**337 Council to be consulted as to appointment and dismissal of senior staff**

The general manager may appoint or dismiss senior staff only after consultation with the council.

**338 Nature of contracts for senior staff**

- (1) The general manager and other senior staff of a council are to be employed under contracts that are performance-based.

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- (2) The term of a contract must not be less than 12 months or more than 5 years (including any option for renewal). A term that is less than 12 months is taken to be for 12 months and a term for more than 5 years is taken to be limited to 5 years.
- (3) Contracts may be renewed from time to time.

**339 Annual reporting of contracts for senior staff**

The general manager must, at least once annually, report to the council on the contractual conditions of senior staff.

**340 Industrial arbitration excluded**

- (1) In this section, a reference to the employment of the general manager or another senior staff member is a reference to:
  - (a) the appointment of, or failure to appoint, a person to the vacant position of general manager or to another vacant senior staff position, or
  - (b) the removal, retirement, termination of employment or other cessation of office of the general manager or another senior staff member, or
  - (c) the remuneration or conditions of employment of the general manager or another senior staff member.
- (2) The employment of the general manager or another senior staff member, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the *Industrial Relations Act 1996*.
- (3) Subsection (2) applies whether or not any person has been appointed to the vacant position of general manager or another vacant senior staff position.
- (4) No award, agreement, contract determination or order made or taken to have been made or continued in force under the *Industrial Relations Act 1996*, whether made before or after the commencement of this section, has effect in relation to the employment of senior staff members.
- (5) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration in injunction or for any other relief, lie in respect of the appointment of or failure to appoint a person to the position of general manager or to another senior staff position, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment.

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**341 Duty to report bankruptcy**

- (1) If a person who is a senior staff member becomes bankrupt or makes a composition, arrangement or assignment for the benefit of the person's creditors, the person must:
  - (a) immediately give notice of the bankruptcy, composition, arrangement or assignment to the general manager, and
  - (b) provide the general manager, within the time specified by the general manager, with any further information concerning the cause of the bankruptcy or of the making of the composition, arrangement or assignment required by the general manager.
- (2) If the person is the general manager, subsection (1) applies as if references to the general manager were references to the council.

**Part 3 The public officer****342 Appointment of the public officer**

- (1) The general manager is to designate a member of staff as the public officer of the council.
- (2) The position of public officer may, but may not be, a senior staff position.

**343 Functions of the public officer**

- (1) The public officer:
  - may deal with requests from the public concerning the council's affairs
  - has the responsibility of assisting people to gain access to public documents of the council
  - may receive submissions made to the council
  - may accept service of documents on behalf of the council
  - may represent the council in any legal or other proceedings
  - has such other functions as may be conferred or imposed on the public officer by the general manager or by or under this Act.
- (2) The public officer is subject to the direction of the general manager.

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**Part 4 Equal employment opportunity****344 Objects**

- (1) The objects of this Part are:
  - (a) to eliminate and ensure the absence of discrimination in employment on the grounds of race, sex, marital status and disability in councils, and
  - (b) to promote equal employment opportunity for women, members of racial minorities and persons with disabilities in councils.
- (2) In this section, *disability* has the same meaning as in the *Disability Discrimination Act 1992* of the Commonwealth.

Note: The *Disability Discrimination Act 1992* of the Commonwealth defines disability to include such things as loss of bodily or mental function, loss of a part of the body, malfunction, malformation or disfigurement of a part of the body and certain other conditions, disorders, illnesses and diseases. That Act makes it unlawful for an employer to discriminate against a person on the ground of the other person's disability in certain contexts. These include in determining who should be offered employment (section 15 of the Act). Such discrimination is unlawful unless the person, because of his or her disability, would be unable to carry out the inherent requirements of the particular employment or would, in order to carry out those requirements, require services or facilities that are not required by persons without the disability and the provision of which would impose an unjustifiable hardship on the employer.

**345 Preparation and implementation of EEO management plans**

- (1) A council must prepare and implement an equal employment opportunity management plan in order to achieve the objects of this Part.
- (2) The plan is to include provisions relating to:
  - (a) the devising of policies and programs by which the objects of this Part are to be achieved, and
  - (b) the communication of those policies and programs to persons within the staff of the council, and
  - (c) the collection and recording of appropriate information, and

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- (d) the review of personnel practices within the council (including recruitment techniques, selection criteria, training and staff development programs, promotion and transfer policies and patterns, and conditions of service) with a view to the identification of any discriminatory practices, and
  - (e) the setting of goals or targets, where these may reasonably be determined, against which the success of the plan in achieving the objects of this Part may be assessed, and
  - (f) the means, other than those referred to in paragraph (e), of evaluating the policies and programs referred to in paragraph (a), and
  - (g) the revision and amendment of the plan, and
  - (h) the appointment of persons within the council to implement the provisions referred to in paragraphs (a)-(g).
- (3) An equal employment opportunity management plan may include provisions, other than those referred to in subsection (2), that are not inconsistent with the objects of this Part.
- (4) A council may, from time to time, amend its equal employment opportunity management plan.

**346 Inconsistencies with the Anti-Discrimination Act 1977**

- (1) The provisions of an equal employment opportunity management plan, to the extent of any inconsistency between those provisions and the provisions of the *Anti-Discrimination Act 1977*, prevail.
- (2) This section does not apply to or in respect of the provisions of a plan which are the subject of a reference under section 347 to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment

Note: This section adopts the principles in section 122K of the *Anti-Discrimination Act 1977*. Those principles are designed to ensure that full effect can be given to the objects of this Part.

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**347 References**

- (1) Where the Minister is dissatisfied with any matter relating to the preparation, amendment or implementation of an equal employment opportunity management plan by a council or any failure or omission of a council with respect to the preparation, amendment or implementation of any such plan, the Minister may refer the matter to the Anti-Discrimination Board or the Director of Equal Opportunity in Public Employment.
- (2) The provisions of section 122N of the *Anti-Discrimination Act 1977*, and the succeeding provisions of Part 9A of that Act, apply to and in respect of a reference under this section to the Anti-Discrimination Board as if it were a reference under section 122M of that Act and as if the council were an authority within the meaning of that Part.

**Part 5 Other provisions concerning staff****348 Advertising of staff positions**

- (1) When it is proposed to make an appointment to a position within the organisation structure of the council, the position must be advertised in a manner sufficient to enable suitably qualified person to apply for the position.
- (2) If the position is a senior staff position, the requirement of this section is satisfied if the position is advertised at least twice in a daily newspaper circulating throughout the State.
- (3) This section does not apply to:
  - (a) the re-appointment, under a new contract, of a senior staff member, or
  - (b) the appointment of an employee if the term of employment is for:
    - (i) not more than 12 months, or
    - (ii) two or more periods that together are not more than 12 months in any period of 2 years.

**349 Appointments to be on merit**

- (1) When the decision is being made to appoint a person to a position:
  - (a) only a person who has applied for appointment to the position may be selected, and
  - (b) from among the applicants eligible for appointment, the applicant who has the greatest merit is to be selected.

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- (2) The merit of the persons eligible for appointment to a position is to be determined according to:
  - (a) the nature of the duties of the position, and
  - (b) the abilities, qualifications, experience and standard of work performance of those persons relevant to those duties.
- (3) In determining the merit of a person eligible for appointment to a position, regard is to be had to the objects of Part 4 of this Chapter (see section 344).

**350 Appointments to which secs 348 and 349 do not apply**

Sections 348 and 349 do not apply to:

- (a) an appointment by way of demotion, or
- (b) an appointment by way of lateral transfer, unless the council decides that those sections are to apply to the appointment.

**351 Temporary appointments**

- (1) If a position (including a senior staff position) within the organisation structure of the council is vacant or the holder of such a position is suspended from duty, sick or absent:
  - (a) the council, in the case of the general manager's position, or
  - (b) the general manager, in the case of any other position,may appoint a person to the position temporarily.
- (2) A person who is appointed to a position temporarily may not continue in that position for a period of more than 12 months.

**352 Independence of staff for certain purposes**

- (1) A member of staff of a council is not subject to direction by the council as to the content of any advice or recommendation made by the member.
- (2) This section does not prevent a council from directing a member of its staff to provide advice or a recommendation.

**353 Other work**

- (1) The general manager must not engage, for remuneration, in private employment or contract work outside the service of the council without the approval of the council.

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- (2) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the member's council duties unless he or she has notified the general manger in writing of the employment or work.
- (3) The general manager may prohibit a member of staff from engaging, for remuneration, in private employment or contract work outside the service of the council that relates to the business of the council or that might conflict with the member's council duties.
- (4) A member of staff must not engage, for remuneration, in private employment or contract work outside the service of the council if prohibited from doing so under subsection (3).

**354 Restriction on appointment of a former mayor or councillor**

- (1) A person who has held civic office in relation to a council must not be appointed to any paid position on the staff of the council within 6 months after ceasing to hold the office.
- (2) A purported appointment in contravention of this section is void.

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## EMPLOYMENT POLICIES JUNE 2002

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### REMUNERATION & BENEFITS POLICY

The staffing of Councils is undertaken under Chapter 11 of the Local Government Act 1993 (LGA).

As previously noted in a discussion about the organisational structure, it is Council that determines this structure and those positions within that structure that are declared senior staff positions. In addition, Council is required under s332(1) to determine the resources to be allocated towards the employment of staff. S332(1) states:

‘A council must determine:

- An organisation structure
- Those position within the organisation structure that are senior staff positions
- The resources to be allocated towards the employment of staff.’

In this regard, the budget document tends to be the appropriation methodology.

Under Part 2 of the same chapter, the General Manager has as a particular function to:

“Appoint staff in accordance with the organisational structure and the resources approved by Council (and)

- to direct and dismiss staff; and
- to implement the Council’s Equal Employment Opportunity Management Plan.”

In the case of senior staff, under s337 of the LGA, both the appointment and the dismissal is a matter of consultation with Council.

In regard to senior staff s338 indicates that a maximum of a 5 year term and no less than a 12 month arrangement including the possibility of renewal is required.

Council in its delegations to the General Manager of September 1999, provides various powers but excludes entering into any Enterprise Agreement or altering personnel policies that would effect the class of employees and would have ongoing implications for Council in terms of cost or service delivery.

#### **1 Statement of Purpose**

The aim of this Policy is:

- 1.1 To ensure that remuneration practices attract, reward and retain competent, motivated and qualified employees.
- 1.2 To link pay and performance by rewarding contributions and efforts through a fair and consistent remuneration programme.

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- 1.3 To provide guidelines for salary packaging for senior officers (as defined in the Local Government Act) and the establishment of remuneration for senior officers as well as general remuneration for all other staff.
- 1.4 To give clear direction to the General Manager to manage staff matters in accordance with the Act and for appropriate times to report, consult and take specific advice where matters may affect the allocation of Council resources in the employment of staff.
- 1.5 To ensure operating units of Council remain competitive to similar external service providers.

**2 Background**

The Council of the City of Sydney employs staff under various arrangements:

- 2.1 Management levels 1, 2 (M1-General Manager, M2-Director) and nominated level 3 managers (M3-Senior Staff, M3 Managers and other nominated employees) are employed on fixed term performance based contracts in accordance with the senior staff provisions of the Local Government Act. These officers are employed outside the City's Award provisions with terms and conditions specified within the individual contracts.
- 2.2 In determining the positions listed in attachment A to this policy as senior staff in accordance with section 332(2) of the Local Government Act, the classification and remuneration structure at attachment B will apply.
- 2.3 Other Management level 3 (M3-Manager) are employed on either fixed term performance based contracts within the terms and conditions of the City of Sydney Wages/Salary Award 1998 at Salary Band 9 or 10 or fixed term performance based contracts with terms and conditions governed by the contract. Performance Management is applied through the provisions of employment contracts.
- 2.4 Management level 4 (M4-Cordinator/Team Leader) are employed on fixed term performance based contracts as per the Award depending on the term of employment and/or the level of authority and responsibility associated with the position. Usually between Salary Band 7 and Salary Band 8. Performance management is applied through policy and Award or Enterprise Agreement provisions ranging from 1% to 5% outcomes depending on assessed outcomes.

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- 2.5 Other Salaried Division staff (white collar) are employed under Award Salary Band groups where positions are evaluated to determine remuneration rates between Salary Bands 1 to 6. Performance management is applied through policy and Award or Enterprise Agreement provisions ranging from 1% to 5% outcomes depending on assessed outcomes.
- 2.6 Wages Division staff (blue collar) are employed under Award fixed rates of pay consistent with their employment classification. No performance pay progression exists for these staff, however they receive profit share where applicable and Enterprise Agreement KPI bonuses.
- 2.7 The Award provides the terms and conditions of employment for staff with specific differences for Wages and Salary staff based on previous Awards and arrangements with Unions. Annual productivity-based wage increases are provided through Enterprise Agreement 2004. Any movements in pay rates due to State Wages Case outcomes are absorbed through the Enterprise Agreement increases.

### 3 Strategy Targets and Expectations

- 3.1 The Council of the City of Sydney's remuneration strategy will be integrated between the reward system, human resource strategies and the organisational strategic goals set out in the Corporate Plan and the Annual Budget, and as manifested through the General Manager's annual Performance Plan. These will reflect the Council of the City of Sydney's commitment to organisational development and continued improvement.
- 3.2 Within the remuneration strategy, the objectives of the program are to:
- (a) Identify and encourage superior performance and effort;
  - (b) Maintain competitive practices and market clarity;
  - (c) Address anomalies, complexities;
  - (d) Ensure fairness, consistency and remuneration equity; and
  - (e) Ensure cost effective and accountable employment practices.
- 3.3 Remuneration paid to staff will be based on competitive practice and market rates and reflect the relative size, accountability and contribution of the individual's position and Council, through regular job evaluations.
- 3.4 Generally, Council will pay competitive remuneration which may be in the upper quartile of relevant remuneration surveys for some sections of Council where this is necessary for strategic reasons. This reflects the high expectation of the capacity and skills of staff.

