

**2 AUGUST 2004**

**Meeting No 1414**

**MINUTES** of a Meeting of the Council of the City of Sydney held in the Council Chamber at the Sydney Town Hall, commencing at 6.05pm on 2 August 2004 pursuant to Notice 12/1414 dated 29 July 2004.

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### PRESENT

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

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

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

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

The General Manager, Executive Director City Development, General Counsel, Director Corporate Services, Director City Works, 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.

**Apology**

Councillor Chris Harris extended his apologies for his inability to attend the meeting of Council as he was interstate as a result of a long time prearranged commitment.

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

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

Carried.

**ITEM 1. CONFIRMATION OF MINUTES****Minutes of Council Meeting of Monday 28 June 2004**

Moved by Councillor McInerney, seconded by Councillor Pooley -

That the minutes of the meeting of Council of Monday 28 June 2004, as circulated to Councillors, be confirmed.

Carried unanimously.

**ITEM 2. DISCLOSURES OF INTEREST**

Councillor Pooley declared a non-pecuniary interest in Item 7.2, in that he is a member of the South Sydney Rugby League Football Club and a member of the South Sydney Leagues Club. Councillor Pooley participated in discussion and voting on this Item.

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

**ITEM 3A. CITY OF SYDNEY RELATIONSHIPS DECLARATION PROGRAM**

FILE NO:

DATE: 28/7/04

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

The Partnerships Register established in October 2003 by the former South Sydney City Council continues to attract inquiries and interest.

The information pack produced by South Sydney Council identified the following benefits of the Partnership Register:

- It provides a means of recognising the partnership of both same-sex and mixed-sex couples.
- The Register is the first of its kind in Australia and provided the former South Sydney Council to lead the way; and
- Although registration does not confer legal rights in the way marriage does, it may be used to demonstrate a civil relationship.

This mayoral minute proposes that the Partnership Register be restructured, renamed and relaunched. This restructure would:

- enable couples to formally declare the existence of their relationship, and how long it has been in existence;
- provide for formal record keeping of relationship declarations by the City of Sydney;
- strengthen the possible use of the scheme to provide evidence of the existence of a relationship particularly in legal proceedings where the relationship is a de facto relationship in NSW law; and
- expand the manner and circumstances in which couples may formally declare the existence of their relationship.

The City of Sydney's role in the restructured scheme will be:

- to establish and maintain a register of relationship declarations, to be named the City of Sydney Relationships Register;
- to provide appropriate public and private opportunities for couples to formally declare the existence of their relationships; and
- to appoint Council officers and other appropriate persons to administer relationship declarations; and
- to publicise the scheme.

## **I. MAJOR CHANGES TO THE PROGRAM**

### **1. THE RELATIONSHIP DECLARATION**

Couples who participate in this program will be able to make a written declaration before a witness or witnesses that they are a couple or are partners (Attachment A).

If they wish, they may also make a written declaration about the length of time they have been a couple or partners.

They may also make a written declaration that they are mutually committed to sharing their lives together.

Couples who make a relationship declaration will receive a copy of their declaration in the form a certificate from the City of Sydney.

Their relationship declaration will be recorded in the City of Sydney Relationships Register.

This is an advance on the South Sydney program which merely enabled a couple to sign the Partnership Register and receive a Certificate which confirmed they have signed the Partnership Register. This certificate stated:

*“This is to certify that [Partner 1] and [Partner 2] registered their partnership on [Date] on the South Sydney Partnerships Register.”*

The certificate provides space for a registration number, signatures of both partners, the General Manager and the Registering Officer.

### **Reasons for the change**

Tim Griffiths of Abbot Tout Solicitors, who provided legal advice to South Sydney Council about the Partnerships Registration scheme, wrote:

*“The Certificate of Registration issued to the couples by Council upon registration serves merely as evidence that those persons signed the Register and paid \$250.00 on that particular day. The Certificate of Partnership is not necessarily evidence of itself that those two people are partners or in a de facto relationship or have any legal obligations to each other. The Certificate does not carry the same evidential weight as a Marriage, Birth or Death Certificate issued by the Registry of Births, Deaths and Marriages. It does not have the benefit of any special statutory presumption.”*

Martin Gorrick, barrister at law, and Gerard Gooden, solicitor, concur with Mr Griffiths' advice. Both Mr Gorrick and Mr Gooden have extensive experience in the law involving de facto relationships, including same sex relationships. They suggest that the scheme would be strengthened if it was better able to provide evidence which supported the existence of a de facto relationship between two people.

They point out that in legal proceedings involving de facto relationships, the dispute often turns on:

- whether or not a de facto relationship actually existed; and/or
- the duration and/or the commencement date of the relationship.

They suggest that the scheme would be more likely to provide probative (but not conclusive) evidence of the existence of a de facto relationship if the couple made written declarations about their relationship. These written declarations, together with the circumstances in which the declaration was made, could be tendered as evidence in legal proceedings.

In NSW, most legal proceedings involving de facto relationships, including same sex relationships, are commenced under:

- the *Property (Relationships) Act 1984* – where the relationship has ended and there is a dispute between the partners about the distribution of property and assets;
- the *Wills, Probate And Administration Act 1898* – where the deceased has died intestate (ie without making a will). Section 61B determines the order of succession, including the rights of a surviving de facto partner to inherit the estate; and
- the *Family Provision Act 1982* - where the deceased has arguably failed to adequately provide for a surviving de facto partner in his or her will, the partner may make a claim on the estate.

All three acts use the definition of “de facto relationship” in section 4 of the Property Relationships Act.

Section 4 (subsection 1) of the Property (Relationships) defines a [de facto relationship](#) as:

“a relationship between two [adult persons](#):

- (a) who live together as a couple, and
- (b) who are not married to one another or related by family.

Section 4 (subsection 2) states:

“In determining whether two persons are in a [de facto relationship](#), all the circumstances of the relationship are to be taken into account, including such of the following matters as may be relevant in a particular case:

- (a) the duration of the relationship,
- (b) the nature and extent of common residence,
- (c) whether or not a sexual relationship exists,
- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties,
- (e) the ownership, use and acquisition of [property](#),
- (f) the degree of mutual commitment to a shared life,
- (g) the care and support of children,
- (h) the performance of household duties,
- (i) the reputation and public aspects of the relationship.”

Section 4 (subsection 3) states:

*“No finding in respect of any of the matters mentioned in subsection (2) (a)–(i), or in respect of any combination of them, is to be regarded as necessary for the existence of a de facto relationship, and a court determining whether such a relationship exists is entitled to have regard to such matters, and to attach such weight to any matter, as may seem appropriate to the court in the circumstances of the case.”*

None of the factors listed in subsection 2 are essential to establish the existence of a relationship. Rather, a Court has discretion to examine evidence which demonstrates the presence or absence of each of the factors listed.

### **The proposed relationship declaration**

If a couple were to make a formal declaration about their relationship in order to provide some future evidence that their relationship existed, it is more likely that such a declaration would have evidentiary value in NSW courts if it reflected the terms of the Property (Relationships) Act.

Accordingly I propose that a two people making a relationship declaration have the opportunity to state how long their relationship has existed (see *Property (Relationships) Act* s4 (2) (a)) and to state that they are mutually committed to a shared life together (ie essentially repeating the words of section 4 (2) (f)).

Mr Gooden and Mr Gorrick advise that if a couple does not state how long their relationship has existed prior to making the declaration, they are at risk of the date of the declaration being used as the commencement date of their relationship.

A couple which makes their declaration publicly (ie in front of family and/or friends) may provide evidence relating to “the reputation and public aspects of the relationship” (see *Property (Relationships) Act* s4 (2) (i).)

A couple that did not wish to make this declaration could simply declare that they are partners and that they voluntarily consent to their names as partners being recorded in the Relationships Declaration Register. This would preserve the option available under the current scheme.

- (i) Both Mr Gooden and Mr Gorrick advise that if this proposal is adopted, potential registrants should be alerted to the possibility of legal consequences attaching to the making of a declaration; in particular that such declarations may be used as evidence in a court to adjust the property rights of the intending registrants.
- (ii) This information is provided in the draft Information Pack (Attachment B).

## **2. EXPANDED OPPORTUNITIES FOR MAKING A RELATIONSHIP DECLARATION**

The revised program will give couples greater choice and flexibility as to how they make their relationship declarations. Three options will be available.

