

23 AUGUST 2004

Meeting No 1415

MINUTES of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 6.10pm on 23 August 2004 pursuant to Notice 13/1415 dated 19 August 2004.

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PRESENT

The Right Hon The Lord Mayor Councillor Clover Moore MP
(Chair)

Councillors - Phillip Black, Verity Firth, Chris Harris, Marcelle Hoff, Robyn Kemmis, The Hon Michael Lee, Shayne Mallard, John McInerney and Tony Pooley.

At the commencement of business at 6.10pm those present were:-

The Lord Mayor, Councillors Black, Firth, Harris, Hoff, Kemmis, Lee, Mallard, McInerney and Pooley.

The General Manager, General Counsel, Director Corporate Services, Director City Planning Northern Zone, Director City Planning Southern Zone and Director Community Living were also present.

Opening Prayer

The Lord Mayor opened the meeting with prayer.

Councillor Firth left the meeting of Council at 7.51pm during discussion on Item 11 and returned at 7.54pm at the commencement of Question Time, Item 12.

ITEM 1. CONFIRMATION OF MINUTES

Minutes of Council Meeting of Monday 2 August 2004

Moved by Councillor McInerney, seconded by Councillor Kemmis -

That the minutes of the meeting of Council of Monday 2 August 2004, as circulated to Councillors, be confirmed, subject to the following correction:

On page 563 in Question Without Notice 3 and on page 568 in Question Without Notice 9 the words "Roy Jackson & Associates" should have read "Rod Howard & Associates".

Carried unanimously.

ITEM 2. DISCLOSURES OF INTEREST

Councillor the Hon. Michael Lee disclosed a non-pecuniary interest in Item 8.5 on the agenda. Councillor Lee did not take part in discussion or voting on Item 8.5.

No other Councillors disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of Council.

ITEM 3A. MYER AND DAVID JONES SPRING/SUMMER FASHION LAUNCHES

FILE NO:

DATE: 19/8/04

MINUTE BY THE LORD MAYORTo Council:

I wish to congratulate both Myer and David Jones on the success of their recent Spring /Summer fashion launches in the City's CBD.

The decision by both organisations to hold their national spring/summer fashion launches in Sydney, against the magnificent backdrop of Martin Place, and Cook and Phillip Park, attracted enormous public attention, media coverage, created a great buzz and excitement in the city and provided a wonderful opportunity to showcase the world class talent of Australian fashion designers.

The healthy rivalry created between both Myer and David Jones, provides a valuable component in positioning Sydney City as Australia's premier retail and lifestyle destination. I applaud the spirit of cooperation of both Myer and David Jones in working with the City of Sydney to ensure the success of both events.

Once again I congratulate both Myer and David Jones in delivering two outstanding fashion events and I look forward to working with both organisations in the future to explore collaborative opportunities that promote city retailing for the benefit of all retailers.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to Council on 23 August 2004, it be resolved that Council note the outstanding success of the Myer and David Jones fashion launches and endorses the Council to explore collaborative opportunities of this type to promote city retailing in the future.

(SGD) COUNCILLOR CLOVER MOORE MP
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 23 August 2004, it be resolved that Council note the outstanding success of the Myer and David Jones fashion launches and endorses the Council to explore collaborative opportunities of this type to promote city retailing in the future.

Amendment. Moved by Councillor Lee, seconded by Councillor Firth, that the motion be amended by the addition of the following words –

“subject to:

- (a) Council imposing more stringent conditions on Myer and David Jones to minimise the alienation of public space before, during and after these events;
- (b) any David Jones and Myer fashion events held in public places such as Cook and Phillip Park and Martin Place be open to members of the public;
- (c) Council receiving fair commercial rent for the use of these public spaces and that Council donate all such rent to charitable organisations in the city; and
- (d) Council reviewing its policy to minimise the use of parks and other public places to discourage their use by commercial organisations.

At the request of Councillor Harris, Councillor Lee agreed to delete clause (b) from his amendment.

A show of hands on the amendment moved by Councillor Lee resulted in an equality of voting as follows -

Ayes (5) Councillors Firth, Harris, Lee, Mallard and Pooley.

Noes (5) The Chair (the Lord Mayor), Councillors Black, Hoff, Kemmis and McInerney.

The Chair (the Lord Mayor) exercised her casting vote against the amendment.

The amendment was declared lost.

The motion was declared carried.

Note - Councillor Lee requested that his name be recorded as voting against the motion.

ITEM 3B. JOINT WORKING PARTY WITH WOOLLAHRA MUNICIPAL COUNCIL

FILE NO:

DATE: 19/8/04

MINUTE BY THE LORD MAYORTo Council:

I recently met with the Mayor of Woollahra Municipal Council, Councillor Geoff Rundle, to discuss development and planning issues near the boundary between the two local government areas.

Councillor Rundle informed me of a decision of Woollahra Council of 3 May 2004 to request the establishment of a joint Committee of Councillors from Woollahra and City of Sydney to consider the impact and outcomes of future development on the eastern area of the City of Sydney and in particular the areas of Neild Avenue and McLachlan Street.

During discussion regarding this matter Cr Rundle suggested a Working Party, to meet a minimum of twice a year, to deal with matters such as:

- Planning of Rushcutters Bay and its environs;
- Impacts of the Cross City Tunnel; and
- Planning for Oxford Street, Paddington.

I support the principle of Councils working together to address common issues of concern, particularly associated with planning and development that has the potential to impact and influence across LGA boundaries. This will enable the City to have input into issues of concern in the western area of Woollahra Municipal Council, while providing the City with comment from Woollahra Council on issues in the eastern area of the City. Obviously, each Council will need to make decisions for its own area, but a constructive approach between neighbours is mutually beneficial.

RECOMMENDATION:

That arising from the Lord Mayoral Minute it be resolved that:

- (A) Council establish a Joint Working Party of Councillors with Woollahra Municipal Council to meet on an as-needs basis (and a minimum of twice annually in the first year) to deal with matters of mutual interest (for example, planning controls, traffic and development matters adjacent to the common boundary);
- (B) Council nominate the Lord Mayor and two Councillors as members of the Joint Working Party;
- (C) the Office of the Lord Mayor manage the City of Sydney's involvement with the Joint Working Party;

- (D) the Lord Mayor and General Manager develop guidelines for Council officers to resource and advise the Joint Working Party; and
- (E) the resolutions of the Joint Working Party be reported to Council by the Lord Mayor's Office in order that any proposed actions and initiatives be formally resolved by the Council.

(SGD) COUNCILLOR CLOVER MOORE MP
Lord Mayor

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

- (A) Council establish a Joint Working Party of Councillors with Woollahra Municipal Council to meet on an as-needs basis (and a minimum of twice annually in the first year) to deal with matters of mutual interest (for example, planning controls, traffic and development matters adjacent to the common boundary);
- (B) Council nominate the Lord Mayor and Councillor Kemmis and Councillor Black as members of the Joint Working Party;
- (C) the Office of the Lord Mayor manage the City of Sydney's involvement with the Joint Working Party;
- (D) the Lord Mayor and General Manager develop guidelines for Council officers to resource and advise the Joint Working Party; and
- (E) the resolutions of the Joint Working Party be reported to Council by the Lord Mayor's Office in order that any proposed actions and initiatives be formally resolved by the Council.

Amendment. Moved by Councillor Mallard, seconded by Councillor Pooley, that the motion be amended by the deletion of clause (C).

A show of hands on the amendment moved by Councillor Mallard resulted in an equality of voting as follows -

Ayes (5) Councillors Firth, Harris, Lee, Mallard and Pooley.

Noes (5) The Chair (the Lord Mayor), Councillors Black, Hoff, Kemmis and McInerney.

The Chair (the Lord Mayor) exercised her casting vote against the amendment.

The amendment was declared lost.

The motion was declared carried unanimously.

ITEM 3C ABORIGINAL TENT EMBASSY – CONTINUED WORK WITH ABORIGINAL COMMUNITIES.

FILE NO:

DATE: 20/8/04

MINUTE BY THE LORD MAYORTo Council:

The Aboriginal Tent Embassy in Victoria Park packed up voluntarily after I finalised an agreement in the park with embassy leader, Isabell Coe, on Friday 6 August 2004.

I agreed to support the Tent Embassy when it was set up at Victoria Park. At that time, an Upper House Inquiry was investigating the Redfern riots and an inquest was due into the circumstances of TJ Hickey's death.

I am pleased that we achieved a peaceful and mutual resolution for this issue that respected the Aboriginal community and maintained public access to Victoria Park.

After I signed the agreement with Isabell Coe, the City worked with embassy representatives to remove tents and equipment from the parkland. Unclaimed private property has been stored so that owners can collect it. The City also arranged for the homeless persons outreach service to work with embassy participants who had no home. This service coordinates temporary or emergency accommodation support for any homeless people in the City.

Despite some media reports, no pecuniary offers were made to induce the Tent Embassy to leave. A copy of the signed agreement is attached to this Minute.

The agreement involves ongoing work with representatives of the Tent Embassy, the Metropolitan Local Aboriginal Land Council and the Eora Nation to develop a "Memorandum of Understanding" (MOU).

This will draw on similar agreements between the Metropolitan Local Aboriginal Land Council and Leichhardt, Lane Cove and Warringah Councils. Work is continuing, and all participants recognise that this will take some time.

This commitment is in line with existing City of Sydney work with local Aboriginal communities to respect their self-determination and provide practical hope for the future.

In accordance with the agreement, a preliminary meeting was held on Monday 9 August 2004 at the Redfern Community Centre. Further meetings will need to be held.

The first meeting was attended by Isabell Coe, Tent Embassy members, and representatives of the Metropolitan Local Aboriginal Land Council. I represented the City of Sydney, with Councillor Marcelle Hoff and Director Community Living, Monica Barone.

While the minutes of the first meeting are yet to be endorsed by participants, it was agreed that the City of Sydney be requested to:

- endorse the establishment of a working party to continue the process of developing an agreement; and
- support and provide a plaque at the site where TJ Hickey died.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to Council on 23 August 2004, in relation to the Lord Mayor's agreement with the Aboriginal Tent Embassy at Victoria Park, it be resolved that:

- (A) Council endorse the establishment of a Working Party to continue the process;
- (B) the Lord Mayor, Councillor Marcelle Hoff and Director Community Living, Monica Barone, represent the City on the Working Party, with any further representatives appointed by the Lord Mayor as required;
- (C) the Lord Mayor report back to Council when the Working Party has developed a specific proposal; and
- (D) the General Manager liaise with the Department of Housing to arrange a plaque to be placed near the location where TJ Hickey died.

(SGD) COUNCILLOR CLOVER MOORE MP
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 23 August 2004, in relation to the Lord Mayor's agreement with the Aboriginal Tent Embassy at Victoria Park, it be resolved that:

- (A) Council endorse the establishment of a Working Party to continue the process;
- (B) the Lord Mayor, Councillor Marcelle Hoff and Director Community Living, Monica Barone, represent the City on the Working Party, with any further representatives appointed by the Lord Mayor as required;
- (C) the Lord Mayor report back to Council when the Working Party has developed a specific proposal; and
- (D) the General Manager liaise with the Department of Housing to arrange a plaque to be placed near the location where TJ Hickey died.

Amendment. At the request of Councillor Pooley, and by consent, the motion was amended by the addition of a new clause (E) as follows:

- (E) the Lord Mayor discuss with the Waterloo Neighbourhood Advisory Board on the most appropriate way to recognise the life of Joan Russell.

Motion, as amended by consent, carried unanimously.

Note – The Chair (the Lord Mayor) commended the work of the Director Community Living (Monica Barone), the Manager Asset Management (Joel Johnson) and their staff for their efforts which resulted in a peaceful resolution to the occupation of Victoria Park.

Councillor Hoff added her commendations to the staff, and also commended the Lord Mayor for her compassionate approach to this issue.

ITEM 4. MEMORANDA BY THE GENERAL MANAGER

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

ITEM 5. MATTERS FOR TABLING

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

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

Carried.

ITEM 6. REPORT OF THE FINANCE, PROPERTIES AND TENDERS COMMITTEE - 16 AUGUST 2004

PRESENT

Councillor Robyn Kemmis
(Chair)

The Lord Mayor (Councillor Clover Moore MP), Councillors Phillip Black, Verity Firth, Chris Harris, Marcelle Hoff, The Hon Michael Lee, John McInerney and Tony Pooley.

At the commencement of business at 4.05pm those present were -

The Lord Mayor, Councillors Black, Firth, Harris, Hoff, Kemmis, Lee, McInerney and Pooley.

Apology

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

Moved by Councillor McInerney, seconded by the Lord Mayor -

That the apology from Councillor Mallard be accepted and leave of absence from the meeting be granted.

Carried.

The meeting of the Finance, Properties and Tenders Committee concluded at 4.43pm.

Report of the Committee

Moved by Councillor Kemmis, seconded by Councillor McInerney -

That the Report of the Finance, Properties and Tenders Committee of its meeting of 16 August 2004 be received, and the recommendations set out below for Items 6.2 to 6.5 inclusive be adopted, with Item 6.1 being noted.

Carried.

The Committee recommended the following:-

DISCLOSURES OF INTEREST

6.1

No Councillors disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Finance, Properties and Tenders Committee.

LOCAL GOVERNMENT ASSOCIATION OF NSW 2004 ANNUAL CONFERENCE - ARMIDALE - NOMINATION OF DELEGATES

6.2

That arising from consideration of a report by the Manager Secretariat to the Finance, Properties and Tenders Committee on 16 August 2004, on Local Government Association of New South Wales 2004 Annual Conference - Armidale - Nomination of Delegates, it be resolved that -

- (A) Council nominate the Lord Mayor, Councillors Black, Hoff, Harris and Pooley as delegates to attend the Local Government Association of New South Wales Annual Conference to be held at Armidale from Saturday 23 October to Wednesday 27 October 2004;
- (B) in the event that any of the nominated delegates are unable to attend, authority be delegated to the Lord Mayor to nominate Councillor(s) as alternate delegate(s); and
- (C) all registration, travel, accommodation and other reasonable expenses associated with the attendance of delegates, alternate delegates, and any other Councillor who wishes to attend the Conference, be met by Council.

Carried.

Note – At the meeting of Council, Councillor Mallard requested that his name be recorded as voting against the motion.

"DISTILLERY HILL" SITE – "JACKSONS LANDING" DEVELOPMENT, PYRMONT- NAMING OF TWO ROADS (S027413)

6.3

That arising from consideration of a report by the Land Information Officer, Customer Information, to the Finance, Properties and Tenders Committee on 16 August 2004, on "Distillery Hill" Site - Jacksons Landing Development, Pyrmont - Naming of Two Roads, it is resolved that:

- (A) Council give approval in principle to the naming of the two roads described in the subject report as "Distillery Drive" and "Tambua Street";
- (B) Council endorse the public exhibition of the proposed names in accordance with the requirements of the Roads Act, 1993 and the Roads (General) Regulation 2000; and
- (C) authority be delegated to the General Manager to finalise Council's obligations under the provisions of the Roads Act, 1993 by publishing the approved names in the Government Gazette.

