



18 AUGUST 2003

Meeting No 1390

MINUTES of a Meeting of the Council of the City of Sydney held in the Reception Room at the Sydney Town Hall, commencing at 5.35pm, on 18 August 2003 pursuant to Notice 15/1390 dated 14 August 2003.

INDEX TO MINUTES

<u>Subject</u>	<u>Page No.</u>
1. Confirmation of Minutes	611
2. Minutes by the Lord Mayor	611
3. Memorandum by the General Manager - New Year's Eve Sponsor Broker	672
4. Matters for Tabling	612

<u>Subject</u>	<u>Page No.</u>
Reports of Committees -	
5. Finance, Properties and Tenders Committee - 11 August 2003.....	614
6. Cultural and City Services Committee - 11 August 2003	617
7. Planning Development and Transport Committee - 11 August 2003	631
Reports to Council -	
8. Development Application: 59 Bayswater Road, Kings Cross	659
9. Investments held by Council as at 31 July 2003	659
10. Questions -	
Questions on Notice	660
Questions without Notice.....	664
11. Motions	670
12. 295-301 Pitt Street, Sydney Park House, Fairly Hefty Investments - Lease Renewal	672
13. Customs House Reconstruction - Main Building Works Tender No 0321	673
14. Walsh Bay - Lease and Road Dedication Agreements	674
15. Retail Strategy Implementation - Christmas Campaign	674
16. City of Sydney Submission to the NSW Alcohol Summit	612

PRESENT

The Right Hon The Lord Mayor Councillor Lucy Turnbull
(Chair)

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

At the commencement of business at 5.35pm those present were:-

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

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

Opening Prayer

The Lord Mayor opened the meeting with prayer.

Welcome

At a later stage of the meeting, the Chair (the Lord Mayor) welcomed Mr John R Basey QC, Director of Planning and Development and City Solicitor, City of Victoria, BC, Canada to the meeting of Council.

ITEM 1. CONFIRMATION OF MINUTES**Minutes of Council Meeting of Monday 28 July 2003**

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

That the minutes of the meeting of Council of 28 July 2003, as circulated to Councillors, be confirmed.

Carried.

Minutes of Extraordinary Meeting of Council of Monday 11 August 2003

Moved by Councillor Coulton, seconded by Councillor Greiner -

That the minutes of the extraordinary meeting of Council of 11 August 2003, as circulated to Councillors, be confirmed.

Carried.

ITEM 2. ADDITIONAL MATTER FOR COUNCIL

FILE NO:

DATE: 15/8/03

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

Attached for consideration by Council at its meeting on 18 August 2003 is a report on City of Sydney Submission to the NSW Alcohol Summit.

I bring this item forward for the consideration of Council.

(SGD) COUNCILLOR LUCY TURNBULL
Lord Mayor

ITEM 16. CITY OF SYDNEY SUBMISSION TO THE NSW ALCOHOL SUMMIT

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

That arising from consideration of a report by the Project Coordinator – Safe City to Council on 18 August 2003, on City of Sydney Submission to the NSW Alcohol Summit, it be resolved that -

- (A) Council endorse the four (4) submissions to the NSW Alcohol Summit as shown at Attachment A to the subject report;
- (B) authority be delegated to the General Manager, in consultation with the Lord Mayor, to make drafting changes to the submissions as indicated at the meeting.

Carried.

ITEM 3. NEW YEAR'S EVE SPONSOR BROKER

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

That consideration of the confidential Memorandum by the General Manager on New Year's Eve Sponsor Broker be deferred to the end of the meeting and dealt with in closed session.

Carried.

ITEM 4. MATTERS FOR TABLING

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

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

Carried.

PETITION

Councillor Marsden tabled a petition from the residents of Kings Cross in relation to the St John's Church Site in Darlington Road.

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

- (A) that the petition be received and noted;
- (B) that Council prepare an alternative master Plan for the site, which is sympathetic to the site and which addresses the residents' concerns;
- (C) that the matter be considered at the next meeting of the Planning Development and Transport Committee; and
- (D) it be noted that the applicant has appealed to the Land and Environment Court.

Carried.

ITEM 5. REPORT OF THE FINANCE, PROPERTIES AND TENDERS COMMITTEE - 11 AUGUST 2003

PRESENT

The Right Hon Lord Mayor Councillor Lucy Turnbull
(Chair)

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

At the commencement of business at 5.28pm those present were:-

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

Closed Meeting

At 5.34pm, the Finance, Properties and Tenders Committee resolved to close the meeting to the public to discuss Item 3 on the Agenda.

The meeting of the Finance, Properties and Tenders Committee concluded at 5.35pm.

Report of the Committee

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

That the Report of the Finance, Properties and Tenders Committee of its meeting of 11 August 2003 be received, and the recommendations set out below for Items 5.1 to 5.3 inclusive be adopted.

Carried.

The Committee recommended the following:-

JUNE 2003 - QUARTER 4 BUDGET REVIEW (\$019994)

5.1

That arising from consideration of a report by the Senior Management Accountant to the Finance, Properties and Tenders Committee on 11 August 2003, on the June 2003 - Quarter 4 Budget Review, it be resolved that Council:

- (A) note the financial performance against budget for 2002/2003 for Council operations excluding the boundary transfer areas resulting in a draft Net Surplus of \$63.7M;
- (B) note the draft results for the boundary transfer areas, exclusive of depreciation and settlement amounts, of a surplus of \$0.3M;
- (C) note the draft Capital Works Expenditure for 2002/2003 of \$13.8M plus the acquisition of the Smartpoles at a cost of \$19.0M;
- (D) note the draft expenditure on Plant and Asset Acquisitions for 2002/2003 of \$3.3M;

- (E) approve the carrying forward of funds for Capital Works of \$8.6M; and
- (F) approve the carrying forward of funds for Plant and Asset Acquisitions of \$5.1M.

Carried.

Note - At the meeting of the Finance, Properties and Tenders Committee, the Chair (the Lord Mayor) moved a vote of thanks to the General Manager and Council staff for the outstanding performance achieved in the 2002/03 financial year.

LOCAL GOVERNMENT ASSOCIATION OF NSW 2003 ANNUAL CONFERENCE - ALBURY - NOMINATION OF DELEGATES (S026035)

5.2

That arising from consideration of a report by the Manager Secretariat to the Finance, Properties and Tenders Committee on 11 August 2003, on Local Government Association of New South Wales 2003 Annual Conference - Albury - Nomination of Delegates, it be resolved that -

- (A) Council nominate Councillor Robert Ho and Councillor Fabian Marsden as delegates to attend the Local Government Association of New South Wales Annual Conference to be held at Albury from Sunday 9 November to Wednesday 12 November 2003;
- (B) in the event that the nominated delegate(s) is/are unable to attend, authority be delegated to the Lord Mayor to nominate Councillor(s) as alternate delegate(s);
- (C) all registration, travel, accommodation and other reasonable expenses associated with the attendance of a delegate(s) and alternate delegate(s) at the Conference be met by Council.

Carried.

Closed Meeting

At 5.34pm the Finance, Properties and Tenders 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 Item 3 on the agenda as this matter 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 this item on the basis that discussion of this matter in open session would, on balance, be contrary to the public interest, specifically, there is a need to preserve confidentiality having regard to the subject matter and the circumstances of communications.

Item 3 was then dealt with by the Finance, Properties and Tenders Committee while the meeting was closed to the public and was subsequently dealt with by Council in open session.

CASTLEREAGH STREET, SYDNEY IMPERIAL ARCADE PEDESTRIAN TUNNEL - LEASE OF STRATUM UNDER ROAD (L02-00585)

5.3

That arising from consideration of a report by the Senior Property Manager to the Finance, Properties and Tenders Committee on 11 August 2003 on Castlereagh Street, Sydney Imperial Arcade Tunnel - Lease of Stratum under Road, it be resolved that:

- (A) approval be given to the granting of a lease pursuant to section 149 of the Roads Act 1993, to Trust Company of Australia Limited and Stockland Trust Management Limited of the stratum under Castlereagh Street and being part of Imperial Arcade shown on the plan at Attachment A to the subject report -
 - (i) for a term of one year with an option of a further one year term;
 - (ii) including provision for the City to give three month's notice of an earlier termination;
 - (iii) at a rental to be determined by the General Manager; and
 - (iv) subject to conditions (including those contained in Attachment B to the subject report) to protect Council's interests;
- (B) Council's Attorney be authorised to execute all necessary documentation.

Carried.

**ITEM 6. REPORT OF THE CULTURAL AND CITY SERVICES COMMITTEE
- 11 AUGUST 2003**

PRESENT

Councillor Dixie Coulton
(Chair)

The Lord Mayor (Councillor Lucy Turnbull), Councillors Nick Farr-Jones, Kathryn Greiner, Robert Ho and Fabian Marsden.

At the commencement of business at 5.36pm those present were -

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

The meeting of the Cultural and City Care Committee concluded at 5.46pm.

Report of the Committee

Moved by Councillor Coulton, seconded by the Chair (the Lord Mayor) -

That the Report of the Cultural and City Care Committee of its meeting of 11 August 2003 be received, and the recommendation set out below for Item 6.1 be adopted.

Carried.

BUSKING POLICY - ISSUES (S06-02841)

6.1

That further to Resolution of Council on 17 March 2003 and arising from consideration of a report by the Cultural Policy Coordinator to the Cultural and City Care Committee on 11 August 2003, on Busking Policy - Issues, it be resolved that the City of Sydney Busking Policy (as amended), as shown at Attachment B to the subject report, and as further amended at the meeting of the Cultural and City Care Committee, be adopted.

Carried unanimously.

Note - the Busking Policy, as adopted by Council, is as follows:

CITY OF SYDNEY BUSKING POLICY

**City of Sydney
BUSKING POLICY**

Please note: The maps referred to in the City of Sydney Busking Policy can be found on file no. S06-02841.

1 GLOSSARY OF TERMS

For the purposes of this policy the following definitions apply:

- 1.1 *Busker*: An entertainer who provides impromptu performances for the public by playing a musical instrument, dancing, singing, clowning or juggling, or doing other acts of a similar nature in public places.
- 1.2 *Performance*: Musical, dramatic or other entertainment substantially involving musical, theatrical, or circus performance skills.
- 1.3 *Soliciting of funds*: The act of asking, begging, seeking or requesting money or goods from members of the public.
- 1.4 *Offering for sale*: The display or demonstration of items, particularly multiples of items, with an implication that they are available for sale or otherwise in exchange for money (for example, CDs or cassettes).
- 1.5 *Dangerous materials and implements*: Materials and implements that pose risk, hazard or uncertain outcomes for people.
Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flairs, heated elements, or anything giving off a level of heat or toxicity that poses a threat of harm or damage to members of the public and public property.
Dangerous implements include knives, spears, swords, spikes, and sharp implements of any kind that pose a threat of harm to the general public.
- 1.6 *Restricted areas*: Specified areas within the city that have had restrictions placed on busking activities that may occur in them.
- 1.7 *Designated sites*: Specified sites within restricted areas where busking can occur under defined conditions.
- 1.8 *Circle acts*: Structured performances requiring the audience to stop and watch or participate in the performance. Approximate duration: 20-40 minutes.
- 1.9 *Walk-by acts*: Spontaneous performances where the audience is not required to stop and watch.