**(a) Private declarations and registrations**

I propose that couples who wish to make their declarations privately would be able to do so by appointment at any time during normal office hours at any of the City's Neighbourhood Service Centres or in Town Hall House.

An appropriately trained Council officer will officiate at the making of the declarations and recording of the declarations in the Register.

**(b) Public declarations and registrations**

Couples who wish to make their declarations in front of family and friends will have two choices:

- The option of incorporating their declarations during a ceremony at Town Hall; and
- The option of incorporating their declarations into a ceremony of their own design, at a time and place of their choosing.

**Town Hall declarations and registrations**

I will designate a certain number days each year for the making of relationship declarations at the Town Hall. I propose I, or a person delegated by me, will officiate at the making of these declarations.

An appropriately trained Council officer will subsequently record these declarations in the City of Sydney Relationships Register.

**Ceremonies which couples arrange themselves**

Some couples may wish to declare their relationship in a ceremony of their own design, at a time and place of their own choosing. They may, for example, desire a longer ceremony than the 30 minutes allotted for Town Hall declarations.

They will the option of nominate the person who will officiate at the making of their relationship declaration.

The City of Sydney may also invite expressions of interest from people who are prepared to officiate at the making of relationship declarations. A list of these persons could be provided to intending declarants.

**II. POLICY IMPLICATIONS**

The provision of the Relationships Declaration program is supported by the draft City of Sydney Social Plan which states:

*The City of Sydney has a strong commitment to social justice. This commitment is translated into action through the development of policies and provision of services that improve the quality of life for all people in the area.*

*The City of Sydney Council values the many facets of its community and recognises the worth of all people in its area. To this end, Council is committed to implementing a number of social justice principles and practices in all aspects of its operations.*

The former South Sydney City Council had a long standing commitment to inclusiveness of and supporting, involving and recognising the gay, lesbian and transgender community. This is evident in the Statement of Intent contained in the Gay, Lesbian & Transgender Issues Paper published in 2000:

*“Council confirms its commitment to encouraging gay, lesbian and transgender people to participate in the life of the community. Council will incorporate the issues and needs of gay, lesbian and transgender people in to Council decision making, planning and community development processes.”*

While neither document specifically mentions the implementation of a program like the Relationships Declaration, all the documentation, the identification of the key elements of best practice, the proposed principles and policy framework all provide a sound foundation for the introduction of this program.

### **III. ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

The City of Sydney acknowledges the significant number of gay, lesbian and transgender people living within the LGA. Legal recognition of same sex relationships is an issue of growing importance throughout the world. In Australia lesbian and gay couples are recognised in immigration, but only the ACT has any broad form of same sex relationship recognition. Its Domestic Partnerships Act recognises same sex partnerships relationships in areas like property division and wills.

It is entirely appropriate and relevant to the local community for the City of Sydney to provide a means for gay, lesbian, transgender and mixed gender couples to register their relationship.

### **IV. RELEVANT LEGISLATION**

While the NSW Local Government Act 1993 does not list the provision of a Relationship Declaration program as a function of councils, it does set out a charter under which the City of Sydney is charged with the following:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership

It is eminently reasonable therefore under the Charter, for Council to provide a means for same sex and mixed gender couples to identify a significant personal relationship and to provide evidence of this. It is particularly relevant given the significant number of gay, lesbian and transgender people in the City of Sydney community.

The *Privacy and Personal Information Protection Act 1998* deals with how all NSW public sector agencies manage personal information. It includes 12 Information Protection Principles that are legal obligations covering the collection, storage, use and disclosure of personal information.

The City of Sydney Relationships Declaration will not be made available for inspection by members of the public. However it is proposed that should the applicants consent, Council may use the information provided on an application form to produce anonymous statistics. By providing this information, applicants consent to it being held and used for this purpose.

Specific entries in the register will only be made available on demand to certain public officials, for example, the police in connection with an enquiry.

## **V. FINANCIAL IMPLICATIONS**

Council reduced the fee for registering a partnership on the Partnership Register from \$250 to \$150 when adopting City of Sydney Fees and Charges for 2004-2005. This will continue as the fee for making a relationship declaration and having that declaration recorded in the City of Sydney Relationships Register. No additional charge is to be applied to ceremonies.

## **VI. CONCLUSION**

The adoption of the Partnerships Declaration by the City of Sydney is viable and appropriate and in line with a general movement world-wide to address the issue of gay marriage. In lieu of formal legal and social recognition of same sex relationships, the Partnerships Declaration will provide a means to recognise the partnership status of couples, both same sex and mixed sex and to provide evidence of a civil relationship. It is in concordance with Council's policies on access and equity, inclusiveness and support to all groups within the community.

### RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to Council on 2 August, 2004 on the proposed City of Sydney Relationships Declaration Program, it be resolved that:

- (A) The Partnerships Register program offered by the former South Sydney City Council be relaunched and offered by the City of Sydney.
- (B) The Partnerships Register be renamed the City of Sydney Relationships Declaration Program.
- (C) The South Sydney Program be amended according to the proposals set out in this Minute, the attached draft Information Pack (Attachment B) and the attached draft Application Form (Attachment A).
- (D) Prior to adoption by Council:

- (i) this Minute and the draft kit attached to this Minute be placed on public exhibition for one month;
  - (ii) this Minute, together with any submissions received be considered by the Community Services, Small Business and Tourism Committee following the period of public exhibition.
- (E) Applications for making a relationship declaration under the Program will be taken at the One Stop Shop and the Neighbourhood Service Centres.
- (F) Place Managers or persons authorised by the General Manager will be authorised to receive relationship declaration applications, to make private appointments with applicants for the making of relationship declarations and to officiate at the making of relationship declarations by private appointment.
- (G) Relationship Declarations will be conducted each year in the Sydney Town Hall with the Lord Mayor or her delegate officiating, on dates to be determined by her office.
- (H) The General Manager, the Manager Customer Services and the Customer Services Project Officer are the only persons authorised to have access to Relationship Declaration records.
- (I) The Customer Service Project officer is nominated as the officer responsible for the Relationships Declaration Program.
- (J) In addition to publishing the City of Sydney Relationships Declaration Program Information Pack, the City shall:
- (i) prepare and publish a brochure summarising and explaining the Program, and this brochure shall be on display and available from the One Stop Shop, all Neighbourhood Service Centres, all City of Sydney libraries and such other premises as may be determined by the General Manager;
  - (ii) publish information about the Program on the City of Sydney website and shall make available for download the Information Kit, Application Form and brochure, with this information and these downloads being easily available from a link on the website homepage.

(SGD) COUNCILLOR CLOVER MOORE MP  
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 2 August 2004, on City of Sydney Relationships Declaration Program, it be resolved that the Minute by the Lord Mayor be endorsed and adopted.

Carried unanimously.

**Order of Business**

In accordance with Clause 12(2) of the Local Government (Meetings) Regulation 1999, Council resolved that the order of business be altered such that Item 3C be brought forward and dealt with before Item 3B.

**ITEM 3C. ADDITIONAL ITEM FOR COUNCIL – JAMES HARDIE PRODUCTS**

FILE NO:

DATE: 2/8/04

**MINUTE BY THE LORD MAYOR**

To Council:

Attached is correspondence received from the Construction Forestry Mining and Energy Union (CFMEU) in respect to the underfunding of compensation to asbestos victims by James Hardie Industries.

Asbestos related diseases have cruelly afflicted many Australian working people and their families, who have come into contact with building products produced by James Hardie and others. These companies have a legal duty of care to all these victims.

James Hardie sought approval for a corporate restructure of its operations which gave James Hardie Industries Limited (now ABN60 Pty Limited) the right to capital of \$1.9 billion from James Hardie Industries NV by means of partly paid shares, which would have provided additional funding to meet asbestos claims.

That right to obtain further funding was terminated in 2003 when the partly paid shares were cancelled. James Hardie has not satisfactorily explained why it cancelled the partly paid shares, and the only inference is that, contrary to its denials, it is attempting to avoid paying the legitimate claims of asbestos victims.

It appears that James Hardie, by its actions, may have misled the Supreme Court of NSW when it approved the restructure.

The company's actions are not those of a corporate body acting properly or ethically.

The trade union movement is calling for a boycott of James Hardie products. Local government should act responsibly and by its purchasing requirements encourage proper and ethical corporate behaviour.