Carried unanimously.

INVESTMENTS HELD BY COUNCIL AS AT 31 JULY 2004 (S02-0960)

6.4

That arising from consideration of a report by the Senior Accounting Officer (Creditors) to the Finance, Properties and Tenders Committee on 16 August 2004, on Investments Held by Council as at 31 July 2004, it be resolved that the report be received and noted.

Carried unanimously.

JUNE 2004 - QUARTER 4 BUDGET AND CORPORATE PLAN REVIEW (S019994)

6.5

That arising from consideration of a report by the Finance Manager to the Finance, Properties and Tenders Committee on 16 August 2004, on June 2004 - Quarter 4 Budget and Corporate Plan Review, it be resolved that Council -

- (A) note the financial performance against budget for 2003/2004 for Council operations resulting in a draft consolidated Net Surplus of \$86.4M excluding adjustments referred to in paragraph 9 of the subject report;
- (B) note the consolidated draft Capital Works Expenditure for 2003/2004 of \$56.2M;
- (C) note the draft expenditure on Plant and Asset Acquisitions for 2003/2004 of \$9.7M;
- (D) note the performance indicators and achievements as detailed at Attachment C to the subject report;
- (E) approve the carrying forward of funds for Capital Works of \$25.1M; and
- (F) approve the carrying forward of funds for Plant and Asset Acquisitions of \$5.6M.

Carried unanimously.

Note – Councillor Kemmis commended management and staff for their expertise and dedication in achieving such good results. These comments were endorsed by Councillor Pooley and the Lord Mayor.

ITEM 7. REPORT OF THE CULTURAL AND COMMUNITY CARE COMMITTEE - 16 AUGUST 2004**PRESENT**

Councillor Phillip Black
(Chair)

The Lord Mayor (Councillor Clover Moore MP), Councillors Verity Firth, Chris Harris, Marcelle Hoff, Robyn Kemmis, The Hon Michael Lee, John McInerney and Tony Pooley.

At the commencement of business at 4.44pm those present were -

The Lord Mayor, Councillors Black, Firth, Harris, Hoff, Lee, McInerney and Pooley.

Councillor Kemmis arrived at the meeting of the Cultural and Community Care Committee at 4.46pm during discussion on Item 2.

Apology

Councillor Shayne Mallard extended his apologies for his inability to attend the meeting of the Cultural and Community Care Committee as he was overseas.

Moved by Councillor McInerney, seconded by the Lord Mayor -

That the apology from Councillor Mallard be accepted and leave of absence from the meeting be granted.

Carried.

The meeting of the Cultural and Community Care Committee concluded at 6.05pm.

Report of the Committee

Moved by Councillor Black, seconded by McInerney -

That the Report of the Cultural and City Care Committee of its meeting of 16 August be received, and the recommendations set out below for Items 7.1 and 7.2 be noted.

DISCLOSURES OF INTEREST**7.1**

No Councillors disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Cultural and Community Care Committee.

GRAFFITI MANAGEMENT POLICY (S033094)

7.2

That consideration of this matter be deferred to the meeting of Council on 23 August 2004.

Carried.

Note - This matter was dealt with by Council as Item 9 on the Business Paper.

Note – Mr Michael Gormly, Mr Jason Wing, Mr James Diack, Ms Karen Iles, Ms Jenny Leong and Ms Natalie Gould addressed the meeting of the Cultural and Community Care Committee on Item 7.2.

ITEM 8. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 16 AUGUST 2004

PRESENT

The Deputy Lord Mayor Councillor John McInerney
(Chair)

The Lord Mayor (Councillor Clover Moore MP), Councillors - Phillip Black, Verity Firth, Chris Harris, Marcelle Hoff, Robyn Kemmis, The Hon. Michael Lee, and Tony Pooley.

At the commencement of business at 6.22 pm those present were:

The Lord Mayor, Councillors McInerney, Black, Harris, Hoff, Kemmis, Lee and Pooley.

Councillor Firth arrived at the meeting of the Planning Development and Transport Committee at 6.24 pm following the receipt of apologies.

Apologies

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

Moved by Councillor McInerney, seconded by the Lord Mayor -

That the apology from Councillor Mallard be accepted and leave of absence from the meeting be granted.

Carried.

Order of Business

The Planning Development and Transport Committee agreed that the order of business be altered such that the agenda items be dealt with in the following order:

1. Disclosures of Interest
3. Draft City of Sydney Signage and Advertising Structures Development Control Plan 2004
5. Draft South Sydney Local Environmental Plan 1998 - Amendment No. 9 ("Housekeeping" Local Environmental Plan No. 2): Report on Submissions
8. Development Application: 106 Swanson Street, Erskineville
2. Submission on Draft Sydney Regional Environmental Plan 2004: Sydney Harbour Catchment
4. Review of Public Notification and Consultation Development Control Plans
6. Section 82A Review Application: 134 Abercrombie Street, Chippendale (also Known as 182 Cleveland Street)
7. Section 82A Review Application: 107-113 Crown Street, Darlinghurst
9. Development Application: 31-33 Oxford Street, Darlinghurst (DCM/UN Nightclub)
10. Development Application: 203-209 Thomas Street, Haymarket

The meeting of the Planning Development and Transport Committee concluded at 9.37 pm.

Report of the Committee

Moved by Councillor McInerney, seconded by Councillor Kemmis -

That the Report of the Planning Development and Transport Committee of its meeting of Monday 16 August 2004 be received, and the recommendations set out below for Items 8.3 to 8.10 inclusive be adopted, with Items 8.1 and 8.2 being noted.

Carried.

The Committee recommended the following:-

DETERMINED BY COUNCIL

DISCLOSURES OF INTEREST

8.1

Councillor the Hon. Michael Lee disclosed a non-pecuniary interest in Item 8.5 on the Agenda. Councillor Lee did not take part in discussion or voting on Item 8.5.

**SUBMISSION ON DRAFT SYDNEY REGIONAL ENVIRONMENTAL PLAN
2004 - SYDNEY HARBOUR CATCHMENT (S013219)**

8.2

That:-

- (A) consideration of this matter be deferred to the meeting of Council on 23 August 2004; and
- (B) in the interim, Councillors provide to staff, through the Chair of the Planning Development and Transport Committee, any comments not previously made at the meeting of the Planning Development and Transport Committee on Council's proposed draft submission to the Department of Infrastructure, Planning and Natural Resources.

Carried.

Note - This matter was dealt with by Council as Item 10 on the Business Paper.

Note - Mr Michael Rolfe and Mr Neil Macindoe addressed the meeting of the Planning Development and Transport Committee on Item 8.2.

**DRAFT CITY OF SYDNEY SIGNAGE AND ADVERTISING STRUCTURES
DEVELOPMENT CONTROL PLAN 2004 (S031850)**

8.3

That arising from consideration of a report by the Acting Assistant Specialist Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to the Draft City of Sydney Signage and Advertising Structures Development Control Plan 2004, it be resolved that:-

- (A) consideration of this matter be deferred to the next available meeting of the Planning Development and Transport Committee to allow Council staff further time to amend the draft Development Control Plan, by including appropriate provisions to address issues raised at the meeting of the Planning Development and Transport Committee and any other matters raised by Councillors prior to the Committee meeting;
- (B) in the interim, a briefing of Councillors be held at an appropriate time, but prior to next meeting of the Planning Development and Transport Committee; and
- (C) members of the Central Sydney Planning Committee also be invited to attend the briefing.

Carried unanimously.

Note - Mr Avry Ben-Zeev, Mr Andrew Woodhouse and Ms Jo Holder addressed the meeting of the Planning Development and Transport Committee on Item 8.3.

REVIEW OF PUBLIC NOTIFICATION AND CONSULTATION DEVELOPMENT CONTROL PLANS (S023739)

8.4

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to a Review of Public Notification and Consultation Development Control Plans, it be resolved that

- (A) a draft development control plan be prepared having regard to the subject report, and issues discussed at the meeting of the Planning Development and Transport Committee; and
- (B) a further report be submitted to Council once the draft development control plan has been prepared, and after a briefing of Councillors, for endorsement prior to its exhibition.

Carried unanimously.

Note - Mr Andrew Woodhouse, Ms Jo Holder and Ms Wanda Jaworski addressed the meeting of the Planning Development and Transport Committee on Item 8.4.

DRAFT SOUTH SYDNEY LOCAL ENVIRONMENTAL PLAN 1998 - AMENDMENT NO. 9 ("HOUSEKEEPING" LOCAL ENVIRONMENTAL PLAN NO. 2): REPORT ON SUBMISSIONS (2027244)

8.5

That arising from consideration of a report by the Strategic Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to the exhibition of Draft South Sydney Local Environmental Plan 1998 – Amendment No. 9, it be resolved that consideration of this matter be deferred pending confirmation from Council staff that properties affected by the proposed changes within the draft Plan (heritage listings, rezonings, etc) were notified of the changes during the exhibition of the draft Local Environmental Plan.

Carried.

Note - Mr John Graham and Mr Phillip Boulton addressed the meeting of the Planning Development and Transport Committee on Item 8.5.

SECTION 82A REVIEW APPLICATION: 134 ABERCROMBIE STREET, CHIPPENDALE (ALSO KNOWN AS 182 CLEVELAND STREET) (A/04/00002)

8.6

That arising from consideration of a report by the Planner to the Planning Development and Transport Committee on 16 August 2004, regarding the Section 82A Review Application in relation to Development Application U/01/502 made by Rosawan Pty Ltd, for the site at 134 Abercrombie Street Chippendale, for the continued use of the first floor of a commercial building as a commercial brothel, it be resolved that:

- (A) the South Sydney Council determination of 5 March 2003 be upheld, with minor amendment;
- (B) consent be refused for the following reasons:-
 - (1) The proposal does not comply with the aims and objectives of the South Sydney Local Environmental Plan 1998;
 - (2) The proposal does not comply with the objectives and requirements of the City of Sydney Draft Regulation of Sex Services Development Control Plan 2003;
 - (3) The proposal does not comply with the objectives and requirements of the Disability Discrimination Act 1992, Building Code of Australia, City of Sydney Access DCP 2004, and City of Sydney Draft Regulation of Sex Services DCP 2003, with respect to the provision of disabled access;
 - (4) The proposal does not comply with the objectives and requirements of the South Sydney City Development Control Plan No. 11, Transport Guidelines for Development;
 - (5) The proposal will unreasonably impact on the residential amenity, safety and security of the locality;
 - (6) The proposal will result in unreasonable cumulative impact particularly when considering proximity of other sex industry premises;
 - (7) The proposal is an inappropriate use of the subject premises;
 - (8) The internal layout of the proposal is unsuitable for the subject premises;
 - (9) The proposal will formalise an unauthorised use which has had a history of poor environmental performance; and
 - (10) The approval of the application is not in the public interest.

Carried unanimously.

Note - Mr Wayne Boyle and Mr Michael Langenheim addressed the meeting of the Planning Development and Transport Committee on Item 8.6.

SECTION 82A REVIEW APPLICATION: 107-113 CROWN STREET, DARLINGHURST (U02-00128)

8.7

That arising from consideration of a report by the Town Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to the s.82A review of determination of Development Application 2004/00128 made by Lockerroom Sauna and Spa Pty Ltd for the site at 107 to 113 Crown Street, East Sydney, for the fit out and use of the top floor of the premises as a sex on premises venue, it be resolved -

(A) to uphold the reasons for refusal of 18 May 2004 as follows:

- (1) The proposed use is within 75m of another sex industry premises inconsistent with the provisions of the:
 - (a) City of Sydney Draft Regulation of Sex Services Development Control Plan (DCP) 2003.

In particular in this regard the use is inconsistent with the objectives and planning intent of the policy as it would result in an inappropriate concentration of sex industry premises;

- (2) The proposed development fails to provide equitable access inconsistent with the provisions of the:
 - (a) City of Sydney Draft Regulation of Sex Services DCP 2003;
 - (b) City of Sydney Draft Access Development Control Plan 2004; and
 - (c) The Building Code of Australia;

(B) that the persons who made written submissions be advised of Council's determination.

Carried.

Note – Councillor Mallard requested that his name be recorded as voting against the motion.

Ms Leita Hitchings and Mr David Vella addressed the meeting of the Planning Development and Transport Committee on Item 8.7.

**DEVELOPMENT APPLICATION: 106 SWANSON STREET, ERSKINEVILLE
(U04-00243)**

8.8

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to Development Application U04-00243 made by Conway Smith and Associates for the site at 106 Swanson Street Erskineville, for a Place of Public Entertainment License, it be resolved that:-

- (A) a deferred commencement consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the following conditions:-
- (1) That a separate Development Application shall be submitted to Council to carry out works as recommended under the Acoustic Report prepared by Steven Cooper Acoustics, dated 22 September 1998 and that this consent shall not operate until these works have been completed and tested to Council's satisfaction, in order to confirm compliance with the noise criteria required by Condition (16) of this consent;
- (B) compliance with the requirements of Clause (A)(1) is required within 6 months from the date of this consent. Upon compliance with the requirements of Clause (A)(1) a six (6) month trial consent will be issued subject to the following conditions:-
- (1) That the POPE license shall be restricted to the ground floor area as marked on plan received on 22 April 2004 and as stamped and endorsed by Council;
 - (2) That the hours of the POPE license shall be limited between 6.00pm and 10.00pm on Fridays and Saturdays, and 6.00pm to 9.00pm on Sundays only. No approval is given for Monday to Thursday;
 - (3) That a separate Development Application shall be submitted to Council for the continuation of the POPE on site and that this application shall be submitted at least three months prior to the expiration of this consent;
 - (4) That two security officers (one inside and one for the outside of premises) shall be employed by the premises during any entertainment occurring on the site;
 - (5) That all openings shall remain closed in order to minimise any noise spillage onto surrounding areas;
 - (6) That all patrons shall enter and exit the premises from the Swanson Street entrance;

- (7) That the Park Street doors are not to be used for ingress or egress of patrons during periods when entertainment is being conducted within the Hotel, except for emergency purposes only. The Park Street doors must be kept closed at all times during periods of entertainment;
- (8) That the licensee must distribute to local residents at least 48 hours in advance of any entertainment, contact details for the Hotel should they experience any difficulty with noise or disturbances from the Hotel during periods when entertainment is being conducted;
- (9) That an announcement is to be made at the cessation of entertainment to the effect that patrons, if leaving, should leave the premises quietly so as not to disturb the quiet and good order of the neighbourhood;
- (10) That the licensee and his staff are to respond to any complaints about noise or disturbance in a timely and responsive manner and are to provide details of receipt and response of all complaints in a written report format at the cessation of the trial period;
- (11) That a copy of the approval for the place of public entertainment shall be conspicuously displayed in the place of public entertainment, in accordance with the requirements of Schedule 1 of Local Government (Approvals) Regulation 1999;
- (12) That the capacities for each of the various areas shall not exceed the number shown on the approval to conduct public entertainment;
- (13) That the premises, and its site, shall be maintained in a clean and hygienic condition, clear of all undergrowth, rubbish, flammable or noxious material, and other material likely to constitute a fire or health hazard;
- (14) That approval is granted without prejudice to any further action being taken under Section 121B of the Environmental Planning and Assessment Act 1979 (as amended), in respect of the provision of adequate fire safety and egress in the building;
- (15) That the applicant shall comply with the following deemed-to-satisfy provisions of the BCA or otherwise provide an alternative solution, submitted as a report to the certifying authority, illustrating how the relevant performance requirements can be satisfied:
 - (a) That the entertainment area shall be separated from the rest of the building by construction having a fire-resistance level of not less than 60/60/60;
 - (b) That materials used in any part of a place of public entertainment shall comply with the requirements of Specification C1.10 of the BCA;