CITY OF SYDNEY BUSKING POLICY

2 OBJECTIVES

This policy has been developed:

- 2.1 To encourage activities that contribute colour and life to the City and opportunities for alternative voices to be heard through public performance.
- 2.2 To provide an equitable system of use for popular busking sites in the city among the buskers earning a living through their art form.
- 2.3 To identify locations in the City suitable as busking sites.
- 2.4 To minimise complaints, criticism and other problems associated with buskers operating in the Sydney area, while supporting the rights of individuals to express themselves in a democratic manner.

2 PRINCIPLES

The City of Sydney recognises that:

- 4.1 Sydney has a strong tradition of busking and buskers contribute to a sense of place in the city of Sydney.
- 4.2 Buskers make an important contribution to the cultural life of a city by reflecting styles, values and the issues of society at large.
- 4.3 Buskers provide entertainment and thought provoking experiences to tourists and members of the general public.
- 4.4 Busking is a valid means for people to make a living.
- 4.5 Busking should not unduly interfere with pedestrian traffic, the conduct of business, or contribute to a lack of safety.

4 CONDITIONS

This policy covers the City of Sydney local government area.

This policy also covers Circular Quay, including the Eastern and Western promenades of Circular Quay, First Fleet Park and the forecourt of the Museum of Contemporary Art.

Other areas under the authority of the Sydney Harbour Foreshore Authority, including The Rocks, Darling Harbour, Tumbalong Park and Darling Walk, are NOT covered by this policy.

This policy does not cover areas under the jurisdiction of the Royal Botanic Gardens Trust (The Domain and Royal Botanic Gardens) or The Opera House Trust (Opera House steps, concourse and forecourts.)

For information about busking in these areas please contact the relevant authority.

CITY OF SYDNEY BUSKING POLICY

Authorised busking is permitted anywhere in the City of Sydney (with the exception of the areas identified above) under the conditions outlined in this section. However, some areas of the city are restricted to the use of designated sites for busking activities and additional special conditions apply to busking in these areas. Restricted areas, designated sites and conditions for their use are identified in section 5 of this policy.

Busking activities are covered for public liability under the City of Sydney's Hirers' and Users' Insurance policy while the busker complies with the conditions and requirements for busking contained in this policy. The policy is limited to \$10 million for any one loss, and the busker is responsible for the first \$10,000 of each and every loss, under current arrangements.

Conditions for obtaining a permit to busk in the city:

- 4.1 Buskers must hold an authorised permit to busk, issued by the City of Sydney. Permits may be obtained from the City of Sydney One Stop Shop and Neighbourhood Service Centres, following payment of:
 - 4.1.1 \$10 for a three (3) month permit, or
 - 4.1.2 \$40 for an annual permit.
- 4.2 Buskers who wish to use dangerous implements or materials (as defined in 1.5 above) in their performance must apply for a Special Busking Permit. Applicants must pass a safety review and receive an endorsement of their performance in order to obtain a Special Busking Permit. See Annexure 2 for details of use of dangerous implements or materials. Information on safety review times and locations is provided at the One Stop Shop and Neighbourhood Service Centres.
- 4.3 For the purposes of identification, applicants will be required to present or provide the following items at the time of application before a Busking permit will be issued:
 - 4.3.1 Proof of identity in one of the following forms:
 - 4.3.1.1 a current motor vehicle driver's license,
 - 4.3.1.2 a student identity/proof of age card
 - 4.3.1.3 a current passport
 - 4.3.1.4 a bank card or credit card with signature.
 - 4.3.2 Australian Income Tax File number, ABN Number, or Statutory Declaration declaring intention to pay tax on earnings.
 - 4.3.3 Passport and appropriate Work Visa if the applicant is a non-resident of Australia.

CITY OF SYDNEY BUSKING POLICY

- 4.3.4 Proof of parental consent for applicants under the age of 18 years. Consent forms signed by applicants' parents or guardians must be lodged at the time of application for a permit to busk. Consent forms can be obtained from the City of Sydney One Stop Shop and Neighbourhood Service Centres.
- 4.4 Annual Busking Permits are valid for a year from the permit's commencement date. Three month permits are valid for three months from the permit's commencement date.
- 4.5 Permits for Group Acts must list the names of all members of the Act. One permit will be issued for a maximum of five people within a Group Act. If the Group consists of more than five people, the Group must apply for additional permits. The City reserves the right not to issue permits to Group Acts which it considers have too many members or may present a risk to pedestrian safety.
- 4.6 Details of Buskers holding Permits to Busk will be entered into a Register of approvals granted by City of Sydney pursuant to section 113 of the Local Government Act. Additionally, pursuant to Sections 113(2) and 113(5) of the act the information recorded will include the name and address of the person or persons to whom the approval is granted.
- 4.7 Permits are not transferable or refundable.
- 4.8 The following are not considered to be buskers under the terms of this policy and as such will not be issued a permit:
- Balloon sculptors, tarot card and palm readers, fortune readers, artists selling their works (such as portrait artists), masseurs or masseuses, vendors of any kind (including vendors of reindeer ears, fluffy toys, jewellery etc), solicitors of money for any purpose.
- 4.9 By signing the Application for Permit to Busk in the appropriate space, applicants must agree to comply with:
- 4.9.1 The requirements for obtaining busking permits and special busking permits, and,
- 4.9.2 The conditions for busking in the city in both unrestricted and the designated sites in restricted areas.

Conditions for busking in the city:

In relation to busking in all areas of the city (with the exception of those areas outside the authority of the City of Sydney), whether in restricted or unrestricted areas, the following conditions apply:

- 4.10 Buskers must display their Permits to Busk in a prominent, highly visible position in the busking site at all times during their acts.

CITY OF SYDNEY BUSKING POLICY

- 4.11 Buskers must not unreasonably interfere with pedestrian flow or public amenities or cause obstruction to traders or delivery vehicles, including by way of encouraging audience formation in such a manner as to cause such interference.
- 4.12 When performing in Restricted Areas, buskers must use the designated sites specified in Section 5 of this Policy under the conditions specified for each designated site.
- 4.13 Buskers may perform for a maximum of 2 hours at any one site anywhere in the City, including designated sites, except for Pitt Street Mall, where the maximum is one hour.
- 4.14 Buskers may receive a monetary appreciation from the audience for their performance but may not solicit funds in a way which is likely to cause any discomfort to any individual.
- 4.15 Buskers must keep the site in use clean while they are working and ensure that their use of the site does not pose a threat to public safety.
- 4.16 Buskers may only use amplification that is battery operated. Mains voltage amplification is prohibited. Excessive amplification will not be tolerated. Loud acts may be asked to lower their volume or cease busking. The City reserves the right to impose a decibel limit on amplified sound in appropriate circumstances.
- 4.17 Where a complaint has been received about the excessive noise, level of noise amplification, music of a percussive or repetitive nature, or excessive duration of an act, particularly in relation to the proximity of that act to a place or work or residence, and the complaint is deemed to be justified, a busker may be directed by authorised officers of the City of Sydney and the Sydney Harbour Foreshore Authority to cease busking.
- 4.18 Buskers may not offer goods and services for sale, display, demonstrate or advertise goods for sale or associate themselves with such advertising in conjunction with their performance.
- 4.19 Buskers who are utilising pavement (chalk) art as a form of entertainment may only do so under the terms and conditions outlined in Annexure 1.
- 4.20 Buskers may only use dangerous implements and materials, as defined in 1.5, if they hold a Special Busking Permit to do so, and must comply with the terms and conditions in the Code of Practice at Annexure 2.
- 4.21 Authorised officers of the City of Sydney may at any time request a busker to cease busking if the officer is of the opinion that the performance is loud or intrusive, or excessively repetitive, or is causing public inconvenience, or is likely to cause harm to the public or property. The busker must immediately comply with such a request.

CITY OF SYDNEY BUSKING POLICY

- 4.22 Buskers must also comply with directions issued by authorised officers of the Sydney Harbour Foreshore Authority where the site falls within the Authority's area of responsibility, and members of the NSW Police Force, Ambulance, Fire and any other Emergency Services.
- 4.23 Pursuant to sections 89, 109, 110 and 124 of the Local Government Act, City of Sydney may revoke or modify permits if the permit holder fails to comply with the requirements and conditions of approval. Authorised officers of the City of Sydney and the Sydney Harbour Foreshores Authority may confiscate permits for non-compliance. The City of Sydney may serve notice upon the person or persons holding a busking permit, giving reasons for the revocation or modification of the permit and providing the permit holder with the opportunity to show cause why the approval should not be revoked or modified.
- 4.24 Busking permits may be revoked or modified in the circumstances where persons:
- 4.24.1 Are deemed by the City of Sydney to be causing a nuisance.
 - 4.24.2 Do not keep their site safe and clean while working.
 - 4.24.3 Cause obstruction to pedestrians or vehicular traffic and entrances to shops or buildings.
 - 4.24.4 Interfere in any way with an approved entertainment or activity without permission.
 - 4.24.5 Sell or offer for sale any articles or commodity.
 - 4.24.6 Use dangerous implements or materials as part of a performance without a special busking permit to do so.
- 4.25 Council and other authorised officers reserve the right to prohibit use of a restricted area, designated site or such area as may be specified by it while Council or other road works are in progress, or while a special event is in progress. It is possible that restrictions on busking may be imposed during such occasions as New Years Eve, Australia Day, Anzac Day, or other events.
- 4.26 The use of unrestricted areas, restricted areas and designated sites for busking activities will be monitored by the Review Committee and continued use will be subject to their report.

CITY OF SYDNEY BUSKING POLICY

5. RESTRICTED AREAS

The following special conditions apply to busking activities in Restricted Areas:

5.1 FIRST FLEET PARK and WEST CIRCULAR QUAY (6 designated sites)

- 5.1.1 Busking is not permitted in First Fleet Park when special events are in progress
- 5.1.2 Buskers must respect the rights of patrons using the park for recreation.
- 5.1.3 Buskers must comply with directions issued by authorised officers from the Sydney Harbour Foreshore Authority as well as City of Sydney authorised officers.
- 5.1.4 Chalk art is prohibited when directly applied to the pavement (See Attachment I).