Accordingly, I recommend to Council the following:

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to the Council meeting of 2 August 2004, in relation to James Hardie products, it be resolved that:

- (A) Council condemn the actions of James Hardie Industries NV in the strongest possible terms for its attempts to avoid funding ABN60 Pty Limited as proposed which would in turn provide funding for the legitimate claims of asbestos victims;
- (B) Until such time as James Hardie complies with its funding proposal, the General Manager is asked to:
  - (i) request that all existing contractors working on City projects do not purchase or use James Hardie products;
  - (ii) require all new contractors not to use James Hardie products on City projects; and
  - (iii) direct City staff not to purchase any new James Hardie products,except where an existing City contract requires the use of James Hardie products, or there is no alternative product available.

(SGD) 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 2 August 2004, on James Hardie Products, it be resolved that:

- (A) Council condemn the actions of James Hardie Industries NV in the strongest possible terms for its attempts to avoid funding ABN60 Pty Limited as proposed which would in turn provide funding for the legitimate claims of asbestos victims;
- (B) until such time as James Hardie complies with its funding proposal, the General Manager is asked to:
  - (i) request that all existing contractors working on City projects do not purchase or use James Hardie products;
  - (ii) require all new contractors not to use James Hardie products on City projects; and
  - (iii) direct City staff not to purchase any new James Hardie products,except where an existing City contract requires the use of James Hardie products, or there is no alternative product available.

Amendment. At the request of Councillor Lee, and by consent, the motion was amended by the deletion in clause (B) of the words “complies with its funding proposal” and the substitution of the words “convinces Council that it has met its obligations to asbestos victims”.

Motion, as amended by consent, carried unanimously.

**ITEM 3B. RETIREMENT OF RAY AND ELAINE RICHMOND**

FILE NO:

DATE: 29/7/04

**MINUTE BY THE LORD MAYOR**

To Council:

I would like to formally acknowledge the retirement of the Rev. Ray Richmond and Mrs Elaine Richmond from the Wayside Chapel in Kings Cross.

The Wayside Chapel, established by the late Rev Ted Noffs in 1964, has a long and strong history of assisting the homeless, vulnerable and disadvantaged people of the Kings Cross area.

Since 1991 Ray and Elaine have built on and extended the work of the Wayside Chapel and have made a unique and lasting contribution to the community. The Rev. Richmond's energetic support of the establishment of the medically supervised injecting centre in Kings Cross has undoubtedly saved numerous lives.

The Richmond's contribution to the direction and work of the Wayside Chapel has seen increased services to many of the most vulnerable members of our community. The Wayside Chapel now offers a daily drop-in centre, a nightly street outreach program for young people at risk, a crisis centre for counselling and referral to other agencies as well as a home visiting team and a health clinic. Over the past year the Wayside Chapel has assisted people on more than 2000 occasions to access emergency accommodation services. On almost 4000 occasions, they have helped people to access appropriate drug and alcohol or mental health services.

I would like to wish the Rev and Mrs Richmond well in their retirement to Queensland and sincerely thank them for their hard work, practical compassion and commitment to all members of our community over the past 13 years.

RECOMMENDATION:

In recognition of the retirement of Rev. Ray Richmond and Mrs Elaine Richmond, I move that:

- (A) Council formally thank the Richmonds for their contribution to the City community through their work with the Wayside Chapel over the past 13 years.
- (B) Council continue to support the work of the Wayside Chapel and wish Mr Graham Long well in his new role of General Manager.

(SGD) COUNCILLOR CLOVER MOORE MP  
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 2 August 2004, on Retirement of Ray and Elaine Richmond, it be resolved that the Minute by the Lord Mayor be endorsed and adopted.

Carried unanimously.

**ITEM 3D. COUNCIL AND CSPC SUB-COMMITTEE TO GUIDE THE REDEVELOPMENT OF THE CARLTON AND UNITED BREWERIES SITE**

FILE NO: s033483-03

DATE: 2/8/04

**Attachment 1:-** Resolution of Central Sydney Planning Committee relating to the formation of a sub-committee to oversee the development of new controls for the Carlton and United Breweries site.

**MINUTE BY THE LORD MAYOR**

To Council:

The need for a high level steering committee to guide the planning of the redevelopment of the Carlton and United Breweries has been raised by Councillors and the Central Sydney Planning Committee (CSPC). The previous CSPC established a committee to guide the preparation of a design competition brief.

At the last CSPC meeting held on 29 July 2004, it was resolved that:-

*“The Central Sydney Planning Committee favours the establishment of a sub-committee for the Carlton and United Breweries site, with representatives from both Council and the CSPC. Such a sub-committee would not have delegated powers from either consent authority, but would oversee the development of new controls on the site.”*

In order to have appropriate representation on the sub-committee it proposed that this sub-committee have two or three representatives of Council and two representatives of the CSPC.

RECOMMENDATION:

That Council favour the establishment of a sub-committee for the Carlton and United Breweries site to oversee the development of new controls on the site and two or three members of Council be selected to sit on this sub-committee. It is noted the sub-committee will not have delegated powers from either the Council or the Central Sydney Planning Committee.

(SGD) COUNCILLOR CLOVER MOORE MP  
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to Council on 2 August 2004, on Council and CSPC Sub-Committee to Guide the Redevelopment of the Carlton and United Breweries Site, it be resolved that –

- (A) Council establish a sub-committee (which includes representatives of the Central Sydney Planning Committee) for the Carlton and United Breweries site to oversee the development of new controls on the site;
- (B) the Lord Mayor and Councillors Harris and McInerney be selected as the members of Council to sit on this sub-committee; and
- (C) it be noted that the sub-committee will not have delegated powers from either the Council or the Central Sydney Planning Committee.

Amendment. At the request of Councillor Lee, and by consent, the motion was amended to add a fourth member of Council to sit on this sub-committee, that member being Councillor Firth.

Motion, as amended by consent, carried unanimously.

**ITEM 4A. OXFORD STREET UPGRADE PROJECT & CYCLEWAYS  
(S015054/3)**

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

That arising from consideration of a Memorandum by the General Manager to Council on 2 August 2004, on the Oxford Street Upgrade and the development of a comprehensive bike strategy for the City Of Sydney local government area, it be resolved that Council :

- (A) having regard to the reports prepared by the City's Transport Manager and an independent expert, approve commencement of construction of the Oxford Street Gateway Project, subject to the provision of 4 metre bus/parking lanes, to be shared by cyclists, rather than dedicated cycle lanes as had been previously proposed; and
- (B) approve the development of a comprehensive bicycle strategy for the expanded City of Sydney local government area to be implemented over 5 years, which will involve identification of network priorities, financial implications, and implementation timeframes.

Amendment. At the request of Councillor McInerney, and by consent, the motion was amended as follows -

The addition of the words “and to do so in partnership with the Roads and Traffic Authority” at the end of clause (B);

and the addition of clauses (C) and (D) -

- (C) note that the implementation of a 40 kilometre per hour speed limit is essential support to the proposed 4 metre combined bus and bikeway;
- (D) conduct a workshop to review cycle lane options for William Street which also reflect changing land use patterns and future light rail opportunities in these streets; this workshop to involve interested Councillors and stakeholders and to be initiated as a matter of urgency by the Chair of the Traffic Committee;

Motion, as amended by consent, carried unanimously.

#### **ITEM 4B. ULTIMO AQUATIC CENTRE (CONFIDENTIAL)**

Note - the Chair (the Lord Mayor) noted that Item 4B, Ultimo Aquatic Centre, had been listed for discussion as a confidential item in closed session at the end of the meeting. The Lord Mayor outlined the history of this project.

At this stage of the meeting, pursuant to the provisions of Clause 14(3) of the Local Government Meetings) Regulation 1999, the following motion was moved –

Moved by Councillor Lee, seconded by Councillor Firth -

That, as a matter of urgency –

When Council completes negotiations of the contract with the successful contractor, Council make all commercial documentation for the Ultimo Aquatic Centre public.

The motion that this matter be dealt with as a matter of urgency at this meeting was lost on the following show of hands –

Ayes (4) Councillors Firth, Lee, Mallard and Pooley.

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

Motion lost.

#### **ITEM 5. MATTERS FOR TABLING**

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

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

Carried unanimously.

**ITEM 6. REPORT OF THE FINANCE, PROPERTIES AND TENDERS COMMITTEE - 26 JULY 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, Shayne Mallard, John McInerney and Tony Pooley.