- (c) That the electric mains installation shall comply with the requirements of Clause H101.19 of the BCA;
- (d) That the walls and ceilings of the storage cupboard within or/and under the stairs shall have a fire resistance level of 60/60 and be fitted with a 60/30 fire door, complying in all respects with the requirements of AS1905;
- (e) That all doors serving as required exits or forming part of a required exit and any door, shutter, grille or the like which is installed in a path of travel to a required exit, shall comply with the requirements of D2.19, D2.20 and D2.21 of the BCA;
- (f) That unobstructed access shall be provided and maintained to all exits at all times;
- (g) That dimensions of exits and paths of travel to exits shall in accordance with the requirements of clauses D1.6 of the BCA. (Your attention is drawn to the second required exit door next to the bar);
- (h) That any key-operated fastening fitted to an exit door or gate used by the public as a main entrance shall be arranged so that, whenever the public is in attendance, the tongue or bolt is locked in the retracted position to enable the door or gate to yield to pressure from within;
- (i) That hose reels shall be installed throughout the building in accordance with the requirements of E1.4 of the BCA and AS2441;
- (j) That hydrants shall be installed throughout the building in accordance with the requirements of E1.3 of the BCA and AS2419.1;
- (k) That the building shall be provided with a system to control smoke or remove smoke in accordance with E2.2 of the BCA;
- (l) That the following existing Essential Services shall be maintained to the requirements of Part 9 Division 5 of the Environmental Planning and Assessment Regulation 2000. Annual Fire safety certificates shall be submitted to council prior to the use being taken up:-
 - (i) portable fire extinguishers AS 2444;
 - (ii) emergency lighting AS2293.1;
 - (iii) exit signs and directional exit signs AS2293-1;
 - (iv) Mechanical ventilation system AS1668, Parts 1 & 2;
- (m) That sanitary facilities shall be provided in accordance with the requirements of F2 of the BCA;
- (n) That the entertainment capacity (including staff and entertainers) shall not exceed 100 patrons;

- (o) That the premises shall be ventilated in accordance with the requirements of the Building Code of Australia (If using deemed to satisfy provisions: AS1668, Parts 1 and 2);
- (16) That noise from patrons and amplified music emitted from the licensed premises shall comply with the following criteria:
- (a) The L10 noise level emitted from the licensed premises shall not exceed 5dB above the background (L90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 7.00am to 12.00 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
 - (b) The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 10.00pm to 7.00am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
 - (c) Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours 12.00midnight to 7.00am.
- (17) That certificates of design compliance and system performance for the nominated components/aspects of the mechanical ventilation system shall be provided to the Council at the time of lodgement of plans certifying the design and upon commissioning of the mechanical ventilation system certifying performance. Certificates will be required prior to the issue of an occupation certificate. The certificate of performance shall be in a form acceptable to Council and be accompanied by details of the test carried out in respect of:-
- (a) Fire precautions
 - (b) Ventilation
 - (c) Acoustics
 - (d) Vibration
 - (e) Stair pressurisation
- (18) That plans and specifications demonstrating compliance with the nominated standards and requirements for the following aspects of the development shall be submitted and approved by Council or a Certifying Authority prior to the commencement of work:

- (a) All proposed and required mechanical ventilation systems (Building Code of Australia and Australian Standard 1668 Parts 1 and 2);
 - (b) The layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to the altered servery area; STANDARD REQUIREMENT – National Code for the Construction and Fit Out of food premises and the Food Act 2003 NS Regulations there under.
- (C) the persons who made representations in respect of the proposal be advised of Council's decision.

Carried unanimously.

Note - Mr Anthony Betros, Mr Ed Foley and Mr Murray Godfrey addressed the meeting of the Planning Development and Transport Committee on Item 8.8.

DEVELOPMENT APPLICATION: 31-33 OXFORD STREET, DARLINGHURST (DCM/UN NIGHTCLUB) (D/04/675)

8.9

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 16 August 2004, in relation to Development Application D/2004/675 made by Solowave Pty Limited for the site at 31-33 Oxford Street, Darlinghurst, for a change of use of the first floor of the premises from restaurant/cabaret to pub/nightclub with entertainment, trading 24 hours 7 days a week, and use of second floor for ancillary nightclub office use, it be resolved that:-

- (A) deferred Commencement Consent be granted subject to the following conditions:-

Part A

Conditions to be satisfied prior to consent operating

The consent is not to operate until the following conditions are satisfied, within **28 days** of the date of this determination:

ACOUSTIC WORKS

- (1) Vibration isolation must be placed under the speaker sub woofers and those speakers must be completely independent of the building structure, in accordance with the recommendations of the report by Steven Cooper Acoustics Pty Ltd dated 2 May 2004.
- (2) A limiter must be placed on the low frequency components of the sound system and such limiter must be an RMS Limiter rather than a Peak Limiter so that the average level of music may be controlled, in accordance with the recommendations of the report by Steven Cooper Acoustics Pty Ltd dated 2 May 2004.

- (3) Following the installation of the vibration isolators and the limiter, a supplementary compliance tests must be carried out to ascertain the degree of sound installation that would be required for the roof area of the subject premises so as to satisfy the acoustic requirements of the Liquor Administration Board and Council.
- (4) Full plans and details of the necessary works to the roof that are required as a result of the supplementary compliance testing must be prepared and endorsed by Steven Cooper Acoustics Pty Ltd. Where works do not require a Development Application consent, the works shall be carried out, and acoustic re-testing/verification undertaken by Steven Cooper Acoustics Pty Ltd, with the results submitted to Council.

The above must be completed and lodged within 28 days of the date of this determination to the satisfaction of Council.

NOTE:

It should be noted, in the interim, until such time as the applicant satisfies all relevant conditions contained in this deferred commencement approval, Council will take the necessary steps to ensure that the existing use shall cease.

Part B

Conditions of Consent (once the consent is in operation)

- (B) Upon compliance with the conditions contained in Part A, the consent will become operative subject to the following conditions, as may be amended by such other conditions that may arise as a result of compliance with conditions/information required in Part A.

Schedule 1A

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. D/2004/675 dated 18 June 2004 and Statement of Environmental Effects prepared by BBC Consulting Planners dated June 2004 and drawings numbered SK 01, PL SK 02 PL, SK 03 PL and SK 04 PL prepared by Imagescape Pty Ltd Architects dated 4-5-04 and as amended by the following conditions:

NOISE ATTENUATION WORKS PRIOR TO COMMENCEMENT OF USE

- (2) All noise attenuation works required by compliance with Condition 4 in Part A of the deferred commencement consent involving a separate Development Application must be undertaken and endorsed by Steven Cooper Acoustics Pty Ltd to the satisfaction of Council prior to the issue of an Occupation Certificate.

HOURS OF OPERATION

- (3) The hours of operation are regulated as follows (with closing hours being such that no customers remain in the premises):
 - (a) The hours of operation of the premises shall be restricted to 8.00am to midnight Mondays to Saturdays and 8.00am to 11.00pm Sundays.
 - (b) Notwithstanding (a) above, the premises may operate between 12 midnight and 3.00am the following day on Mondays to Saturdays inclusive, and between 11.00pm and 3.00am the following day on Sundays for a trial period of six months from the date on which the consent shall operate in accordance with Condition 2 of Part B of this consent.
- (4) A further application may be lodged before the expiration of the six month trial period for Council's consideration of the continuation of the above extended hours of operation, or a further extension. Such consideration will be based upon, inter alia, the performance of the operator in relation to compliance with development consent conditions, any complaints received and any views expressed by the Police.

WORKS REQUIRED PRIOR TO USE OF PREMISES FOR PoPE

- (5) Pursuant to Clause 93 of the Environmental Planning and Assessment Regulation 2000 the following works are required to be completed prior to the issue of an Occupation Certificate and Section 68 Approval for PoPE and operation of use for the change of use of the building or part, to ensure that the fire protection and structural capacity of the building is adequate:

- (a) The enclosure beneath the main Oxford Street entrance stair (Stair 1) contained within the hairdressing tenancy, and the enclosure beneath fire stair 2 contained within the clothing retailer is to be fire rated in accordance with the requirements of Clause D2.8 of the BCA. The space below the stairs are to be enclosed in 60/60/60 fire rated construction and the access doors provided with -/60-/30 self closing fire doors. The works are to be completed and certification forwarded for the fire rating and fire doors prior to the issue of a Section 68 Approval by the City of Sydney Council.
 - (b) The exit door discharging at ground level to the rear of the premises from fire stair 3 is to be provided with a panic bar in accordance with Clause NSW D2.21 (g) of the BCA. The panic bar is to be installed prior to the issue of a Section 68 Approval by the City of Sydney Council.
 - (c) The treads to the fire stairs and the steps leading from the Lounge 1 area to the corridor adjacent to the cool room are to be provided with conspicuous treads in accordance with the requirements of Clause NSW D2.13 (j) of the BCA. Conspicuous treads are to be provided prior to the issue of a Section 68 Approval by the City of Sydney Council.
 - (d) The Place of Public Entertainment being the first floor level shall be fire separated from the remainder of the building in accordance with the requirements of Clause NSW H101.2 of the BCA. The first floor level shall be fire separated horizontally from the ground floor tenancies and vertically from the adjoining tenancy to the south of the premises by 60/60/60 fire rated construction. The works are to be completed and certification to AS1530.4 is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.
- (6) Certification is to be submitted certifying that the sprinkler system has been provided with fast response heads with a Response Time Index (RTI) of $50 \text{ m}^{1/2} \text{ s}^{1/2}$ in accordance with the requirements of Clause NSW E2.2b and AS2118.1. The certification is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.
 - (7) Certification is to be submitted for the fire rating of the storage area containing the coolroom in accordance with the requirements of Clause NSW H101.16 of the BCA, AS/NZS1905.1 and AS1530.4. Certification for the -/60/60 lightweight fire rated construction and the -/60/30 self closing fire door is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.
 - (8) Certification is to be submitted for the fire rating of the first floor level switchboard enclosure in accordance with the requirements of Clause NSW 101.19.1 of the BCA, AS/NZS1905.1 and AS1530.4. Certification for the -/120/120 fire resisting lightweight construction and the -/120/30 self closing fire door is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.

- (9) Certification is to be submitted for the early fire hazard properties and is to address the spread of flame and smoke development indices as per the requirements of Specification C1.10 and NSW Specification C1.10 of the BCA. Certification in the form of manufacturers test specifications for floor finishes, wall linings, curtains and seating linings within the premises is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.
- (10) Certification shall be provided certifying that the mechanical ventilation system automatically shuts down upon detector or sprinkler activation within the building in accordance with the requirements of Clause E2.2b of the BCA and AS1668.1. Certification is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.
- (11) Certification shall be provided certifying that the electrical mains supply is provided by a separate and independent sub main or that the mains supply is fire rated in accordance with the requirements of Clause NSW H101.19.3 of the BCA. Certification is to be submitted prior to the issue of a Section 68 Approval by the City of Sydney Council.

PLACE OF PUBLIC ENTERTAINMENT

- (12) The use of the premises for the provision of entertainment shall not commence until such time as an application, pursuant to Section 68 of the Local Government Act 1993, has been submitted to and approved by Council. The premises must comply with the requirements of the BCA, in particular those relating to Places of Public Entertainment.
- (13) The provision of entertainment within the premises shall cease after a period of six months from the date of the Place of Public Entertainment final approval under Section 68 of the Local Government Act 1993. A further application may be lodged before the expiration of the six month trial period for Council's consideration of the continued provision of entertainment.
- (14) Where licensed premises holds, or obtains a Place of Public Entertainment Approval, each specific area to which the approval refers, shall display in a prominent position a sign which states the number of persons approved under the Place of Public Entertainment in letters a minimum 25mm in height on a contrasting background.

NOISE - USE

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

- (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to midnight daily and 0dB above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
- (c) During the period 12 midnight to 3.00 a.m. the use shall be inaudible in any habitable room of any residential premises.
- (d) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

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

NOISE - MECHANICAL PLANT

- (16) 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.

- (17) 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.

FURTHER ACOUSTIC TESTING

- (18) Further acoustic measurements must be taken and a further acoustic report must be submitted to Council within 1 month of the commencement of the use certifying that the premises is in full compliance with the Liquor Administration Board's noise requirements and Council's conditions of consent. No further public entertainment shall take place on the premises until such time as any necessary recommendations of the acoustic report or other matters considered appropriate by Council have been satisfactorily implemented.

SECURITY / MANAGEMENT REQUIREMENTS

- (19) Security systems must be implemented in accordance with the following and details submitted to Council prior to commencement of the use.
- (a) The licensee must maintain surveillance cameras and recorders to monitor and record all the street entrances to the premises continuously while the premises is trading including the rear laneway (emergency fire exit egress), footpath area 15 metres to the east and west outside the main entrance, entrance stairwell, dance floor/entertainment areas and bar areas whilst the premises are open for business and for half an hour after closure irrespective of whether or not any entertainment is being conducted.
 - (b) Such system is to be of high quality so as to facilitate identification and adjudication of patrons, offenders and incidents occurring in and around the subject premises and is to be centrally located within the premises. The time and date must be automatically recorded on all video tapes/DVDs/CDs when it is recording. All are to be kept for a period of 30 days before they can be reused or destroyed. Any tape/DVDs/CDs must be handed to Police or to an officer from the Department of Gaming and Racing upon request.
- (20) Suitable signage must be displayed at the principle entrance of the premises with the words "Closed Circuit Television" in use on the premises". The same signage must be attached in a prominent position on the bulkhead on each respective area where entertainment is provided. Details of the signage must be submitted to Council prior to commencement of the use.

- (21) Security personnel must be provided in accordance with the following:
- (a) Two licensed security officers must be employed at the front entrance of the premises at all times when the premises is used as a place of public entertainment and after 8pm on Thursday, Friday, Saturday and Sunday evenings. These security officers must remain at the entry point until 30 minutes after closing even when the last patron has left the premises and shall assist in the quiet and good order of the patrons leaving.
 - (b) Security are to ensure that all patrons produce sufficient identification prior to entry and whilst security are employed, all patrons entering the premises will be subject to a search by hand held or walk through metal detectors.
 - (c) Security personnel must be placed inside the premises at a ratio of no less than 1 security person per 100 patrons.
 - (d) At all times when security personnel are working at the premises they must be clearly identified by way of a brightly coloured uniform indicating they are security personnel.
 - (e) All licensed security personnel must wear identifying numbers in addition to complying with the requirements of Security Industry Act 1997 at all times when working at the premises.
- (22) The names of security personnel and allocated number must be entered into a book by the licensee / manager at the start of each shift performed by security personnel. This book must be made available to police upon request for inspection.
- (23) The Plan of Management submitted with the application dated May 2004 shall be updated in accordance with the conditions of development and the revised Plan of Management shall be submitted and approved by Council prior to commencement of the use.
- (24) All staff involved in the sale and supply of liquor on the licensed premises must have completed a Responsible Service of Alcohol course prior to being employed at the premises.
- (25) 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 in an orderly manner.
- (26) 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).
- (27) The Management/Licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises.