5.2 CIRCULAR QUAY WHARF, ALFRED STREET and CUSTOMS HOUSE SQUARE (5 designated sites)

- 5.2.1 Buskers may only perform at the four designated sites as indicated on Map 5.2 (two walkby sites and two Special Busking Sites).
- 5.2.2 Busking is not permitted between the hours of 12 noon and 2.30 pm on weekdays at Circular Quay Wharf.
- 5.2.3 Buskers may not perform during special events.
- 5.2.4 Buskers may not perform near the entry to retail outlets.
- 5.2.5 Circle acts are only permitted in the designated Circle Act site marked with the letter "C" on Map 5.2. Designated circle act sites provide for both circle acts and walk by acts. The use of dangerous goods and materials at "C" sites requires a Special Permit.
- 5.2.6 In order to avoid safety and health hazards to the public, buskers must be aware that when performing in the vicinity of food outlets and serving areas, they must not use materials that may leave a residue on tables, chairs or eating utensils (eg bubbles).
- 5.2.7 Chalk art is prohibited when directly applied to the pavement areas (see Attachment I).
- 5.2.8 Busking is not permitted at East Circular Quay.
- 5.2.9 Busking in Customs House Square may only occur with the express permission in writing of Customs House Management. Details of contacts for Customs House Management can be obtained from the City of Sydney One Stop Shop.

5.3 MACQUARIE PLACE (2 designated sites)

- 5.3.1 Buskers must respect the rights of patrons using the park or nearby cafes and hotels and not unduly disrupt their activities.

CITY OF SYDNEY BUSKING POLICY

5.4 WYNYARD PARK (2 designated sites)

5.6.1 Busking in the two designated sites is permitted only on the hard surface areas, not on the grassed area of the park.

5.5 MARTIN PLACE (5 designated sites)

5.5.1 No busking is allowed between Pitt Street and George Street at any time.

5.5.2 Buskers may not perform less than 25 metres from the Martin Place Amphitheatre while performances are taking place in the Amphitheatre.

5.5.3 Buskers may not perform less than 15 metres from any other performer in Martin Place.

5.5.4 Circle shows are permitted between Macquarie Street and Phillip Street but only one show at any given time.

5.5.5 No busking is allowed in Martin Place on Anzac Day (25 April) without the written approval of Council.

5.6 PITT STREET MALL (3 designated sites)

5.6.1 Busking in Pitt Street Mall is limited to three (3) locations only, as marked, at any one time.

5.6.1 Busking performances are limited to walk-by acts only.

5.6.1 Busking is not permitted prior to 2 pm in the Mall on weekdays. Busking is permitted after 11 am on weekends.

5.6.1 Buskers may not perform while special events are in progress in the Mall.

5.6.1 Excessive amplification will not be tolerated in the Mall. Loud acts may be asked to lower their volume or cease busking.

5.7 HYDE PARK and QUEENS SQUARE (10 designated sites)

5.7.1 Busking is permitted at ten (10) designated sites in the Park.

5.7.1 Busking is only permitted on hard surfaces.

5.7.1 Busking will only be permitted on Saturdays in Queens Square if the Supreme Court is not sitting and Sundays from 1.00 pm onwards.

5.8 BELMORE PARK (6 designated sites)

5.8.1 Busking is permitted at six designated sites.

CITY OF SYDNEY BUSKING POLICY

6. BUSKING REVIEW COMMITTEE

- 6.1 A Busking Review Committee will meet as needed to monitor the effectiveness of the policy and advise on Busking issues that emerge in the City.
- 6.2 The Committee will report to the Manager, Cultural and Community Affairs, and will include, but not be limited to, the following:
- One (1) representative of the Arts and Cultural Community,
 - One (1) representative of the Retail Traders Association,
 - One (1) representative from the Media Entertainment and Arts Alliance,
 - One (1) Street performer and One (1) Musician nominated by Council in consultation with the Media Entertainment and Arts Alliance,
 - One (1) representative of the Sydney Harbour Foreshore Authority,
 - One (1) representative from City of Sydney, Cultural and Community Affairs Unit,
 - One (1) Representative from Asset Management and Compliance,
 - One (1) representative from the One Stop Shop or the Neighbourhood Service Centres.

CITY OF SYDNEY BUSKING POLICY

ANNEXURE 1**City of Sydney Busking Policy****PAVEMENT ART AS A FORM OF BUSKING****Code of Practice**

This code of practice only covers the areas that are the responsibility of City of Sydney. For areas managed by other organisations contact the authority responsible for busking policy in that area.

- 1 Busking may include pavement art where it can be seen as a form of public entertainment under the guidelines of the City of Sydney Busking Policy with all the above existing conditions applying, and including the following specific applications of City of Sydney's policies to pavement art:
 - 1.1 Pavement art, for the purposes of this policy, is defined as:
 - 1.1.1 Chalk drawings rendered directly onto the pavement, or renderings done in other materials on removable surfaces, such as canvas or plastic, laid out on the pavement.
 - 1.2 Drawing directly on the pavement may only occur where:
 - 1.2.1 The material used is removable by water and does not leave a residue, and,
 - 1.2.2 The surface is of a non-porous material, such as bitumen and concrete. Surfaces not able to be drawn directly upon include sandstone, granite and other porous surfaces currently being used in some pavements, pathways and walkways in the city.
 - 1.3 Individual renditions of the artists' work may not be offered for sale, or sold to the public.
 - 1.4 Any proposed material to be used in carrying out pavement art must not be slippery (whether wet or dry) and must not be such as to be likely to cause a public hazard.

CITY OF SYDNEY BUSKING POLICY

ANNEXURE 2

City of Sydney Busking Policy

**USE OF DANGEROUS MATERIALS AND IMPLEMENTS IN
BUSKING****Code Of Practice**1 Policy Statement

The City of Sydney recognises that many buskers operating in the city use materials and implements in their practices that may reasonably be viewed as dangerous. However, the City of Sydney also acknowledges that, in the hands of skilled and experienced buskers, the use of fire and superficially dangerous implements such as knives and swords, in circus or juggling acts, lends an appealing theatrical element that is popular with the viewing public.

The purpose of this Code of Practice is to ensure that the use of dangerous materials and implements is restricted to buskers who have highly developed skills and experience in their use, and who are acutely aware of the need to ensure the safety of the public as well as their own safety when using them.

2 Approved sites for the use of dangerous materials and implements

- 2.1 Six (6) sites have been nominated as appropriate for buskers who use dangerous materials and implements. These sites are the only sites upon which buskers may perform using these materials and implements.
- 2.2 The designated sites do not include parks. Fire and dangerous materials may not be used in busking acts conducted in any park in the city.
- 2.3 The general and specific site conditions contained in the City of Sydney busking policy apply to these sites, in addition to the special requirements for the use of dangerous materials and implements in busking acts.
- 2.4 The six Special Busking Sites are identified on the maps attached to the Busking Policy as "SBS" and are located at:
 - 2.4.1 Alfred Street Circular Quay (1 site).
 - 2.4.2 West Esplanade Circular Quay (1 site).
 - 2.4.3 Circular Quay (1 site).
 - 2.4.4 Martin Place (2 sites).
 - 2.4.5 Macquarie Place (1 site).

CITY OF SYDNEY BUSKING POLICY

3 Special Busking Permits

- 3.1 Buskers using dangerous materials and implements must hold a current Special Busking Permit to use these items in their acts.
- 3.2 All general conditions applying to standard Busking Permits apply to the holding of a Special Busking Permit.
- 3.3 Buskers holding Special Busking Permits must display them at all times in a prominent position while performing their acts using dangerous materials and implements.

4 Conditions for Special Busking Permits

Buskers holding a Special Busking Permit, when using dangerous materials or implements in their acts, must adhere to the following conditions in the interests of public safety, and their own. The Special Permit busker must, at all times:

- 4.1 Ensure the health and safety of the audience witnessing the performance.
- 4.2 Ensure that public property is not damaged in the course of the performance.
- 4.3 Define the performance space to be used by establishing a physical boundary of at least 2 metres between herself/himself and the audience utilising one of the following options:
 - 4.3.1 Roped or chained off area.
 - 4.3.2 Chalk line (if the surface to be drawn upon is not of a porous material such as granite and sandstone, and if the line drawn is water-soluble and removed once the busker has completed the act).
- 4.4 Include a Work Cover approved Fire Blanket in their performance kits that is kept visible and accessible throughout the performance.
- 4.5 In the case of the use of flammable liquids, fuels are limited to kerosene, firewater or scented lamp oils (eg citronella) only. No other fuels will be permitted.
- 4.6 Store and transport any flammable liquids permitted under the Code of Practice in accordance with section 7 of the Australian Dangerous Goods Code, that is:
 - Portable plastic containers of no greater than a 5 litre capacity.
 - Containers conspicuously marked with the words
 - 'HIGHLY FLAMMABLE', in capital letters on both sides of container
 - 'Class 3 Flammable liquids', and
 - The name of the liquid in the container, eg Kerosene etc.
- 4.7 Use a non-flammable drip tray for flares or torches (not metal), or preferably use a pre-soaking method for the flares or torches. City of Sydney will not tolerate drip stains on ground surfaces that are not immediately removed, or able to be removed by the busker using the site after the act has been completed.
- 4.8 If using dangerous implements in a performance, as defined under the Dangerous Goods Act, Clauses 14, 31, 239, 240, 242 and 248, covering the use and packaging of prohibited items, all edges on metal implements must be blunted and rendered non-dangerous (including chain saws and other mechanical devices). An implement is determined as *blunt* if it is incapable of piercing human skin when pressure is directly applied to its edge or point against human skin.

CITY OF SYDNEY BUSKING POLICY

5 Restrictions on Special Busking Permits

- 5.1 All restrictions applying to holders of Standard Busking Permits apply to holders of Special Busking Permits.
- 5.2 Special Busking Permits are only issued to individual buskers, not groups. That is, each busker in a group must hold a current Special Busking Permit if they are to use these items.
- 5.3 Special Busking Permits apply to Special Busking Sites only.