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- 3.5 Job evaluation techniques will be used to ensure pay equity principles are maintained and to clarify and measure the relative worth of the positions within the organisation. This measurement is expressed in terms of “job points” and will be used to determine the remuneration grade. This determination can then be used to compare market rates (both public and private) and external relativities.
- 3.6 Market rates information and salary survey data will be attained through independent sources (eg. Mercer Cullen Egan Dell; Australian Institute of Management National Salary Survey). This information can then be used as a means of determining whether the Council remuneration levels are competitive and to maintain the desired level of competitiveness or desired market stance for the particular service required by Council.
- 3.7 Positions currently falling outside of the established remuneration ranges for job valuations, will be addressed annually and remuneration reviews in order to realign positions to the market over three years.
- 3.8 This policy will apply to all staff either directly in their contract arrangements or through enterprise bargaining arrangements.
- 3.9 Positioning
- Salaries will be established within the following criteria –
- (a) The intention to be competitive with public sector comparisons and, if appropriate, with private sector comparisons;
  - (b) The intention is to be a leader in terms of staff excellence; and
  - (c) Relativity will be maintained within the hierarchy of positions.
- 3.10 In setting salaries the General Manager must be mindful of the average and aggregate costs of employees to Council, and adhere to the policy outlined in Section 13 of this policy.

**4 Procedures**

- 4.1 Remuneration reviews may be undertaken when:
- (a) A job changes significantly through work / organisational reviews; or
  - (b) At time of recruiting; or
  - (c) At least every three years.

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## EMPLOYMENT POLICIES JUNE 2002

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### 4.2 Performance Management

Managing performance will be done through common measurements against the Corporate Management Plan associated with individual work plans which realign back to the Corporate Management Plan and the General Manager's Performance Plan.

### 4.3 Performance management pay increases currently work at three levels in the Council:

- (a) Executive - as per the Remunerations and Benefits Policy and contract provisions
- (b) M3 - as per the Remunerations and Benefits Policy and contract provisions.
- (c) M4 & Other Salaried Award staff – as per the Performance Management Policy, Enterprise Agreement 2004 and Award provisions

### 4.4 A performance management approach is undertaken through a separate performance management policy that is attached.

## 5 At Risk Bonuses for Outstanding Performance

5.1 Arising from the performance management program (excluding M2 and senior staff M3 positions), an at risk bonus of up to 5% may be recommended by the manager where performance has been outstanding when assessed to a prior agreed work plan. Unless separately agreed by contract or in an enterprise agreement, this payment is to be made as a one-off sum and cannot be committed in advance. All recommendations will be considered for approval directly by the General Manager.

5.2 Special bonuses may be paid for situations approved by the General Manager eg. to encourage one-off improvement in workplace practices eg. reduction in sick leave. Such bonus' should generally reinforce sustainable outcomes, but should be temporarily tied to performance. (ie. they cease when performance lapses.)

5.3 A bonus system may be introduced as part of the enterprise agreement negotiations with Council approval and in accordance with the Act. If this occurs at other times, and the effect would increase the total sum allocated to salaries, the General Manager may introduce appropriate changes with the approval of the Lord Mayor or Council.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 5.4 All at risk bonuses for outstanding performance proposed to be paid to M2 and M3 and other non-award staff under their individual employment contracts may be from 0% to 15%, be related to a one off annual review, require the explicit approval of the General Manager (not to be delegated), and, in relation to M2, are subject to prior consultation with the Lord Mayor.
- 5.5 Any employee paid an at risk performance bonus is not entitled to Award / Enterprise Agreement 2004 performance pay progressions.
- 5.6 An employee who resigns or has their contract terminated under no fault provisions will only be entitled to an at risk performance bonus if employee works beyond their review date and in any case shall not be more than 7.5% of their remuneration package.
- 5.7 In relation to M3 Managers outstanding work performance is performance that which, in the opinion of the General Manager, consistently produces outstanding results clearly exceeding the performance levels and quality norms of a large majority of other M3 Managers.
- 5.8 The General Manager must obtain and examine regular reports of all bonuses paid to all employees.

**6 Remuneration Packaging**

- 6.1 Staff employed under fixed term contracts will have total remuneration based on a Total Employment Cost (TEC) which is defined to include:
- (a) Base or cash salary;
  - (b) Pre-tax employer's superannuation contributions;
  - (c) Pre-tax employee superannuation contributions;
  - (d) Pre-tax Council vehicle in accordance with the Council of Sydney's Motor Vehicle Policy;
  - (e) Any other salary sacrifice agreed between the employee and the General Manager.
- 6.2 The employee shall meet any tax or additional charges resulting from salary sacrifice arrangements. Eg. a contribution tax for defined members.
- 6.3 A maximum of 50 per cent of the total employment costs may be taken as benefits.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 6.4 Staff on fixed term contracts wishing to change their remuneration package arrangements may do so in writing at any time. Council shall not unreasonably refuse such a request.
- 6.5 Packaging of remuneration for staff not on fixed term contracts will be limited to sacrificing 30 per cent of their salary. As this benefit effectively reduces Award rates of pay when applied. The benefit is necessarily applied to the City's Award through the provisions of Enterprise Agreement 2004.

**7 Retention Bonus**

- 7.1 From time to time a retention bonus may be deemed appropriate subject to the following conditions:
- (a) Any such arrangement requires the direct approval of the General Manager (this is not delegable), and the concurrence of the Lord Mayor;
  - (b) The extent of the bonus will generally be in the range of 15-25% of the total remuneration for the last year of service before the applicable date, but must not exceed 50%;
  - (c) Any employee on such a scheme will only become eligible for the payment provided the employee works up until the designated final date without taking more than one week of leave (of any kind) during the last month, and no more than two weeks of leave (of any kind) during the last three months;
  - (d) the retention bonus cannot be offered:
    - (i) as part of the recruitment process; and
    - (ii) until the employee has been employed by Council for at least six months.

**8 Delegations/Authority**

- 8.1 Managers will conduct the annual performance reviews against the prior agreed written performance plan/goals and job requirements, which will be used for remuneration reviews. (Council by delegation to the Lord Mayor reviews the General Manager's Performance and Performance Plan and any remuneration arrangements.) All staff Performance Plans must be consistent with, and assist the achievement of, the General Manager's Performance Plan.
- 8.2 Directors in consultation with the Employee Relations Unit will review all management performance review (M3/M4) to ensure consistency when determining increases.

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**EMPLOYMENT POLICIES JUNE 2002**

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**9 Employees Classified within “Bands”**

- 9.1 M3 positions will be initially evaluated by the banding classification committee convened by Employee Relations. The evaluated outcome shall then be compared against market rates as previously detailed in this Policy.
- 9.2 All Salaried Division positions below M4 will be classified in accordance with award Salary Band ranges by a banding classification committee convened by the Employee Relations Unit.
- 9.3 Positions currently falling outside of established classification band ranges will be addressed annually and remuneration reviews in order to realign positions to the industry/market.
- 9.4 Market trends may require a position to be paid at a rate higher than the recommended classification. When this occurs, the position will return to the correct classification when the position next becomes vacant; unless the trend requires otherwise. The General Manager shall directly approve such variations.
- 9.5 **Employees will move through the bands based upon:**
- (a) Performance progression outcomes that meet established objectives; and
  - (b) Utilisation of development/training; and
  - (c) Satisfactory service; and
  - (d) Meeting core competencies; and
  - (e) Any employment agreement.
- 9.6 Reclassification to a higher band can only occur following the identification of increased responsibilities and accountabilities. Reclassification will be in accordance with Award provisions, and will be determined by the job evaluation process convened as required by the Employee Relations Unit.

**10 General Manager’s Remuneration**

- 10.1 The General Manager’s remuneration package is determined at Level 6 in the Senior Executive Service. Adjustments from time to time will be made by the Statutory and Other Officers Remuneration Tribunal (SOORT).
- 10.2 Under standing delegations of authority, the Lord Mayor has discretion to approve performance related increases above the band as well as Bonus against an Annual Performance Plan .

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**EMPLOYMENT POLICIES JUNE 2002**

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**11 Directors' Remuneration**

- 11.1 Divisional Directors are critical to the organisation. As senior staff, their appointment is subject to consultation with Council.
- 11.2 Whilst an appropriate reward system is essential, Council is mindful of the potential flow-on effects of Director's pay, to the M3 level and beyond.

Accordingly, the following policy is to apply to the remuneration of Directors:

- (a) The General Manager must consult the Lord Mayor on remuneration or bonuses proposed to be paid to Directors;
- (b) No Director shall be paid remuneration (excluding at risk performance bonuses) that is greater than 70% of the remuneration paid to the General Manager, without the concurrence of the Lord Mayor.
- (c) A Director's remuneration package is determined at Level 4 to Level 5 in the Senior Executive Service (see attachment B). Adjustments from time to time will be made by the Statutory and Other Officers Remuneration Tribunal (SOORT).

**12 M3 Senior Staff**

- 12.1 An M3 Senior Staff Manager's remuneration package is determined at Level 1 to Level 2 in the Senior Executive Service (see attachment B). Adjustments from time to time will be made by the Statutory and Other Officers Remuneration Tribunal (SOORT).
- 12.2 The General Manager must consult the Lord Mayor on remuneration or bonuses proposed to be paid to M3 Senior Staff Managers.
- 12.3 The M3 Senior Staff Manager employment arrangements shall apply to the positions listed at attachment A as existing employment contracts terminate, expire or are renewed, and to all new employees filling these positions. These employment arrangements may also apply to other M3 positions by agreement.

**13 Other Benefits & Vehicles**

- 13.1 There are other benefits, or perceived benefits, that are a real cost to Council, and not normally part of any employee's remuneration package such as travel, and corporate card expenses.

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**EMPLOYMENT POLICIES JUNE 2002**

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13.2 The following policy will apply:

- (a) Overseas travel, or any expense associated with overseas activities including paid employment whilst overseas, for staff requires the approval of Council or the Lord Mayor on a case by case basis, and cannot be made an entitlement within the contract of an employee;
- (b) Corporate card allocation and limits should be strictly limited according to a policy to be determined by the General Manager, after consultation with the Lord Mayor;
- (c) The policy for costing the value of vehicles provided to employees; the quantum of vehicles with private use and allocations; must be reviewed at least annually and submitted to Council for approval;
- (d) The FBT policy in relation to staff attendance at City events or events for which the City has entitlements must be clarified and staff attendance at events which incur FBT costs for Council strictly limited as determined by the Lord Mayor;
- (e) Interstate travel must be approved by the General Manager explicitly and must be reported to the Lord Mayor on a quarterly basis.

**14 Profit Share Arrangements**

14.1 Council may from time to time agree to profit share arrangements either as part of an enterprise agreement or Local Workplace Agreement (LWA) negotiation, or within a specific in house contract. The process for calculating such profit shares will be undertaken strictly in accordance with the costs transparently outlined in the contract bid price documentation. As a result of any properly agreed variations there are effects on the formula, consequent alterations may only be made with prior approval of the General Manager and concurrence of the Lord Mayor.

14.2 Any profit share payouts will be made in accordance with the employment agreements and the contract agreement.

14.3 Prior to payouts an independent auditor will confirm that the unit has made a profit and the calculation has been properly undertaken.

14.4 Related Information

- (a) Staff Delegations Manual - Approved by Council on 29 September 1999;
- (b) Delegations of Authority - Approved by Council 21 June 2001

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**EMPLOYMENT POLICIES JUNE 2002**

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- (c) City of Sydney Wages/Salary Award 1998 - Approved by General Manager on 18 November 1998;
- (d) Enterprise Agreement 2004 - Endorsed by Council on 21 December 2001;
- (e) Performance Management Policy - to be considered by Council on 28 June 2002;
- (f) Contract Employment Policy - to be considered by Council on 28 June 2002;
- (g) Salary Sacrifice Policy - to be considered by Council on 28 June 2002;
- (h) Equal Employment Opportunity / Anti-Discrimination Policy - to be considered by Council on 28 June 2002;
- (i) Motor Vehicle Policy - to be considered by Council on 28 June 2002.

**15 Financial and Resource Impacts on Council**

- 15.1 Salaries and wages form the largest component of Council's operating costs. Accordingly, growth in Council's remuneration costs is of vital interest because it can have a very direct and substantial impact on Council's operating result. While Council is mindful of the need to provide remuneration levels competitive with relevant external organisations, it is concerned to ensure that the underlying growth of wages and salaries does not generally exceed other relevant sectors of the economy.
- 15.2 The General Manager is directed by Council to ensure that:
- (a) Growth in remuneration costs is tightly controlled in all operating units of Council. The General Manager has an obligation to ensure that no operating unit of the organisation becomes uncompetitive in remuneration costs vis-a-vis comparable external service providers. In considering remuneration costs annually, Council will have regard to such factors as pay movements in the economy in general and in comparable organisations in particular, as well as CPI movements and productivity gains within the City organisation;

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**EMPLOYMENT POLICIES JUNE 2002**

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- (b) Aggregate staff remuneration costs (including employee related costs), and average staff remuneration, do not exceed the limits imposed by Council in April of each year, taking into account any remuneration increases arising from formalised enterprise agreements. The General Manager will provide a report to Council by 1 May each year detailing the estimated increases in remuneration costs for the following 12 months, this report to include a breakdown of the types of increase (eg wages, bonuses) and estimated mean average increases for all employees and estimated average increases for all occupational categories within the organisation. For the purposes of annual comparisons, genuine measures should be used comparing like with like (ie excluding factors that may distort the result, such as a changing mix of staff due to out sourcing or new functions being added). Any variation to this requires Council's prior approval;
- (c) There are no disparities in remuneration growth, or levels, between Divisions or Operating Units due to local factors such as the management style of individual Directors or Managers.

**16 Monitoring, Review and Accountability**

- 16.1 The operation of this Policy is to be monitored by the Employee Relations Unit, and any variation reported immediately to the General Manager and the Lord Mayor.
- 16.2 The General Manager is to report annually to Council on the operation of the Strategy including the provision of detailed information in respect of remuneration growth as described in Clause 14, as well as on external trends and issues of relevance to this Policy.
- 16.3 The General Manager is to report quarterly to the Lord Mayor on all notable staff remuneration issues including but not limited to the following information:
  - (a) all bonuses paid to salaried staff;
  - (b) the outcome of all profit sharing arrangements;
  - (c) a schedule of remuneration paid to all salaried staff;
  - (d) details of any other benefits given to staff under Clause 14 of this Policy;
  - (e) Details of any unusual termination payments paid to Directors and M3 managers;
  - (f) the general operation of this Policy and any notable issues or decisions;
  - (g) interstate travel and attendance at conferences by staff;
  - (h) any exceptions to the policy.