At the commencement of business in the Council Chamber at 4.08pm those present were:

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

Councillor Firth arrived at the meeting of the Finance, Properties and Tenders Committee at 4.10pm during discussion on Item 6.2.

The Lord Mayor left the meeting of the Finance, Properties and Tenders Committee at 4.28pm during discussion on Item 6.3 and returned at 4.31pm during discussion on Item 6.4.

The meeting of the Finance, Properties and Tenders Committee concluded at 4.50pm.

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 26 July 2004 be received, and the recommendations set out below for Items 6.2, 6.4, 6.6, 6.7 and 6.8 be adopted, with Item 6.1 being noted, and Item 6.3 being dealt with as shown immediately following that item. Item 6.5 was dealt with at a later stage of the meeting in closed session.

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.

**INVESTMENTS HELD BY COUNCIL AS AT 30 JUNE 2004 (S02-0960)****6.2**

That arising from consideration of a report by the Senior Accounting Officer (Creditors) to the Finance, Properties and Tenders Committee on 26 July 2004, on Investments Held by Council as at 30 June 2004, it be resolved that the report be received and noted.

Carried unanimously.

**POLICY AND STRATEGY FOR THE INVESTMENT OF SURPLUS FUNDS (S02-0960)****6.3**

That arising from consideration of a report by the Finance Manager to the Finance Properties and Tenders Committee on 26 July 2004, on Policy and Strategy for the Investment of Surplus Funds, it be resolved that the proposed 'Policy and Strategy for the Investment of Surplus Funds', as shown at Attachment A to the subject report, be adopted.

Amendment. At the meeting of Council, at the request of Councillor Kemmis, and by consent, the motion was amended by the deletion of the words "as shown at Attachment A to the subject report" and the substitution of the words "as shown at Attachment A to the supplementary report circulated to Councillors prior to the meeting".

Motion, as amended by consent, carried unanimously.

**EXTENSION OF COMMITMENT TO THE WATERSHED - SUSTAINABILITY RESOURCE CENTRE (2026689)****6.4**

That arising from consideration of a report by the ESD Programmes Officer to the Finance, Properties and Tenders Committee on 26 July 2004, in relation to the extension of the City of Sydney's continuing commitment to the Watershed, it be resolved that:-

- (A) Council continue the in-kind support to the Watershed Sustainability Resource Centre by allowing the use of 218 King Street, Newtown, subject to annual review by Council, and subject to the ongoing funding contribution by Marrickville Council; and
- (B) Councillor Chris Harris be appointed to represent the City of Sydney at the Watershed Steering Committee meetings, with Councillor Verity Firth as Council's alternate nominee, subject to annual review by Council.

Carried unanimously.

### **Closed Meeting**

At 4.34pm the Finance, Properties and Tenders Committee resolved –

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

Section 10A (2)(d)(i) of the Local Government Act 1993 to discuss Items 6.5, 6.6 and 6.7 on the agenda as these matters comprised commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the persons who supplied it; and

Section 10A (2)(C) of the Local Government Act 1993 to discuss Item 6.8 on the agenda as this matter comprised information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;

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

Items 6.5 to 6.8 inclusive were then dealt with by the Finance, Properties and Tenders Committee while the meeting was closed to the public, and Items 6.6 to 6.8 were subsequently dealt with by Council in open session.

### **TENDER FOR MANUFACTURE OF SIGNAGE FOR NEW YEAR'S EVE 2004 (S031819-01)**

#### **6.5**

Note – this matter was dealt with by the Finance, Properties and Tenders Committee in closed session. See page 571.

### **TENDER FOR FROG HOLLOW, SURRY HILLS - UPGRADING (STAGE 1) (S 032805)**

#### **6.6**

That arising from consideration of a report by the Project Manager, City Development to the Finance, Properties and Tenders Committee on 26 July 2004, on Tender for Frog Hollow, Surry Hills – Upgrading (Stage 1), it be resolved that:

- (A) Council accept the Tender described in paragraph 8 of the subject report; and
- (B) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

**TENDER FOR DESIGN CONSULTANTS FOR THE GOULBURN STREET PARKING STATION UPGRADE (SO29636)**

**6.7**

That arising from consideration of a report by the Senior Architect, City Development to the Finance, Properties and Tenders Committee on 26 July 2004, on Tender for Design Consultants for the Goulburn Street Parking Station Upgrade, it be resolved that:

- (A) Council accept the tender, for the provision of architectural and building services design work for the project, as outlined in paragraph 17 of the subject report; and
- (B) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

**SLIP STREET, SYDNEY - CLOSURE**

**6.8**

That arising from consideration of a report by the General Manager to the Finance, Properties and Tenders Committee on 26 July 2004, on Slip Street, Sydney, at the rear of 61-63, 65-79 and 81 Sussex Street, Sydney, it be resolved that:-

- (A) approval be given to the sale of that part of Slip Street, Sydney that is the subject of the road closure, to EnergyAustralia for the amount as set out in the subject report;
- (B) authority be delegated to the General Manager to finalise the terms of, and enter into, a contract of sale to give effect to the terms of this resolution; and
- (C) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

**ITEM 7. REPORT OF THE CULTURAL AND COMMUNITY CARE COMMITTEE - 26 JULY 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, Shayne Mallard, John McInerney and Tony Pooley.

At the commencement of business in the Council Chamber at 4.55pm those present were:

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

Councillor Lee arrived at the meeting of the Cultural and Community Care Committee at 4.56pm during discussion on Item 7.2.

**Adjournment**

At 6.24pm, the Cultural and Community Care Committee adjourned to enable Committee members to relocate to the Finance Committee Room for discussion on confidential matters on the agenda.

Upon resumption of the meeting of the Cultural and Community Care Committee in the Finance Committee Room at 6.30pm, those present were –

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

The meeting of the Cultural and Community Care Committee concluded at 6.40pm.

Report of the Committee

Moved by Councillor Black, seconded by Councillor McInerney

That the Report of the Cultural and City Care Committee of its meeting of 26 July 2004 be received, and the recommendations set out below for Items 7.3 and 7.4 be adopted, with Item 7.1 being noted, and Items 7.2 and 7.5 being dealt with as shown immediately following those items.

The Committee recommended the following:-

## **DISCLOSURES OF INTEREST**

### **7.1**

Councillor Pooley declared a non-pecuniary interest in Item 7.2, in that he is a member of the South Sydney Rugby League Football Club and a member of the South Sydney Leagues Club. Councillor Pooley participated in discussion and voting on this Item.

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

## **REDFERN OVAL – MASTERPLAN FEASIBILITY DEVELOPMENT (2026467)**

### **7.2**

At the meeting of the Cultural and Community Care Committee, it was moved by Councillor Black, seconded by Councillor McInerney -

That arising from consideration of a report by the Manager Referrals and Strategy to the Cultural and Community Care Committee on 26 July 2004, on Redfern Oval – Masterplan Feasibility Development, it be resolved that-

- (A) the report be received and noted;
- (B) Council reinstate the process to determine the future of Redfern Oval by reviewing the work completed to date and progressing the preparation of a draft Masterplan options for community consultation;
- (C) the draft Masterplan options for community consultation include only ISFM Feasibility Study Options 1 and 2;
- (D) a further report be submitted to Council summarising the outcomes of community consultation and with a view to endorsing the preferred option for the redevelopment of Redfern Oval.

Amendment. Moved by Councillor Lee, seconded by Councillor Harris, that the motion be amended to include in clause (C) Option 3 from the ISFM Feasibility Study.

The amendment was declared carried.

Note - Councillor Mallard asked that his name be recorded as being opposed to the amendment.

At this stage of the meeting of the Cultural and Community Care Committee, an amendment was moved by the Lord Mayor, seconded by Councillor McInerney, that the motion be further amended by the addition of a new clause, as follows -

- (E) authority be delegated to the Lord Mayor to include other options for the Masterplan Feasibility Study, such further options to be submitted to Council.

The further amendment was carried unanimously.

The substantive motion was declared carried unanimously.