- (28) The removal of recycled bottles and glasses shall only occur between 8.00am and 8.00pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (29) 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.
- (30) In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the building shall ensure that the footpath, gutter, building entry and surrounds are kept clean and clear of litter at all times.
- (31) The owner of the building shall be responsible for the removal of any graffiti from the building within 48 hours of the graffiti appearing.
- (32) 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.
- (33) The owner/s must provide, free of cost, an area for the installation of (a) public telephone(s). The area must be furnished with public telephone(s) (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 commencement of the use.
- (34) No automatic teller machines (ATM) shall be installed in the premises.

FIRE SAFETY

- (35) A Fire Safety Certificate (in accordance with Clause 174 of the Environmental Planning and Assessment Regulation 2000) must be furnished to the Principal Certifying Authority (PCA) (Council or a private accredited certifier) for all of the items listed in the Fire Safety Schedule forming part of this approval prior to any consent for occupancy/partial occupancy being granted. A copy of the Certificate must be submitted to Council if it was not the PCA.
- (36) An annual Fire Safety Statement (form 15A under the Environmental Planning and Assessment Amendment Regulation 1998) must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which Council receives the initial Fire Safety Certificate.

CONSTRUCTION CERTIFICATE

- (37) 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.

ACCESS FOR PEOPLE WITH DISABILITIES

- (38) 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.

MECHANICAL VENTILATION REQUIREMENTS

- (39) 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.
- (40) 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.

MECHANICAL VENTILATION PERFORMANCE CERTIFICATE

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

CONTINUED PERFORMANCE OF MECHANICAL VENTILATION

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

SIGNAGE

- (43) No flashing signage visible from the public way shall be installed.
- (44) No signage visible from the public way shall be installed that advertises directly or indirectly, the gaming machines on site.

Schedule 2

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

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.
- (C) In the interim, until such time as the applicant satisfies all relevant conditions contained in the deferred commencement approval, Council will take the necessary steps to ensure that the existing use shall cease.

Carried unanimously.

Note - Mr Robert Chambers addressed the meeting of the Planning Development and Transport Committee on Item 8.9.

DEVELOPMENT APPLICATION: 203-209 THOMAS STREET, HAYMARKET (D/04/000302)

8.10

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 16 August 2004, on Development Application: 203-209 Thomas Street Haymarket, it be resolved that consent be granted to the subject development application, 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 D2004/00203 dated 4 March 2004 and Statement of Environmental Effects prepared by Project Tourism International Architects dated March 2004 and BCA Assessment Report prepared by BCA Logic dated March 2004 and drawings numbered:-

- DA05 Rev A, DA06 Rev A, DA07 Rev A, DA08 Rev A, DA09 Rev A, DA10RevA dated 1 March 2004;
- DA00 Rev B, DA01 Rev C, DA02 Rev B, DA03 Rev B, DA04 Rev B, DA11 Rev B, DA12 Rev B, DA13 Rev B, DA14 Rev B, DA15 Rev B, DA16 Rev B dated 14 July 2004

prepared by Project Tourism International Architects and as amended by the following conditions:

DESIGN MODIFICATIONS

- (2) The design of the awning above the main building entry shall be lowered to a minimum of 5m to be consistent with the height of the awning to the immediate south. The awnings shall be amended to a solid form consistent with the Council's Awnings Policy. Details to be submitted and approved by the Director of Planning prior to the issue of Construction Certificate.
- (3) The first floor window to the food court and the fifth floor projecting windows to the backpackers on the west elevation shall be modified to be more consistent with the existing traditional vertically proportioned characteristic of the Haymarket Special Area. Details to be submitted and approved by the Director of Planning prior to the issue of Construction Certificate.
- (4) Details and a sample board of all materials including the window openings and the balconies are to be submitted for the approval of the Director of Planning prior to the issue of the Construction Certificate.
- (5) The balustrades on the roof of levels six and eight shall be set inside the edge of the parapet so that it cannot be seen from the street. Details of the materials including any balustrade or support frame shall be submitted and approved by the Director of Planning prior to the issue of the Construction Certificate.

- (6) The full width, detailing and symmetry of the façade of the building adjoining the site to the north shall be retained as shown on elevation drawing DA13B. Further details shall be submitted and approved by the Director of Planning prior to the issue of Construction Certificate.
- (7) The layout of the car parks and service vehicle parking area shall comply with Australian Standards AS 2890.1-2004 and AS 2890.2-2002. In this regard, the following details are required to be submitted and approved by the Director of Planning prior to the issue of Construction Certificate.
 - (a) The clearance height within the driveway and basement car park shall be 3.6m;
 - (b) The driveway opening at the building facade shall be 3.5m minimum between columns;
 - (c) The gradient of the first 6m of the access ramp behind the building facade shall be 1 in 20;
 - (d) Transition grade shall be incorporated at both ends of the ramp with gradient of 1 in 6 or steeper;
- (8) Car park roller doors shall be designed and constructed for quiet operation. Details of the car park door and treatment of return walls shall be submitted and approved by the Director of Planning prior to the issue of Construction Certificate.

FLOOR SPACE RATIO

- (9) The following applies to Floor Space Ratio:-
 - (a) The Floor Space Ratio of the proposal must not exceed 7.5:1 calculated in accordance with the Central Sydney Local Environmental Plan 1996. For the purpose of the calculation of FSR, the Floor Space Area of the development is 4,000 sqm.
 - (b) Prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Central Sydney Local Environmental Plan 1996 applicable at the time of development consent to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

BUILDING HEIGHT

- (10)
 - (a) The height of the building (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 36.13 (AHD).

- (b) Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the height of the building, to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).

APPROVED DESIGN ROOF-TOP PLANT

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

ARCHAEOLOGICAL INVESTIGATION

- (12) The following details shall be submitted and approved by the Director of planning Northern Zone prior to the issue of Construction Certificate.
 - (a) The applicant must apply to the Heritage Office for an excavation permit under Section 140 of the Heritage Act 1977.
 - (b) Should any potential archaeological deposit likely to contain Aboriginal artefacts be identified during the planning or historical assessment stage, application be made by a suitably qualified archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics.
 - (c) The applicant shall comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance for compliance with these conditions and requirements into the development program.
 - (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
 - (e) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.

- (f) Should any Aboriginal relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance of the area is to stop immediately and the (NPWS) is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

Note:

In some circumstances, conditions imposed by the Heritage Office or NPWS could delay and/or affect how the DA is to proceed.

BOUNDARY WINDOWS

- (13) All windows adjacent to the north boundary of the site, including:
 - (a) Level 5:- Dormitory window to room in the north-east and north-west corner of the backpackers;
 - (b) Level 6:- Dormitory window to room in northeast corner and windows to cleaners store in the north-west corner of the backpackers;
 - (c) Level 7:- Dormitory window to room in northeast corner and windows to shower room in the north-west corner of the backpackers;

shall be amended to fire rated glass blocks. Details to be submitted and approved by the Director of Planning prior to the issue of the Construction Certificate.

PROJECTING BALCONIES

- (14) Any balconies, bay windows, sun blinds or architectural embellishments overhanging the public way are not to encroach upon the alignment thereof in excess of 450mm.

DEMOLITION/SITE RECTIFICATION

- (15) The following conditions apply to the development:-
 - (a) Demolition or excavation must not commence until a Construction Certificate has been issued under the Environmental Planning and Assessment Act 1979 for construction of the substantive building.
 - (b) Prior to issue of the Construction Certificate, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the General Manager of the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.

- (c) Without limiting the generality of paragraph (b), the Deed must provide for:-
- (i) a bank guarantee to be provided in the sum of 118,480 dollars as security for the costs of such works provided that:-
 - a. the maximum liability under the Deed shall not exceed 118,480 dollars; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and costing for works which meet the objectives of the condition.
 - (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the structure has commenced to be erected;that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - e. make the building safe and attractive at ground level;
 - f. allow the ground level to be landscaped and made attractive from any public vantage point; or
 - g. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage point; or
 - h. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenatable stage;AND to call on such bank guarantee to cover the cost thereof.
- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in an unattractive building site appearance, then the Council will have the readily enforceable rights to:

- (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii)e. - h. to take place on the site; and
- (ii) in the event of default, shall have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

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

- (16) 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 2003” 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.

ENERGY EFFICIENCY OF BUILDINGS

- (17) The design of the building and its services must achieve a rating of 4.5 stars under the Sustainable Energy Development Authority's (SEDA's) Australian Building Greenhouse Rating Scheme. This can be demonstrated by:
 - (a) Entering into a Commitment Agreement⁽ⁱ⁾ with SEDA, to deliver this star rating⁽ⁱⁱ⁾ for the base building⁽ⁱⁱⁱ⁾, being services traditionally supplied as 'common' to tenants^(iv), such as air conditioning, lifts and common area lighting) or for the whole building^(v) where there is to be one tenant to occupy the whole building. The applicant must provide a copy of the completed Commitment Agreement with their construction certificate application; and
 - (b) Providing a copy of the independent energy assessment report submitted to SEDA and submitted as part of the construction certificate application, that follows the current guidelines in SEDA's Australian Building Greenhouse Rating Scheme Design Energy Efficiency Review and the Energy Efficiency Design Review.xls. This report should be based on the same documents as submitted with the construction certificate.

Note:

(c) Definitions referred to in clause 1(a) above:-

- (i) Commitment Agreement means an agreement that is set out in accordance with SEDA's Australian Building Greenhouse Rating Commitment Agreement, which is made/signed between SEDA and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.
- (ii) Star rating refers to the benchmarking system applied by SEDA for measuring the energy efficiency of a building, and known as the Australian Building Greenhouse Rating Scheme.
- (iii) Tenancies means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services (Source: SEDA, September 2001).
- (iv) Base building means central services and common areas of a building (Source: SEDA, September 2001).
- (v) Whole building means all of the building, being the fabric of the building itself and all services and fit-outs (Source: SEDA, September 2001).

FITOUT OF RETAIL PREMISES

(18) A separate application must be made to Council for the fitout of the retail premises.

SHOPFRONT VISIBILITY

(19) In order to maintain visibility to the shop interiors and ensure activation of the street frontage, the shopfront windows and entry to the lift lobby/ backpackers and the food-court must not be obscured by:-

- (a) blinds, curtains or the like;
- (b) advertising posters, painted signs, decals or displays that are fixed internally or externally to the shopfront;
- (c) shelving; or
- (d) shop fittings, refrigeration equipment and the like which exceed 1200mm above finished floor level or which projects above the sill of the shopfront.

Details to be submitted and approved by the Director of Planning Northern Zone prior to the issue of Construction Certificate.

GLAZING

- (20) All external glazing to the ground level retail frontages must be clear and untinted.
- (21) The visible light reflectivity from building materials used on the facade of the building should not exceed 20% and must be otherwise designed so as not to result in glare that causes discomfort or threatens safety of pedestrians or drivers.

FOOTPATH ILLUMINATION

- (22) Illumination of the footpath by light fittings installed internally or to the awning must provide the following maintained illuminance levels in both the horizontal and vertical plane, when measured 1.5 metres above the footpath:-
 - (a) a minimum average maintained illuminance level of 10 lux;
 - (b) a maximum illuminance level of 200 lux; and
 - (c) an illuminance ratio (E_{avg}/E_{min}) not exceeding 4:1 to ensure the safe movement of pedestrians.
- (23) Lighting of the footpath must utilise fittings that are recessed and/or integral to the structure and design of the awning. Batten type fluorescent light fittings are prohibited over Council's footway.

STRATA SUBDIVISION

- (24) This consent does not include approval for strata subdivision. Strata subdivision would require further development consent but is unlikely to be approved given the buildings approved use.

SIGNAGE AND ADVERTISEMENTS

- (25) A separate development application for any proposed signs visible from the exterior of the building must be submitted for the approval of Council prior to the erection or display of any such signs.
- (26) No advertising flags or banners or the like are to be erected on or attached to the shopfront.
- (27) No advertising, corporate colours, logos or decal are to be applied or painted or placed within 1 metre of the glass shop front so as to be visible from outside without the prior written approval of Council.
- (28) Merchandise, public telephones, stored material or the like shall not be placed on the footway or other public areas.
- (29) No flashing signage visible from the public way shall be installed.

HOURS OF OPERATION

(30) The hours of operation are regulated as follows:

- (a) The hours of operation of the bar shall be restricted to between 8.00am and 10.00 pm, 7 days a week.
- (b) Notwithstanding (a) above the premises may operate between 10.00 pm and 12.00 midnight, 7 days a week for a trial period of **3 years** from the date of this consent.

Council reserve the right to review the extended hours referred to in (b) above should complaints be received during the trial period.

NOISE

(31) 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.

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

- (32) 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.
- (33) 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.

FIRE SAFETY STATEMENT

- (34) An annual Fire Safety Statement (form 15A under the Environmental Planning and Assessment Amendment Regulation 1998) must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which Council receives the initial Fire Safety Certificate.

FOOTWAY CROSSING

- (35) A separate application is to be made to Council's Civil Engineering Services-Roads and Footways Unit for the construction of any new vehicle footpath and kerb crossings required for the development and the reinstatement of the footway formation where any existing crossings are no longer required.

ROOF TOP BAR

- (36) 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). The premises shall always be operated/managed in accordance with the Code of Practice for the premises.

- (37) 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.
- (38) The Management/Licensee shall install CCTV surveillance cameras in and around the premises, placed in strategic places such as the external entrance and exit doors. The surveillance tapes shall be kept for a period of 14 days for viewing by the police upon request.
- (39) 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 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.
- (40) The Management/Licensee shall prevent patrons removing glasses, opened cans, bottles or alcohol from the premises.
- (41) The removal of recycled bottles and glasses shall only occur between 8.00 am and 8.00 pm weekdays and 9.00am and 5.00pm weekends and public holidays, to avoid noise disruption to the surrounding area.
- (42) 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.
- (43) 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.
- (44) 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.
- (45) 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.

- (46) 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.