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**EMPLOYMENT POLICIES JUNE 2002**

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**17 General Manager's Discretion**

17.1 Notwithstanding the above policy, the General Manager may, subject to the relevant concurrence if applicable, make specific employee decisions at variance with the Policy provided:

- (a) they are of strategic benefit to Council; and
- (b) they have no flow on effects; or
- (c) are of a minor nature.

All such variations must be reported to the Lord Mayor as they occur and annually to Council.

*Approved by: The Council of the City of Sydney*

*Date: 28 June 2002*

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**EMPLOYMENT POLICIES JUNE 2002**

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**ATTACHMENT A**

**CITY OF SYDNEY SENIOR STAFF POSITIONS**

1. General Manager
2. Director Corporate Services
3. General Counsel
4. Director City Projects
5. Director Living City Services
6. Director City Development
7. Executive Director - Compliance & Prosecutions
8. Chief Of Staff
9. Special Counsel
10. Manager Building & Urban Design
11. Manager Information Management
12. Manager Employee Relations
13. Manager Property & Assets
14. Manager Planning Policy
15. Manager Finance
16. Manager - Community & Cultural Affairs
17. Manager Development
18. Manager Traffic & Access
19. Manager Contract & Asset Management
20. Group Manager LCS Operations
21. Group Manager Physical Services
22. Manager Cleansing & Waste
23. Manager Enforcement Services

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**EMPLOYMENT POLICIES JUNE 2002**

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**ATTACHMENT A2**

1. CITY OF SYDNEY M1,M2 & M3 POSITIONS

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**M1**  
Executive Senior Staff

1. General Manager

**M2**  
**Executive Senior Staff**

2. Director Corporate Services

3. General Counsel

4. Director City Projects

5. Director Living City Services

6. Director City Development

**M3**  
**Senior Staff Managers**

7. Executive Director - Compliance & Prosecutions

8. Chief Of Staff

9. Special Counsel

10. Manager Building & Urban Design

11. Manager Information Management

12. Manager Employee Relations

13. Manager Property & Assets

14. Manager Planning Policy

15. Manager Finance

16. Manager - Community & Cultural Affairs

17. Manager Development

18. Manager Traffic & Access

19. Manager Contract & Asset Management

20. Group Manager LCS Operations

21. Group Manager Physical Services

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**EMPLOYMENT POLICIES JUNE 2002**

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**M3-Managers**

- 22. Manager Cleansing & Waste
- 23. Manager Enforcement Services
- 24. Press Secretary
- 25. Executive Project Manager
- 26. Risk Manager
- 27. Executive Manager
- 28. Manager Leisure Information & Community Services
- 29. Manager Legal Services
- 30. Manager Design
- 31. Manager Projects
- 32. Manager Regulatory and Compliance
- 33. Manager Health
- 34. Manager Customer Information
- 35. Manager City Exhibition Space

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## EMPLOYMENT POLICIES JUNE 2002

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### CONTRACT EMPLOYMENT POLICY

#### 1 Introduction

- 1.1 All persons who are 'employees' have a contract of employment with their employer. In the case of Council employees, many of the terms and conditions of their contract of employment are implied by Council awards. Generally, Council award employees are hired for an indefinite duration.
- 1.2 For the purposes of this policy 'contract employment' is defined as employment by means of a written agreement between employer and employee and where such employment is for a specified period of time. Although contract employment is contrary to traditional public sector employment practices which are based on the concepts of tenure and a long term, career service, it is a common private sector practice which is being used increasingly as public sector organisations shift their focus to the measurement of outputs, improving service delivery and redefining core business.
- 1.3 In support of this trend, the Local Government Act which came into operation in July 1993 requires senior or executive appointments be made on the basis of merit and that their contracts are performance based and with a maximum term of five years.

#### 2 Benefits

- 2.1 There are a number of benefits accruing from the use of 'contract employment'. Contracts are performance based. This means that they relate directly to specified achievements over an agreed period; they are also able to be linked to an organisation's goals and targets. For employees, the performance based nature of contracts provides a framework for formal recognition and reward for performance.
- 2.2 An appointment for a specified duration provides flexibility for both the employing organisation and the individual and enables senior positions to more readily reflect organisational change as it occurs. Total employment cost packaging also ensures that the true cost of employment is clearly identified.
- 2.3 The use of employment contracts can accommodate short-term projects or specialist work, categories that have previously been difficult to provide for in the public sector.

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**EMPLOYMENT POLICIES JUNE 2002**

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**3 Appointments**

All new appointments to The Council of the City of Sydney falling within the categories identified below will be by means of performance based contracts of up to five years' duration. The length of the contract will not exceed five years and will depend on the nature of the work.

**3.1 Categories of Contract Appointment**

Appointment by contract will apply to the following positions:

- (a) Those positions determined by Council to be senior staff positions under the Local Government Act 1993 (LGA). These are:
  - (i) The General Manager;
  - (ii) M2 level - Directors - designated Senior Staff with Divisional responsibilities and accountabilities and positions report to the General Manager;
  - (iii) M3 level - Management - designated Senior Staff positions with Unit responsibilities and accountabilities and report to a Director. These positions are equivalent to the NSW Government Senior Executive Service Level 1 General Management positions;
  - (iv) Other positions reporting to the General Manager or Directors will not be considered M2 or M3 unless the General Manager determines otherwise having regard to the duties and responsibilities of the position.
  - (v) Other positions exceeding the remuneration requirements of s332 of the LGA in relation to Senior Staff.
- (b) Those positions designated M3 outside the provisions of the LGA in accordance with the "opt-out provisions" of Enterprise Agreement 2004.
- (c) Those positions evaluated Salary Band 7 or above.
- (d) Specialised, contract-based, temporary positions or project positions or where specialist skills are required for a particular and usually limited purpose or where a project is of a specified duration.
- (e) Support positions related to the term of Council, eg. Office of the Lord Mayor and Councillor support.

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## EMPLOYMENT POLICIES JUNE 2002

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### 3.2 Approval of Employment Contracts and Benefits

- (a) The appointment of the General Manager is a power exercisable by Council and the subsequent negotiation of the terms and conditions of the General Manager's contract of employment is the delegated function of the Lord Mayor.
- (b) Employment contracts at Director level can only be approved by the General Manager after consultation with the Lord Mayor and Council.
- (c) Employment Contracts at M3 level can only be approved by the General Manager after consultation with the Lord Mayor.
- (d) All other employment contracts can only be approved by the General Manager.
- (e) Approval and consultation arrangements for all employment contracts, either new contracts or renewal of existing contracts, will require a written proposal to the Lord Mayor, Council or as appropriate.
- (f) Any benefits or allowances outside the terms and conditions of this policy can only be approved by the General Manager with the written concurrence of the Lord Mayor.
- (g) No contract of employment, nor the extension of a contract of employment can be executed or approved prior to a three month period before the commencement date of the contract and not more than 3 months before the expiry date of an existing contract (ie. no post dating of contracts). Council cannot be bound to a new contract of employment prior to this date.
- (h) An employment contract may only be extended beyond the nominal term with the approval of the General Manager and prior consultation with the Lord Mayor.

### 3.3 Recruitment to Contract Positions

- (a) Advertising of all positions to be offered on contract will be in accordance with the Local Government Act 1993 and Council's general policy on the advertisement of vacancies.
- (b) Selection will be on merit and against identified key selection criteria that relate to the position concerned.

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**EMPLOYMENT POLICIES JUNE 2002**

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**3.4 Elements Of The Contract**

An employment contract for performance based fixed term employment is expected to include:

- (a) A detailed job description;
- (b) Specified performance goals and outputs, or a requirement for the appointee to enter into a performance agreement within a given period of time;
- (c) Information on the length of the employment, notice period, termination/renewal of the contract and other matters related to the contract's management;
- (d) Details of remuneration and benefits available to the staff member under the contract;
- (e) An outline of the availability and application of any salary progression and/or scheme of bonus payments;
- (f) A statement of the terms and conditions of employment;
- (g) A requirement for regular, formal performance assessments against the agreed performance plan or agreement;
- (h) Standards contracts to be used for senior staff and other contract appointments are detailed as part of in Council's Recruitment Procedures.

**4 The Employment Contract****4.1 Terms And Conditions of Employment - General**

- (a) Terms and conditions of employment for staff employed under contract will be as specified in the Council of the City of Wages / Salary Award 1998 and relevant enterprise agreements, except where positions are designated as senior staff by the Local Government Act 1993, by Council under that legislation or by other agreement.
- (b) Terms and conditions of senior staff are to be negotiated at the time of entering into an employment contract. Conditions of employment must be specified in the contract document, although it is anticipated that a common set of conditions will apply to all senior staff positions.

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- (c) All staff employed under 'contract employment' are expected to devote the whole of their time and attention during normal working hours and at such other times as may be reasonably necessary to the business of Council. Where applicable (project related contracts only for staff at salary band 6 or below), work outside ordinary hours will attract the benefits of the City of Sydney Wages / Salary Award 1998.
- (d) Entitlements to annual, sick, long service, special and any other form of leave (except rostered recreation days and in the case of senior staff, picnic days) will also be as laid down in the City of Sydney Wages / Salary Award 1998 or relevant Council policies unless otherwise specified in the contract.
- (e) With the exception of 'senior staff positions' and where otherwise agreed, contract employment staff will have the protection of and access to the Industrial Relations Commission of New South Wales on matters relating to terms and conditions of employment.

**4.2 Remuneration And Benefits**

- (a) The remuneration for all contract positions will be expressed as an annual total remuneration package. Other than those positions which comprise Councils Executive Group, (viz the General Manager and Directors), the package will comprise:
  - (i) the salary range determined for the position using Councils job evaluation system;
  - (ii) the rate of annual leave loading (where applicable);
  - (iii) employers contribution to superannuation at the minimum amount stipulated from time to time under the Superannuation Guarantee Act;
  - (iv) an amount equivalent to the cost of providing a business/private use vehicle of the category, if any, prescribed in Councils motor vehicle policy (approved positions only);
  - (v) Any other approved salary sacrifice arrangement.
- (b) The remuneration and benefits of the General Manager and Directors positions will be determined by Council. The General Manager's remuneration package is determined at Level 6 in the NSW Chief Executive and Senior Executive Services. Director's remuneration shall be no greater than 70% of the remuneration paid to the General Manager.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (c) Those components of executive remuneration which are determined by external factors, including employer superannuation contribution and cost of living changes, will be reviewed annually by Council having regard to the Statutory and Other Offices Remuneration Tribunal for the NSW Chief Executive and Senior Executive Services.
- (d) As a general rule, appointments other than senior staff will be made at the lower rate applicable to the salary band range.
- (e) Staff employed under contract of employment will have total remuneration based on total employment cost which is defined to include:
  - (i) Base or cash salary;
  - (ii) Pre-tax employer superannuation contributions;
  - (iii) Pre-tax employee superannuation contributions;
  - (iv) Pre-tax Council vehicle in accordance with the Council's Motor Vehicle Policy (where nominated);
  - (v) Any other approved salary sacrifice agreed between the employee and the General Manager.
- (f) The sum of all approved salary sacrifice deductions, including related Fringe Benefits Tax payments, will be deducted from the total remuneration package providing deductions do not exceed 50% of the total package.
- (g) Staff appointed to positions not designated as senior staff positions will receive:
  - (i) salary and conditions in accordance with the City of Sydney (Wages / Salary) Award 1998 and associated agreements; or
  - (ii) where positions are designated M3 outside the provisions of the LGA in accordance with Enterprise Agreement 2004 other conditions of employment may apply as agreed.
- (h) Where the occupant of a contract position is allocated a "home-to-work & return" vehicle in accordance with the Council's Motor Vehicle Policy, the cost to Council of providing that vehicle will not be deemed to form part of that staff member's annual remuneration for the calculation of superannuation, Fringe Benefits Tax or any other purpose.

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**4.3 Other Benefits**

Other benefits including mobile telephones and payment of private telephone services will be allocated on the basis of position requirements in accordance with the relevant Council policy and will not form part of any remuneration package.

**4.4 Superannuation**

- (a) Council will contribute to a superannuation fund for the benefit of each contract employee at least the minimum amount stipulated from time to time under the Superannuation Guarantee Act.
- (b) Council's contribution will be paid to an approved superannuation fund under the Superannuation Guarantee Act.
- (c) The Superannuation Guarantee Act contribution will be deducted from the annual total remuneration package. The contract will provide for adjustments to the superannuation component of the package to reflect variations in the superannuation guarantee charge, except in the case of Executive Group positions, where superannuation will be included in Councils annual review of Executive Group remuneration.
- (d) Where an appointee is a member of the State Authorities Superannuation Scheme or the State Superannuation Fund and elects to continue as a member of those schemes the Council will continue to contribute to the particular fund in respect of that member as laid down in the relevant legislation. This contribution will be drawn from the amount provided in the employee's package for superannuation (to be deducted from the package). Council will also make additional contributions, where applicable, to make up any shortfall between the amount set aside in the package and the total amount Council is obligated to contribute to the fund. This additional contribution will not form part of the total remuneration package.

**4.5 Retention Bonus Payments**

- (a) In accordance with the Council's resolution of 21 June 2001, where the General Manager and the Lord Mayor approve a retention bonus as part of a contract of employment the bonus will:
  - (i) generally be in the range of 15% - 25% of the total remuneration package for the previous year of service;
  - (ii) In any case, the retention payment shall not exceed 50% of the annual total remuneration package.

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- (b) Any staff member on such an arrangement will only be eligible for the payment if the staff member works until the designated date of termination without taking more than 1 week of leave (of any kind) during the last month and no more than 2 weeks of leave (of any kind) during the last three months.
- (c) The retention bonus cannot be offered as part of the recruitment process and the staff member must have been employed by the Council for at least 6 months.

**4.6 Disputes Resolution**

- (a) Contract staff will have access to the Dispute Settlement Procedures prescribed in the City of Sydney Wages / Salary Award 1998, except in the case of senior staff.
- (b) Senior staff contracts will provide for alternative dispute resolution procedures. These will include referral to the General Manager or to a mediator agreed to by the parties. It is expected that court proceedings would be entered into by either party only after a process of mediation had been attempted.