At the meeting of Council, the recommendation of the Cultural and Community Care Committee, set out as follows, was moved by Councillor Black, seconded by Councillor McInerney -

That arising from consideration of a report by the Manager Referrals and Strategy to the Cultural and Community Care Committee on 26 July 2004, on Redfern Oval – Masterplan Feasibility Development, it be resolved that-

- (A) the report be received and noted;
- (B) Council reinstate the process to determine the future of Redfern Oval by reviewing the work completed to date and progressing the preparation of a draft Masterplan options for community consultation;
- (C) the draft Masterplan options for community consultation include ISFM Feasibility Study Options 1, 2 and 3;
- (D) a further report be submitted to Council summarising the outcomes of community consultation and with a view to endorsing the preferred option for the redevelopment of Redfern Oval; and
- (E) authority be delegated to the Lord Mayor to include other options for the Masterplan Feasibility Study, such further options to be submitted to Council.

The motion was carried on the following show of hands –

Ayes (8) The Lord Mayor, Councillors Black, Firth, Hoff, Kemmis, Lee, McInerney and Pooley.

Noes (1) Councillor Mallard.

Motion carried.

Note - Mr Shane Richardson, Mr George Piggins, Mr Ian Thomson, Mr Phil Irvine, Ms Ivan Druten-Kars, Ms Rosalie Gibson, Mr Terry Denzil and Mr Frank Cookson addressed the meeting of the Cultural and Community Care Committee on Item 7.2.

## **SURRY HILLS PARK - ADOPTION OF THE DRAFT PLAN OF MANAGEMENT (S007807)**

### **7.3**

That arising from consideration of a report by Manager - Design to the Cultural and Community Care Committee on 26 July 2004, on the Surry Hills Park – Adoption of the Draft Plan of Management, it be resolved that Council:

- (A) approve the adoption of the Plan of Management as shown at Attachment C to the subject report as the Surry Hills Park Plan of Management (2004); and
- (B) approve the initiation of detail design development of the Landscape Concept Plan in conjunction with a public consultation process as identified in Attachment B to the subject report.

Carried unanimously.

## **KINGS CROSS MARKETS**

### **7.4**

#### **MINUTE BY THE LORD MAYOR**

To the Cultural and Community Care Committee:

On 17 November 2003, Council approved a three year package of initiatives for Kings Cross including facilitating the establishment and operation of a monthly Farmers Market in Fitzroy Gardens to a maximum of \$101,000 seed funding (including value in kind) in the first year of operation.

The purpose was to revitalise Fitzroy Gardens, which has become a home for drug users and dealers. It is expected that a fresh food market will encourage community use of the park, create a sense of public ownership of the park and provide a service to the residents in the provision of fresh food which is not widely available in the area.

The markets can also be used by local retailers to give a particular focus to their shops, and by local restaurants to access fresh food and to demonstrate their menus through guest cooking demonstrations.

The original proposal arose out of forums run by the Kings Cross Partnership, which were followed up with further discussions amongst representatives from community organisations, business and residents.

A media release was distributed in November 2003 announcing the funding for initiatives in Kings Cross. An article was included in the Summer edition of City News, distributed to all households in the City. An "Update Kings Cross Upgrade" brochure included information about the markets, and was distributed to all households in City East in January 2004 (ATTACHMENT A). The markets proposal was also outlined at a Council community meeting on 8 July 2004.

There are several markets within a few kilometres radius of Fitzroy Gardens including fresh food markets at Pymont, North Sydney, Leichhardt, Fox Studios, Haymarket and recently at Bondi Junction Mall. There are also art, craft and clothing markets at Glebe, Paddington, The Rocks, Sydney Opera House, Haymarket, Balmain, Rozelle and Surry Hills. Markets are operated on a profit-making or break-even basis.

Kings Cross Rotary run an art and craft markets in Fitzroy Gardens every Sunday, which is their principal source of revenue, which they put towards programs of benefit to the people of the Cross. The City doesn't charge a hire fee for Fitzroy Gardens, and it cleans the area within its normal schedule. They have sought assurance that they will be able to continue the markets indefinitely.

A variety of other suggestions have been made to the City, including regular markets on Cook and Phillip Park; 4 food and wine festivals in East Sydney, adjacent to Taylor Square; a food and wine fair for the Stanley Street area; a permanent open air market along the lines of Melbourne's Queen Victoria markets at Everleigh Railyards or Fox Studios. In addition, there is a fully developed proposal for a mixed market every weekend, Saturday and Sunday, in Forbes Street Darlinghurst, north of Taylor Square.

There are several options for frequency of markets in Fitzroy Gardens. Research indicates that fortnightly markets would best build and retain retail customer and stall holder loyalty.

There could be traffic and noise issues. These can be managed by the timing of the set-up, running and dismantling of the markets, by ensuring that the content of the market calls for only smaller trucks to deliver goods, and by use of the car park opposite Fitzroy Gardens.

There is a need to try out markets in the area, to achieve the purposes outlined above, and to minimise disruption through traffic and noise. A 12 month period could allow for a trial of the frequency, content, duration, and venue for the market. It is expected that a successful organiser will respond to community demand during the trial period. There are many possible outcomes of the trial. The market might need to expand or contract into another venue. The content might change in response to customer demand, and to ensure a complementary relationship with local businesses.

At the same time, other proposals for markets and similar activities will be considered by Council. There may be a number of small, varied markets within the City East precinct, or it is possible that one major market will cover all interests, leading to the development of permanent infrastructure.

The markets in Fitzroy Gardens offer an opportunity to start the ball rolling on markets in the East Sydney precinct. They will be supported by Kings Cross Partnership marketing campaigns. As the stalls will be temporary, and as the markets are subject to a 12 month trial period, there is an opportunity to develop an understanding of the community's needs at a practical level, before consideration of any permanent infrastructure.

The City advertised for Expressions of Interest from market organisers, and the outcome of the EOI process is discussed in a separate report to Council.

The report to Council includes, amongst other things, recommendations that:

- the markets be held fortnightly in Fitzroy Gardens, with potential to be weekly subject to demand;
- the markets consist of fresh food (organic and non-organic) and value added food (oils, juices, pasta, cereals etc) and any other complementary items subject to demand;
- a regular weekend (Saturday and Sunday) market not be considered for Forbes Street at this stage;
- Rotary be offered another 12 months free use of Fitzroy Gardens on Sundays to hold a market, subject to a review of the quality of content and presentation.

RECOMMENDATION:

That the Minute be received and noted.

(SGD) COUNCILLOR CLOVER MOORE MP  
Lord Mayor

At the meeting of the Cultural and Community Care Committee, it was moved by the Lord Mayor, seconded by Councillor Mallard -

That arising from consideration of a Minute by the Lord Mayor to the Cultural and Community Care Committee on 26 July 2004, on Kings Cross Markets, it be resolved that -

- (A) the Minute be received and noted; and
- (B) the words “which has become a home for drug users and dealers” be deleted from the first sentence of the second paragraph of the subject Minute.

The recommendation of the Cultural and Community Care Committee was carried unanimously.

Note - Ms Wanda Jaworski, Mr Ray Aitken, Ms Robyn Hall and Mr Andrew Woodhouse addressed the meeting of the Cultural and Community Care Committee on Item 7.4.

**Closed Meeting**

At 6.31pm the Cultural and Community Care Committee resolved –

That, due notice of the intention to close the meeting having been given, the meeting be closed in accordance with the provisions of Section 10A (2)(d)(i) of the Local Government Act 1993 to discuss Item 7.5 on the agenda as this matter comprised commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the persons who supplied it;

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

Item 7.5 was then dealt with by the Cultural and Community Care Committee while the meeting was closed to the public, and was subsequently dealt with by Council in open session.

## **KINGS CROSS MARKETS – EXPRESSIONS OF INTEREST (S030845)**

### **7.5**

That arising from consideration of a report by the Manager Cultural and Community Affairs to the Cultural and Community Care Committee on 26 July 2004, on Kings Cross Markets - Expressions of Interest, it be resolved that:

- (A) Council establish a fortnightly market in Fitzroy Gardens, on Saturday mornings commencing in Spring 2004, limited to 5 hours initially, with a mix of fresh food (organic and non-organic) and value added food products, for a trial period of 12 months;
- (B) Council reject all the Expressions of Interest;
- (C) the General Manager be authorised to negotiate with Organic Food Markets to develop a market in cooperation with the City, with the parties to explore the potential for social programs to be run in conjunction with the market;
- (D) if agreement is not reached with Organic Food Markets, the General Manager appoint a Markets Manager to set up and run a market in Kings Cross to meet the needs of the City and the community;
- (E) Rotary continue to run its arts and craft market in Fitzroy Gardens for the next 12 months on Sundays with the hire fee waived by the City, subject to a review of the quality of its content and presentation;
- (F) the Concept Plan by CMS for markets in Forbes Street not be pursued; and
- (G) authority be delegated to the General Manager to grant Council's consent as land owner to the lodgement of a development application for the establishment of a fresh food market in Fitzroy Gardens, but without fettering Council's discretion as consent authority.