BACKPACKERS

- (47) That the use and operation of the backpackers shall comply with the requirements of Schedule 1 (Standards for Places of Shared Accommodation) of the Local Government Orders) Regulation, 1999 under the Local Government Act 1993, Council's adopted policy, the Public Health Act, 1991 and regulations there under and the City's Policy for the Provisions of Tourist and Visitor Accommodation. The following conditions apply to the backpackers:-
- (a) A sign indicating the permissible maximum length of time (28 days or less) during which a person may board or lodge must be conspicuously displayed to public view outside the premises as required under the Local Government (Orders) Regulation 1999.
 - (b) A schedule shall be conspicuously displayed on the premises showing the bedroom number of persons permitted to be accommodated in the room.
 - (c) A sign shall be clearly displayed on the door of each dormitory indicating the maximum numbers of persons allowed to be accommodated in the room.
 - (d) A register must be kept that details the length of stay of each person accommodated on the premises. The register must be kept up to date and be available on request.
 - (e) That any proposed / required mechanical exhaust system required for the laundry areas shall extract at least 20 litres / sec or as required by AS 1668 Parts 1 and 2.
 - (f) That the use of the premises shall not give rise to the transmission of "offensive noise" as defined under the POEO Act 1997, to any place of different occupancy.
 - (g) That the business proprietor of the proposed backpackers shall enter into a contract for the removal of any trade waste from the premises.
 - (h) That the premises, in particular internal rooms not provided with natural ventilation comply with the requirements of Part 3.8.5 of the Building Code of Australia, shall be mechanically ventilated in accordance with the BCA.

- (i) That a Plan of Management and Emergency and Evacuation Plan shall be prepared by the applicant and is to be submitted within 2 months of this consent. The Plan of Management must include the minimum criteria as stipulated in the City's Policy for the Provision of Tourist Accommodation Section 2.16.1.
- (j) Annual certification must be provided in accordance with the City's Policy for the Provision of Tourist Accommodation Section 2.17.
- (k) Secure storage facilities of a minimum capacity of 0.6 cubic metres per person must be provided to allow guests to individually store baggage and travel items within sleeping rooms.
- (l) Sleeping rooms are to comply with the requirements as stipulated in the city's Policy for the Provision of Tourist Accommodation Section 2.8.
- (m) The maximum number of persons that may be accommodated in a sleeping room is determined on the basis of 3.25 sqm per sleeping room.
- (n) Sleeping rooms providing shared dormitory style accommodation must be designed to accommodate no more than 8 guests.
- (o) That a separate room shall be provided within the premises to accommodate the on site caretaker / manager.
- (p) The name and 24 hour contact phone number of the accommodation manager or resident caretaker must be prominently displayed in the reception area of the premises.
- (q) That the proposed kitchen area shall have an enclosed ceiling of an approved material for the purpose of preventing vermin entering the kitchen area. The kitchen area is to comply with the requirements as described in the City's Policy for the Provision of Tourist Accommodation, Section 2.10.
- (r) The communal kitchen must comply with the "Policy for the Provision of Tourist & Visitor Accommodation in Central Sydney" Section 2.3.1. to allow for:
 - (i) Cooking facilities & sink/s with running hot water & cold water to allow for 15% of the maximum number of guest to prepare & consume meals at any one time;
 - (ii) Dry food storage facilities;
 - (iii) Refrigerated space for perishable goods; and
 - (iv) Exhaust ventilation to comply with AS 1668 Parts 1 and 2.

Note:- a minimum seating ration for guest to prepare & consume meals is calculated at 1 square meter / person with 0.8 square meters separation between adjacent tables (Refer to guidelines in the City of Sydney Outdoor Café Policy as guideline).

PHYSICAL MODELS

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

Note:

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

CONSISTENCY OF DRAWINGS

- (50) In the event that the approved plans incorporate inconsistencies of detail between the relevant plans and elevations, the details shown in the elevations shall take precedence.

Schedule 1B

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

- (51) 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.

INSTALLATION OF DUAL-FLUSH TOILETS

- (52) All toilets installed within the development shall be of water efficient dual-flush capacity with a minimum “AAA” rating. The details shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the Environmental Planning and Assessment Act 1979.

GREY WATER

- (53) The applicant is to investigate the installation of appropriate technologies within the development to enable the collection and re-use of the rainwater. A Report addressing this matter is to be submitted to and approved by the Director, City Planning North, prior to the issue of the Construction Certificate for the development under the Environmental Planning and Assessment Act, 1979.

TELECOMMUNICATIONS PROVISIONS

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

INSTALLATION OF WATER EFFICIENT TAPS

- (55) All taps and shower heads installed shall be water efficient with a minimum “AAA” rating. The details shall be submitted for the approval of the certifying authority, prior to the issue of a construction certificate for the development under the Environmental Planning and Assessment Act, 1979.

PLANTATION OR RECYCLED TIMBERS

- (56) To minimise the damage to the environment, only plantation timbers or recycled timbers and no rainforest timbers or timbers cut from old growth forests are to be used in the construction of buildings. The Construction Certificate is to specify the timbers used.

PUBLIC DOMAIN PLAN

(57) The following requirements apply:-

- (a) Three copies of a detailed Public Domain Plan shall be prepared by an architect, urban designer or landscape architect and shall be approved by Council (to be lodged with the Public Domain Officer at City Projects) prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.
- (b) The Public Domain Plan shall be as follows:-
 - (i) Drawn at 1:100 scale; 1:200 will be acceptable for larger sites of over 200m street frontage.
 - (ii) Show the entire layout and pattern of flagstone paving where this paving is required.
 - (iii) Nominate the location, type and material of all existing and proposed public pavement elements including trees, paving, kerbs and gutters, pedestrian ramps, vehicle crossings, street furniture, (including city maps, notice boards, benches, bollards, bins, J C Deceaux kiosks, APT's and phone booths), utility poles, parking meters, pedestrian and traffic signals, service pits, stormwater pits and signage (including street nameplates, historical, parking and traffic).
 - (iv) Include a longitudinal section of the pavement showing existing and proposed levels at 10 metre intervals at the building alignment, the kerb and the gutter on a common datum line. This longitudinal section is to be drawn at 1:100 horizontal scale and 1:10 (exaggerated) vertical scale. For larger sites of over 200m street frontage 1:200 horizontal scale and 1:20 (exaggerated) vertical scale is acceptable. This section is to ensure that any significant longitudinal gradient change, such as flattening for vehicle entries, occurs within the building line and not at the public pavement.
 - (v) Include 1:50 scale cross sections through pedestrian ramps and vehicle crossings.
 - (vi) Include specifications of the proposed works.
- (c) The Public Domain Plan shall comply with the specifications and details of the Central Sydney Paving Design Policy 1996 and Council's Specifications and the Central Sydney Street Tree Policy 1994.

- (d) The Public Domain Plan shall incorporate the standard specifications and detail of the Central Sydney Paving Design Policy 1996 and Council's Specifications adapted to suit the specific site requirements as advised by the Public Domain Officer and may include:-
- (i) Adjustment to paving grades to provide a maximum crossfall of 2.5% from building line to top of kerb.
 - (ii) Repaving in accordance with Central Sydney Paving Design Policy 1996 and Council's Specifications. All granite paving (where applicable) is to be sealed in accordance with Council's specifications.
 - (iii) The relocation or provision of new vehicle crossovers and pedestrian ramps including the consequent relocation of existing service pits, traffic signals, kerb corner radii, signs, street furniture and street trees.
 - (iv) The retention of existing street trees and the provision of new street trees to comply with the Central Sydney Street Tree Policy 1994.
 - (v) The repair and where required the resetting of all stone kerbing to a uniform grade of 150mm above the gutter grading and the replacement of concrete kerbing with stone kerbing. Where adjustments require substantial kerb and gutter demolition, the carriageway shall be reconstructed or resurfaced (as required) to the centre line of the carriageway or to sufficient distance from the kerb to achieve a uniform transition into the existing pavement profile.
 - (vi) The retention and repair of any existing pavement lights.
 - (vii) The retention and repair of any existing serviceable stone gutters to achieve a uniform kerb and gutter longitudinal grading free of vertical displacement of greater than 5mm between adjacent units.
 - (viii) The realignment and level adjustment of service pit lids to correspond to new kerb ramps and paving. New service pit lids in flagstone paving to be infill type, with stone infill to match stone paving surrounds. New service pit lids in asphalt paving to be infill type, with cement mortar infill coloured to match adjoining asphalt.
 - (ix) Protection or replacement by the developer of all City assets to be retained as part of Public Domain works and recovery and return of any City assets where such removal has been approved.
 - (x) The provision of smart pole(s), (to be provided at the applicants cost).

- (e) Random checks by Council officers may be made throughout the construction process to advise the contractor of non-complying elements. However, no parts of the work are to be considered approved until receipt of the City of Sydney Certificate of Completion. The City of Sydney will require all non complying parts to be rectified prior to issue of this letter.
- (f) An “Application for Approval of Footpath Levels and Gradients” must be submitted at the City’s One Stop Shop with the appropriate fee at the time of lodgement of the public domain proposal. The fee will be determined in accordance with the City of Sydney Schedule of Fees and Charges.

Note:

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

PUBLIC ART

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

DISABLED ACCESS

- (59) 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.

ACCESS AND PARKING

- (60) A traffic signal system shall be installed to operate the access ramp for two-way traffic. Priority shall be given to in-coming traffic.
- (61) All vehicles from the basement car park shall enter and leave the site in a forward direction.
- (62) “Stop” sign shall be installed at the exit point to require exiting vehicles to stop at the building line.
- (63) All loading, unloading and other construction activities shall be accommodated on-site except that:-

- (a) If, during excavation, it is not feasible for loading and unloading to take place on site, the provision of a Works Zone may be considered by Council. The applicant shall submit a proposal to the Sydney Traffic Committee stating the justification for not complying;
- (b) In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (c) If a Works Zone is warranted, such an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specified 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.

Note:- All costs of traffic management measures associated with the development shall be borne by the developer.

ELECTRICITY SUBSTATION

- (64) The owner must dedicate to Energy Australia, free of cost, an area of land on the site adjoining the street alignment to enable an electricity substation to be established. The size and location of the substation is to be submitted **for** Council approval prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

SYDNEY WATER CERTIFICATE (NEW DEVELOPMENT)

(65)

- (a) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, written confirmation that you have obtained a Notice of Requirements under Part 6, Division 9 of the Sydney Water Act 1994 must be submitted to the Certifying Authority (Council or a private accredited certifier).
- (b) Prior to issue of a construction certificate, under the Environmental Planning and Assessment Act 1979, the approved development application plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whatever the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met and is to be submitted to the Principal Certifying Authority (Council or a private accredited certifier).

Note:

- (i) For Quick Check agent details please refer to “your business” section of Sydney Water’s website at www.sydneywater.com.au then see Building and Renovating under the heading Building & Developing, or telephone 132 092.
- (c) Prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979, a (Developer) Compliance Certificate under Section 73 of the Sydney Water Act 1994 must be submitted to the Principal Certifying Authority (Council or a private accredited certifier).

Note:

- (i) Sydney Water may require you to construct works and/or pay developer charges, details of which will be provided in the “Notice of Requirements”. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to “your business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon or telephone 132 092.
- (ii) The approved plans will also need to be submitted to Sydney Water to determine whether the development will affect sewer and water mains, stormwater drains and/or easements. If the development complies with the requirements, the approved plans will be appropriately stamped by Sydney Water.
- (iii) Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au or telephone 132 092.

STORMWATER AND DRAINAGE

(66) The following stormwater details shall be submitted:-

- (a) Details of the proposed stormwater disposal and drainage of the development are to be submitted for approval by Council prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (b) Any proposed connection to the City’s underground drainage system will require the owner to enter into a Deed of Agreement with the City Council and obtain registration on Title of a Positive Covenant prior to the commencement of any work within the public way, at no cost to the City.

- (c) The requirements of Sydney Water (currently the Urban Development Central East Group, Rockdale Regional Office) with regard to the on site detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.
- (d) An “Application for Approval of Stormwater Drainage Connections” must be submitted at the City’s One Stop Shop with the appropriate fee at the time of lodgement of the proposal for connection of stormwater to the City’s drainage system. The fee will be determined in accordance with the City of Sydney Schedule of Fees and Charges.

UTILITY SERVICES

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

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

WASTE MANAGEMENT PLAN

(68) The following requirements apply to storage and waste handling:

- (a) The design of the building and the methods of storage and handling of waste and recyclable material must comply with Council’s Code for Waste Handling in Buildings (adopted 17 October 1994). The Code requires the submission of a Waste Management Plan, except for minor partition work (Annexure “A” of the Code).
- (b) Certification of compliance with the design and constructional requirements of the Code including the associated Waste Management Plans and with the Conditions of Development Application consent relating to waste must be submitted to and approved by the Certifying Authority in the attached form W1 prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979. Such Certification must be given by the Architect or other appropriately qualified person experienced in Waste Handling Design and Environmental Management.
- (c) The Certified Plans and Specifications must address compliance with the Waste Code including details of the following, where applicable:-

- (i) The location, design and construction of the garbage room, recycling rooms, bin washing areas and collection areas.
- (ii) The natural or mechanical ventilation, in accordance with the Building Code of Australia and Australian Standard 1668.
- (iii) The location and design of any garbage chutes or compaction units required by Council's Code.
- (iv) The proximity of waste handling facilities to commercial food areas or loading docks, with a view to avoiding cross contamination.

Note: Certification will also be required on completion of the building, prior to issue of a Certificate.

WASTE HANDLING

- (69) That construction, containerisation and handling of waste arising from the commercial re-development shall be in accordance with Council's Code for Waste Handling in Buildings.
- (70) That a waste/recycling storage facility for commercial use shall be located within the site in a position that can be accessed by a commercial contractor.

HAZARDOUS AND INDUSTRIAL WASTE

- (71) That hazardous and/or industrial waste arising from the demolition/operational activities shall be removed (generated) and/or transported in accordance with the requirements of the Environment Protection Authority and the NSW Work Cover Authority pursuant to the provisions of the following:-
 - (a) Protection of the Environment Operations Act, 1997.
 - (b) Protection of the Environment Operations (Waste) Regulation 1996.
 - (c) Waste Avoidance and Recovery Act 2001.
 - (d) New South Wales Occupational Health & Safety Act, 2000.
 - (e) New South Wales Construction Safety Act, 1912 (Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983).
 - (f) The Occupational Health & Safety Regulation 2001.
 - (g) The Occupational Health & Safety (Asbestos Removal Work) Regulation 1996.

VENTILATION

- (72) That the premises shall be ventilated in accordance with the requirements of the Building Code of Australia (If using deemed to satisfy provisions: AS1668, Parts 1 & 2).

EXHAUST FOR FOOD

- (73) That adequate provision shall be made for the installation of a mechanical exhaust ventilation for future food premises where cooking, heating or similar food preparation is to be carried out. Detail to be submitted and approved by the Director of Planning Northern Zone prior to the issue of a Construction Certificate.
- (74) All mechanical exhaust discharge points shall be positioned to comply with Section 7.3 of Australian Standards 1668 Part 2 – 1991.
- (75) The construction, fit out and finishes of the food premises shall comply with the Food Act 2003 and Regulations there under and the National Code for the Construction and Fit out of Food Premises.