**4.7 Performance Management**

- (a) All contracts of employment are to include an annual performance agreement between Council and the General Manager or the General Manager and the staff member.
- (b) The agreement must be consistent with, and give effect to, the General Manager's performance agreement with the Lord Mayor on behalf of Council.
- (c) The agreement will set strategic objectives and performance measures consistent with the job description for the position.
- (d) The General Manager and the staff member will agree on the terms of the performance agreement within three months of the commencement of the contract and thereafter annually.
- (e) Senior staff performance agreements must be approved directly by the General Manager.
- (f) The performance agreement should contain three key elements:
  - (i) identified major responsibility areas;
  - (ii) key result areas for the coming twelve (12) months;

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- (iii) a record of results sought and measurement criteria to be used for each key result area.
- (g) The General Manager and the staff member may agree to vary the contents of the performance agreement during its currency to take into account changes in responsibilities, functions or council priorities.
- (h) Performance will be monitored on a regular basis and reviewed annually by the staff member's immediate manager and approved by the General Manager.
- (i) As part of a performance review the member of staff will be required to prepare a summary of his or her accomplishments against the agreed performance goals. The performance summary will be assessed by the responsible line manager in consultation with the General Manager prior to a meeting to discuss the review with the staff member. The General Manager, or his/her nominee is responsible for making the final assessment of a staff members performance.

**4.8 Performance Pay and Bonuses**

- (a) Performance pay reflects the provisions of the City's Award and Enterprise Agreement where an increase in salary within the range of 1% to 5% of salaries may be approved for outstanding performance.
- (b) Performance bonuses reflect the provisions of the Remuneration and Benefits Policy (to be considered by Council on 28 June 2002) where bonus payments from 0% to 15% of annual total remuneration may be approved for outstanding performance.
- (c) Performance reviews will be used to determine performance bonus payments or, where applicable, a staff member's progression within the salary/remuneration package range of his or her position for outstanding performance.
- (d) Determination of performance pay under the provisions of the City of Sydney wages / Salary Award 1998 or Enterprise Agreement 2004 are be subject to the General Manager's approval.
- (e) All performance bonus payments to M2 (Directors) and M3 under the provisions of their contract of employment require the direct approval of the General Manager. This cannot be sub-delegated. Performance bonuses paid to M2 and M3 are subject to prior consultation with the Lord Mayor.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (f) Performance pay and performance bonus payments for outstanding performance will be in accordance with the Remuneration and Benefits Policy (to be considered by Council on 28 June 2002) and shall be reported to the Lord Mayor on a quarterly basis.
- (g) Performance bonuses for outstanding performance are subject to an annual review, will be paid as lump sum payments and are in addition to the annual total remuneration identified in the employment contract.
- (h) Outstanding work performance is performance that which, in the opinion of the General Manager, consistently produces outstanding results clearly exceeding the performance levels and quality norms of a large majority of other employees

**4.9 Renewal Of Appointment**

- (a) Where a contract is for a period of three to five years and no further arrangements have been entered into, the member of staff will be required to notify Council at least four months before expiry of the contract, if he or she wishes to renew the employment contract. Where a contract is for a period of less than three years, the member of staff will be required to notify Council at least three months before expiry of the contract if he or she wishes to renew the contract. Council can then decide either to offer the staff member re-appointment or to advertise the position.

Council is to advise the staff member of its intentions, for a three to five year contract not less than two months before the contract expiry date or for a contract of less than three years, six weeks before the expiry date.

- (b) In the event that a staff member's contract is not renewed or he or she is not offered appointment to another position, employment terminates on the expiry date of the contract. However, where Council and the staff member agree, the contract may be extended on a month by month basis up to a maximum of three months from the contract expiry date. In this event, the provisions of the existing contract will continue to apply, with the exception of those dealing with renewal of appointment.
- (c) The renewal of senior staff contracts, for the purposes of consultation with the Lord Mayor and Council, shall be subject to the timing limitations as set out in clause 3.2(g).

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**EMPLOYMENT POLICIES JUNE 2002**

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**4.10 Termination Of The Contract**

- (a) A contract may be terminated in the following circumstances:
  - (i) when the staff member does not meet the performance requirements specified in the contract or as subsequently altered;
  - (ii) by the Council and the staff member agreeing in writing;
  - (iii) by the staff member with one months notice in writing;
  - (iv) by the Council if the staff member commits an act which would entitle the Council to summarily dismiss him or her;
  - (v) by the Council for any reason other than the above, provided the staff member is paid the equivalent of the cost of the remuneration package to a maximum of six months (5 year contract), three months (3 year contract) or the balance of the contract term, whichever is the lesser. *(Note: a lesser payment will be stated for contracts of a duration less than 3 years).*
- (b) Contracts for M2 and M3 levels of management can only be terminated under 4.10(a)(v) above with the prior consultation of the Lord Mayor. Other staff terminations under paragraph 4.10(a)(v) above must be reported to the Lord Mayor on a quarterly basis.
- (c) The payment of any termination arrangements in excess of the limits prescribed in paragraph 4.10(a)(v) above shall require the approval of the General Manager and the concurrence of the Lord Mayor.
- (d) In the event the contract is terminated the member of staff will be entitled to payment of salary and benefits up to the date of termination, as well as any accrued entitlements which are prescribed in the contract as payable on termination.
- (e) Entitlements will be calculated at the annual total remuneration package rate, less the amounts identified in the annual total remuneration package for the position to cover the employers contribution to superannuation and annual leave loading.
- (f) Should special circumstances arise where the General Manager wishes to make termination payments in addition to the provisions of clause 4.10(a)(v) plus accrued entitlements, the Lord Mayor's written concurrence is required.

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**EMPLOYMENT POLICIES JUNE 2002**

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**4.11 General Contractual Conditions**

A member of staff employed under contract is subject to Councils code of conduct and other policies approved and amended from time to time.

**4.12 Confidentiality And Restraints**

- (a) Both Council and the member of staff have a responsibility to maintain confidentiality about the terms of the contract (other than the annual publication of total remuneration packages for senior staff as required by Council policy), personal information, relating to the staff member and the conduct of Council business. In particular, the staff member must not disclose during the period of employment or, thereafter, confidential information gained as a result of his or her employment with Council without the prior written approval of the General Manager.
- (b) The staff member will not attempt to use any information acquired in the course of their employment in any manner which may injure or cause loss to the Council. In certain situations, it may be necessary to require the staff member to sign a separate confidentiality agreement, or include a clause within their contract that binds them for up to 6 months after their employment ceases.
- (c) Any intellectual property invented or created by the staff member as a result of his or her employment also remains the property of Council, unless otherwise agreed in writing.

**4.13 Professional Indemnity**

Council will indemnify the member of staff against any loss or claim made by a third party or cause of action of any kind arising out of the employment provided he or she has acted honestly, diligently and in good faith.

**4.14 Legal Liability** (hold harmless clause)– see amendment as provided in Council paper “Policy on Legal Assistance for Councillors and Council Employees”.**4.15 Existing Employees**

- (a) In some cases existing Council employees will seek and gain recommendation for appointment to a position, which is being offered as a 'senior staff position' or on contract employment.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (b) Unless otherwise specified in the contract all leave and other entitlements will be carried forward and continue to accrue. Some staff positions will receive annual leave and long service and other leave as set out in their contracts. Such leave will not be less than statutory entitlements. All other 'contract employment' positions will have leave and other entitlements determined by the City of Sydney Wages / Salary Award 1998. Accrued but unused sick leave will not be paid out at completion of a contract unless specified in the contract.

**4.16 Gratuity Payments**

The accrual of service towards payment of any gratuity on retirement will cease from the commencement date of the initial contract. Any service already accrued will be frozen as at that date and the entitlement carried forward to the date when the staff member retires. Gratuity payments are not made on resignation or in the case of termination for any reason, including termination due to the contract not being renewed. The payment of a gratuity to eligible members of staff will be in accordance with Council policy.

**5 Related Policies and Legislation**

- 5.1 Remuneration and Benefits.
- 5.2 Motor Vehicle Policy.
- 5.3 Recruitment and Selection Policy.
- 5.4 Performance Management Policy
- 5.5 Local Government Act 1993 (as amended).

*Approved by: The Council of the City of Sydney*

*Date: 28 June 2002*

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**EMPLOYMENT POLICIES JUNE 2002**

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**MOTOR VEHICLE POLICY****POLICY OVERVIEW**

This policy provides guidelines for the proper management, usage and administration of the Council motor vehicle fleet, including those motor vehicles assigned to employees. Passenger motor vehicles are assigned to staff only within the following categories:

1. normal day-to-day operational usage
2. home-to-work & return operational usage (where the motor vehicle does not form part of an employee's remuneration package)
3. contract employment – part private/business usage (where the motor vehicle is part of an employee's remuneration package)

**POLICY STATEMENTS****1 Policy**

- 1.1 Council retains and maintains a motor vehicle fleet of the size and type sufficient to support the effective delivery of its operations and services.
- 1.2 All specific motor vehicle allocations and authorisations under this policy shall be subject to the General Manager's approval in consultation with Council.
- 1.3 In accordance with Council's Sustainable City approach decisions relating to the purchase, size and use of Council's motor vehicle fleet will consider the imperatives to reduce fuel consumption, improve air quality and safety of staff and the general public.
- 1.4 Council requires employees to drive Council motor vehicles only where it is necessary for the efficient and effective performance of their operational duties. This requirement may also involve employees in driving a Council motor vehicle outside normal business hours.
- 1.5 In accordance with Council's Remuneration and Benefits Policy an employee appointed under the policy of contract employment may be offered a part private / business use motor vehicle.
- 1.6 Where a motor vehicle cannot be shown to have a direct benefit to Council operations or, where it is not part of Council's contracted obligations to provide a motor vehicle for an employee, the motor vehicle shall be disposed of as soon as possible.

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**EMPLOYMENT POLICIES JUNE 2002**

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**GENERAL CONDITIONS****2 Pool Motor Vehicles**

- 2.1 The Council motor vehicle fleet comprises all motor vehicles owned and operated by Council, including those assigned to staff for private/business usage in accordance with this policy and the policy on contract employment.
- 2.2 The pool fleet shall be garaged on Council premises (eg. Town Hall House or depots) during normal business hours and all motor vehicle usage will be arranged through the Fleet Services Officer who reports to the Manager Finance.
- 2.3 All motor vehicles allocated to staff under this policy shall become part of the pool fleet during normal business hours. All employees assigned a motor vehicle under the terms of this policy shall ensure that the motor vehicle is available at all times for use on Council business.

**3 Motor Vehicle Access while on Leave**

- 3.1 Those employees entitled to the use of a motor vehicle under the "*home-to-work and return*" policy will return the motor vehicle to the Council pool fleet at the commencement of any approved leave period.
- 3.2 Those employees entitled to the use of a private/business use motor vehicle, under the terms and conditions of their contract of employment, will be able to continue their use of the motor vehicle during periods of approved leave (ie. annual and long service leave) for a maximum period of 6 weeks.

**4 Motor Vehicle Acquisition & Disposal**

- 4.1 All motor vehicle acquisitions will be considered by Council on the basis of:
- (a) Ecological sustainability principles; and
  - (b) an optimum fleet size, as determined by Council, that will be relative to demand and / or usage to meet business requirements.
- 4.2 Council will generally replace motor vehicles at the completion of a minimum of 2 years service or 40,000 kilometres, whichever ever occurs sooner. Subject to market conditions the Council may extend the period of replacement. The replacement period will be reviewed annually by Council.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 4.3 All motor vehicles will be disposed of by auction / tender. The General Manager, in consultation with the Lord Mayor, may determine alternative replacement or disposal arrangements as required.

**5 Replacement of Motor Vehicles**

- 5.1 If a motor vehicle is off the road for repair, a replacement motor vehicle will generally be made available to employees operating under the terms and conditions of this policy. However, in the event of a shortfall of available motor vehicles, the priority of replacements will be determined on the basis of business requirements and Councils contractual obligations.
- 5.2 Where an employee is appointed under the terms and conditions of contract employment (and is entitled to the benefit of a motor vehicle) and a replacement motor vehicle is not able to be provided, then the employee shall be entitled to claim the proportion of time without the benefit (ie. motor vehicle) from the percentage cost paid by salary sacrifice. Also refer to Section 22 of this policy.

**6 Motor Vehicle Accident of Breakdown**

- 6.1 If the driver has a motor vehicle accident, the following information must be provided:
- (a) Other driver's full details;
  - (b) Other car owners full details;
  - (c) Other owners full insurance details;
  - (d) Other vehicle details;
  - (e) Witness names & address;
  - (f) Police Officer particulars (if required).
- 6.2 Police must be called to the scene of an accident if:
- (a) a person is killed or injured;
  - (b) a driver refuses to exchange details;
  - (c) a driver involved in the accident fails to stop;
  - (d) any drivers are suspected of being under the influence of drugs or alcohol;
  - (e) either motor vehicle is unable to be moved from the scene of the accident.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 6.3 Except in the circumstances described in clause 6.2, whenever a Council motor vehicle is involved in an accident which results in damage to any motor vehicle, the officer will as soon as practicable attend a police station and complete a "*P5 Self Reporting Collision*" form.
- 6.4 No statements or admissions of liability to an accident should be made. The driver should state the true facts of the accident in any statement but the law does not require you to admit fault.
- 6.5 In the event of an accident or breakdown, the driver is to use the services of the nominated assistance provider (ie. Roadside Assistance) as appropriate. If the motor vehicle requires towing or emergency repairs and is located
- (a) in the Sydney metropolitan area; then the NRMA is to be requested to tow the motor vehicle to the Bay Street Garage;
  - (b) outside the Sydney metropolitan area; then the NRMA is to be requested to tow the motor vehicle to the nearest accredited NRMA repairer.
- The Fleet Services Officer is to be notified of the above action as soon as possible.
- 6.6 In the event of an accident, the driver of the motor vehicle is responsible for completing an accident report and submitting it to their supervisor and the Fleet Services Officer.
- 6.7 Where an employee, who is the driver of a Council motor vehicle, is involved in 2 preventable accidents in a 12 month period, then the right to drive a Council motor vehicle may be reviewed.

**7 Theft of a Motor Vehicle**

- 7.1 On discovering a Council motor vehicle has been stolen, the driver shall:
- (a) immediately advise the police of the theft and the surrounding circumstances; and
  - (b) as soon as practicable notify their supervisor; and
  - (c) as soon as practicable notify the Fleet Services Officer.