6 Process for Obtaining a Special Busking Permit

- 6.1 Special Busking Permits may be obtained from the City of Sydney One Stop Shop located at Level 2, Town Hall House, 456 Kent Street Sydney or at Neighbourhood Service Centres.
 - 6.2 Special Busking Permits are available under the same terms and conditions as standard Busking Permits with the exception of the additional requirements nominated below.
 - 6.3 Buskers applying for Special Busking Permits must pass a safety review and receive an endorsement of their performance. Performances will be endorsed on the basis of skill and knowledge of the Conditions for Special Busking Permits in (4) above. Buskers applying for a Special Busking Permit will be judged by one of their peers and two designated Council Officers. Safety reviews can be arranged through the One Stop Shop.
 - 6.4 Endorsement in the terms stated above must be obtained before the Special Busking Permit will be issued.
 - 6.5 A passport-sized photograph of the applicant busker must be submitted with the application form and endorsement at the time of application.
 - 6.6 If buskers already holding Special Busking Permits plan to introduce any additional dangerous implements or materials to their performance for which they have not been assessed, they must notify the City of Sydney and attend an additional safety review where their performance incorporating these additional dangerous implements or materials may be assessed.
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ITEM 7. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 11 AUGUST 2003

PRESENT

Councillor Lucy Turnbull
(Chair)

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

At the commencement of business at 6.05 pm those present were -

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

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:

7. Development Application: 59 Bayswater Road Kings Cross
5. Development Application: 34-36A Darlinghurst Road Kings Cross
6. Development Application: 17 Bayswater Road Kings Cross
8. Development Application: BNZ House, 333-339 George Street Sydney
1. Draft Convenience Store Development Control Plan
2. Public Consultation Development Control Plan 2003
3. Submission to Heritage NSW: Listing of Millers Point on the State Heritage Register
4. Review of Construction Hours Across the City

The meeting of the Planning Development and Transport Committee concluded at 6.45 pm.

Report of the Committee

Moved by the Chair (the Lord Mayor), seconded by Councillor Coulton -

That the Report of the Planning Development and Transport Committee of its meeting of Monday 11 August 2003 be received, and the recommendations set out below for Items 7.1 to 7.4, inclusive, and Item 7.7 be adopted, with Items 7.5, 7.6 and 7.8 being noted.

Carried.

The Committee recommended the following:-

PART "A" - DETERMINED BY COUNCIL**DRAFT CONVENIENCE STORE DEVELOPMENT CONTROL PLAN (S025028)****7.1**

That arising from consideration of a report by the Strategic Planner to the Planning Development and Transport Committee on 11 August 2003, in relation to the Draft City of Sydney Development Control Plan 2003 - Convenience Stores, it be resolved:-

- (A) to endorse the public exhibition of Draft City of Sydney Development Control Plan 2003 - Convenience Stores at Attachment "A" to the subject report, and as prepared in accordance with Section 72 of the Environmental Planning and Assessment Act 1979 for the purposes of public exhibition, subject to the deletion of Section 4.3 - Hours of Operation;
- (B) to authorise the Lord Mayor to make any minor drafting changes arising from consideration of Draft City of Sydney Development Control Plan 2003 - Convenience Stores by the Council and the Central Sydney Planning Committee;
- (C) to endorse the operation of the Draft City of Sydney Development Control Plan 2003 - Convenience Stores as an interim policy, from the commencement date of the public exhibition, noting that cognisance should be taken of development applications already outstanding.

Carried.

PUBLIC CONSULTATION DEVELOPMENT CONTROL PLAN 2003 (S023739)**7.2**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 11 August 2003 in relation to the City of Sydney Public Consultation Development Control Plan 2003 it be resolved that:-

- (A) the submissions received in respect to the public exhibition of Draft City of Sydney Development Control Plan 2003 - Advertising and Notification be noted;
- (B) the Development Control Plan, shown at Attachment A to the subject report, be approved pursuant to Section 21 of the Environmental Planning and Assessment Regulations 2000 as the City of Sydney Public Consultation Development Control Plan 2003 and commence operation from the date of publication of its Notice of approval, subject to -
 - (i) the deletion, in dot point 6 of section 4.2 - Development types, of the word "flat";
 - (ii) an amendment to address a concern about privacy issues as raised at the meeting of the Planning Development and Transport Committee;

- (C) authority be delegated to the Lord Mayor to make any minor drafting changes to the Development Control Plan, shown at Attachment A to the subject report, as amended at the meeting of the Planning Development and Transport Committee, as a result of its consideration by the Central Sydney Planning Committee.

Carried.

SUBMISSION TO HERITAGE NSW: LISTING OF MILLERS POINT ON THE STATE HERITAGE REGISTER (S022297)

7.3

That arising from consideration of a report by the Strategic Planner to the Planning Development and Transport Committee on 11 August 2003, in relation to the proposed listing of Millers Point as a heritage item on the State Heritage Register under the Heritage Act 1977, it be resolved:-

- (A) to endorse the Preliminary Submission to the NSW Heritage Office as shown at Attachment C to the subject report, subject to the addition, after the words "heritage listing" at the end of paragraph 6 of section 2 - Issues to Resolve, of the words "such as, for example, installation of inappropriate light and power poles";
- (B) to authorise that negotiations be entered into between the City of Sydney and the NSW Heritage Office to address all issues arising from the proposed listing of Millers Point as a heritage item;
- (C) that mechanisms be put in place to track any cost increase and/or service interruption resulting from the listing and that this be reported back to the Council in 12 months;
- (D) that authority be delegated to the Lord Mayor to make any consequential drafting changes to the Preliminary Submission arising from the resolution of Council and the Central Sydney Planning Committee;
- (E) that authority be delegated to the Lord Mayor to submit the Final Submission to the NSW Heritage Office, after its distribution to Councillors 48 hour prior.

Carried.

REVIEW OF CONSTRUCTION HOURS ACROSS THE CITY

7.4

That arising from consideration of a report by the Manager Development to the Planning Development and Transport Committee on 11 August 2003, on Review of Construction Hours Across the City, it be resolved that -

- (A) the following construction hours be permitted:
- (i) City Centre (no change): 7am - 7pm Mondays to Fridays; and 7am - 5pm Saturdays (no work on Sundays or Public Holidays);
 - (ii) All other areas: 7.30am - 5.30pm Mondays to Fridays; and 7.30am - 3.30pm Saturdays (no work on Sundays or public holidays), with the exception of areas formerly within the Leichhardt Council area, which shall have a finishing time of 1.30pm on Saturdays;
- (B) development consent conditions reflect these hours accordingly, while also adding the following words in order to also regulate activities around a site associated with preparation for construction (bold and underline showing new wording):

*All work, including building/demolition and excavation work, **and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc)** in connection with the proposed development must only be carried out between the hours of....*

Carried.

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 7.5, 7.6 and 7.8 were determined by the Planning Development and Transport Committee under delegated authority.

Carried.

DEVELOPMENT APPLICATION: 34 – 36A DARLINGHURST ROAD, KINGS CROSS (U02 - 01167)

7.5

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

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 11 August 2003, in relation to Development Application U02 - 01167 made by Polly Roberts for the site at 34-36A Darlinghurst Road Kings Cross, for the continued use as a commercial brothel, it be resolved that consent be refused for the following reasons:-

- (1) The operation of the brothel during the 1 year trial period has been carried out contrary to the requirements of numerous conditions of consent imposed on it under Development Consent U00314/2001 to ensure that the use will not adversely impact on the amenity of the area and not operate contrary to the public interest.

- (2) Continued operation is inconsistent with the objectives of the zone in that use adversely impacts on the amenity and safety and security of the area.
- (3) The proposed development will result in an unreasonable concentration of like uses contrary to the anti-clustering objectives of the Sex Industry Policy.
- (4) The NSW Police Service has reported “ongoing criminal activity” on the premise, and alleges underage prostitution, drug distribution and supply, search warrants leading to seizure of drugs and attraction of “major crime figures”. The Police submission is a strong and serious objection to the continued use of the premise as a brothel.
- (5) Granting consent is not in the public interest.

Carried unanimously.

Note - Ms Polly Roberts addressed the meeting of the Planning Development and Transport Committee on Item 7.5.

**DEVELOPMENT APPLICATION: 17 BAYSWATER ROAD, KINGS CROSS
(U03 - 00232)**

7.6

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

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 11 August 2003, in relation to Development Application U03 - 00232 made by Daily Star P/L for the site at No. 17 Bayswater Road Kings Cross, for a change of use from a hotel to a commercial brothel and restaurant/bar, it be resolved that a consent be refused for the following reasons:-

- (1) The proposed development is inconsistent with the objectives of the South Sydney Local Environmental Plan (LEP) 1998 the South Sydney Development Control Plan (DCP) 1997 for the zone due to its scale and type of use which will result in a loss of amenity to residents in the area.
- (2) The proposed development will result in an unreasonable concentration of like uses contrary to the anti-clustering objectives of the Sex Industry Policy.
- (3) The proposed development is inappropriately located near to residential properties, a bus stop, and a licensed bar and is likely to result in a loss of amenity contrary to the objectives of the Sex Industry Policy, South Sydney LEP 1998 and South Sydney DCP 1997.
- (4) The proposal is likely to result in a loss of amenity due to the proposed hours of trading.
- (5) The location of a 24 hour brothel and 24 hour bar within the same building and sharing an access is inappropriate and inconsistent with the intent of section 125(1) (a) of the Liquor Act 1982.

- (6) The applicant has not submitted evidence in support of the proposal which demonstrates that SEPP 10 does not apply and the accommodation does not need to be retained.
- (7) The proposal will not provide adequate fire safety for occupants of the building.
- (8) The proposal does not provide disabled access.
- (9) Granting consent would not be in the public interest.

Carried unanimously.

DEVELOPMENT APPLICATION: 59 BAYSWATER ROAD, KINGS CROSS (U02/001378)

7.7

That consideration of this matter be deferred to the meeting of Council on 18 August 2003, to enable the applicant to submit, prior to the meeting of Council, substantially amended plans to comply with height controls, bulk, density and scale, and residential unit mix, and otherwise to address the significant concerns raised in the subject report.

Carried.

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

Note - Mr Edward Whitcombe, Mr Scott Hayles and Mr Simon Van Den Beld addressed the meeting of the Planning Development and Transport Committee on Item 7.7.

DEVELOPMENT APPLICATION: BNZ HOUSE, 333-339 GEORGE STREET, SYDNEY (D03/00411)

7.8

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

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 11 August 2003, in relation to Development Application D2003/00441 made by Response Design Group for the site at 333-339 George Street, Sydney for use and fitout of the premises as a bar/restaurant/gaming room, it be resolved that consent be granted subject to the following conditions:-

Schedule 1A

Approved Development, Contributions and Covenants

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

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

APPROVED DEVELOPMENT

- (1) Development must be in accordance with Development Application No. D2003/00441 dated 3 June 2003 and Statement of Environmental Effects prepared by Response Design Group, dated 28.05.03 and drawings numbered ID.B.100 and ID.M.100 issue A, and ID.G.100, ID.G.300 issue B, dated 30.05.03 and drawing ID.M.300 issue A dated 14.05.03 all prepared by Response Design Group and BCA comments prepared by Blackett Maguire & Associates Pty Ltd dated 4 July 2003 and as amended by the following conditions:

ACCORD WITH LICENSED PREMISES

- (2) The Licensee is encouraged to adopt the principles of the City of Sydney Accord with Licensed Premises (contact the City Service Development Unit 9265 9003 for information).