ENVIRONMENTAL MANAGEMENT PLAN

- (76) That prior to the commencement of construction activities an Environmental Management Plan (EMP) shall be developed and submitted to Council's Health unit for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted by the proposal. The EMP shall include but not be necessarily limited to the following measures:-
- (a) Measures to control noise emissions from the site,
 - (b) Measures to suppress odours and dust emissions,
 - (c) Soil and sediment control measures,
 - (d) Community consultation.

CERTIFICATES FOR THE MECHANICAL VENTILATION SYSTEMS

- (77) That certificates of design compliance and system performance for the mechanical ventilation systems shall be provided to Council certifying the design and upon commissioning of the mechanical ventilation systems certifying performance. The certificate of performance shall be in a form acceptable to Council and be accompanied by details of the test carried out in respect of:-
- (a) Ventilation; and
 - (b) Acoustics

- (78) That plans and specifications demonstrating compliance with the nominated standards and requirements for the following aspects of the development shall be submitted and approved by Council or a Certifying Authority prior to the commencement of work:
- (a) all proposed and required mechanical ventilation systems (Building Code of Australia and Australian Standard 1668 Parts 1 and 2);
 - (b) the layout, disposition and method of installation of fixtures and fittings, together with wall, floor, and ceiling finishes to all food preparation and storage areas: STANDARD REQUIREMENT – National Code for the Construction and Fit out of food premises and the Food Act 2003 and Regulations there under.

GEOTECHNICAL REPORT AND CERTIFICATION

- (79) Prior to commencement of any foundation or bulk excavation, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy submitted to Council (if it is not the Principal Certifying Authority):-
- (a) A Geotechnical Report which shall include the following information as appropriate:-
 - (i) Borehole/test pit logs or inspection records;
 - (ii) Field/laboratory test results;
 - (iii) General geotechnical description of site;
 - (iv) Recommended safe bearing values and likely settlements of foundation material;
 - (v) Recommendations for stability and protection of excavations;
 - (vi) Opinion on the effect of the new works on adjoining buildings and recommendations for any underpinning or other measures required to maintain stability; and
 - (vii) Method of proving and assessing foundations underpinning and/or excavation stability in accordance with design.
 - (b) A Structural Engineer's Report/Letter stating to the effect that, based on the Geotechnical Report, the proposed excavation and construction work will not adversely affect the adjoining building/s.
 - (c) An Inspection and Test Plan (ITP) that reflects the requirements of the geotechnical report, project drawings and specifications.

- (d) A completed Geotechnical Certificate for the Report and ITP, submitted in the form of Attachment G1 completed by the Project/Principal Geotechnical Engineer OR, a compliance certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) after satisfying (a), (b) and (c) above.

Notes

- (e) An appropriately qualified practising geotechnical engineer certifying by completing Attachment G1 must have:-
 - (i) Appropriate tertiary qualifications in civil or geotechnical 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.
 - (f) An appropriately qualified practising geotechnical engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Geotechnical Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
- (80) Geotechnical inspections and testing must be in accordance with the ITP. A Geotechnical Inspection Certificate will be required prior to issue of the Occupation Certificate. Refer to Schedule E.
- (81) For areas not complying with the deemed to satisfy provisions of the BCA an alternate solution will be required to demonstrate compliance with the performance requirements stipulated in the BCA. Any alternative solution must be submitted and approved by the Certifying Authority prior to the issue of the construction certificate. The following information must be provided:-
- (a) Details of the performance requirements that the proposed alternative solution is intended to meet; and
 - (b) Details of the assessment methods used to establish compliance with those performance requirements.

Schedule 1C

Conditions to be complied with prior to commencement of demolition or work or construction to the satisfaction of the Principal Certifying Authority

DEMOLITION DETAILS

- (82) Prior to the commencement of demolition work, the details including plans and elevations showing distances of the subject building from the site boundaries, locations of common/party walls, and (where applicable) proposed method/s of facade retention must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA).

DEMOLITION WORK METHOD STATEMENT

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

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

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

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

- (e) Disconnection of Gas and Electrical Supply;
- (f) Fire Fighting:-

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

- (g) Access and egress:-

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

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

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

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

EXCAVATION WORK METHOD STATEMENT

- (85) Prior to commencement of site excavation works, an Excavation Work Method Statement prepared by an appropriately qualified person must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or an accredited certifier) and a copy submitted to Council (if it is not the PCA). The Statement must include:-
- (a) Name and address of the company/contractor undertaking excavation works;
 - (b) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials (if applicable);
 - (c) Name and address of the transport contractor, and location of the disposal site;
 - (d) Type and quantity of material to be removed from site;
 - (e) A Materials Handling Statement for the removal of refuse from the demolition site, in accordance with the provisions of the Waste Minimisation and Management Act 1995;
 - (f) A Dust Control Method Statement for excavated sandstone or other excavation materials;
 - (g) Procedures to be adopted for the prevention, of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment, and the proposed method of cleaning surrounding roadways from such deposits;
 - (h) Measures to enclose the excavation site, including safety barriers, particularly if the excavation is greater than 1.5 metres deep. Plastic jersey kerb barriers are not permitted;

- (i) Any WorkCover Authority requirements.

Note:

- (i) A copy of all Reports/Statements referenced in the Work Method Statement must be appended to the Statement.
- (ii) The Principal Certifying Authority is to be notified of any proposed alteration of the above information during the course of demolition.
- (iii) On completion of removal of contaminated materials, a certificate shall be submitted to the PCA, and a copy provided to the Council (if it is not the PCA) testifying to the safe and proper disposal, and amount of all such material.

WATER AND SEDIMENT CONTROL STATEMENT FOR DEMOLITION AND EXCAVATION

(86) The following environmental protection measures are required:-

- (a) Prior to the commencement of demolition and/or excavation, a Demolition/Excavation Water and Sediment Control Statement must be submitted to and approved by the Principal Certifying Authority (Council or an accredited officer).
- (b) Such statement must include:-
 - (i) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;
 - (ii) The proposed method of discharge;
 - (iii) The procedures to be adopted for the prevention of run-off from the site onto the public way;
 - (iv) The procedures to be adopted for the prevention of run-off from the site onto the public way.
- (c) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's Erosion and Sediment Control Manual and the Department of Housing Manual Managing Urban Stormwater - Soils and Construction (August 1998).
- (d) The Demolition/Excavation Water and Sediment Control Statement shall be implemented during the demolition and/or excavation period.
- (e) Any seepage or rainwater collected on site during work must not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

- (f) The applicant must also comply with the NSW Protection of the Environmental Operations Act 1997, whereby it is an offence to pollute classified waters such as Sydney Harbour to which most of the City's street drainage is directly connected.

SOIL AND SEDIMENT CONTROL

- (87) The applicant and/or builder shall prior to the commencement of work, install, maintain and implement adequate soil and sediment control measures and adopt suitable site practices to ensure that only clean and unpolluted waters are permitted to enter Councils stormwater drainage system during construction/demolition. Measures must include.
 - (a) Siltation fencing;
 - (b) Protection of the public stormwater system; and
 - (c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

SOIL AND SEDIMENT: DRAINS, GUTTERS ETC

- (88) That drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required gutters and roadways shall be swept regularly to maintain them free from sediment. Matter is not to be washed down into the drainage system.

PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN FOR DEMOLITION AND/OR EXCAVATION

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

WASTE MANAGEMENT DURING DEMOLITION AND EXCAVATION

- (90) A Waste Management Plan for the demolition and/or excavation of the proposed development must be submitted to the satisfaction of the Principal Certifying Authority (and a copy submitted to Council if it is not the PCA) before commencement of work on the site.
- (91) Certification that the plan is in accordance with the Development Approval Conditions, Council's Code for Waste Handling in Buildings and the Waste Minimisation and Management Act 1995, must be submitted in the attached form W3 to the satisfaction of the Principal Certifying Authority. Such Certification must be submitted by an appropriately qualified person experienced in Waste Handling Design and Environmental Management.
- (92) The Waste Management Plan must address demolition and excavation, as applicable. The Plan must describe procedures by which waste will be minimised, managed and recycled and must address the following issues:-
- (a) Compliance with the requirements set out in Annexure ("A") of the Code for Waste Handling in Buildings adopted by Council 17 October 1994.
 - (b) Details of recycling and the removal of spoil and rubbish from the site in the course of demolition and excavation operations including:-
 - (i) Type and quantities of material expected from demolition and excavation;
 - (ii) Name and address of transport company;
 - (iii) Address of proposed site of disposal;
 - (iv) Name/address of company/organisation accepting material;
 - (v) Types and quantities of materials that are to be reused or recycled, on and off site and procedures involved;
 - (vi) Name of company/contractor undertaking on and off site reuse and recycling, and address of recycling outlet;
 - (vii) Material for disposal and justification of disposal;
 - (viii) If details of items (ii) to (vii) are not known at the time of preparation of the Waste Management Plan, the information must be supplied immediately after the letting of the contacts.
- (93) All requirements of Waste Management Plans must be implemented during the demolition and/or excavation period of the development.

Note:

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

APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE

- (94) 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.

APPLICATION FOR A ROAD OPENING PERMIT

- (95) A separate Road Opening Permit under Section 138 of the Roads Act 1993 shall be obtained from City Care Unit of the City of Sydney prior to the commencement of any:-
- (a) Excavation in or disturbance of a public way, or
 - (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

Documents required with the Road Opening Permit application include:-

- (c) A plan and relevant sections showing scope of works, boundaries, utility services, levels of proposed excavation, and details of method of reinstating public way;
- (d) Evidence that public utility drawings have been inspected;
- (e) Evidence of a \$10 million dollar Public Liability Insurance Policy specifically indemnifying the City of Sydney, valid for at least the duration of the project;
- (f) A Security Deposit for reinstatement of public way.

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

BARRICADE PERMIT

- (96) 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.

FOOTPATH DAMAGE BANK GUARANTEE

- (97) Prior to release of a temporary structure approval under Section 68 of the Local Government Act 1993 (Hoarding Approvals), the owner of the site must provide a bank guarantee for the sum of money agreed by Council, as security for any damage rectification.
- (98) The following protective measures shall be provided under any hoarding on the public footway during construction of the development to the satisfaction of the Council:-
 - (a) Plastic sheeting to cover the stone paving;
 - (b) Minimum 12mm thick plywood on top of the plastic sheeting; and
 - (c) These measures shall be maintained in a safe and tidy condition for the duration of construction.

CONTROL OF VERMIN

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

STRUCTURAL CERTIFICATION FOR DESIGN - MAJOR WORKS

(100) Prior to the commencement of work, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy of same submitted to Council (if it was not the PCA):

- (a) Structural Drawings showing all new fully detailed structural elements, prepared by an appropriately qualified practising Structural Engineer, corresponding with and attached to a Structural Certificate (see (b));
- (b) Structural Certificate/s for Design, of all new fully detailed structural elements and for checking any structural elements supporting the new work, submitted in the form of Attachment S1A completed by the Project/Principal Engineer and S1B completed usually by the Architect, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979), after the structural drawings have been checked and comply with:
 - (i) The relevant clauses of the Building Code of Australia (BCA);
 - (ii) The relevant conditions of Development Consent;
 - (iii) The Architectural Plans incorporated with the Construction Certificate; and
 - (iv) The relevant Australian Standards listed in the BCA (Specifications A1.3);
 - (v) Any other relevant report/s or documents. Specify on Attachment S1A.
- (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

Notes:

- (d) An appropriately qualified practising structural engineer certifying by completing Attachment S1A must have:-
 - (i) Appropriate tertiary qualifications in Civil or Structural Engineering; AND
 - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
 - (iii) Evidence of relevant experience in the form of a CV/Resume;
 - (iv) Appropriate current professional indemnity insurance.

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

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

- (101) For temporary shoring, a separate application must be lodged to Council under the provisions of Section 68 of the Local Government Act 1993.
- (102) For temporary ground anchors, new permanent basement wall/s or other ground retaining elements:-
 - (a) Prior to issue of a Construction Certificate, the following documents shall be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA):-
 - (i) Dilapidation Report of adjoining buildings/structures.
 - (ii) Evidence that public utility services have been investigated.
 - (iii) If adjoining a Public Way:-
 - a. Evidence of a \$10 million dollar Public Liability Insurance Policy specifically indemnifying the City of Sydney, valid for at least the duration of the project. The original document shall be submitted to Council.
 - b. Bank Guarantee in accordance with the City's Fees and Charges. The original document shall be submitted to Council.
 - (b) Prior to commencement of work:-
 - (i) The location of utility services shall be fully surveyed and the relevant Public Utility Authority requirements complied with; and
 - (ii) The following documents shall be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA):-

- a. Structural drawings and certification as prescribed elsewhere in this Schedule.
- b. Geotechnical Report and certification as prescribed elsewhere in this Schedule.
- (c) Prior to issue of Occupation Certificate, the City's Development Engineer shall be notified on 9265 9105 when the Restoration of the Public Way is complete and in accordance with the following:-
 - (i) All ground anchors shall be de-stressed and isolated from the building prior to completion of the project.
 - (ii) The temporary structure, including foundation blocks, anchors and piers shall be removed above and below the public way, prior to completion of project, down to a depth of 2m.
 - (iii) All timber shall be removed.
 - (iv) The voids then backfilled with stabilised sand (14 parts sand to 1 part cement).
- (d) After satisfying (c) (i) to (iv), notification in writing by the contractor shall accordingly be submitted satisfactory to the PCA and a copy to Council (if Council is not the PCA).
- (e) All costs for any reinstatement of the public way made necessary because of an unstable, damaged or uneven surface to the public way shall be borne by the owner of the land for works approved under this consent.

Schedule 1D

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

HOURS OF WORK AND NOISE

(103) The hours of construction and work on the development shall be as follows:

- (a) All work, including demolition, excavation and building 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 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.

NOISE CONTROL DURING CONSTRUCTION

- (104) All work involving the demolition, excavation and construction activities shall comply with "The City of Sydney Code of Practice 1992 – for Construction Hours / Noise within the Central Business District" and Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE

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

DEMOLITION WORKS

- (106) 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.

(107) Demolished combustible materials shall not be stockpiled. Material must be removed regularly.

STREET TREES

(108) 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.

STORMWATER RUN OFF CONTROL

(109) To comply with the Protection of the Environment (Operations) Act 1997 whereby it is an offence to pollute classified waters such as Sydney Harbour to which most of the City's street drainage is directly connected:-

- (a) concrete trucks, concrete pumps and their attachments, and trucks used for the disposal of spoil shall not be washed out on the public way;
- (b) any water collected from on-site washing down of concrete trucks, concrete pumps or their attachments and trucks used for the disposal of spoil shall not be pumped, directed or allowed to flow to the street stormwater system;
- (c) any seepage or rain water collected on site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council and evidence of approval is to be submitted to the Principal Certifying Authority prior to discharge into such system.

OBSTRUCTION OF THE PUBLIC WAY

(110) 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.

CONSTRUCTION ACCESS DRIVEWAYS

(111) Approved concrete driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

CONSTRUCTION VEHICLES TO BE COVERED

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

Note:

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

Schedule 1E

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

OCCUPATION CERTIFICATE

(113) 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.

NUMBERING

(114) 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.