**8 Log Sheets**

- 8.1 The Council motor vehicle fleet is primarily controlled through the monitoring of log sheets.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 8.2 Employees are required to maintain an accurate record of travel (ie. log sheet) to allow for efficient fleet management and to comply with legal requirements relating to Fringe Benefits Tax.
- 8.3 Where employees are authorised to use a nominated motor vehicle under the home-to-work provisions of this policy (see section 18), the designated employee shall, on returning the motor vehicle to a pool operation, record the returned odometer reading in the log sheet.
- 8.4 The employee who used the motor vehicle last and completes a page of a log book will be responsible for submitting this record to the Fleet Services Officer.

**9 Purchase of Fuel**

- 9.1 To ensure the continuity of fleet management accountability all motor vehicles will be allocated a fuel purchase card for the charging of fuel purchases, including those made while on annual leave or long service leave. Where applicable, this cost will be charged back to the employee responsible within 2 weeks of the employee's return to work.
- 9.2 The nominated driver of the motor vehicle is responsible for reconciling and certifying the monthly fuel usage statement issued by Fleet Services. Where a motor vehicle does not have a nominated driver all fuel purchases must be presented to the Fleet Services Officer immediately after use of the motor vehicle.
- 9.3 Where a non-contract employee is authorised to use a motor vehicle during a period of annual leave or long service leave the employee shall pay for fuel used during the period of leave.

**10 Nominated Drivers & Usage**

- 10.1 Each individual using a Council motor vehicle is responsible for operating the motor vehicle in a safe manner, observing all traffic laws and relevant regulations. The assignment of a nominated driver for most motor vehicles does not relieve any driver of a Council motor vehicle of this responsibility.
- 10.2 The motor vehicle driver will be held personally accountable for traffic safety, fines and penalties incurred and for breaches of the terms and conditions of this policy.
- 10.3 An employee nominated as a driver for a particular motor vehicle, in the "*home-to-work & return*" operational motor vehicle category, will be the only driver of the motor vehicle during off-duty hours (ie. travelling to and from work). The vehicle must be available to the car pool during normal working hours.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 10.4 Employees entitled to a motor vehicle under the terms and conditions of their contract of employment may allow their partner or another member of the employee's family to drive the motor vehicle during normal off-duty hours. It is the employee's responsibility to ensure that their partner or family member driving the motor vehicle holds a valid driver's licence and adheres to the operating conditions of this policy.

**11 Smoking in Motor Vehicles**

- 11.1 The Council has a non-smoking policy that applies to the motor vehicle fleet.

**12 Employee Liability**

- 12.1 If the employee, or any person, while in charge of the motor vehicle is involved in an accident due to acting recklessly or being under the influence of alcohol or drugs or using the motor vehicle outside any of the specified terms and conditions of this policy, the employee shall be liable to Council for the cost of repairs to the motor vehicle or any other Council property damaged as a result of the accident and shall reimburse Council for any sum payable by Council in respect of any third party damage or injury for which Council may be liable arising from the accident.

**13 Travelling Time**

- 13.1 All travelling time between the employee's home and work location shall be undertaken during the employee's own time, except where the employee is required to attend an *after hours call out* to work on related matters outside normal duty hours.
- 13.2 All travel between the employee's home and first job location and / or from the last job to home will be by the most expedient route.
- 13.3 All travel during on-duty times between job locations will be by the most expedient route.

**RESPONSIBILITIES****14 Council Responsibilities**

- 14.1 The Council will be responsible for all motor vehicles and will make all payments (except for employees entitled to a motor vehicle under the terms and conditions of their contract of employment as detailed in Schedule A) in respect of:
- (a) the registration of the motor vehicle with the Roads and Traffic Authority, NRMA membership and all insurance requirements;

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**EMPLOYMENT POLICIES JUNE 2002**

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- (b) all running costs including, maintenance, repair and service of the motor vehicle including the provision of oil, petrol and tyres as required, including weekends and public holidays;
- (c) all road and bridge tolls acquired during normal business hours and usage;
- (d) casual parking of the motor vehicle for the efficient discharge of the employees duties provided that for all non-metered parking the Council shall not be liable to reimburse the employee the cost of parking the motor vehicle except upon production of a receipt readily identifiable as relating to the cost of parking the motor vehicle; and
- (e) driver's licence fees where the driving of a Council motor vehicle forms an integral part of the employee's daily duties or condition of employment (ie. where a drivers licence is required in order to be employed in the position. This requirement shall be included in the position description).

**15 Employee Responsibilities**

15.1 Any employee required to use a motor vehicle shall:

- (a) obey all traffic laws at all times; and
- (b) be the holder of a current driver's licence which permits the employee to drive the motor vehicle; and
- (c) where possible, ensure that the motor vehicle is garaged in a secure off-street location (under cover if possible); and
- (d) ensure that the interior of the motor vehicle is clean and tidy and the exterior is maintained to a high standard of cleanliness at all times; and
- (e) not use or allow the motor vehicle to be used for any unauthorised purpose in any way that will adversely affect Council's image, conflict with Council's interest or contravene the provisions of this policy; and
- (f) pay all fines or penalties imposed on the driver of the motor vehicle for breach of all State and local government laws relating to the use of the motor vehicle; and

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**EMPLOYMENT POLICIES JUNE 2002**

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- (g) immediately report to the Fleet Services Officer any accident involving the motor vehicle, whether or not any damage was sustained by the motor vehicle, and comply with all legal and insurance requirements arising out of the accident (this includes notification of police and obtaining particulars of parties involved). Also refer to Section 6.5 of this policy; and
- (h) not, while in charge of, or responsible for a Council motor vehicle, by act or omission behave recklessly or be under the influence of alcohol or drugs; and
- (i) be responsible for the cost of any damage caused whilst driving a Council motor vehicle under the influence of alcohol or drugs; and
- (j) make no modification or alterations to the motor vehicle except as required by Council; and
- (k) immediately advise the Fleet Services Officer if the employee's licence is cancelled or suspended, or if the employee suffers any physical or physiological or mental incapacity which prevents or restricts the employees use of the motor vehicle; and
- (l) surrender the vehicle without delay to the Fleet Services Officer upon:
  - (i) the cancellation or suspension of driver's licence;
  - (ii) the cessation of employment;
  - (iii) any breach of the terms and conditions of this motor vehicle policy;
  - (iv) participation in industrial action (for the duration of such industrial action);
  - (v) request by the authorised staff member in situations such as the employee moving to a job not requiring a motor vehicle (excepting where employees are appointed as senior staff and the motor vehicle forms part of the employee's employment contract); and
  - (vi) pay all road / bridge tolls incurred during off-duty hours, including those incurred during weekends, public holidays and travelling time to and from work.

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**EMPLOYMENT POLICIES JUNE 2002**

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**ASSIGNMENT OF MOTOR VEHICLES****16 General**

- 16.1 All motor vehicles assignments will be considered in the context of all Council policies.
- 16.2 All motor vehicle assignments shall be subject to the General Manager's direct approval and an annual review process to determine any change in circumstances that would require action to be taken under the terms and conditions of this policy.
- 16.3 Employees may be assigned and authorised to use a Council motor vehicle by the General Manager under the following circumstances:
- (a) normal day-to-day operational usage (*refer clause 17*);
  - (b) home-to-work and return operational usage (*refer clause 18*);
  - (c) contract employment – part private/business usage (*refer clause 19*).
- 16.4 Where a motor vehicle is allocated to an employee for part private use and is intended to form part of the remuneration package the benefit shall be included in their contract of employment.
- 16.5 Where a motor vehicle is allocated to an employee for home to work and return basis due to operational / business needs the requirement shall be detailed in the relevant position description.
- 16.6 The Council of the City of Sydney retains full equity in all motor vehicles.
- 16.7 The General Manager may not sub-delegate any delegations authorised by this policy.

**17 Policy Day-to-Day Operational Usage**

- 17.1 Where the General Manager authorises employees to use a motor vehicle in the course of their day-to-day operations for Council's business activities.
- 17.2 Employees requiring motor vehicles in these circumstances shall utilise the pool fleet by contacting the Fleet Services Officer. The employee shall only use the motor vehicle for business purposed during normal business hours or as directed by authorised staff.

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**EMPLOYMENT POLICIES JUNE 2002**

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**18 Home-to-Work & Return Operational Usage**

- 18.1 This provision only applies under the following circumstances:
- (a) Where the General Manager has authorised an operational requirement to be included in a position description for an employee's job that requires the use a Council motor vehicle on a home to work and return basis; and
  - (b) Where the employee is authorised by the General Manager to use a nominated motor vehicle to be garaged at the employee's home address on an irregular basis.
- 18.2 The use of a Council motor vehicle for under these provisions is conditional on an annual review and only applies while an employee is in the position requiring the motor vehicle. The use of a Council motor vehicle does not continue with the employee should they be promoted, transferred or redeployed.
- 18.3 The motor vehicle shall only be used by the employee for business / operational purposes save that the employee may have reasonable use of the motor vehicle in the course of commuting to and from Council work only. Such use does not include the carriage of non-Council employee passengers on such trips. Motor vehicles are not to be used on any non-duty day (except for employees placed on a bona-fide *after hours call out arrangements*).
- 18.4 Motor vehicle utilisation on this basis must be able to represent clear cost effective gains to Council and be clearly in Council's best interests. The General Manager is accountable for ensuring that each approval is in Council's best business interests and that all efforts have been made to ensure that Council's motor vehicle fleet usage is at optimum efficiency.
- 18.5 The Council of the City of Sydney may in its absolute discretion withdraw the provision of the motor vehicle to the employee for any reason whatsoever and may require the surrender of the motor vehicle so provided at any time, subject to one month's notice being given to the employee.

**19 Contract Employment – Part Private / Business Usage**

- 19.1 Where the General Manager appoints employees under the policy of contract employment they may be offered private/business use of a Council motor vehicle. A private/business use motor vehicle is essentially a business motor vehicle for which the private use of the motor vehicle is purchased from the total remuneration benefit available to the employee.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 19.2 Employee classification levels entitled to this remuneration benefit and the type of motor vehicle that will be offered will be determined annually by the Council (see Schedule A).
- 19.3 Consistent with the principle of flexible remuneration packaging and individual choice, this remuneration benefit may be accepted in one of two ways:
- (a) as a reduction in the total remunerated benefit of an amount equivalent to the salary sacrifice cost of the motor vehicle; or
  - (b) as the monetary component of the total remunerated benefit at an amount equivalent to the salary sacrifice cost of the motor vehicle.
- 19.4 The selection of either option will be clearly documented in the employee's contract of employment.
- 19.5 Components of the employee's remuneration package will be adjusted from time to time to reflect variations in the costing model determining vehicle component costs. This adjustment will not increase or decrease the employee's annual total remuneration package.
- 19.6 Staff who elect the remuneration as a monetary component (ie. with no salary sacrifice) and need a motor vehicle to carry out their job in a professional manner will have access to Council's operational pool fleet on an as required basis provided such use is not used to avoid paying salary sacrifice.
- 19.7 Employees offered a part private/business use of a motor vehicle shall ensure the motor vehicle is located at Council premises and available for business use Monday to Friday between normal working hours.
- 19.8 Accessories, such as sound systems, roof racks, alloy wheels, etc. may be fitted to a motor vehicle as a part of the employees total remunerated benefit options. The employee must agree to pay for such accessories as a salary sacrifice component from their total remuneration benefit. No accessories can be fitted to a private/business use motor vehicle without the approval of the General Manager directly.
- 19.9 Where a contract employee is required to have a mobile phone for job related purposes, a hands-free mobile phone kit will be installed in the nominated motor vehicle.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 19.10 Where employees are temporarily assigned to higher grade duties for a period exceeding 10 working days in a contract position, which includes the benefit of a motor vehicle, the assigned employee will generally be entitled to an equivalent monetary component of the motor vehicle in the total remuneration benefit. Subject to the General Manager's approval, vehicle availability and that providing the assignment exceeds 10 working days, the assigned employee may be provided with a motor vehicle for the term of the higher duties assignment.
- 19.11 As remuneration packages are subject to annual review, it is possible that employees may wish to delete the motor vehicle benefit from the package at the time of review. However, as all motor vehicles are acquired on a business operational needs basis to maintain an optimum fleet size, employees under contract appointment are encouraged to retain the motor vehicle benefit for a 2 year period or until change over.

**20. Contract Employment – Novated Lease Full Private Use**

- 20.1 Consistent with the principle of flexible salary packaging and individual choice, where the General Manager appoints employees under the policy of contract employment (ie. Senior Staff and contract employees at Salary Band 7 and above) the employee has the option of entering a novated motor vehicle lease under salary sacrifice arrangements. In such cases, there is no requirement on the individual to use their motor vehicle for Council business purposes.
- 20.2 A novated lease is an arrangement between the employee and the leasing company that enables the employee to lease a motor vehicle, with lease payments arranged through salary sacrifice pre-tax deductions from the employee's pay. Under a novated lease, the employee has exclusive and personal use of the motor vehicle and is responsible for all costs associated with the vehicle including: lease administration, fringe benefits tax, fuel, maintenance and servicing, repairs, registration, insurance and auto-club membership.
- 20.3 The City of Sydney will, from time to time, establish arrangements with leasing companies to provide novated motor vehicle leases.
- 20.4 Novated lease arrangements are initiated through the Employee Relations Unit. Employees are advised to read carefully the leasing company's information and to seek their own independent financial advice.
- 20.5 Motor Vehicle parking arrangements are at the employee's expense unless otherwise authorised to park at Council premises by the General Manager.

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**EMPLOYMENT POLICIES JUNE 2002**

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- 20.6 Employees are responsible for meeting the cost of fitting all accessories to a novated lease motor vehicle including hands free phone kits.

**21. Use of Private Motor Vehicles on Council Business**

- 21.1 As a general principle, Council vehicles should be used as necessary for employees undertaking Council business. However, from time to time the General Manager may approve an employee to use their own private vehicle for Council business.
- 21.2 Employees who are authorised to use their own vehicles on Council business will be eligible for reimbursement for that use at the Australian Taxation Office Method 1 – cents per kilometre method.
- 21.3 Tolls and parking fees incurred when travelling on Council business should be claimed at the same time as reimbursement is sought for vehicle usage. Proper receipts (tax invoices) must be supplied where ever possible.
- 21.4 Employees must not operate their own motor vehicle on Council business without the approval of the General Manager. Private vehicles must only be used on the strict understanding that the motor vehicle is registered, road worthy and has adequate comprehensive insurance and that the cost of any damage to person or property sustained in the use of the motor vehicle is the responsibility of the employee and / or their insurer.