Amendment. At the meeting of Council, at the request of Councillor Mallard, and by consent, the motion was amended by the addition of clause (H) as follows –

- (H) a report on the performance of the Fitzroy Gardens fresh food markets be presented to Council in six months and that such a report canvass the opportunity to extend markets to the Taylor Square precinct.

The motion, as amended by consent, was carried unanimously.

**ITEM 8. REPORT OF THE PLANNING DEVELOPMENT AND TRANSPORT COMMITTEE - 26 JULY 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, Shayne Mallard and Tony Pooley.

At the commencement of business at 6.25 pm in the Council Chamber those present were:

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

**Adjournment**

At 6.26 pm, it was moved by the Chair (Councillor McInerney), seconded by Councillor Hoff -

That the meeting of the Planning Development and Transport Committee be adjourned to enable a meeting of the Cultural and Community Care Committee to conclude.

Carried.

**Resumption**

At the resumption of the meeting of the Planning Development and Transport Committee at 6.47 pm in the Council Chamber those present were -

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

**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
17. Section 82A Review Application: 2 Charles Street Glebe
3. Repeal of Leichhardt Development Control Plan No. 49 and Principles to Guide Development at 156-160 Bridge Road Glebe
11. Development Application: PCYC Minogue Crescent, Forest Lodge
14. Development Application: 27-31 Hughes Street, Potts Point (Wayside Chapel)
15. Development Application: 342 Bulwara Road, Ultimo
18. Development Application: 90 Carillon Avenue, Newtown - Fit-Out and Use of Building for Educational Purposes
9. Development Application: 328-342 King Street Newtown
12. Development Application: 39 Glebe Point Road Glebe
7. Development Application: 8-18 William Street Beaconsfield
8. Development Application: 176-178 Cope Street Waterloo
5. Review of Parking Controls for New Development
13. Development Application: 213-217 Palmer Street and 279-285 Liverpool Street Darlinghurst
2. City of Sydney Draft Boarding House Development Control Plan 2004
4. Draft State Environmental Planning Policy (Application of Development Standards) 2004 and Draft Planning Guidelines - Draft Submission
6. Land and Environment Court Appeals - Summary of Current Matters and Appeal Outcomes
10. Development Application: 241-245 Sydney Park Road Erskineville
16. Development Application: 15 Regent Street Chippendale

The meeting of the Planning Development and Transport Committee concluded at 11.00 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 26 July 2004 be received, and the recommendations set out below for Items 8.2, 8.4, 8.5, 8.6 to 8.13 inclusive, 8.16 and 8.18 be adopted, with Items 8.1, 8.3, 8.14, 8.15 and 8.17 being noted.

Carried.

The Committee recommended the following:-

**DETERMINED BY COUNCIL****DISCLOSURES OF INTEREST****8.1**

No Councillors disclosed any pecuniary or non-pecuniary interests in any matter on the agenda for this meeting of the Planning Development and Transport Committee.

**CITY OF SYDNEY DRAFT BOARDING HOUSE DEVELOPMENT CONTROL PLAN 2004 (S031988)****8.2**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to the City of Sydney Draft Boarding House Development Control Plan 2004, it be resolved that:-

- (A) Council endorse the public exhibition of the City of Sydney Draft Boarding House Development Control Plan 2004, as shown at Attachment "A" to the subject report, in accordance with the requirements of clause 18(2) of the "Environmental Planning and Assessment Regulation 2000";
- (B) authority be delegated to the General Manager to make any minor drafting amendments that may be required as a result of the Central Sydney Planning Committee's consideration of the City of Sydney Draft Boarding House Development Control Plan 2004; and
- (C) Council endorse the operation of the City of Sydney Draft Boarding House Development Control Plan 2004 as an Interim Policy effective from the date that public exhibition of the Draft DCP commences.

Carried unanimously.

Note – At the meeting of Council, the Lord Mayor commended Council staff on the excellent work they had done in relation to this matter. These remarks were endorsed by Councillor Firth.

Note - The Planning Development and Transport Committee commended Council staff on their excellent work in relation to this matter.

**REPEAL OF LEICHHARDT DEVELOPMENT CONTROL PLAN NO. 49 AND PRINCIPLES TO GUIDE DEVELOPMENT AT 156-160 BRIDGE ROAD GLEBE (S027609)**

**8.3**

That consideration of this matter be deferred to the meeting of Council on 2 August 2004.

Carried.

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

Note - Mr Neil Macindoe, Mr Roelof Smilde, Professor Richard Mackay and Mr Peter Mayoh addressed the meeting of the Planning Development and Transport Committee on Item 8.3.

**DRAFT STATE ENVIRONMENTAL PLANNING POLICY (APPLICATION OF DEVELOPMENT STANDARDS) 2004 AND DRAFT PLANNING GUIDELINES - DRAFT SUBMISSION) (S018648)**

**8.4**

That arising from consideration of a report by the Strategic Planner to the Planning Development and Transport Committee on 26 July 2004, on Draft State Environmental Planning Policy (Application of Development Standards) 2004, and Draft Planning Guideline - Draft Submission, it be resolved that:

- (A) the submission, as circulated to Councillors prior to the meeting of the Planning Development and Transport Committee, be endorsed; and
- (B) authority be delegated to the Lord Mayor to finalise the submission, addressing any issues and comments from the Council meeting, including a suggestion to require notification letters/advertisements to advise of any proposed statutory variation to be included in the legal instrument.

Carried.

Note - The Planning Development and Transport Committee commended Council staff on the work undertaken in relation to this matter.

**REVIEW OF PARKING CONTROLS FOR NEW DEVELOPMENT (S031099)****8.5**

That arising from consideration of a report by the Transport Planner to the Planning Development and Transport Committee on 26 July 2004, on Review of Parking Controls for New Development, it be resolved that -

- (A) as an interim measure, Council employ the adopted controls that apply throughout the various areas now forming the City of Sydney;
- (B) the amalgamated City of Sydney pursue a single, consolidated planning control (or set of controls i.e. local environmental plan and development control plan) to cover the entire merged areas of the previous City of Sydney, South Sydney and Leichhardt. This should be based on retaining the following elements of the draft Land Use and Transport Development Control Plan:
  - (i) expand the 'accessibility' approach and define areas as 'high', 'medium' or 'low' based on the level of public transport servicing and proximity to core neighbourhood centres for the entire local government area, including the former City of Sydney local government area and former Leichhardt local government area;
  - (ii) the land use transport integration index (LUTI) be applied to dwelling houses and residential buildings to define the accessibility of both public transport and neighbourhood centre services as high, medium or low; and
  - (iii) the public transport accessibility index (PTAI) be applied to commercial and related uses (possibly retail) only to define the accessibility of public transport services as high, medium or low;
- (C) elements within the draft Land Use and Transport Development Control Plan which should be removed or revised include:
  - (i) review the parking rates to consider appropriate rates across the expanded local government area;
  - (ii) a review of car parking rates to consolidate the list of land uses;
  - (iii) consideration to linking parking rates to site area for commercial uses (as opposed to gross floor area) in congested areas;
  - (iv) the proposed 'Transport Environmental Offset System' is not recommended to be pursued, but rather the various contributions plans active within the City of Sydney be reviewed with a view to consolidation into a single plan. This should occur in tandem with a Section 94 review being undertaken by the Department of Infrastructure Planning and Natural Resources;
  - (v) only two maps are proposed for inclusion in the new local environmental plan (i.e. a land use transport integration index (LUTI) map for dwelling houses and residential buildings and a public transport accessibility index (PTAI) map for commercial uses) as opposed to the original four maps; and