SECURITY MANAGEMENT PLAN

- (3) The Licensee shall prepare and submit a Security Management Plan which specifies appropriate security patrol, training of staff, uniforms, numbers of security staff at different times, surveillance, weapons detection and other security and response methods in and around the site, for approval of Council prior to commencement of the use.

REAR ENTRANCE

- (4) No entry shall be permitted from the 'Rear Entrance' directly into the Gaming Room. All patrons must enter the premises before entering into the Gaming Room.

ACCESS TO DISABLED W/C

- (5) The ground level disabled W/C is to remain accessible during all operating hours. Access is not permitted through any part of the gaming room.

VISIBILITY OF GAMING ROOM

- (6) Gaming machines and associated flashing lights must not be visible from Wynyard Lane or Regimental Square. The windows to Wynyard Lane shall be frosted or an alternative treatment acceptable to Council, rather than blacked out. Details are to be submitted to Council's Director of City Development and Projects for approval prior to the release of the Construction Certificate under the Environmental Planning & Assessment Act 1979.

INSTALLATION OF CCTV

- (7) The Management/Licensee shall install CCTV surveillance cameras in and around the premises, placed in strategic places such as the external entrance and building surrounds to enable surveillance of Regimental Square and Wynyard Lane. The surveillance tapes shall be kept for a period of 14 days for viewing by the police upon request.

KITCHEN VISIBILITY

- (8) No fixtures, goods or materials are to be fixed to, left on or adjacent to the glazing along Wynyard Lane to the mezzanine level kitchen area.

BEHAVIOUR OF PATRONS

- (9) The Management/Licensee shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard the management shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area including Regimental Square in an orderly manner. If so directed by the Council, the Management is to employ private security staff to ensure that this condition is complied with to the satisfaction of Council.
- (10) The Management/Licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises.

OPERATING HOURS

- (11) The hours of operation are regulated as follows:
 - (a) The hours of operation of the premises shall be restricted to 8.00am to 12.00 midnight 7 days a week.
 - (b) Notwithstanding (a) above, the premises may operate between 12.00 midnight to 2.00am Thursday to Saturday for a trial period of 1 year from the date of commencement of these extended hours. The operator shall inform Council in writing of the date upon which these extended hours commenced and of any interruption to the continual operation of these hours.

- (c) At no time is the use of the premises, as outlined in (b) above, to cause an adverse impact on the amenity of the neighbourhood and the quiet and good order of the locality. If, in the opinion of Council, the operation of the premises during the trial period causes such impact, Council may restrict the hours of operation other than as outlined in (a) above.
- (d) A further development application may be lodged before the expiration of the trial period for Council's consideration of the continuation of the late trading hours as referred to in (b) above. Such consideration will be based, inter alia, on the performance of the operator in relation to compliance with development consent conditions, any complaints received and any views expressed by Police.

REMOVAL OF RECYCLED GLASS

- (12) The removal of recycled bottles and glasses shall only occur between 7.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area. Glass bottle collection is prohibited during any time a memorial service is held at Regimental Square.

SIGNAGE

- (13) 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. Any signage to George Street is to be constrained and discreet so as not to detract from the significance and setting of the adjoining Regimental Square. (Note: Signage on the southern elevation is considered inappropriate due to the significance of Regimental Square.)
- (14) No flashing signage or lights are to be visible from the public way or Regimental Square.
- (15) Appropriate signs shall be placed in clearly visible positions within the hotel requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
- (16) No signage visible from the public way shall be installed that advertises directly or indirectly, the gaming machines on site.

SPRUIKERS

- (17) 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 and within 3 metres of the premises.

NOISE - USE

- (18) The use of the premises 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 8.00 a.m. to 10.00 p.m. daily and 0dB above the L90 background between 10.00 p.m. and 8.00 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) A sound level at any point on the boundary of the site greater than the background levels specified in Australian Standard 1055. "Acoustics - Description and Measurement of Environmental Noise".
 - (d) The "emission of an offensive noise" under the Protection of the Environment (Operations) Act 1997.
 - (e) The emission into the surrounding environment of gases, vapours, dust, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health.
 - (f) Any offensive noise to Regimental Square during any memorial services being held within the Square.

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

NOISE - MECHANICAL PLANT

- (19) Noise associated with mechanical plant must not give rise to any one or more of the following:
- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.

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

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

- (20) No Public Entertainment, as defined under Local Government Act, 1993 is to be provided within the premises unless approved by a development application under the Environmental Planning and Assessment Act, 1979 and an application under Section 68 of the Local Government Act, 1993.
- (21) Should complaints or breaches of noise regulations occur, the Council may employ a suitably qualified acoustic engineer to measure noise emanating from the property and to recommend appropriate action. The cost of such appointment and associated work shall be borne by the licensee, who shall also ensure the recommendations of the acoustic consultant are implemented.
- (22) The windows and doors adjacent to Regimental Square shall be kept shut during any memorial services within the Square, except where required for direct ingress/egress to limit noise.

LICENSEE'S IDENTIFICATION

- (23) For licensed premises, in addition to the sign showing the Licensee's name, there shall be affixed alongside, details of the maximum number of persons permitted in the premises, in letters not less than 25mm, displayed at the main front entrance of the premises. The overall size of both signs shall not exceed 600mm in height or width in total. This sign is to be displayed at the George Street entrance.
- (24) No automatic teller machines (ATM) shall be installed in the premises.

PROVISION OF PUBLIC TELEPHONES

- (25) The owner/s must provide, free of cost, an area for the installation of public telephones. The area must be furnished with 2 public telephones (similar to the Telstra Blue Phone) in consultation with the applicant's preferred provider. At least one telephone should be accessible for use by persons with a disability and be available for public use during the normal opening hours of the premises. Details shall be approved by Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979 or prior to commencement of the use.

**SECTION 61 CONTRIBUTIONS PAYABLE - COST SUMMARY REPORT
– SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION
CERTIFICATE**

- (26) A cash contribution comprising 1% of the total cost of the development, is payable to the City of Sydney pursuant to section 61 of the City of Sydney Act and the “City of Sydney Section 61 Contributions Plan 1997” in accordance with the following:-
- (a) Prior to the release of the construction certificate, evidence must be provided of Council’s written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment shall be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney.
 - (b) The contribution shall not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the “City of Sydney - Cost Summary Report” indicating the itemised cost of the development shall be completed and submitted to Council by the CERTIFYING AUTHORITY, together with copies of the plans the subject of the application for the construction certificate. A copy of the required format for the “City of Sydney - Cost Summary Report” may be obtained from the City of Sydney One Stop Shop and the City of Sydney’s website (www.cityofsydney.nsw.gov.au).
 - (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CERTIFYING AUTHORITY accordingly.

- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, Building Code of Australia compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

MECHANICAL EXHAUST

- (27) Plans and specifications of the proposed mechanical exhaust ventilation shall be submitted to Council's Health Specialist for approval prior to the release of the Construction Certificate under the Environmental Planning & Assessment Act 1979.
- (28) The owner of the building at 333-339 George street is to take full responsibility for ongoing maintenance of any proposed mechanical exhaust ventilation system including but not limited to the cleaning and or upgrading of the mechanical exhaust ventilation system so that the system does not cause a nuisance or any "offensive odour" as defined under the Protection of the Environmental Operations Act 1997. This responsibility is to be acknowledged in writing to Council prior to the installation of the system.
- (29) If the system continues to cause a nuisance or any "offensive odour" as defined under the Protection of the Environmental Operations Act 1997, the owner of the building at 333-339 George Street accept full responsibility to cause the decommissioning of the proposed mechanical ventilation system and ensure that the operator reduce the cooking capacity of the kitchen appliance to a level where mechanical ventilation is not longer required. This responsibility is to be acknowledged in writing to Council prior to the installation of the system.

Schedule 1B

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

- (30) 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.
- (31) 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.
- (32) The construction and fitout of the premises must comply with the requirements of the National Code for the Construction and Fitout of Food Premises and the Food Regulation 2001.
- (33) All glazing materials shall be selected and installed in accordance with the relevant provisions of AS 1288 S.A.A. "Glass Installation Code".
- (34) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access Policy. Prior to issue of a Construction Certificate under Environmental Planning and Assessment Act 1979, a certificate certifying compliance with this condition OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act 1979) must be provided, and copy submitted to Council.

RECEPTACLES FOR CIGARETTE BUTTS

- (35) 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.

VENTILATION/HEATING/COOLING SYSTEMS

- (36) The proposed restaurant must not be used for cooking or heating of food unless a system of mechanical ventilation is installed to the cooking or heating appliances. Certified Plans and specifications showing details of any proposed mechanical ventilation system 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.

WASTE MANAGEMENT

(37)

- (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.

RECYCLING

- (38) 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

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

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 WORKS

- (40) 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.
- (41) Demolished combustible materials shall not be stockpiled. Material must be removed regularly.

APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (42) A separate application is to be made to Council for Approval under Section 68 of the Local Government Act 1993 to erect a hoarding or scaffolding in a public place and such application is to include:-
- (a) Architectural, construction and structural details of the design in accordance with the Policy for the Design and Construction of Hoarding (September 1997) and the Guidelines for Temporary Protective Structures (April 2001).
 - (b) Structural certification prepared and signed by an appropriately qualified practising structural Engineer.
 - (c) Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.
 - (d) Should the hoarding obstruct the operation of Council's CCTV Cameras, the applicant shall relocate or replace the CCTV camera within the hoarding or to an alternative position as determined by Council's Contracts and Asset Management Unit for the duration of the construction of the development. The cost of relocating or replacing the CCTV camera is to be borne by the applicant. Further information and a map of the CCTV cameras is available by contacting Council's CCTV Unit on 9265 9232.
 - (e) Assessment of the impacts of construction and final design upon the City of Sydney's street furniture such as bus shelters, phone booths, bollards and litter bins. Street furniture must be accessible during construction for use and maintenance. Note: The cost of any removals, storage and relocation during construction, and reinstatement upon completion, must be borne by the applicant. The applicant must also seek permission from the telecommunications carrier (eg. Telstra) for the removal of any public payphones.
- (43) 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.