**22. Policy Review**

This policy will be reviewed and determined by Council annually, with particular regard to:

- (a) The total number of motor vehicles held under the categories of:
  - (i) Town Hall House Fleet;
  - (ii) Depot Fleet Home-to-work and return vehicles;
  - (iii) Designated pool vehicles;
  - (iv) Private/business use vehicles;
- (b) The allocation of vehicles;
- (c) The cost of vehicles;
- (d) The costing model for part private / business use;
- (e) The retention and turnover rate of vehicles (ie 1, 2 or 3 years).

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**EMPLOYMENT POLICIES JUNE 2002**

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**23. Motor Vehicle Light Fleet Ceiling Variations**

The General Manager may vary the light motor vehicle ceiling detailed in Schedule B and the allocation of vehicles provisions of this policy with the concurrence of the Lord Mayor. Such variations must reported annually to Council.

*Approved by: The Council of the City of Sydney*

*Date: 28 June 2002*

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**EMPLOYMENT POLICIES JUNE 2002**

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**SCHEDULE A**

**PART PRIVATE/BUSINESS USAGE**

For the purposes of this policy, the benefit and type of a motor vehicle which may be available within an employee's remuneration package shall apply as follows:

- The General Manager (*as listed below or Holden Statesman or similar*).
- Members of the Executive (*as listed below or Holden Calais or similar*);
- Nominated M3 Managers (*Holden Astra or Toyota Corolla or Toyota Camry or Holden Acclaim or similar*);
- Other positions as approved by the General Manager, in consultation with the Lord Mayor, in accordance with paragraph 16.2 of this policy will be allocated motor vehicles by the General Manager.

Subject to approval from the General Manager, the above employees may request factory fitted optional extras or a similar station wagon model. The cost of these options will be met by the employee and will be deducted from their total remuneration package as part of their salary sacrifice. (*refer to Section 19*).

**MOTOR VEHICLE BENEFIT MONETARY COMPONENT**

The following costing model is based on information provided by the Manager Finance at 28 June 2002 for a 90% private use and 10% business use basis. This model will be reviewed annually.

Holden Astra or similar	\$10,233
Toyota Corolla or similar	\$11,387
Toyota Camry (4 cylinder) or similar	\$11,983
Holden Acclaim or similar	\$13,433
Holden Calais or similar	\$16,690
Holden Statesman or similar	\$16,720

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**EMPLOYMENT POLICIES JUNE 2002**


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**SCHEDULE B**
**CURRENT CEILING OF THE LIGHT MOTOR VEHICLE FLEET NUMBERS  
AS AT 28 JUNE 2002**
**1. Town Hall House Light Fleet**

<b>Category</b>	<b>Allocation</b>	<b>Number</b>
<b>1A</b>	The Executive (part private use under contract)	1
<b>1B</b>	Nominated M3 Managers (part private use under contract)	12
<b>1C</b>	Home-to-work & return not involving salary sacrifice	4
<b>1D</b>	Designated pool vehicles available to be taken home if required	5
<b>1E</b>	Vehicles not available to be taken home and used for work purposes only	6
	<b>Total Vehicles</b>	<b>28</b>

**2. The Depot Light Fleet**

<b>Category</b>	<b>Allocation</b>	<b>Number</b>
<b>2A</b>	Home-to-work & return not involving salary sacrifice	10
<b>2B</b>	Vehicles not available to be taken home and used for work purposes only	16
	<b>Total Vehicles</b>	<b>26</b>

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**EMPLOYMENT POLICIES JUNE 2002**

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**PERFORMANCE MANAGEMENT POLICY****1. Purpose**

- (a) The Performance Management Policy provides an ongoing formal process in which a staff member's work performance and development needs are discussed and reviewed with respect to position requirements. At the same time, the policy will ensure that staff members receive periodic formal performance feedback, recognition and, if required, guidance and training to promote effective job performance.
- (b) This policy will identify:
  - (i) the benefits of performance management;
  - (ii) the formal performance management process;
  - (iii) the performance indicators and standards;
  - (iv) conditions for salary progression
  - (v) the Performance Development Review
  - (vi) confidentiality and access to records.
- (c) This policy applies to employees in Salary Classification positions and Contract positions.
- (d) This policy is a component of the overall performance management of staff. Other related management functions include motivation, job satisfaction, training and development, workforce planning, recruitment and selection, probation, job analysis and cultural change.

**2. Introduction**

- (a) The City of Sydney Wages / Salary Award 1998 requires salary progression to be based on merit and superior performance.
- (b) The Enterprise Agreement 2004 provides for a performance payment rating system for outstanding performance in a range of 1% to 5% where a staff member significantly exceeds the expectations of their work requirements.
- (c) Managing performance is central to effectively managing the staff of the City of Sydney. All staff should have a clear understanding of what they are expected to do, the level of performance required and how they are meeting these expectations.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (d) All managers and supervisors have a responsibility, irrespective of this policy, to provide regular and constructive feedback to staff, together with the necessary training or resources required to perform their duties.
- (e) The performance management system provides staff members with the opportunity to progress through the salary range of their substantive classification.
- (f) Performance reviews and salary progression will be conducted in an objective manner which avoids personal bias and discrimination on the basis of race, colour, religion, sex, sexual preference, nationality, age, disability or against any other group of people as defined by statutory legislation
- (g) To promote consistency and objectivity, the relevant Executive member will review an employee's performance assessment.
- (h) An Executive member's recommendation for salary progression of an employee can only be approved by the General Manager.

**3. Benefits of Performance Management**

- (a) The formal performance management system enables managers and supervisors to identify, evaluate and develop employee work performance so that the organisation's goals and objectives are achieved. Employees benefit through receiving recognition and performance feedback, direct involvement in the planning process, being provided with career guidance and training opportunities.
- (b) The performance management system also provides the opportunity for managers and supervisors to:
  - (i) improve Council's overall efficiency and effectiveness;
  - (ii) enhance the understanding of key tasks and performance expectations by all the parties;
  - (iii) provide constructive, two way feedback;
  - (iv) manage the identification of, and action necessary for the further development and guidance of staff;
  - (v) directly link outstanding performance with salary progression;
  - (vi) provide multi-skilling initiatives through job rotation to higher grade acting opportunities; and
  - (vii) assist with career guidance and planning.

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**EMPLOYMENT POLICIES JUNE 2002**

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**4. The Performance Management Assessment Process**

- (a) The performance management review period will be 12 months from the staff member's previous annual assessment or the 12 months from the date of their most recent appointment.
- (b) The Performance Assessment is conducted at the end of the 12 month assessment period
- (c) The Performance Assessment is based on the performance requirements of the position, previous assessment outcomes and the criteria detailed in this policy
- (d) The Performance Assessment will provide a range of information on which to base assessments about performance and decisions about further action. The emphasis of those assessments and decisions should:
  - (i) be based on objective results;
  - (ii) encourage continued good performance;
  - (iii) resolve problems that contribute to poor performance; and
  - (iv) identify development needs to be addressed for the achievement of future performance objectives;
  - (v) reward outstanding performance;
  - (vi) determine action plans to overcome poor performance;
  - (vii) determine action plans to provide for staff development needs;
  - (viii) investigate requirements for job redesign.

**5. Performance Management Feedback**

- (a) Feedback on performance from your manager or supervisor is a major element of creating a performance-based culture. Performance management feedback should be positive and constructive, and may be informally or formally initiated by the manager, supervisor or staff member.
- (b) Formal performance management feedback should occur in the context of Council's formal performance management system, which assesses individual performance and provides an ideal opportunity to discuss career path options and plans for achieving career goals.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (c) Informal performance feedback can occur at any time and be conducted in a way that suits the manager and staff member. Common to both forms of feedback is the manager providing the staff member with guidance and clear information about performance with regard to objectives, development opportunities, performance standards, time-frames etc.

**6. Performance Development Review**

- (a) The performance assessment process will reveal some employees whose performance is competent, some whose performance is outstanding and some whose performance is unsatisfactory.
- (b) The performance assessment process should also provide the employee with development opportunities, with the emphasis on career planning, succession planning, improvement of current job performance, personal development and / or the achievement of specific competencies through skill acquisition.
- (c) Performance development programs may involve training, education, learning opportunities at conferences or seminars, on the job experience, multi-skilling, networking, job rotation, special assignments, counselling and further assessment.
- (d) Where development opportunities are identified the City is committed to providing encouragement and resources.
- (e) Employees and managers are encouraged to make a development action plan in the *Employee Performance and Development Assessment* form to address performance assessment outcomes.

**7. The Performance Management Rating System**

- (a) As a guide to obtaining fair and uniform ratings to assist in distinguishing between various levels of performance the following rating descriptions are provided.
  - (i) **Outstanding**
    - a. Outstanding work performance is performance that consistently produces outstanding results clearly exceeding the performance levels and quality norms of a large majority of other employees. Outstanding work is characterised by speedy, efficient and accurate accomplishment of tasks in a cooperative manner plus demonstrated initiative to solve complex problems and assist fellow employees. An outstanding employee can be relied upon to organise and complete complex tasks on time and frequently ahead of schedule with a minimum of supervision.

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**EMPLOYMENT POLICIES JUNE 2002**

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- b. Common examples of outstanding performance include:
  - i. Performance productivity consistently exceeds performance norms or standards
  - ii. Exceeding the standards set out in the position description
  - iii. Exercises initiative to plan and coordinate complex tasks or assignments
  - iv. Completes own tasks accurately and consistently ahead of schedule and assist others to complete tasks or resolve difficulties
  - v. Demonstrates a high level of reliability and dependability with near perfect attendance
  - vi. Quality and accuracy is near perfect
  - vii. Suggests and implements procedures to improve safety, improve quality or reduce errors
  - viii. Demonstrates leadership ability to exercise control of emergency or pressure situations and prompts others to maintain a professional attitude
- c. The extent to which an employee is able to demonstrate their outstanding performance will be assessed against the criteria detailed in the *Employee Performance and Development Assessment* form.

**(ii) Competent**

- a. Being competent is a reasonable and acceptable performance of work for most employees. Competent work is characterised by the following actions: regular attendance with minimum absences or lateness; completion of routine work tasks on time; meeting quality expectations with minimum re-work. Competent performance normally requires general supervision and occasional checking to assist the employee to resolve complex problems.
- b. Common examples of competent performance include:
  - i. Dependable with satisfactory attendance
  - ii. Normally available to work extra hours assigned
  - iii. Accepts new tasks or assignments without resistance

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**EMPLOYMENT POLICIES JUNE 2002**

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- iv. Only occasionally checking or instructions by the supervisor are needed
- v. Normally portrays a pleasant manner and attitude and develops good perceptions with customers
- vi. Sometimes takes initiative and displays a good technical knowledge of their work

**(iii) Not Fully Competent**

- a. An assessment of Not Fully Competent can be characterised in a number of ways.
  - i. Firstly this may be evident simply due to a skill deficit that the employee is more than willing to address with the assistance of Council.
  - ii. Secondly, such an assessment may also occur where an employee's performance is characterised by negative indicators such as:
    - a) Fails to seek out work when having spare capacity
    - b) Unable to provide consistent effort or work quality
    - c) Takes a narrow restrictive perspective on issues
    - d) Fails to follow business process / policies
    - e) Lacks responsibility for own work – fails to manage and meet expectations
    - f) Regularly causes stress for others by inappropriately taking leave
    - g) Lacks understanding of his/her actions on others
    - h) Blocks change and resists new ideas
  - iii. Thirdly, and of much greater concern, is when an employee's performance is characterised by marginal effort. Common examples of this type of work performance include:
    - a) In ability accomplishing simple or routine tasks in accordance with position requirements or after training
    - b) Makes the same mistakes again and again

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**EMPLOYMENT POLICIES JUNE 2002**

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- c) Unnecessary waste of time or equipment damage
  - d) Frequent absences or lateness
  - e) Disregard of instructions
- b. A performance assessment rated at this level shall be reviewed by the Executive member in consultation with the Manager Employee Relations to ensure the most appropriate action is implemented as soon as practicable.
- c. Where a staff member is deemed to lack sufficient skills to meet their work requirements then the staff member and their manager will develop an agreed action plan that could include a program of structured training to ensure the appropriate level of skill is attained, increased supervision and / or more frequent reviews.
- d. Where a staff member's work performance is unsatisfactory and is unable to meet the requirements of their position description then the matter will be dealt with in accordance with the Discipline Policy and Procedures.

**8. Performance Assessment Indicators & Standards**

- (a) Performance assessment involves comparison of a staff member's observed on-the-job performance to some benchmark of effective job performance. These benchmarks are usually referred to as performance standards and generally require some job analysis and the use of position descriptions.
- (b) The aim of performance management is not to quantify every action, but to avoid arbitrary, biased or changing measurements. Performance standards should:
  - (i) have an impact on the success of the job;
  - (ii) differentiate between levels of performance;
  - (iii) be within the control of the person being assessed;
  - (iv) be based on observations and outcomes which are documented and job related;
  - (v) reflect the type of behaviour expected in the workplace;
  - (vi) communicate performance expectations and provide feedback (this may include work related behaviour);
  - (vii) recognise the realities of the work to be performed (particularly important for managerial and customer service positions).

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## EMPLOYMENT POLICIES JUNE 2002

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- (c) Performance indicators provide a useful tool for assessing the accomplishments of key accountabilities. The performance indicators can be measured by the expected standard of performance or target. (*eg. objectives met on time and within budget; number of tasks completed; accuracy; error, accident, wastage rates; level of client satisfaction / feedback; competency requirements; quality standards*).
- (d) The inclusion of generic human resource management indicators in performance work plans for managers and supervisors will highlight responsibilities for performance management, Equal Employment Opportunity, a healthy and safe working environment and the implementation of particular Council wide programs.
- (e) Negative indicators are behaviours and or attitudes that are considered to be unacceptable in a staff member. Where a manager or supervisor identifies a staff member displaying negative indicators in their work performance the staff member should be counselled and advised of the required behaviour.