- (vi) minimum parking rates no longer being provided (to allow no car parking in certain instances);
- (D) the new consolidated planning controls contain:
- (i) a new 'City of Sydney' local environmental plan for parking rates to cover the expanded local government area; and
  - (ii) a new 'City of Sydney' development control plan to cover all elements of land use and transport integration for the new local government area;
- (E) the car parking rates applying to the City Centre (currently contained in the City of Sydney Local Environmental Plan 1996) be reviewed to consider accessibility criteria together with traffic capacity analysis. It is noted that the current City Centre rates are likely to become more restrictive than current controls;
- (F) Council support the use of some discretion in applying visitor car parking rates to new developments for areas currently covered by Development Control Plan No. 11, only insofar as it will allow:
- (i) a decrease in visitor parking for larger developments using the following formula:
    - (a) 1 space per 6 units (up to 30 units);
    - (b) 1 space per 10 units (between 31 and 70 units); and
    - (c) 1 space per 20 units thereafter (amended as per report's recommendation);
  - (ii) the number of 'retail/commercial visitor parking' spaces required on site can be reduced in mixed use developments where it can be established to the satisfaction of the Council that:
    - (a) proposed uses are complementary in terms of parking demand; and
    - (b) at least 1 space per tenancy for business owners is provided;
- (G) a new series of 'Standard Conditions of Consent' be developed in conjunction with the new planning controls, such that the intent of the new controls will be reflected in development consents. In the interim, the following Standard Conditions of Consent based on the Central Sydney Planning Committee report on 5 February 2004 apply:
- (i) all residential development providing visitor parking:
    - “All visitor parking spaces shall be grouped together, and located at the most convenient location to the car parking entrance. All spaces shall be clearly marked visitor prior to the issue of an occupation certificate.”
  - (ii) that the City apply the following standard condition to all residential development providing accessible parking:

“All disabled car spaces shall be located to be proximate to lifts, as well as meeting the Australian Standards for accessible parking.”

- (iii) that the City apply the following standard condition to all development containing residential parking:

“The provision of separate strata lots for car parking spaces under Strata Schemes (Freehold Development) 1973 is not favoured, and can lead to inappropriate allocation and abuse. Any proposal for separate parking lots will only be considered by the City in exceptional circumstances, as part lots properly allocated to units should result in the rational and orderly allocation of parking spaces.”

Carried unanimously.

Note – At the meeting of Council, the Lord Mayor, supported by Councillor McInerney and Councillor Pooley, congratulated the Executive Director City Development (as the former General Manager of the former South Sydney City Council) and all staff involved from both the former South Sydney City Council and the City of Sydney Council for their far-sighted solution in regard to this matter.

## **LAND AND ENVIRONMENT COURT APPEALS - SUMMARY OF CURRENT MATTERS AND APPEAL OUTCOMES (2003/00421; 2003/00058 & 2003/00756)**

### **8.6**

That arising from consideration of a report by the Executive Officer - City Planning (South), Area Planning Manager, and Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, on Land and Environment Court Appeals - Summary of Current Matters and Appeal Outcomes, it be resolved that the report containing Land and Environment Court Appeals Summary to 12 July 2004 and the appeals at:

- 420 Pitt / 36-38 Campbell Street, Sydney;
- 62-64 Riley Street, Darlinghurst; and
- 208-218 / 220-222 Riley Street, Darlinghurst

be received and noted.

Carried unanimously.

**DEVELOPMENT APPLICATION: 8-18 WILLIAM STREET, BEACONSFIELD  
(U03-00624)**

**8.7**

That arising from consideration of a report by the Town Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application U03/00624 made by Ponvera Pty Ltd for the site at 8-18 William Street, Beaconsfield, for a mixed use development comprising three separate buildings resulting in 39 units and 1 commercial space, and 42 residential dwellings with associated basement parking, it be resolved that:-

- (A) amended plans be submitted by the applicant dealing with the following issues:
  - (i) the floor space ratio of the development be reduced to 1:1 through the deletion of but not limited to units 103, 104, 115, 116, 125, 126, 135 and 136, and the resultant area be consolidated with the communal landscaped open space,
  - (ii) that the fences located along the front of units 102 and 301 - 304 and rear of unit 201 - 209 be increased/modified to 1.5metre in height, with a 30% minimum transparency,
  - (iii) that finished floor levels be indicated on pathways and landscaped areas on the ground floor plan;
- (B) authority be delegated to the General Manager to determine the application either:
  - (i) upon receipt of amended plans incorporating the above provisions to the satisfaction of the Director for City Planning (Southern Zone); or
  - (ii) if such amended plans are not submitted within one month of the resolution of Council.

Carried unanimously.

Note - Mr Lindsay Fletcher addressed the meeting of the Planning Development and Transport Committee on Item 8.7.

**DEVELOPMENT APPLICATION: 176-178 COPE STREET WATERLOO (U03-00467)**

**8.8**

That arising from consideration of a report by the Senior Planner to the Planning, Development and Transport Committee on 26 July 2004, in relation to Development Application U03-00467 made by Soliz Pty Ltd for the site at 176-178 Cope Street Waterloo, for a Mixed Use Development comprising (1) commercial unit, 13 residential units and associated car parking, it be resolved that-

- (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) For above ground works not directly ancillary to the remediation process, a Site Audit Statement prepared by an EPA Accredited Site Auditor is to be submitted to Council clearly demonstrating that the site is suitable for the intended use under this consent. Conditions imposed on the Site Audit Statement shall form part of this consent. In circumstances where the site audit statement conditions (if applicable) are not consistent, the consent shall prevail to the extent of inconsistency and a S.96 Application pursuant to the Environmental Planning and Assessment Act 1979 will be required;
  - (2) Where the site audit statement is subject to conditions that require ongoing review by the Auditor or Council, these should be discussed with Council before the site audit statement is issued;
  - (3) Details of additional privacy screens to the northern elevation is to be provided to Council to ensure satisfactory amenity levels between the proposal and adjoining development;
  - (4) Details of privacy screen and security treatments to the corridor and stairwell areas of the southern elevation are to be provided to Council to ensure appropriate levels of security and residential amenity are provided between the proposal and adjoining development;
- (B) the applicant must provide to Council evidence sufficient to enable it to be satisfied of the matters in Clause (A) within 12 months from the date of this consent or such further period as Council may determine is appropriate upon application in writing being made to Council; and
- (C) upon compliance with the requirements of Clause (A), a full consent will be issued subject to the following conditions -

- (1) That the development shall be generally in accordance with plans numbered DA 100, DA 101, DA 102, DA103, DA, DA 104, DA 105, DA106a, DA 107a, DA 108, DA109, DA 110a, DA 111a, DA 112, DA 113, DA 114A, DA 115a, DA 116 inclusive prepared by Joshua Farkash & Associates, dated 9 June 2004 and July 13 2004 subject to compliance with the conditions below;
- (2) That the conclusions and recommendations of the Stage II Contamination Assessment for 176 Cope Street Waterloo prepared by Urban Environmental Consultants Pty Ltd be are to adopted and followed in accordance with legislative requirements
- (3) That prior to issuing a Construction Certificate, it will be necessary to lodge with Council a fee of \$8640.00 in the form of Cash or non expiry Bank Guarantee being the building damage deposit for the public way. This deposit will be returned upon the satisfactory completion of the work approved under this application and the submission of all relevant certificates provided that there is no damage to the public way. A written request shall be made to the Council for the return of the deposit;
- (4) That prior to issuing the Construction Certificate, it will be necessary to produce evidence of the payment of the levy, or the first instalment of the levy, required under the Building and Construction Industry Long Service Payments Act 1986, and to ensure that the plans are suitably endorsed. The levy, to the value of \$5100.00(or 0.2% of the total cost of construction at the time of submission of the construction certificate whichever is the greater), or first instalment (as applicable), can be paid to the Council, providing that a completed levy payment form accompanies. For staged construction certificate the levy may be based on the value of the works covered by that Certificate;
- (5) As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended ), and South Sydney City Council Section 94 Contributions Plan 2003, the following monetary contributions towards the cost of providing facilities and amenities are required.

Contribution Category	Amount
Open Space: LGA Works Programme	\$ 6999.00
Open Space: New Parks	\$63038.00
Accessibility and Transport	\$ 116.00
Library Resources	\$ 2472.00
Management	\$ 1655.00
<b>Total</b>	<b>\$74280.00</b>

The above payments, with the exception of the land acquisition component of New Parks and Management, will be adjusted according to the relative change in the Consumer Price Index using the following formula. The contribution for land will be adjusted in accordance with the latest annual valuations.

$$\text{Contributions at Time of Payment} = C \times \frac{\text{CPI2}}{\text{CPI1}}$$

where:

- C is the original contribution amount as shown above;
- CPI2 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of payment; and
- CPI1 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being – June 2004

The above amount must be paid to the Council in cash or by unendorsed bank cheque.