(115) Prior to issue of an Occupation Certificate, shop numbers must be clearly displayed in accordance with the "Policy on Numbering of Premises within the City of Sydney".

WASTE

(116) 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.

(117) Waste collection activities which are not undertaken wholly inside the building where the waste is generated, must only occur during the hours specified in the "Waste Collection Operating Hours Policy 1994".

(118) 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.

- (119) No waste shall be placed for collection in a public place unless collection facilities cannot be provided within the building. If no collection facilities can be provided within the property, prior approval must be obtained from Council's Service Planning Unit as to the position, time and manner of placement of waste on the public way.
- (120) No food is to be sold without prior approval of refuse storage facilities on site, or without having a current contract with Council or other licensed refuse service for the daily removal of putrescible wastes.
- (121) Certification of completion of waste handling works in accordance with the relevant Development Approval Conditions and Councils Code for Waste Handling in Buildings 1994, must be submitted in the form of Attachment W2 to the satisfaction of the Principal Certifying Authority (PCA), (Council or a private accredited certifier) prior to the issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979 or prior to use of the premises. A copy of the Certificate shall be submitted to Council if it was not the PCA.

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

FIRE SAFETY CERTIFICATE

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

MATERIALS

- (123) All glazing materials shall be selected and installed in accordance with the relevant provisions of AS 1288 S.A.A. "Glass Installation Code".

MECHANICAL VENTILATION PERFORMANCE CERTIFICATE

- (124) 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.

CERTIFICATION FOR STRUCTURAL INSPECTIONS

(125) 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.

(126) A copy of the Certificate with a microfilm set of the final drawings shall be submitted to Council if it was not the PCA.

Notes:

- (a) An appropriately qualified practising structural engineer certifying by completing Attachment S1C must have:-
 - (i) Appropriate tertiary qualifications in Civil or Structural Engineering, AND;
 - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
 - (iii) Evidence of relevant experience in the form of a CV/Resume;
 - (iv) Appropriate current professional indemnity insurance.
- (b) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.

CERTIFICATION OF GEOTECHNICAL INSPECTION

(127) Prior to issue of an Occupation Certificate or use of the premises, a Geotechnical Inspection Certificate in the form of Attachment G2, 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) and a copy submitted to Council, (if it was not the PCA).

Notes

- (a) An appropriately qualified practising geotechnical engineer certifying by completing Attachment G2 and must have:-
 - (i) Appropriate tertiary qualifications in civil or geotechnical engineering; AND
 - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
 - (iii) Evidence of relevant experience in the form of a CV/Resume;
 - (iv) Appropriate current professional indemnity insurance.
- (b) An appropriately qualified practising geotechnical engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Geotechnical 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

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

REMOVAL OF GRAFFITI

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

WINDOW CLEANING

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

RECEPTACLES FOR CIGARETTE BUTTS

- (131) 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.

FOOD MANAGEMENT

(132)

- (a) Prior to commencement of the use a Food Management Plan must be submitted to the Principal Certifying Authority (PCA) (Council or Accredited Certifier) 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, the Food Act 1989 and the Food (General) Regulation 1997. A copy must be submitted to Council if it is not the PCA.
- (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 to the PCA, and a copy submitted to Council if it is not the PCA. 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.

Schedule 2

Prescribed Conditions

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.

ITEM 9. GRAFFITI MANAGEMENT POLICY (S033094)

Moved by Councillor Black, seconded by Councillor Firth -

That arising from consideration of a report by the Contract Coordinator, Graffiti to the Cultural and Community Care Committee on 16 August 2004, and to Council on 23 August 2004, on a Graffiti Management Policy, it be resolved that:

- (A) the revised Draft Graffiti Management Policy, as shown at Attachment A to the subject report, be placed on public exhibition for a minimum of 28 days;
- (B) the outcome of that public exhibition be reported to the Cultural and Community Care Committee, for consideration by Council prior to adoption of a Graffiti Management Policy;
- (C) Council review the former South Sydney Council's Aerosol Art policy framework to develop an integrated management strategy for legal aerosol art/murals to occur; and
- (D) Council review the policy on City of Sydney Notice Boards to ensure that items of community, social and political interest can be displayed in City facilities.

Carried unanimously.

ITEM 10. SUBMISSION ON DRAFT SYDNEY REGIONAL ENVIRONMENTAL PLAN 2004 - SYDNEY HARBOUR CATCHMENT

Moved by Councillor McInerney, seconded by Councillor Kemmis -

That arising from consideration of a report by the Senior Planner to the Planning Development and Transport Committee on 16 August 2004, and to Council on 23 August 2004, in relation to submission on Draft Sydney Regional Environmental Plan 2004 - Sydney Harbour Catchment, it be resolved that Council -

- (A) adopt the submission, as circulated at the meeting of Council on 23 August 2004, for lodgement with the Department of Infrastructure, Planning and Natural Resources, subject to the addition of the following sentence to Clause 2.11: Zoning System:
 - “A second zone for maritime activities to apply to waters immediately adjoining the foreshores in certain areas that are currently proposed to be W1 – maritime activities.”
- (B) authorise the Lord Mayor to further refine or make minor changes to the subject submission.

Carried unanimously.

**ITEM 11. ST MARGARET'S - PROPOSED LEASE OF COUNCIL STRATUM
(S033973)**

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

That arising from consideration of a report by the Manager Property Strategy to Council on 23 August 2004, on St Margaret's - Proposed Lease of Council Stratum, it be resolved that consideration of this matter be deferred to the next meeting of the Finance, Properties and Tenders Committee.

Carried unanimously.

ITEM 12. QUESTIONS ON NOTICE

FILE NO:

DATE: 19/8/04

SUBSIDISED ACCOMMODATION (S032449)**1.** By Councillor Hoff**Question**

I have had a number of approaches relating to subsidised accommodation, including by people with expired leases. Can you advise how requests for subsidised accommodation should be dealt with?

Answer by the Lord Mayor

Both the former City and South Sydney Councils have provided subsidised accommodation to groups who assist in the achievement of Council objectives. A report to Council is being prepared which will propose a subsidised accommodation strategy, with a process where all parties interested in seeking subsidised accommodation can apply and will be assessed. This will occur in much the same way as the community grants program which will be coming to Council shortly. All current tenants will be formally notified once Council has adopted a new process and program.

QUESTIONS WITHOUT NOTICE

SUPERMARKET TROLLEYS (S032438)

1. By Councillor McInerney

Question

Lord Mayor, I noted this morning in the Sydney Morning Herald, an interesting item about supermarket trolleys which all of us are familiar with, mostly sitting around in back lanes. The item referred to the move by the Local Government Association to follow the very successful example of Victoria where a small deposit is charged on the trolleys.

Lord Mayor, do we have an opinion on that particular action by the Local Government Association?

Answer by the Lord Mayor

Thank you, Councillor McInerney. I support the initiative of the Local Government Association on this matter and I would ask the General Manager to convey the support of the City to the Local Government Association and request information as to any actions the Council could undertake to facilitate a resolution on this matter.

PLASTIC BAG USE (S032443)

2. By Councillor Lee

Question

Lord Mayor, my question follows a debate that took place a couple of months ago about the Council's policy on plastic bags. You will recall I moved an amendment asking you to consider approaching and, I think I mentioned Myer, David Jones, Woolworths and other companies responsible for large numbers of plastic bags being given to consumers, with a request to meet the CEOs of those organisations and ask them to implement policies that reduce the use of plastic bags.

Given that you attended the Myer and David Jones Fashion Launches, I am just wondering if you took that opportunity to raise this issue of minimising the use of plastic bags with the CEOs of those organisations?

Answer by the Lord Mayor

Thank you Councillor Lee. As you know, Council is developing a comprehensive policy on minimising plastic bag usage in the City, and discussions with those retailers and other retailers will be very much part of that policy. Indeed, I intend to raise it when we have the first of our City forums, when I meet with various stakeholders in the City, and we will be discussing a range of issues, including minimising the use of plastic bags in the City.

Councillor Lee (Supplementary Question)

Lord Mayor, just to confirm, are you saying you haven't yet had a chance to raise this issue with Myer and David Jones?

Answer by the Lord Mayor

Councillor Lee, what I said was that I intend to raise this matter in a forum that will be held shortly with City stakeholders, not only with David Jones and Myer, but with a range of stakeholders.

NEIGHBOURING COUNCILS - JOINT WORKING PARTIES (S032441)

3. By Councillor Black

Question

Lord Mayor, following the acceptance tonight of a Joint Working Party between the City of Sydney and Woollahra Municipal Council, can a similar arrangement be urgently established between the City of Sydney and Leichhardt Council?

Answer by the Lord Mayor

Thank you Councillor Black. I will do that and also with Marrickville and Randwick Councils.

Councillor Black (Supplementary Question)

Lord Mayor, do you want, at this stage, to nominate Councillors for the likely City of Sydney and Leichhardt Council working party.

Answer by the Lord Mayor

Councillor Black, I will ask Council staff to submit a report and deal with it at that time. I will ask for the report to relate to Councils on our boundaries that we could have a co-operative and productive working relationship with in the interests of the people of the City and the people of the adjoining municipalities.

REDFERN/WATERLOO STRATEGY (S032444)

4. By Councillor Firth

Question

Lord Mayor, as you will probably know, there is a group called Redwatch, which is basically a community group to monitor the Redfern/Waterloo Strategy. They would like to have a community meeting to discuss the outcomes of this Strategy. They have emailed some Councillors and they have probably emailed you too, Lord Mayor, to ask when can this occur and can we put it in motion. Lord Mayor, can we have a community meeting on this matter?

Answer by the Lord Mayor

Councillor Firth, we certainly can. I support the work that they are doing. They have been set up principally to deal with the RED (which stands for Redfern, Eveleigh and Darlington) Strategy rather than the Redfern/Waterloo project and, particularly, proposals relating to developments that were put to the community and then disappeared off the radar. However, I understand they are going to Cabinet this week and that they might then be made available via Michael Ramsay.

I believe the record of the Redfern/Waterloo Project in consulting with the community is very poor. I think we all agree to that.

I believe Council has an excellent facility and ability to run community forums and I think certainly, as a partner in that Project, that is an important role we can play and I am certainly committed to doing that.

BLACKWATTLE AND ROZELLE BAYS (S032439)

5. By Councillor Kemmis

Question

Lord Mayor, tonight we looked at the Draft Sydney Regional Environmental Plan 2004 - Sydney Harbour Catchment, which reflected our shared concerns about the zonings for a number of bays, including Blackwattle and Rozelle Bays. I believe we also share a concern about the development proposals that are coming forward which would, in their current form, destroy the bays as we know them - the recreational use of that foreshore land and water.

The proposals are within the Leichhardt Local Government Area (LGA), but substantially affect residents of both LGAs. Given our shared concerns, and given the proposal that we look at a report and form a joint Working Party with Leichhardt, I wonder if you would be prepared to bring forward an early meeting of the group so that we could address the implications of these development proposals?

Answer by the Lord Mayor

Councillor Kemmis, yes, I will.

REDFERN/WATERLOO PARTNERSHIP PROJECT (S032442)

6. By Councillor Harris

Question

Lord Mayor, as one of the partners in the Redfern Waterloo Partnership Project (RWPP), has the Council received any recent communication from the RWPP? Could the Lord Mayor pass on any communication to the Council?

Answer by the Lord Mayor

Councillor Harris, I certainly can. Recently, the General Manager and I met with Col Gellatly, the Director General of the Premier's Department, about another matter and we raised the issue of Redfern and talked about strengthening the Memorandum of Understanding that the City has with the State Government. We have both agreed to undertake that process.

My staff have been, as has Monica Barone, the Director of Community Living, briefed by Michael Ramsay about where the project is at. The latest information I have, which was from the Director General of the Department of Infrastructure, Planning and Natural Resources, is that it was to go Cabinet this week.

We have been really waiting since the beginning of the year for information about the outcome of the Human Services Review, and the outcome of the RED Strategy so, hopefully, we will get some information soon and Council then will auspice a forum to tell the community what that information is.

I invite the Director Community Living to respond also.

Director Community Living

Lord Mayor, no, I haven't received anything through my office either which is different to what you have just advised.

Answer by the Lord Mayor (continued)

The General Manager advises me that we are working on the Memorandum at the moment, which will be to further strengthen the relationship between the City and the State Government in working co-operatively for the community, that very disadvantaged community of Redfern and Waterloo.

TREES (S032446)

7. By Councillor Mallard

Question

Lord Mayor, I would like to ask a question of the General Manager. On Thursday 5 August 2004 I emailed you, per your policy that Councillors contact staff via your office, requesting information on the future of five mature plane trees in the gardens alongside the entry ramp to, I think, Kings Cross Road, Kings Cross, opposite the Coca Cola sign. I have received no response from you or any staff.

Is it now the case that all five trees are to be cut down with the consent of this Council?

Lord Mayor

I invite the General Manager to respond.

General Manager

Lord Mayor, I think I received representations from a number of Councillors and I did try to respond to them, however, if I overlooked responding to you, Councillor Mallard, I apologise.

I understand this to be a matter for the Roads and Traffic Authority (RTA). Adam Fowler, Landscape Architect, who is with our City Development Division, is more aware of the details.

My understanding is that this is an outcome of the Cross City Tunnel project and that some of the trees are to be removed and replaced with advanced trees. Mr Fowler can comment in more detail on the actual events that are occurring.

Lord Mayor

I invite Mr Fowler to respond, also.

Mr Fowler

Lord Mayor, to respond specifically to the trees Councillor Mallard was referring to, the current proposal is that two of the five trees will be retained and three removed.

Councillor Mallard (Supplementary Question)

Lord Mayor, was there a meeting between the RTA and Council, including Sue Salmon from the Office of the Lord Mayor, that agreed to this and when will that be reported to Council?

Answer by the Lord Mayor

Councillor Mallard, I can respond to that. There was a meeting on Friday. Sue Salmon represented me at that meeting and expressed alarm and concern on my behalf. The matter is not resolved as far as I am concerned and I am having a further meeting tomorrow.

You know what my position is about trees. I actually can't believe how much work I seem to be doing on this whole issue since I have become Lord Mayor and I will keep you informed. I appreciate your concern. I share it.

I do know that the former Lord Mayor, who is now a Government Minister, had a vision of removing everything and starting again. That is not my position, but I am trying to resolve it as best I can. I will come back to Councillors. But I will do everything I can to save trees that are saveable.

PARKING - JCDECAUX VEHICLES (S032442)

8. By Councillor Harris

Question

Lord Mayor, do Council rangers book commercial vehicles, including JCDecaux maintenance vehicles, whenever they park on the footpath, or are these vehicles entitled to some special dispensation or different treatment?

Answer by the Lord Mayor

Councillor Harris, I will invite the General Manager to respond.

General Manager

Lord Mayor, our City rangers are under instructions not to exercise any discretion in respect of enforcement, therefore, JCDecaux does not operate under any special arrangements.

Councillor Harris (Supplementary Question)

Lord Mayor, several residents have contacted me about these vehicles. What should these residents do when they see them? Should they notify Council and what sort of response should they expect?