### 9. Salary Progression

- (a) After a staff member's performance has been assessed and rated by the staff member's manager or supervisor, the Executive member may recommend a salary progression through the salary range of the staff member's classification.
- (b) Approval of all salary progression recommendations is the sole responsibility of the General Manager.
- (c) In accordance with Enterprise Agreement 2004 an assessed performance rating of Outstanding will facilitate a salary progression within the range of 1% to 5%.
- (d) Any salary progression payment in excess of the staff member's maximum salary band will be paid as a bonus payment.
- (e) Where a staff member received a performance-based salary progression for the previous assessment period managers / supervisors must be able to demonstrate that a new assessment of Outstanding is based on a higher expected standard of performance than that applied for the previous period. The maintenance of this ongoing outstanding performance cannot be double counted and used for further salary progressions.

### 10. Role of the Employee Relations Unit

The Employee Relations Unit has an overseeing and coordinating role with respect to the performance management process. This will involve the following activities:

- (a) providing additional training for staff in skills to assist in performance management;

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**EMPLOYMENT POLICIES JUNE 2002**

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- (b) providing training for managers or supervisors in the knowledge and skill areas related to performance management;
- (c) administering the system, ensuring that the performance management system is effectively implemented;
- (d) providing status reports of forthcoming performance reviews to Unit Managers;
- (e) managing the performance management records of all staff;
- (f) providing advice on performance improvement;
- (g) actioning recommendations and performance pay requests;
- (h) reviewing assessments as directed by the General Manager.

**11. The Role of Staff Members**

- (a) The performance review process provides staff members with an opportunity to:
  - (i) negotiate performance expectations with their supervisor;
  - (ii) participate in training and development programs;
  - (iii) establish a career plan; and
  - (iv) progress through the salary range of their classification.
  - (v) Get feedback and recognition for work done.
- (b) The staff member, working with the manager / supervisor, will be required to:
  - (i) participate in nominating tasks and responsibilities for review;
  - (ii) clearly define job objectives;
  - (iii) consider training and development needs relative to their job requirements;
  - (iv) advise their manager or supervisor of events and circumstances (ie. constraints and limitations) which may occur in the future;
  - (v) consider their own performance over the review period;
  - (vi) clear instructions or guidelines that influence how the work is done.

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**EMPLOYMENT POLICIES JUNE 2002**

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**12. The Role of Managers / Supervisors**

- (a) Performance management provides an opportunity for immediate managers / supervisors to work with staff members to:
  - (i) discuss performance of staff members
  - (ii) help identify and overcome problems;
  - (iii) recognise employee strengths and weaknesses; and
  - (iv) suggest ways of maintaining and improving job performance.
  
- (b) The manager or supervisor will need to assume a coaching role, reinforcing effective performance and providing assistance and guidance when there are performance problems. Coaching for success helps assure performance that builds skills and confidence and maintains or enhances self-esteem. The role will require the manager or supervisor to:
  - (i) provide support without removing responsibility for action;
  - (ii) reinforce results and skills used to achieve the results;
  - (iii) provide timely feedback, guidance and training to help staff achieve their objectives and potential;
  - (iv) ensure that the staff member has a clear understanding of the key tasks, objectives and performance standards;
  - (v) clearly communicate and discuss performance expectations;
  - (vi) encourage two way feedback;
  - (vii) develop and agree with the staff member on methods of determining the achievement of results;
  - (viii) identify resources required to achieve results including technology, training, funds and management assistance;
  - (ix) acknowledge performance that exceeds, meets or fails to meet expectations;
  - (x) identify and help staff to overcome any obstacles to performance.
  
- (c) In assessing a staff member's performance, managers or supervisors should consider corporate and divisional goals consistent with policy guidelines, the Lord Mayor's Strategic Directions 2001-2005, the current version of Council's Management Plan, performance rating definitions, employee objectives and relevant productivity standards.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (d) In assessing and reviewing a staff member's performance the manager or supervisor should also give examples of observed behaviour, facts and figures, be prepared to support statements with specifics, not make references to personality traits, address the staff member's feelings, and focus on the future not the past.

**13. Confidentiality and Access to Records**

- (a) The staff member whose performance is being reviewed will be given a copy of his or her completed performance assessment and the opportunity to access to the original performance assessments as required.
- (b) The Employee Relations Unit will retain the original performance management assessment on staff personnel files. Managers or supervisors should keep a copy of the performance review and ensure that it is stored in a secure location that maintains confidentiality requirements.
- (c) Access to performance management records by people other than the staff member under assessment and their immediate manager or supervisor will be restricted to:
- (i) The relevant Executive member;
  - (ii) The General Manager;
  - (iii) the Employee Relations Unit as appropriate (eg. records management for all contract staff, the formulation of training and development plans, the aggregation of performance management data, etc.);
  - (iv) Other third parties, with the consent of the staff member, and where consistent with the provisions of the Privacy Act and the Freedom of Information Act.

***Approved by: The Council of the City of Sydney***

***Date: 28 June 2002***

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**EMPLOYMENT POLICIES JUNE 2002**

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**SALARY SACRIFICE POLICY****1. STATEMENT**

The aim of this policy is to provide employees with greater flexibility in the method of how they wish their annual salary to be paid through the provision of Salary Sacrifice Arrangements (SSA).

**2. OBJECTIVES**

- (a) This policy details the framework under which SSA are implemented within the City of Sydney.
- (b) This policy provides information on benefits available for salary sacrifice and the taxation consequences for the City of Sydney and employees entering into SSA.
- (c) The policy is applicable to all City of Sydney employees.

**3. BENEFITS AVAILABLE FOR SALARY SACRIFICE ARRANGEMENTS (SSA) AND APPROVED BENEFITS****(a) Arrangements**

- (i) SSA are the substitution of salary with non-salary benefit/s. The value of this benefit is paid out of your pre-tax salary.
- (ii) Such an arrangement allows your gross salary to be reduced by the cost of the benefit and this may reduce your salary for taxation purposes.
- (iii) SSA are provided on the basis that the total cost to Council shall be no greater than the employee's current prescribed salary.
- (iv) An employee shall be solely responsible for the financial advice upon which they base their decision to enter or exit a SSA.

**(b) Approved Benefits**

- (i) Motor Vehicles provided in accordance with the City of Sydney Motor Vehicle Policy
- (ii) Additional superannuation contributions made in accordance with the procedures in this policy.
- (iii) Other SSA may be approved through the mutual agreement of Council and the employee subject to Australian Taxation Office approval and cost neutrality to the City.

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**EMPLOYMENT POLICIES JUNE 2002**

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**4. INDUSTRIAL ARRANGEMENTS**

- (a) The ability to salary sacrifice for employees is provided through:
  - (i) Enterprise Agreement 2004 (clause 20); or
  - (ii) A written contract of employment.
- (b) Accordingly, Council and an employee may agree to sacrifice a portion of the pre-tax ordinary pay to the value of the benefit.
- (c) An agreement to salary sacrifice reduces your Award rate of pay. The gross salary / wage paid each pay period will be the difference between the salary / wage the employee would have received in the absence of SSA and the salary sacrifice amount.
- (d) To ensure that the amount to be salary sacrificed remains at a reasonable level of the employees remuneration structure, the maximum amount an employee is able to salary sacrifice for non-salary benefits shall be limited to:
  - (i) 30% of the employee's Award salary rate if employed under Award provisions; or
  - (ii) 50% of the employee's total remuneration package if employed ex-Award.
- (e) Entitlements which are based on a percentage of your wage / salary (eg. superannuation guarantee payments, overtime, penalty payments, leave loading, bonus / incentive payments, wage / salary increases etc.) will not be reduced by salary sacrifice. These payments will continue to be calculated using your rate of pay before salary sacrifice (ie. Your Award / Agreement / Contract rate of pay).
- (f) Termination entitlements of employees who salary sacrifice will be paid on your award / contract salary rate prior to any salary sacrifice arrangement.
- (g) Unless otherwise advised in writing the SSA will continue during periods of approved leave.
- (h) An agreement to salary sacrifice will be in writing and signed by both Council and the employee.
- (i) In accordance with the provisions of this policy and the City's Motor Vehicle Policy an employee may request, in writing, to change the agreed SSA.

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**EMPLOYMENT POLICIES JUNE 2002**

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**5. FINANCIAL ADVICE**

- (a) Depending on your personal circumstances, there may be taxation benefits available by salary sacrificing. When you take remuneration as salary it is fully taxable, the amount of tax depends on your marginal rate of tax. Salary sacrificing will reduce your taxable income and may reduce your liability for income tax.
- (b) Whether salary sacrifice will be of benefit to you or not depends on your individual circumstances. SSA are not for everyone.
- (c) Employees considering salary sacrifice should seek their own professional financial advice prior to making a decision.
- (d) Any agreement to salary sacrifice will be based on the understanding the employee has sought their own independent financial advice.

**6. AUSTRALIAN TAXATION OFFICE**

- (a) In accordance with the Australian Taxation Office ruling TR 2001/10 an effective SSA involves the employee agreeing to receive part their total remuneration as benefits before the employee has earned the entitlement to receive that amount as salary or wages. That is, the arrangement must be prospective.
- (b) An entitlement to future salary / wages, bonus or performance pay may be the subject of an effective SSA, provided the SSA is entered into:
  - (i) prior to the employee earning the entitlement; and / or
  - (ii) prior to the commencement of the period to which the bonus relates.
- (c) If salary sacrifice arrangements are not prospective then the benefits provided are not eligible for exempt income arrangements.
- (d) If there are any changes in the Australian Taxation Office practice, tax rulings, legislation, legislative interpretation or increased cost concerned with SSA, the City will review the arrangements to ensure compliance. This may involve withdrawing or varying SSA in operation at the time.
- (e) Fringe Benefits Tax payments applicable to the approved SSA shall be deducted from the employees total remuneration package.

**7. RELEVANT LEGISLATION**

- (a) Income Tax Assessment Act 1997
- (b) Fringe Benefits Tax Assessment Act 1986
- (c) Superannuation Guarantee (Administration) Act 1992
- (d) Industrial Relations Act 1996

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**EMPLOYMENT POLICIES JUNE 2002**

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**8. RELATED POLICIES / INDUSTRIAL INSTRUMENTS**

- (a) Remunerations and Benefits Policy
- (b) Contract Employment Policy
- (c) Performance Management Policy
- (d) Motor Vehicle Policy
- (e) City of Sydney Wages / Salary Award 1998
- (f) Enterprise Agreement 2004

**9. AUTHORISATION**

**Approved By: The Council of the City of Sydney**

**Date: 28 June 2002**

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## EMPLOYMENT POLICIES JUNE 2002

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### Superannuation Salary Sacrifice Information and Procedures

- (a) As at the time of approval salary sacrifice for superannuation is an exempt benefit upon which no fringe benefits tax is payable.
- (b) Superannuation salary sacrifice can only be made into your Local Government Superannuation FuturePlus Accumulation Scheme account.
- (c) Employees who are in any defined benefit or retirement scheme (ie. Old SASS or SSF) must join an accumulation fund to enable payment of superannuation salary sacrifice contributions. These employees should be aware that this may incur additional fund management fees. Anyone seeking further information or wishing to set up an account should contact FuturePlus Member Services on telephone 1300 369 901.

**(d) What superannuation salary sacrifice options do I have?**

You will have the option to superannuation salary sacrifice the following types of superannuation contributions:

- (i) Additional Voluntary Contributions; and / or
- (ii) All or part of profit share / bonus / incentive payments (eg. Lump sum payments or performance related payments)

**(e) What costs may be incurred by employees through superannuation salary sacrifice**

The superannuation fund charge administration and management fees. Any professional financial adviser will charge a fee and you will pay tax on your contributions.

**(f) How much tax is paid on superannuation contributions?**

**(i) Without Salary Sacrifice**

If an employee makes additional superannuation contributions without salary sacrifice the contributions are made from the employee's after tax pay and are subject to income tax at your highest marginal rate (ie. up to 48.5%). Therefore no further superannuation taxes apply other than on the interest earned on the contributions.

**(ii) With Salary Sacrifice**

Superannuation salary sacrifice contributions do not attract income tax as they are made before tax but other superannuation taxes do apply both on entry to your account and potentially when you withdraw your benefit after retirement.

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**EMPLOYMENT POLICIES JUNE 2002**

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**(iii) Entry to FuturePlus**

- a. FuturePlus will pay a tax rate of 15% on all employer and salary sacrifice contributions received. The tax payable is deducted from your superannuation account.
- b. Higher income earners will also pay an additional superannuation surcharge ranging from 1% to 15% for the financial year 2001 / 2002. This tax is known as the "superannuation contribution surcharge" and commences at 1% of salary sacrifice contributions where the employee's total taxable income plus salary sacrifice superannuation contributions reach \$85,242 per annum. The tax increases on a sliding scale of 1% for every \$1,219 to 15% per annum for \$103,507 and above (these amounts are indexed annually).

**(iv) Withdrawing Benefit after Retirement (ie. At 55 or older)**

- a. Eligible service after June 1983: currently, the first \$105,843 of your taxable benefit (ie. Total benefit less your own after tax contributions) is tax free. Withdrawals from your taxable benefit above this amount are taxed at 16.5% (including the Medicare levy). This threshold is indexed annually.
- b. Eligible service before June 1983: the proportion of your total benefit designated (on a pro-rata basis) as before July 1983 receives a more favourable treatment. Only 5% of this amount is taxed at your marginal tax rate.
- c. Because of the complicated way in which tax is calculated on superannuation benefits, you should contact FuturePlus Member Services for the latest information in this regard.

**(g) Superannuation salary sacrifice contributions must be preserved.**

Superannuation salary sacrifice contributions must be preserved. This means that if you leave the City of Sydney, you cannot access your salary sacrifice contributions until you permanently retire and you are at least 55 years of age. From 1 July 1999 all after tax contributions made from that date have to be preserved in the same way as the superannuation salary sacrifice contributions.

**(h) Is there a limit on the amount I can salary sacrifice?**

As a result of government regulations, limits are placed on the amount of superannuation salary sacrifice contributions which can be made. The allowable deduction for contributions to superannuation is based on the relevant employee's age at the time of the contribution. Employees under 35 are more likely to reach their superannuation contribution limit than those employees of more than 35 years of age. For further information you should contact a financial adviser.