USE OF MOBILE CRANES

(44) 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

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

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

- (a) Certified plans (in duplicate), coloured so as to adequately distinguish the proposed alterations;
- (b) A general description of the project plus mechanical ventilation drawings and documentation in duplicate, coloured to show ductwork and equipment as set out below. (Where appropriate a schematic drawing should also be submitted).
 - i. Supply Air Ducts, Shafts and Fans - Blue
 - ii. Return Air Ducts, Shafts and Fans - Pink
 - iii. Outside Air Ducts, Shafts, Intakes and Stair Pressurisation - Green
 - iv. Exhaust Air Ducts, Shafts, Fans, Discharges and Smoke Spill - Orange
 - v. Mixing Boxes and Conditions - Yellow
 - vi. Fire Dampers and Electric Heaters - Red
- (c) Drawings which show where applicable the existing and proposed air intakes, air discharges and cooling towers and their relative position to each other, the boundaries of the site, openable windows, and adjoining buildings;

- (d) A Mechanical Ventilation Design Certificate pursuant to Section 93 of the Local Government Act 1993 in the form of Attachment M1, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) together with the Curriculum Vitae of the Design Engineer or other appropriate Certifier must be submitted to Principal Certifying Authority (PCA). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council by the PCA;
- (e) Documentary evidence in support of requests for departure from the prescribed or deemed provisions of the Building Code of Australia or any other requirements.

STRUCTURAL CERTIFICATION FOR DESIGN - MINOR WORKS

- (46) Prior to commencement of work, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA), (Council or a private accredited certifier). A copy to the Certificate must be submitted to Council if it is not the PCA.
 - (a) Structural Drawing/s prepared by an appropriately qualified practising Structural Engineer; corresponding with and attached to a Structural Certificate (see (b));
 - (b) A Structural Certificate for Design, submitted in the form of Attachment S1, 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 (Specification A1.3).
 - (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

Notes

- (d) An appropriately qualified practising structural engineer certifying by completing Attachment S1 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.
- (e) Appropriate current professional indemnity insurance.
- i. 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.
 - ii. 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

- (47) The purpose of this condition is to ensure that the Council is given sufficient notice prior to the issuing of the Occupation Certificate to carry out inspections of soon to be completed buildings, where Council considers it necessary. In doing so, this ensures that the Council is able to provide an independent analysis of whether the building is constructed to a standard that complies with the BCA and in accordance with the development consent.
- (a) The applicant and building owner are to note that it is an offence under S.109N of the Environmental Planning and Assessment Act 1979, to occupy or use a building in whole or in part, unless an Occupation Certificate has been issued in relation to the building or the part.
 - (b) A maximum penalty of 25 penalty units applies under the provisions of the Environmental Planning and Assessment Act 1979, for the contravention of the above requirements.
 - (c) Council officers may undertake random inspections from time to time during construction and toward the end of building works to ensure that buildings or part of buildings are not occupied without a partial or final Occupation Certificate, and to check compliance with conditions of development consent and the BCA.
 - (d) In the event that a Principal Certifying Authority (PCA) other than Council is appointed, written notice shall be given to Council (whether by the developer, builder or other person relying on the development consent) on each of the following occasions:

- i. Within 7 days of installation of services, such as plumbing, mechanical ventilation and the like which penetrate fire rated walls and slabs (excluding basement areas); and
 - ii. 7 days prior to the installation of false ceilings or cornices which abut fire rated walls and slabs; and
 - iii. 14 days prior to the final inspection to be carried out by the PCA for the purpose of issuing an Occupation Certificate.
- (e) The PCA shall be advised in writing (whether by the developer, builder or other person relying on the development consent) of Council's requirements pursuant to paragraph (d).
- (f) This reserves time for Council or persons appointed by Council to conduct any random inspections Council may choose to do, prior to the issue of the Occupation Certificate, in order to ensure that buildings or part of buildings are not occupied without a partial or final occupation certificate, and to undertake random audits of certified works.

PUBLIC WAY TO BE KEPT CLEAR

- (48) 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.
- (49) 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.

HOURS OF WORK AND NOISE

- (50) 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) The applicant must provide to Council a 24 hour per day telephone contact number and must ensure such number is continually attended by a person with authority over the building work during the construction period.
 - (c) The approved hours of work and the 24 hour telephone number must be prominently displayed at all times on the building site and must be visible from a public street or a public place.

- (d) 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'.

Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the making of an application in accordance with the Code and under Section 96(2) of the Environmental Planning and Assessment Act 1979, and the granting of approval thereto.

LOADING AND UNLOADING DURING CONSTRUCTION

(51) 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.

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

- (52) 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.

MECHANICAL VENTILATION PERFORMANCE CERTIFICATE

- (53) 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.

NUMBERING

- (54) 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.
- (55) The following requirements for the concealment of pipes, condensates and vermin proofing apply:-
- (a) All service pipes, electrical conduits and refrigeration condensate pipes shall be chased into walls, floor or plinths.
 - (b) All openings in walls, floors and ceilings through which service pipes pass shall be made proof against the access of vermin.
 - (c) The premises shall be made proof against the access of rats and vermin.
- (56) Clothes lockers for male and female staff shall be provided in the premises separate from food handling and storage areas.

- (57) The appliances shall be capable of keeping food hot, at a temperature of not less than 60°C, or keeping food cold, at a temperature of not more than 5°C and such appliances shall be provided with a thermometer, accurate to 1 °C and able to be easily read from outside the appliance.
- (58) All joints formed by the butting together of fittings shall be sealed in such a manner as to eliminate any cavity or crevice or alternatively, a clear space of at least 75mm is to be provided between fittings.
- (59) The wash hand basin, shall be provided in a convenient position.
- (60) The wash hand basin shall be provided with hot and cold water supplied under pressure through an approved mixing device which can be adjusted to enable the hands to be washed under hot running water at a temperature of at least 40°C.
- (61) A double bowl sink or two compartment tub shall be provided in the food preparation area.
- (62) A dish washing machine and double bowl sink or two compartment tub shall be provided in the food preparation area.
- (63) The premises must be ventilated in accordance with the Building Code of Australia and Council's Ventilation Code.
- (64) 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.
- (65) All materials used in the building shall comply with specification C1.10 of the Building Code of Australia.
- (66) Prior to issue of an Occupation Certificate, Council's City Care Unit (Health Section) shall be notified of the premises being used for the preparation, manufacture or storage of food for sale. The premises will be registered on Council's Food Premises Database.

COOLROOMS

- (67) Coolroom(s), refrigerated chambers, strong-rooms and vaults are to be constructed in accordance with G 1.2 of the Building Code of Australia.
 - (a) The floor of the coolroom shall be graded to the door and a floor trapped waste outlet shall be located outside the coolroom as near as possible to the door opening.
 - (b) All proposed shelving in the coolroom shall be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.

- (c) The coolroom being capable of storing food at a temperature of 5°C or below. A thermometer shall be provided which indicates temperature, displayed externally.
- (d) The floor of the coolroom shall be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.
- (e) An approved audible alarm device shall be located outside the coolroom(s) but controllable only from within the coolroom(s) and be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 d B (A) when measured 3 metres from the sounding device.

GREASE TRAPS

(68) A permanent waste line from the grease trap room with a connection at the boundary of the premises shall be provided to enable the removal of waste from the grease arrestor. A grease arrestor (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area.

(69)

- (a) Prior to commencement of the use a Food Management Plan must be submitted to the Principal Certifying Authority for the total site complex detailing the design of the premises and the methods proposed to protect food from contamination or spoilage in accordance with the National Code for the Construction and Fitout of Food Premises, and the Food Regulation 2001.
- (b) The Food Management Plan must address the following issues:-
 - i. The design, location and ventilation of all areas and rooms proposed for use in connection with food delivery.
 - ii. The design of the delivery dock areas including the need for vermin proofing, storage, and refrigeration of food.
 - iii. The proposed system of transportation and protection of food until delivered to the various outlets.
 - iv. The need for specific food modules, dumb waiters or dedicated lifts designed for the carriage of food.
 - v. The physical separation of the Food transfer areas from the Waste transfer areas.
 - vi. The need for refrigerated rooms for Waste Handling.

- (c) Prior to commencement of the use a copy of the Food Management Plan and Certification in the form of Attachment F3 must be submitted. Such Certification must be given by an appropriately qualified and experienced Architect or other person appropriately qualified and experienced in Public Health or Food Technology.

CERTIFICATION FOR STRUCTURAL INSPECTIONS

- (70) 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.

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:

- (c) 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.
- (d) 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.

Schedule 1F

Conditions to be complied with during the use of Premises

CARE OF BUILDING SURROUNDS

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

WINDOW CLEANING

- (72) 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 six monthly.

REMOVAL OF GRAFFITI

- (73) The owner/manager of the site shall be responsible for the removal of all graffiti from the building within 48 hours of its application.
- (74) 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.
- (75) 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.

LOADING AND UNLOADING

- (76) All service deliveries must occur in the existing basement loading bay.
- (77) Portable signs or goods for sale or display must not be placed on the footway or other public areas.
- (78) Noise and vibration from the use of any plant, equipment and/or building service associated with the premises shall not cause a nuisance.

Schedule 2

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

The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply where there is building work:

1.
 - (a) The work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate is made).
 - (b) This condition does not apply to:
 - (i) the extent to which an exemption is in force under Clause 187 or 188, subject to the terms of any condition or requirement referred to in Clause 187(6) or 188(4) of the Environmental Planning and Assessment Regulation 2000; or
 - (ii) the erection of a temporary building.
2. In the case of residential building work for which the Home Building Act 1989 requires that there be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force.

Carried unanimously.

ITEM 8. DEVELOPMENT APPLICATION: 59 BAYSWATER ROAD, KINGS CROSS (U02/001378)

Note - At the request of the applicant, by letter dated 18 August 2003 from mac-interactive, which was circulated to all Councillors, this development application was withdrawn.

ITEM 9. INVESTMENTS HELD BY COUNCIL AS AT 31 JULY 2003 (S02-0960)

Moved by Councillor Greiner, seconded by Councillor Coulton -

That arising from consideration of a report by the Senior Accounting Officer (Creditors) to Council on 18 August 2003, on Investments Held by Council as at 31 July 2003, it be resolved that the report be received and noted.

Carried.

ITEM 10. QUESTIONS ON NOTICE

LITIGATION

1. By Councillor Farr-Jones -

Question

Lord Mayor, could Councillors please be advised as to the status of the legal proceedings against the Minister for Local Government and the State in relation to boundary matters?

Answer by the Lord Mayor

The General Counsel advises that -

"I am advised that a timetable has been set for the City to provide its points of claim by 3 September 2003, points of defence are to be filed by 17 September 2003, and the matter is listed for a further callover on 24 September 2003."

BOBBY GOLDSMITH FOUNDATION

2. By Councillor Greiner -

Question

Lord Mayor, I have received correspondence from the Bobby Goldsmith Foundation for Council to support their Christmas Appeal in the redeveloped Taylor Square area. In 2002 the Bobby Goldsmith Foundation asked donators to complete gift tags to decorate Christmas trees which were placed at special sites down Oxford Street and each time a member of the community donated money their handwritten tag was attached to the tree.