Answer by the Lord Mayor

I invite the General Manager to respond.

General Manager

Lord Mayor, JCDecaux does not have a right to park on footpaths, but there is a limited exemption, the General Counsel advises me, in respect to maintaining certain facilities.

Lord Mayor

I invite the General Counsel to respond, also.

General Counsel

Lord Mayor, I can add to that answer. This issue has been raised in a question before the previous Council and I think the most useful thing to do might be to extract the Question and the Answer to that Question and circulate it through the Councillors' Information Service.

Answer by the Lord Mayor (continued)

It is perhaps something we can follow up. The JCDecaux arrangements were made by South Sydney and the City under a 20 year contract, which I opposed and many other people opposed too, and we are living with the results now.

COUNCIL STAFF (S032445)

9. By Councillor Pooley

Question

Lord Mayor, given that it is now 16 months since the original boundary change and six months since the merger of the City of Sydney and South Sydney Councils, could a report come to the next Finance, Properties and Tenders Committee, detailing the numbers of staff formerly from either Council who have resigned, retired, accepted redundancy, or been terminated since those two dates?

Answer by the Lord Mayor

Councillor Pooley, the answer is Yes.

AUSTRALIAN OLYMPIC TEAM (S032439)

10. By Councillor Kemmis

Question

Lord Mayor, are there any plans to recognise the fantastic contribution of the 2004 Australian Olympic team, after the success of the team both on and off the field in Athens?

Answer by the Lord Mayor

Thank you, Councillor Kemmis. Yes, I am sure that all Australians are very excited about the success of our team, the contribution to the Olympics, to sport, and the fact that they are such wonderful ambassadors for Australia.

I have written to the Premier and to the President of the Australian Olympic Committee suggesting that there be an official welcome home parade when the team returns to Sydney on 1 September.

I have also sent a message of support from Council to Athens and the officials of the Olympic Village congratulating them all and saying how proud we are, and some weeks ago I wrote to the Mayor of Athens wishing them the same unforgettable experience and magic that comes from being a host city, that we experienced in Sydney in 2000.

FASHION LAUNCHES (S032443)

11. By Councillor Lee

Question

Lord Mayor, how much did Council receive in fees from David Jones and Myer for the use of Cook and Phillip Park and Martin Place, respectively, for up to five days for the recent Fashion Launches and how much did Council receive from Virgin Credit Cards for the use of Wynyard Park for one day?

Answer by the Lord Mayor

Councillor Lee, as I said, those fees are set by Council. They were in our papers, they were not waived.

I understand that part of Wynyard Park, and correct me if I am wrong, is owned by the State Rail Authority (SRA) and that the Virgin matter may either be an SRA issue or a City issue. I will ask for further information on that.

In relation to Martin Place, I think you need to check your papers because those fees were set by Council. I invite the General Manager to respond, also.

General Manager

Lord Mayor, my understanding in respect of Cook and Phillip Park is that any hiring fees go to the operator of that facility. I will need to check that. That is why we undertook to get back to you with a detailed response. I just don't have that detail tonight.

Councillor Lee (Supplementary Question)

And we didn't waive the fees for David Jones and Myer, did we, and, if not, they were for five days, not for one day?

Lord Mayor

No, we did not waive the fees. We didn't waive the fees for the days it took to put on what was such an excellent retail event that Sydney was able to celebrate.

COMMEMORATIVE PLAQUES (S032441)

12. By Councillor Black

Question

Lord Mayor, following the matter tonight that Councillor Pooley raised to commemorate the life of Joan Russell, there are others in the community that similarly need to be acknowledged and I was wondering whether Councillors can receive a report on a policy in regard to plaques or other ways of commemorating the lives of citizens who have made a contribution to the life of the City?

Answer by the Lord Mayor

Councillor Black, yes, I think that is a very worthwhile proposal and certainly I will ask Council to prepare a report on that.

CAR SHARE PARKING (S032444)

13. By Councillor Firth

Question

Lord Mayor, I was recently approached by the Newtown Car Share people, who I know you have an interest in as well. They were asking if there is some mechanism we can introduce at Council for the allocation of Council appointed car spaces for the car share operation. It is a genuine question about whether that is something that we can explore. There is evidently one opening up in Glebe as well.

The real issue is just about getting parking for the cars that they have. I was very impressed, it is all very ecologically friendly and I think we should do something to help them. Is Council able to assist them?

Answer by the Lord Mayor

Councillor Firth, I agree with you. I will invite Councillor McInerney to respond.

Councillor McInerney

Lord Mayor, this is a matter close both to my and Councillor Harris' hearts. We got involved in this matter with regard to Green Square parking, because we see that as a way forward, not just for Green Square, but for the whole of the Council area.

We have been working with Council staff. The Manager Transport Management has been looking at the legal issue which, apparently, is that there is no legal term defining car share cars. It is therefore impossible to actually put up a sign under the Roads Act which says this space is for car share cars, because there is no legal definition of a car share car.

That issue is being taken up by the Manager Transport Management and I gather he is in discussion with the Roads and Traffic Authority, who ultimately will be the arbiters of that matter. Councillor Harris has reminded me a couple of times that we need to keep this matter moving along, but I am quite sure that the Manager Transport Management will in due course come back to us with a report on this issue.

Lord Mayor

Thank you, Councillor McInerney. I invite Councillor Harris to comment, also.

Councillor Harris

Lord Mayor, just briefly, Newtown Car Share have said if we can create a space for them legally, they will actually commit cars to Victoria Park straight away. It can happen quite quickly, we just have to get the legislation through.

Answer by the Lord Mayor (continued)

Councillor Firth, your request was for a report on how we can support car share. I will certainly seek that report. It is in keeping with the City developing a responsible transport policy.

DARLINGHURST ROAD/OXFORD STREET UPGRADES (S032446)

14. By Councillor Mallard

Question

Lord Mayor, I would like to direct my question to the General Manager. General Manager, you are aware of a wheelchair accident in Darlington Road, Kings Cross, allegedly relating to our contractual works up there. Today I received a report from an elderly constituent, who has to walk to Kings Cross daily, regarding the uneven surfaces and aggravation to her disability.

Can you urgently review and report to Council the contractor's compliance to our Access Policy and seek remedy for public access along the footway of Darlington Road, both sides? Can special attention be paid to this matter in the management of the Oxford Street upgrade?

Lord Mayor

I invite the General Manager to respond.

General Manager

Lord Mayor, special attention has been paid to it, and I will certainly speak to the contractors again and get an updated report on where we are at. I went up there myself a couple of weeks ago and, clearly, with a major street upgrade there is a lot of disruption and there is no way of avoiding that, unfortunately.

We have to do all we can to ensure proper access, but there is a lot of disruption associated with a major street upgrade.

Councillor Mallard (Supplementary Question)

Lord Mayor, I am of the view that there is inadequate provision for the elderly and those with disabilities in this major upgrade. Can you supply Councillors, through the Councillors' Information Service, with a copy of the policy on the access aspects of the contractor's work?

Answer by the Lord Mayor

I invite the General Manager to respond.

General Manager

Lord Mayor, yes, we can certainly supply Councillors with the details of the contractor's requirements.

RED AND GREEN BALL (S032445)

15. By Councillor Pooley

Question

Lord Mayor, shortly the Red and Green Ball, the annual fundraiser for the South Sydney Football Club, will be held. In the absence of a policy, but bearing in mind the recent purchase by Council of tables for an Olympic function and the Aurora Foundation, could Council purchase a table at this annual event?

Answer by the Lord Mayor

Councillor Pooley, yes, certainly.

PENSIONER RATES (S032443)

16. By Councillor Lee

Question

Lord Mayor, do you recall several residents raising at the Green Square public meeting the issue of rates notices sent to pensioners who have deferred payment of their rates? Why is Council sending out rates notices, and I am happy to provide you with two rates notices that have gone out in Council's name to pensioners who have deferred their rates in recent years, residents of the former South Sydney Council area, one of whom has received a bill for \$5439, and a second one, who has received a bill for \$4790, with no explanation whatsoever that they only need pay a very small proportion of this to Council?

Lord Mayor, are you aware of the distress that continues to be caused by Council sending out these notices, without any detailed explanation that pensioners who have deferred rate payment only need pay a very small amount? Will Council now apologise to the pensioners concerned or, at the very least, send out an explanation to ease the concerns that have been caused?

Answer by the Lord Mayor

Councillor Lee, I will invite the General Manager to comment and I will perhaps ask the Director of Corporate Services to comment, as well.

General Manager

Lord Mayor, Councillor Lee is aware that I have written to one of these people, if it is the same person I am thinking of - the amount looks about the same, \$5439 - explaining to that person that this invoice is the result of the former South Sydney Council's policy, which allowed for the deferred payment of rates.

It was South Sydney's policy, as I understand it, to continually advise pensioners, and they have been doing that for quite some time, of their total residual amount owing which is distinct from the amount they had to pay that financial year.

Of course, the good news is that from here on in these pensioners don't have to pay any rates or domestic waste charges at all, because this Council has adopted the former City of Sydney's policy of giving 100% rebate on Council rates and domestic waste charges in certain cases.

I am not familiar with this other notice for \$4790, but if the first notice is the one that I am thinking of, as you are aware, Councillor Lee, I have written to that person explaining the circumstances and made clear that that person, I think, owed only about \$700 or \$800 for that financial year, not the accrued amount.

I admit that the way this statement has been expressed could imply that that person owes the accrued amount and that is something I can take on board to ensure that we change these invoices in future.

This is a policy that we inherited from South Sydney Council, which was a good policy, but I think the policy we have now is a better one and it is much less complicated than allowing people to accrue a debt for a number of years. We just don't charge them at all.

Lord Mayor

I invite the Director of Corporate Services to respond also.

Director of Corporate Services

Lord Mayor, I would need to have a look at those particular invoices and if there is some way we can help with communication we will endeavour to do so. I will have a look at both of those instances and advise Councillors through the Councillors' Information Service. If we can improve communication, then we will endeavour to do so.

COMMUNICATIONS POLICY (S032446)

17. By Councillor Mallard

Question

Lord Mayor, is there a policy on Council's communications? Is it the case that your Chief of Staff has written a document called the Correspondence and Communications Manual supplied to Council's staff. If so, could that be tabled at Council?

In relation to that, the City News, which has just been distributed, contains 10 references to yourself and three photographs. Does Council have a corporate policy on this type of documentation?

Answer by the Lord Mayor

Councillor Mallard, yes, certainly, my office has developed a draft policy in relation to style and there has been a discussion with the Executive about that. It is still a draft policy.

The City News is part of our communication policy with the community and it is going to be produced regularly.

ITEM 13. NOTICES OF MOTION**DEVELOPMENT APPLICATIONS (S032460)**

1. Moved by Councillor Harris, seconded by Councillor McInerney -

That Council resolve to facilitate better submissions by the community on DAs in the City of Sydney by dramatically improving access to documents that comprise development applications.

That this be done through:

- (a) the provision of photocopying facilities at all One Stop Shops;
- (b) permitting residents to photocopy all documents, including plans, in the DA file in accordance with EP&A Act s79(4) and LGA Act s(12);
- (c) that photocopying facilities mentioned in (a) be provided on a cost recovery basis, and in the case of lower income residents, on a no charge basis (for the first 20 pages) following the provision of a current Health Care Card.

At the request of Councillor McInerney and Councillor Lee, and by consent, the motion was amended by the deletion of the entire motion and the substitution of the following new motion –

That the General Manager be asked to report on the legal, financial and administrative aspects of:

- (a) the provision of photocopying facilities at all One Stop Shops;
- (b) permitting residents to photocopy all documents, including plans, in the DA file in accordance with EP&A Act s79(4) and LGA Act s(12);
- (c) the provision of photocopying facilities mentioned in (a) on a cost recovery basis, and in the case of lower income residents, on a no charge basis (for the first 20 pages) following the provision of a current Health Care Card; and
- (d) the making of these documents available on line.

Motion, as amended by consent, carried unanimously.

STATEMENT OF RECONCILIATION AND COMMITMENT TO ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE(S032460)

2. Moved by Councillor Harris, seconded by Councillor Hoff -

That the City of Sydney recognises, and pays respect to, the Indigenous peoples of Sydney as the original custodians and owners of this land.

As a first step in acknowledging the history, rights and continuing connection to the land of Indigenous peoples, the Council commits to performing an acknowledgment of country at all Council meetings and other significant Council events, and organising a Welcome to Country where appropriate. This should be done in consultation with the local aboriginal community.

Further

- (a) The City of Sydney acknowledges and recognises:
- the loss and grief held by Aboriginal peoples and Torres Strait Islanders caused by alienation from traditional lands, loss of lives and freedom, and the forced removal of children;
 - the customs and traditions of Indigenous Australians and their spiritual relationship with the land;
 - the right of Indigenous Australians to live according to their own beliefs, values and customs, and the vital importance of Aboriginal and Torres Strait Islander people's contribution to strengthening and enriching the heritage of all Australians; and
 - the need for a partnership approach with Aboriginal and Torres Strait Islander peoples as part of addressing the needs of whole communities throughout Australia.
- (b) The City of Sydney Council is committed to developing appropriate policies, principles and practices to achieve social justice for Aboriginal and Torres Strait Islander peoples and just Reconciliation for Australians, based on the recognition of Indigenous rights.
- (c) The City of Sydney Council commits to developing a memorandum of understanding and any appropriate policies with the Metropolitan Lands Council and Indigenous leaders to further this goal.

At the request of Councillor Hoff, and by consent, the motion was amended by the deletion of clause (c) and the substitution of the following new clause (c):

- (c) The City of Sydney adopt these principles as interim policy and practice, pending the Lord Mayor's report to Council on specific proposals developed by the Working Party endorsed by Council earlier this evening.

Motion, as amended by consent, carried unanimously.

Farewell to the Executive Director City Development

The Chair (the Lord Mayor) acknowledged this occasion as being the last Council meeting before Mr Michael Whittaker, Executive Director City Development, leaves the City of Sydney. The Lord Mayor thanked Mr Whittaker for his contribution to the City in the time of the current Council, and invited other Councillors to convey their thanks.

Councillor Pooley endorsed the sentiments expressed by the Lord Mayor, adding that Mr Whittaker was the General Manager at South Sydney during an exceptionally difficult time, and that Mr Whittaker managed to maintain a Council that operated efficiently. Councillor Pooley wished him well in whatever he chose to do, and thanked him for his advice and support during the period of time that he (Councillor Pooley) was Mayor of South Sydney.

Councillor Mallard supported the words of Councillor Pooley, and said that he was personally disappointed that Mr Whittaker was leaving Council. Councillor Mallard said that Mr Whittaker had a great reputation in local government; he did a fine job and had personally been supportive, in a non-partisan way, of all South Sydney Councillors.

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

That Council formally convey a Vote of Thanks to the Executive Director City Development, Michael Whittaker, and wish him well in the future.

Carried unanimously.

At 8.38pm the meeting concluded.

Chair of a meeting of the Council of the City
of Sydney held on 13 September 2004 at which
meeting the signature herein was subscribed.