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**EMPLOYMENT POLICIES JUNE 2002**

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- (i) Commencing, varying and stopping superannuation salary sacrifice contributions**
- (i) An employee who wishes to elect to commence, vary or stop superannuation salary sacrifice must advise Payroll Services group of Employee Relations in writing on the appropriate form.
  - (ii) You may commence, vary or cease superannuation salary sacrifice contributions at any time.
- (j) Will superannuation salary sacrifice affect my other entitlements?**
- (i) Entitlements which are based on a percentage of your wage / salary (eg. superannuation guarantee payments, overtime, penalty payments, leave loading, bonus / incentive payments, wage / salary increases etc.) will not be reduced by superannuation salary sacrifice. These payments will continue to be calculated using your rate of pay before salary sacrifice (ie. Your Award / Agreement rate of pay). Importantly, this will ensure that you enjoy your current benefits as well as the tax advantages of salary sacrifice.
  - (ii) Superannuation salary sacrifice arrangements will continue while you are on annual leave, long service leave or other paid leave. This means your superannuation salary sacrifice contributions continue to be deducted from your before tax pay. You will therefore continue to receive the tax benefit of superannuation salary sacrifice whilst on paid leave.
  - (iii) Superannuation salary sacrifice contributions will cease during periods of unpaid.
  - (iv) When leaving the employment of the City of Sydney, any outstanding leave entitlement will be paid out at your rate of pay before superannuation salary sacrifice, thus ensuring you are not disadvantaged.
- (k) How can I find out more?**
- (i) You can contact Employee Relations Payroll Services on 9265-9442 about superannuation salary sacrifice or Future Plus Member Services – the accumulation division of the Local Government Superannuation Scheme:

FuturePlus Member Services  
Ground Floor 28 Margaret Street Sydney NSW 2000  
Tel: 1300 369 901  
Fax: (02) 9279 4131

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**EMPLOYMENT POLICIES JUNE 2002**

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- (ii) The City of Sydney strongly recommends that you consult an independent professional financial adviser / accountant before deciding to superannuation salary sacrifice. To be put in touch with a registered financial adviser you may like to call the Financial Planning Association of Australia on 1 800 337 301.

*Approved by:      The Council of the City of Sydney*

*Date:                28 June 2002*

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**EMPLOYMENT POLICIES JUNE 2002**

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**EQUAL EMPLOYMENT OPPORTUNITY  
(EEO) / ANTI - DISCRIMINATION POLICY****1. POLICY STATEMENT**

- (a) The City of Sydney supports Equal Employment Opportunity or a “fair go” for all employees and anyone who applies for a job with the City. The City has banned discrimination, unfair decision making and unfair treatment.
- (b) Both Federal and State laws say that it is against the law to discriminate against people or treat them unfairly with respect to employment.

**2. OBJECTIVES**

The City’s EEO objectives are:

- (a) Maintain employment policies and practices that are consistent with anti-discrimination legislation and ensure fair and equitable access to jobs, conditions of employment, promotions, training and development opportunities
- (b) gain the commitment of all staff and councillors to an equitable working environment that is free from unlawful discrimination and harassment
- (c) seek to employ a range of staff at all levels which reflects the social composition and diversity of the community

**3. DEFINITIONS**

- (a) **Equal Employment Opportunity** - this means that in NSW all employers and supervisors must generally treat all their employees, and anyone who applies for a job with them, fairly. In particular, they must not treat them unfairly, or harass them, because of their, or any of their relatives’, work colleagues’ or friends’:
  - (i) carers’ responsibilities
  - (ii) sex (including pregnancy)
  - (iii) race, colour, ethnic or ethno-religious background, descent or nationality
  - (iv) marital status
  - (v) disability (including past, present or future physical, intellectual or psychiatric disability, learning disorders, or any organism capable of causing disease – for example, infectious diseases and HIV/AIDS)

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**EMPLOYMENT POLICIES JUNE 2002**

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- (vi) homosexuality (male or female, actual or presumed)
  - (vii) age (including not forcing people to retire at the old retirement age)
  - (viii) transgender (commonly known as transsexuality)
- (b) **Discrimination:** There are two types:-
- (i) **Direct** discrimination is that which is unlawful under the Racial Discrimination Act 1975 or the Sex Discrimination Act 1984; or discrimination by which a person with a physical or mental disability is, because of the disability, treated less favourably than a person without the disability. Direct discrimination means treatment that is obviously unfair or unequal. For example, if an employer won't hire someone just because they are a woman this is likely to be direct sex discrimination.
  - (ii) **Indirect** discrimination means a requirement (or rule) that is the same for everyone but has an effect or result that is unequal and "unreasonable in all the circumstances". For example, an employer who says that they need a person over 180 cm tall to do a job is likely to end up discriminating against women and some ethnic groups. This is because women and people from some ethnic groups are less likely to be this height than men or people from other ethnic groups. If it is possible to show that the job does not need someone 180 cm tall, or that it could easily be adapted to suit people who aren't that tall, then they could claim indirect sex discrimination or indirect race discrimination.
- (c) **Harassment** – is any form of behaviour that you do not want, that offends, humiliates or intimidates you or targets you because of your sex, pregnancy, race, marital status, disability, age, carers' responsibilities, homosexuality or transgender.
- (d) **Bullying** - Bullying is a form of harassment. Bullying often goes unrecognised in the workplace because of its very nature. Bullies tell their subjects to be tougher, and some managers believe their role is to be unsupportive, stern or outright rude to employees. Surprisingly, it is not exclusively the domain of the older or stronger person, but is often the weapon of choice for managers or groups of individuals targeting one worker.

For more information on Harassment and Bullying refer to the City's Bullying, Harassment and Unacceptable Behaviour Policy.

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**4. WHAT TYPES OF DISCRIMINATION ARE AGAINST THE LAW IN NEW SOUTH WALES?**

The following types of discrimination are against the law:

- (a) **Carers responsibilities** - From 1 March 2001, it became unlawful to discriminate against you because you need to care for or support a child or other 'immediate family member'.
- (b) **Sex Discrimination** - When you are treated unfairly or harassed either because you are a woman or because you are a man. Discrimination against a woman because she is pregnant can also be sex discrimination. Sexual harassment is also against the law.
- (c) **Race Discrimination** - When you are treated unfairly or harassed because of your race, colour, ethnic background, ethno-religious background, descent or nationality.
- (d) **Age Discrimination**- When you are treated unfairly or harassed because of your age - for example, because people think you are too old, too young or too middle aged. Forcing people to retire at the old retirement age is also against the law. This is called compulsory retirement.
- (e) **Marital Status Discrimination** - When you are treated unfairly or harassed because of your particular marital status, for example, because you are single, or married, or living in a de facto relationship.
- (f) **Homosexual or Lesbian Discrimination** - When you are treated unfairly or harassed because you are gay or lesbian, or someone thinks you are gay or lesbian.
- (g) **Disability Discrimination** - When you are treated unfairly or harassed because you have a disability, or someone thinks you have a disability. It is also against the law to treat you unfairly or harass you because you had a disability in the past, or because you will or may get one in the future. Disability includes physical, intellectual and psychiatric disabilities, learning and emotional disorders, and any organism capable of causing disease (for example, infectious disease and HIV/AIDS
- (h) **Transgender Discrimination** - When you are treated unfairly or harassed because you are transgender, or others think you are transgender. You are counted as transgender if you live or seek to live as a member of the opposite gender (sex) to your birth gender.
- (i) **Discrimination because of who you are related to, or who you associate with** when you are treated unfairly or because of the sex, race, age, marital status, homosexuality/lesbianism, transgender (transsexuality) or disability of one of your relatives, friends or work colleagues.

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**5. STRATEGIES**

- (a) In the case of those with carer responsibilities depending on the job, the City may be able to make any of the following sorts of arrangements without causing the City 'unjustifiable hardship':
  - (i) change your start or finish times, roster arrangements, or break times
  - (ii) allow you to vary your work hours within the normal span of hours
  - (iii) allow you to work part-time instead of full-time, or to job-share with someone else
  - (iv) be flexible with the amount of paid leave you can take and when you can take it.
- (b) The City will implement practices to eliminate discrimination in general, with particular emphasis on the elimination of discrimination based on sex, race, age, marital status, sexual preference, disability and transgender.
- (c) The City will ensure that every person regardless of his/her membership of a particular group is given a fair and equitable chance to compete for any vacant positions within the City of Sydney
- (d) Managers are to ensure that when interviewing applicants for positions, personal biases or discrimination do not influence the decision making.
- (e) Managers will be educated that an applicant's merit should not be judged on their appearance, personal association, potential pregnancy, racial hatred/vilification, status as a carer, gender race, pregnancy, sexual preference, national origin, religion, marital status, political belief, physical or intellectual impairment, criminal record, union membership, medical record, age and family responsibilities.
- (f) Selection of an applicant will be based solely on the applicant's qualifications, skills and experience and the interview format will reflect this
- (g) Application forms will not ask questions that are not relevant to the job (eg gender, marital status, family responsibilities).
- (h) Conditions of employment will include a statement regarding respecting individual differences and diversity
- (i) Formal grievance procedures will be implemented for any employee that is reported to have discriminated against or harassed another person while at work

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- (j) Where any claim of discrimination or harassment is substantiated, formal discipline procedures will be applied, which, in serious cases, may involve dismissal

**6. RESPONSIBILITIES**

Employee Relations responsibilities include:

- (a) Investigating any allegations of a breach of the EEO and Anti-Discrimination policy
- (b) Treat any complaint of a breach of the EEO and Anti-discrimination policy confidentially, seriously, promptly and in a culturally appropriate way in accordance with the City's established Grievance Procedures
- (c) Providing annual training and awareness strategies
- (d) Keeping abreast of relevant Legislation
- (e) Reviewing the policy on an annual basis in consultation with Staff
- (f) Reviewing human resource policies and procedures in consultation with staff
- (g) Statistical reporting

Management responsibilities:

- (h) Ensure all decisions surrounding the recruitment process, applications for training and job promotion are based solely on merit, skills and ability. The persons sex, race, age, marital status, disability, homosexuality, transgender and so on, must not bar them from applying or being properly considered for the job.
- (i) Document all interviews
- (j) Manage the people in your team fairly. Ensure the workplace is free from discrimination by ensuring all employees understand and abide by the requirements and the EEO/anti discrimination principals of this policy to achieve a work environment where each employee is treated with respect, encouraged to perform to the best of their ability, and valued honestly, without bias and for the work they contribute.
- (k) Refer any complaint of a breach of the EEO/anti-discrimination policy to the Manager, Employee Relations.

Employee responsibilities:

- (l) Employees will respect the rights of others and never encourage Discrimination

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## EMPLOYMENT POLICIES JUNE 2002

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### **7. BREACHES OF THE EEO / ANTI- DISCRIMINATION POLICY**

If you feel you have been discriminated against or harassed you should:

- (a) Talk to your supervisor or Manager or the Manager, Employee Relations who will tell you what your options are.
- (b) use the City's Grievance Handling Procedure to make a formal complaint

### **8. EMPLOYEE ASSISTANCE PROGRAM**

Any employee who feels they have suffered discrimination will be offered a confidential counselling service through the City's Employee Assistance Program.

Contact: ACCESS Programs - Level 8, 276 Pitt St, SYDNEY NSW 2000

Phone: 1800 818 728

### **10. RELEVANT LEGISLATION**

Racial Discrimination Act – 1975

Racial Hatred Act - 1995

Sex Discrimination Act - 1984

Disability Discrimination Act - 1992

Disability Services Act - 1993

Human Rights and Equal Opportunity Commission Act & Regulations - 1986

Human Rights (Sexual Conduct) Act 1994

Affirmative Action (Equal Opportunity for Women) Act - 1986

Industrial Relations Act 1996

NSW Anti-Discrimination Act - 1977

Privacy and Personal Information Protection Act - 1998

Privacy Act - 1988

### **11. RELATED POLICIES**

Recruitment and Selection Policy

Bullying, Harassment and Unacceptable Behaviour Policy.

Internet and E-mail Policy

Occupational Health and Safety Policy

Rehabilitation Policy

Discipline Procedure

Grievance Procedure

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**EMPLOYMENT POLICIES JUNE 2002**

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**12. NEXT REVIEW DATE - June 2003****13. AUTHORISATION**

*Approved By: The Council of the City of Sydney*

*Date: 28 June 2002*

**14. FURTHER INFORMATION**

- a) Anti-Discrimination Board, Level 17, 201 Elizabeth Street, Sydney NSW 2000
  - b) The Office of the Director of Equal Employment Opportunity in Public Employment
  - c) Human Rights and Equal Opportunity Commission
  - d) Employee Relations Unit, Level 5 Town Hall House
  - e) Your Union
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**ITEM 12. POLICY ON LEGAL ASSISTANCE FOR COUNCILLORS AND COUNCIL EMPLOYEES**

Note - no report was circulated and this matter was not discussed at the meeting of Council.

**ITEM 2B: HILTON HOTEL/CAPITAL CENTRE - THROUGH SITE LINK**

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

That, notwithstanding clauses (D), (E) and (F) of the resolution of Council on 4 June 2001, and arising from consideration of a Minute by the Lord Mayor to Council on 28 June 2002 on Hilton Hotel/Capital Centre - Through Site Link, it be resolved that -

- (A) approval be given to the transfer of title of land contained in DP602102 to the owner of 255 Pitt Street, Sydney (Hilton). In return, Hilton will create an easement on title for a through site link for 24 hours/7 days public access and will be responsible for cleaning, maintenance and other responsibilities to meet the requirements of Council;
- (B) the design of the through site link shall be approved by the General Manager to ensure that the public have unfettered access 24 hours/7 days a week to the through site link;
- (C) the General Manager ensure the through site link remains available at all times to the public 24 hours/7days a week on an ongoing basis;
- (D) Council reaffirm that, as part of the agreement referred to in clause (A), Council will be receiving the reinstated footpath to the original building alignment or as determined by the General Manager;
- (E) the agreement referred to in clause (A) be conditional on the Hilton Hotel redevelopment project proceeding;
- (F) the General Manager be authorised to make minor amendments to this arrangement;
- (G) Council's Attorney be authorised to execute all relevant documents;

Carried unanimously.

Note - The confidential Minute by the Lord Mayor on Hilton Hotel/Capital Centre - Through Site Link was circulated to all Councillors at the meeting of Council.

At 4.30pm the meeting concluded.

Chairman of a meeting of the Council of the City  
of Sydney held on 5 August 2002 at which  
meeting the signature herein was subscribed.