Would you consider Council supporting the Foundation in their Christmas Appeal?

Answer by the Lord Mayor

Applications for grants under the Local Community Grants Program have closed for this financial year. I understand that the Bobby Goldsmith Foundation did make an application under that Program for their Positive Futures Program. I am advised that Council will be considering this year's Local Community Grants Program in the next month or so.

LIGHTING ALONG PYRMONT BRIDGE ROAD

3. By Councillor Greiner -

Question

Lord Mayor, on the 11th July I raised the issue of lighting along Pyrmont Bridge Road in my memo to the Director, Asset Management and Compliance. I am grateful for the subsequent response received on 11th August. However, a woman was recently raped in Wentworth Park. I am aware that the lighting audit has indicated deficiencies on Pyrmont Bridge Road along Wentworth Park in particular and that an upgrade programme is due for implementation in the first quarter 2003/2004. Could you assure me that this work is now a top priority?

Answer by the Lord Mayor

The Director Asset Management and Compliance advises that -

"Following the change in the City's boundaries, City staff immediately undertook a street lighting audit of all new areas. A number of deficiencies were identified including along Pyrmont Bridge Road adjacent to Wentworth Park.

City staff have prioritised this site for an upgrade and discussions have already been held with Energy Australia (EA) to determine upgrade options."

FOUNTAIN CAFÉ, DARLINGHURST ROAD

4. By Councillor Greiner -

Question

Lord Mayor, I have been approached by the proprietor of the Fountain Café at 18-20 Darlinghurst Road, Potts Point, objecting to the removal of the outdoor canopy over the tables and chairs of his outdoor café, the design of which won an international award. Removal of this canopy is part of the Darlinghurst streetscape upgrade.

Would you:

- 1) Review the streetscape programme on Darlinghurst Road and desist from removing this very important canopy; and
- 2) Initiate a project control group of representatives from the local businesses and residents for the Darlinghurst upgrade programme to ensure true community involvement.

Answer by the Lord Mayor

The Director City Development and Projects advises that -

"(1) The City recognises the benefit outdoor café seating brings to this corner of Darlinghurst Road and Fitzroy Gardens.

Staff have already spoken with the operator of the Café and advised him that the intention is to remove and replace the canopy with a structure more in keeping with the new design for Darlinghurst Road. This approach is consistent with all awnings on the Gateway projects.

Nevertheless, this particular proposal forms part of the Darlinghurst Road development application which will be reported to and determined by Council.

(2) Extensive and meaningful public consultation has taken place with local residents, property owners and commercial tenants in respect of the Darlinghurst Road, Oxford Street and Broadway upgrades. Comprehensive presentations were given at numerous public meetings initiated by the Lord Mayor to which all residents were invited. Property owners were given briefings and provided with copies of the relevant development applications for comment. Project information bulletins were prepared for each project and distributed to each household in the local area, facilitating and encouraging community feedback. The proposals have been widely advertised and notified, including special ads in the local press. The development applications have been available for review at the Neighbourhood Service Centres and One Stop Shop, and extensive feedback has been obtained as part of the development application process, which is currently being reviewed.

A strategy for continuing communication during the implementation periods is also being developed. As part of the ongoing implementation process for the restoration or replacement of awnings, the project team will negotiate directly with each property owner, or their nominated agent, an agreed new awning design or restoration method."

HERITAGE ELEMENTS IN PYRMONT

5. By Councillor Greiner -

Question

Lord Mayor, I have had correspondence from a number of residents in Little Mount Street, Pyrmont, concerning the potential destruction of heritage elements in a number of buildings fronting Little Mount Street and Harris Street, e.g. destruction of sandstone walls; late 19th Century sandstone steps. Little Mount Street is a residential street under a conservation order. Would you please ensure that planning staff are cognisant of the heritage elements (so few of which remain) in Pyrmont.

Answer by the Lord Mayor

The Director City Development and Projects advises that -

"The planning staff are well aware of the conservation issues in Little Mount Street, and in particular the existing sandstone elements.

Development applications are consistently assessed against a requirement to preserve sandstone as a feature of this street. Various proposals have been varied or conditioned in order to retain sandstone features and in one recent case an application was rejected in part due to proposed extensive excavation of existing sandstone.

I have further raised this issue with planning staff in responding to this question, however, it would be appreciated if any correspondence from local residents, particularly should this highlight possible breaches of development consent conditions, be forwarded to the General Manager to enable appropriate action to be taken."

QUESTIONS WITHOUT NOTICE

TRESCO AND ASHTON BULDINGS, ELIZABETH BAY (S018730)

1. By Councillor Coulton -

Question

Lord Mayor, what action is the City taking to ensure the preservation of the historic Tresco and Ashton buildings in Elizabeth Bay?

I must say it does seem like it is a question that the Lord Mayor is very interested in giving an answer to and I am very interested in that myself, having lived in Elizabeth Bay for a long time, and have now noticed that these properties, or one of the properties on the market, is heritage listed and it has deteriorated over a number of years.

Answer by the Lord Mayor

Thank you Deputy Lord Mayor. These buildings, I am sure everyone would agree, have great heritage value and I think the Council is determined to ensure these buildings are preserved and that potential buyers and investors are aware of our keen interest.

The Council inherited the problem from the City of South Sydney and we have moved quickly to address the problems of dilapidation and neglect that have been permitted by the current owners.

Council officers have visited the site on several occasions and have spoken to the owners and also to several prospective purchasers. Council has issued a Notice of Intention letter to the owners and has flagged this on Section 149 certificates.

Today's developments to save the buildings are that senior Council staff again met on site to review progress, our heritage planner has prepared paperwork requesting Minister Beamer sign an emergency order protecting the sites and the Minister's Office has been alerted to expect this documentation.

Councillor Coulton (Supplementary Question)

Thank you, Lord Mayor. Does that mean that if an owner of a heritage property deliberately or otherwise lets that property deteriorate by not protecting it that Council can make that owner restore the building to the condition it was in before?

Answer by the Lord Mayor

Councillor Coulton, the person with the authority to do that is the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) under the State Heritage legislation. We don't have corresponding powers to do such things.

The property is protected under our own Heritage Local Environmental Plan and, through my office staff, I have asked the planners to look at whether it is appropriate for us to seek the powers to issue those orders under, I suppose it would have to be, the City of Sydney Act or to see whether there are any other avenues that we can use to compel owners of heritage properties not to let them fall into a dilapidated and neglected state.

HERITAGE PROPERTIES (S018724)

3. By Councillor Greiner -

Question

Lord Mayor, we would all share the same view. It is an increasing dilemma where you have got buildings that have been built out on either side and the property is seen to be a valuable one for demolition and, consequently, they let the property fall into complete disrepair and therefore say that it is not worth saving.

Maybe we should have a look at the Heritage Development Control Plan (DCP) for buildings that have suffered fires and damage which have caused the site to be redeveloped, where the floor space ratio cannot be increased.

I draw your attention to the redevelopment of what was then known as the George Patterson Bates site which suffered a fire, I think, on New Year's Day or Christmas Eve about 1997 and, to overcome that site being redeveloped, for the first time ever we did a retrospective DCP so that it could not have a floor space greater than that which it had occupied on the site prior to the fire.

Perhaps we can look at something along that line in the DCP so that the FSR stays the same, the density of the site stays the same.

Or even a rate review. There must be a couple of different strategies that we could employ and I think clearly your answer to the previous question reflects looking at a range of options. Perhaps it could end up just being an addition to the Heritage DCP that we already have, which you could build on. Well done.

Answer by the Lord Mayor

Councillor Greiner, I think your first suggestion may be unrealistic in the context of the Ashton property because I think the only way that the restoration can be financially supported is if, in fact, there be some development elsewhere on the site but in such a way that it doesn't impact on the integrity of the building.

CAR ENTHUSIASTS - THE ROCKS/WALSH BAY (S018726)

4. By Councillor Marsden -

Question

Lord Mayor, I wonder if you could advise on the situation in The Rocks/Walsh Bay. There seems to be a growing problem in terms of what my community calls “hoons” but I would call “car enthusiasts” creating a nuisance in the late evening and early mornings on Thursday, Friday and Saturday nights. You might be able to advise what action the Council can take.

Answer by the Lord Mayor

Councillor Marsden, can I say I have had at least one site inspection with the Police and another site inspection with Council’s Director Asset Management and Compliance and other officers. As a result of those inspections and deliberations with some of the residents in Pottinger Street, we have installed “No Stopping” signs along Hickson Road which come into effect from midnight until 6.00 am.

The City is also considering the installation of what they call “rumble strips” to deter car enthusiasts from gathering in this area. I think the idea of “rumble strips” is to have the same sensation as when you go off a freeway and it makes a funny noise - that is a “rumble strip”.

On Friday and Saturday night the Police ran Operation Candy, which was a joint operation with many law enforcement agencies, including the Environment Protection Authority and the City of Sydney. One hundred and fifty (150) tickets were issued, 80 cars issued with defect notices and Immigration officials identified three illegal immigrants.

Council Rangers visited the site during the night. A large number of vehicles left the area when the Rangers arrived, indicating that the installation and enforcement of the “No Stopping” signs is proving successful, if the Rangers are there at the same time.

In the longer term, Hickson Road is to be upgraded as part of the Walsh Bay upgrade and solutions for discouraging anti-social behaviour will be considered as part of that public domain work.

HOMELESSNESS (S018725)

5. By Councillor Ho -

Question

Lord Mayor, recently I have hardly seen any regular Ranger patrols in the Theatre and Chinatown areas but, by the same token, we have increasing numbers of homeless.

I often see anywhere from three to six homeless people in a group sleeping in front of the Labor Council building. There is also quite a big number that gather near the Entertainment Centre and they somehow scare a lot of people who work in the City and are trying to walk back to the Ultimo area. The homeless people are already intoxicated and they jump out and make jokes or make funny actions and quite often scare people.

Could you please comment on this, Lord Mayor?

Answer by the Lord Mayor

Thank you Councillor Ho. I will invite the General Manager to comment.

General Manager

Lord Mayor, I am not aware of any diminution of Ranger activity in those precincts so it may well be that there has just been an increase in homeless activity. Of course, our Council policy is not to penalise homeless people for their condition of homelessness but to try and provide support mechanisms to assist them out of that situation.

I will certainly take on board what Councillor Ho has said tonight and investigate why the increase in that activity is suddenly occurring.

COUNCIL BOUNDARIES - RESIDENT INFORMATION (S018724)

6. By Councillor Greiner -

Question

Lord Mayor, just as we were discussing the heritage issue, I was reminded that a number of City residents are still a bit confused as to whether or not they are in the City of Sydney or in their old Council areas.

Especially, I have had that comment come to me on the Leichhardt side. Have we thought of sending out with the rate notice, and we have probably already done that for this year, information to let the ratepayers know that they are actually now in the City of Sydney, that this is the Council to whom they pay their rates. Lord Mayor, you may wish to take this on notice and come back to the Councillors.

It could be just another small note that also advises that the Council elections, which were to be held in September this year, have been postponed to March 2004, because I think a large number of people have forgotten that the Council elections have been postponed.

Answer by the Lord Mayor

That is a good question, Councillor Greiner. My understanding is that there were several newsletters provided to residents at the time of the boundary changes. However, at some places it might have been hard to get access to some of the buildings. The rate notices have already been sent, haven't they, General Manager?

General Manager

Lord Mayor, there have been a number of notices that have gone out in Glebe and Forest Lodge from Town Hall advising of changes to garbage runs and waste collection runs. There have been newsletters advising of Gateways projects, neighbourhood service centres, and so on, and rate notices have also been sent.

So, actually, there has been a proliferation of information within a relatively short period of time that we tried to get to everybody in the new local government areas. We probably need to take on board how big an issue that is and if we do need to advise further of people's areas.

I suppose there is always going to be a degree of confusion when this sort of change occurs, even when you maximise the efforts to advise people of them. For example, we had confusion in Glebe and Forest Lodge with the changes to the garbage trucks even though we advised people.

We will continue to do our best to advise people. If there is a problem we will certainly undertake another mail out, possibly with a map once again, of the new areas, so that it is absolutely clear.

Answer by the Lord Mayor (continued)

I think it would be advisable for us to post on our website a clear indication that the Council elections are to be held at the end of March 2004, and encouraging people to register for the electoral roll so that they can participate in that election.

FEAR MAPPING (S018730)

7. By Councillor Coulton -

Question

Lord Mayor, what action will the City of Sydney take following the Kings Cross Police release of its preliminary fear mapping survey?

Answer by the Lord Mayor

Thank you Councillor Coulton. Superintendent Dave Darcy had spoken to all of us about the fear mapping survey that he has been undertaking and I was fascinated to hear that. It was good that it was actually disclosed to us all.

We will watch with interest the outcome of that fear mapping and I am sure that the Director Asset Management and Compliance and her staff working in the Safe City area will be collating and closely examining the information that comes through from that fear mapping in terms of trying to promote the sense of safety in those areas which, possibly, don't always feel safe.

I think that what Superintendent Darcy said when he said the City of Sydney will find encouragement in the survey is absolutely true. He said that the business mix, for example, found in Victoria Street, south of William Street, should be fostered in other parts of the Cross and that is exactly what we are trying to do with the Darlinghurst Road upgrade, trying to encourage a more diverse business mix in the Cross area and to create cleaner and safer streets.

I think, once completed, the crime mapping survey will be provided to us with the intention that we can assess it and we look forward to continued good working relations with the Police in respect of that.

ITEM 11. NOTICES OF MOTION

GLEBE ESTATE STUDY

1. Moved by Councillor Greiner, seconded by Councillor Farr-Jones -

That City of Sydney Council should urgently engage in a further study of the social needs of the Glebe Estate and its impact on the wider Glebe community, following a request for Council to engage in this issue by the University of Sydney School of Social Work and & Policy Studies in the Faculty of Education & Social Work.

Amendment: At the request of the Chair (the Lord Mayor), and by consent, the motion was amended by the deletion of the entire motion and the substitution of the following new motion -

That Council note that an assessment of the social needs of the Glebe community is an important priority.

That Council further note that the General Manager has already engaged a suitably qualified person to undertake a Community Services Audit of the services and needs in the Glebe Estate and wider Glebe area, and that Council will be briefed once the survey has been completed.

That the General Manager convey to the University of Sydney School of Social Work and Policy Studies in the Faculty of Education and Social Work that Council has engaged a suitably qualified person for the Glebe area who will contact the School in relation to the Community Services Audit.

That the person conducting the Community Services Audit be encouraged to contact Mr Con Papas in relation the community work he has already done in the Glebe area.

Motion, as amended by consent, carried unanimously.

PARKING POLICY - MULTI-UNIT DWELLINGS

2. Moved by Councillor Greiner -

That Council, as a matter of urgency, critically review their parking policy as it relates to the number of car spaces per building in relation to Development Applications for multi-unit dwellings.

Note - This Motion was not seconded.

Note - During discussion on this matter, Councillor Greiner withdrew her Motion and it was subsequently -

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

- (A) That Council note that the effective management of car parking is considered to be crucial for any Council, requiring an adequate allocation within new developments coupled with a fair distribution on street. In reviewing car parking policies, Council must also consider the carrying capacity of the surrounding road system, and encourage the use of public transport by commuters. It is acknowledged that there is a need to review the diverse and currently inconsistent Car Parking Policies and Parking Permit Schemes arising from the recent boundary changes which expanded the City of Sydney local government area.
- (B) That Council resolve to carry out a comprehensive Parking Study for the expanded local government area which investigates:
 - (a) the numerous Parking Permit Schemes applying within the local government area, with a view towards rationalising the current systems in place, in accordance with the RTA Guidelines, and after a full assessment of the quantum of available kerbside space for car parking within the City;
 - (b) the various Car Parking Development Control Plan and Local Environmental Plan provisions applying within the local government area, with a view towards rationalising the current policies in place.
- (C) That the above study be undertaken in parallel with the forthcoming LEP review which is required to consolidate the planning controls following the boundary change.
- (D) That Council note that the parking controls applying in Ultimo Pymont are more reasonable than those applying under the South Sydney planning controls, and that, as an interim measure, Council consider adopting the Pymont controls until the comprehensive study is completed, and request that a report be brought to Council to consider this proposal.

Carried.

Closed Meeting

At 6.32pm 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 3 and 13 on the agenda as these matters comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it; and

Section 10A(2)(c) of the Local Government Act 1993 to discuss Items 12, 14 and 15 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 proposed to conduct) business;

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

Items 3 and 12 to 15 inclusive were then dealt with by Council while the meeting was closed to the public.

ITEM 3: NEW YEAR'S EVE SPONSOR BROKER

Note - In view of the confidential nature of the subject matter, the Council determined that the Resolution on this matter remain confidential until entry into the contract as referred to in the Resolution.

Note - The confidential Memorandum by the General Manager on New Year's Eve Sponsor Broker was circulated to all Councillors.

ITEM 12. 295-301 PITT STREET, SYDNEY PARK HOUSE, FAIRLY HEFTY INVESTMENTS - LEASE RENEWAL (L02-00598)

Moved by Councillor Greiner, seconded by Councillor Marsden -

That arising from consideration of a report by the Senior Property Manager to Council on 18 August 2003, on 295-301 Pitt Street, Sydney Park House Fairly Hefty Investments - Lease Renewal, it be resolved that:

- (A) approval be given to the granting of a lease to FHI Trading Company Pty Limited on the terms and conditions as detailed in the subject report;
- (B) Council's attorney be authorised to execute all necessary documentation; and

- (C) Council's attorney be directed to provide conditions in the lease with respect to limiting unauthorised and unsightly signage and restricting any amplified spruiking activities.

Carried unanimously.

ITEM 13. CUSTOMS HOUSE RECONSTRUCTION - MAIN BUILDING WORKS TENDER NO 0321 (2253/13.01/0321)

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

That arising from consideration of a report by the Manager Project Management to Council on 18 August 2003, on Customs House Reconstruction - Main Building Works Tender, it be resolved that:

- (A) Council reject all tenders;
- (B) Council not invite fresh tenders as:
- (i) tenders have been received from parties considered capable of performing the works; and
 - (ii) the objective of the negotiations is to provide Council with certainty as to the final cost of the construction works, given the exclusions and provisional sums included by tenderers; and
 - (iii) works should commence as soon as possible, for the reasons stated in paragraph 18 of the subject report,
- and accordingly a more satisfactory result would not be achieved by inviting fresh tenders;
- (C) Council enter into negotiations with Tenderers noted in Columns 3, 4 and 5 of Paragraph 13 of the subject report;
- (D) authority be delegated to the General Manager, with the concurrence of the Lord Mayor, to enter into a contract for the works at a price not exceeding the amount in paragraph 15 of the subject report;
- (E) Council's attorney be authorised to execute all necessary documentation; and
- (F) Councillors be advised of the outcome of the tender negotiations.

Carried.

ITEM 14. WALSH BAY - LEASE AND ROAD DEDICATION AGREEMENTS

Moved by Councillor Coulton, seconded by Councillor Marsden -

That arising from consideration of a report by the Director, Asset Management and Compliance to Council on 18 August 2003, on Walsh Bay - Road Dedication and Lease Agreements, it be resolved that:

- (A) Council approve entering into:
 - (i) the Road Dedication Deed, and
 - (ii) an Agreement to Lease and Lease for a 99 year term,

with Waterways Authority and Walsh Bay Finance Pty Limited in relation to the land described in the subject report (including Attachment C);
- (B) authority be delegated to the General Manager to finalise the terms of and, with the concurrence of the Lord Mayor, to enter into the Road Dedication Deed, Agreement to Lease, Lease and ancillary documents; and
- (C) Council's Attorney be authorised to execute all relevant documentation.

Carried.

Note - The Chair (the Lord Mayor) acknowledged the excellent work done by Council's management team, including the General Manager, Director Asset Management and Compliance and Legal officers, as well as officers of the City Development and Projects Division (Sara Roach and Kathleen Ng), in what has been very complicated and lengthy negotiations with many parties.

ITEM 15. RETAIL STRATEGY IMPLEMENTATION - CHRISTMAS CAMPAIGN (CONFIDENTIAL) (S025820)

Moved by the Chair (the Lord Mayor), seconded by Councillor Coulton -

That arising from consideration of a report by the Retail Manager to Council on 18 August 2003, on Retail Strategy Implementation - Christmas Campaign, it be resolved that -

- (A) Council approve publication of a "Christmas in the City" Magazine for Christmas 2003;
- (B) Council not invite tenders for the production of the publication in the following extenuating circumstances:
 - (i) the cost of the publication being primarily met by the sponsor and Sydney City Marketing partners, rather than the City;

- (ii) the inclusion of the proposed publication in the Sun Herald as part of the current marketing plan;
- (iii) the success of the publication as a supplement to the Sun Herald in previous years;
- (iv) the requirement of the publisher of the Sun Herald that it print the publication as a condition of its insertion into the Sun Herald, and accordingly the inability to seek tenders for printing from third parties,

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

- (C) authority be delegated to the General Manager to enter into a contract for the printing and publication of the 2003 "Christmas in the City" publication; and
- (D) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

At 6.40pm the meeting concluded.

Chairman of a meeting of the Council of the City
of Sydney held on 8 September 2003 at which
meeting the signature herein was subscribed.