Payment shall be made before the release of the Construction Certificate / before the use is commenced or the release of the Occupation Certificate whichever occurs first. (Delete as applicable)

Note: No works, including works listed in the adopted Section 94 Contributions Plan, will be off-set against monetary Section 94 Contributions without prior written approval by Council in the form of a letter referring to detailed specifications and costs. Endorsed DA and construction plans relate to the subject site only and cannot be taken as approval to carry out any works beyond the boundary of the site.

## Part B

Applications for the payment of contributions by carrying out works which are identified in the Section 94 Contributions Plan will be considered on their merits.

To support the case for carrying out works, Council requires the submission, for formal approval, of complete construction documentation and detailed cost estimates of the works based on established industry standards.

Applicants are advised to contact the Council as soon as possible concerning the specific requirements for any proposal for works-in-kind. Details submitted after the lodgement of the Building Application may not be approved in time to allow the work to be carried out concurrent with the main project. Approved Works will only be off-set against the same category of works.

Unless otherwise agreed, security in the form of an unconditional bank guarantee for the full contribution amount must be lodged with Council and will be held until the approved works have been certified as complete to the satisfaction of Council. For substantial works, Council may, at its discretion, hold the bank guarantee, or part thereof, until the elapse of a minimum defects liability period of at least twelve months after the practical completion of the works. Works to be carried out on public land will also require proof of public liability insurance.

Council also reserves the right to require the future management of the completed work to be formally agreed prior to acceptance.

Note: Works carried out without written approval by Council, in the form of a letter referring to detailed specifications and costs, will not be off-set against Section 94 Contributions and, if carried out on public land, may expose the responsible party to prosecution in addition to the cost of reinstatement.

Copies of the Section 94 Contributions Plan may be inspected at Council's offices presently located at Council's offices located at Town Hall House Kent Street Sydney;

- (6) As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, and Sydney City Council Section 94 Contributions Plan – Multi-Function Administration Centre, the following monetary contribution towards the cost of providing the facility and amenities supported by that plan are required.

Contribution Category	Amount
Multi-Function Administration Centre	\$7940.00

The above payment will be adjusted according to the relative change in the Consumer Price Index using the following formula.

$$\text{Contributions at Time of Payment} = C \times \frac{\text{CPI2}}{\text{CPI1}}$$

where:

- C is the original contribution amount as shown above;  
 CPI2 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and  
 CPI1 is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the date of the consent being March Quarter 2003/2004 (Amend as applicable)

The above amount must be paid to the Council in cash or by unendorsed bank cheque. Payment shall be made before the release of the Construction Certificate / before the use is commenced or the release of the Occupation Certificate whichever occurs first. (Delete as applicable)

Copies of the Section 94 Contributions Plan may be inspected at Council's offices located at Town Hall House 456 Kent Street Sydney;

- (7) That all relevant sections of the BCA shall be complied with;
- (8) That an application for a construction certificate, with supporting plans, specifications and details demonstrating compliance with conditions of this consent and the Building Code of Australia shall be lodged and no building or excavation work shall be commenced until that application has been approved and at least two days written notice of the intention to commence work has been given to the Council. Where staged development is being undertaken, no building or excavation work shall be commenced or carried out other than that approved under the relevant staged construction certificate until a construction certificate application has been approved for each stage;
- (9) That a Survey Certificate shall be submitted from a Registered Surveyor to the effect that the proposed building has been set out so that the dimensions and location on the site are in accordance with the approved plan prior to the foundation excavations being commenced;
- (10) That a Survey Certificate shall be submitted at the completion of the building work from a Registered Surveyor certifying the location of the building in relation to the boundary lines of the allotment;
- (11) That existing and proposed stormwater details and certificate shall be submitted and approved prior to the commencement of any building work;
- (12) That structural drawings and certificate from a qualified structural engineer, certifying that the design is in accordance with the relevant Australian Standards and design codes shall be submitted prior to commencement of work;
- (13) That an application for an Occupation Certificate shall be submitted on the completion of the building works;
- (14) That the requirements of the Work Cover Authority shall be complied with;
- (15) That all excavation, demolition and building work in connection with the proposed development shall only be carried out between the hours of 7.00am and 5.00pm on Mondays to Fridays, and 7.00am and 3.00pm on Saturdays and no work shall be carried out on Sundays or public holidays;
- (16) That the building/demolition work shall comply with Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites";
- (17) That the existing building shall be maintained in a stable condition during construction and/or demolition work to Council's approval;

- (18) That new work including footings shall not project beyond the street alignment or boundaries of the allotment;
- (19) That all excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property;
- (20) That if the soil conditions require it:
- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided; and
  - (b) adequate provision must be made for drainage;
- (21) That if an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and
  - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished
- (Note)** The owner of the adjoining allotment of land is not liable for any part of the cost carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land and in this condition, allotment of land includes a public road and any other public place;
- (22) That all residential building work shall comply with the Home Building Act 1989 in relation to contract of insurance;
- (23) That the applicant be advised that this application has not been assessed for compliance with the Building Code of Australia.
- (24) That all vehicles must enter and exit the driveway in a forward direction at all times. All vehicles servicing the site shall be able to access, load, unload and manoeuvre wholly within the site and not encroach upon public roads.
- (25) That the current parking restrictions around the site shall not be altered for any proposed vehicles servicing for the site.
- (26) That the applicant shall ensure that the proposed driveway wing in Cope Street will be minimum of 1.0 metres from the adjoining property boundary.

- (27) That the development must satisfy the requirements of Council's DCP No 11, Transport Guidelines for Development 1996. In particular that development must have satisfactory;
- Ramp grades and transitions;
  - Clearances;
  - Aisle widths;
  - Width of car parking spaces;
  - Width of vehicular entrances
  - Designated visitor spaces
  - Designated space for people with disabilities
  - Designated spaces for bicycles
- (28) That the applicant shall ensure that a flood study is carried out to set the habitable floor level 300mm above the 1 in 100 storm event flood level. In addition, the applicant shall indicate what measures shall be employed to minimise the risk of the flooding occurring in the basement level of the building, based on the flood risk assessment by a qualified hydrological engineer.
- (29) That a certificate from a registered certifier shall be submitted prior to the issuing of the Construction Certificate verifying that the levels of the habitable floors are 300 m above the flood level in the 1 in 100 storm event.
- (30) That the applicant shall ensure that the applicant must provide an overland flow path to facilitate the flow of stormwater for the OSD system.
- (31) That the developer must submit a plan to the Director of City Works for approval relating to any proposed connection(s) to Council's stormwater pit prior to the issuing of the Construction Certificate. A positive covenant is required if the proposed connections is to a Council pit.
- (32) The developer must also provide a detailed stormwater plan certified by registered certifier prior to the issuing of the Construction certificate. The stormwater drainage system must be designed in accordance to Council's "Stormwater Code".
- (33) That the applicant shall ensure that all stormwater connections are perpendicular from the building line to Council's kerb.
- (34) That the applicant shall meet with Councils Waste Services Manager prior to issuing a construction certificate to discuss the suitability of the storage area and to present a waste management plan including expected waste generation rates, general requirements regarding collection services and waster management responsibilities.
- (35) That the applicant shall ensure that the enclosed domestic garbage storage area is of sufficient size to accommodate 4 x 240 litre sulo bins for domestic refuse the 3 x 240 litre sulo recycling bins.

- (36) That the applicant shall ensure that a suitable separated enclosed garbage storage area shall be provided to accommodate the anticipated number of container bins required for refuse and recycling generated by commercial tenants.
- (37) That the applicant shall ensure that applicant letter box facilities are provided in accordance with the requirements of the South Sydney Development Control Plan 1997.
- (38) That the applicant shall ensure that a roller door with a Council compatible locking device shall be installed and pram ramp in footway for access.
- (39) That the following street trees shall be specified and planted in accordance with Council's current Street Tree Master Plan Report:

Location	Species	Common Name	No.	Size	Spacings	Tree Guard
Cope Street	<i>Eucalyptus scoparia</i>	Wallangara White Gum	2	100L	7-10	Major Road

Precise location of the proposed trees within the footway to be approved by Council's Landscape Architect prior to the issue of the Construction Certificate.

- (40) That street trees shall be positioned on footways to accommodate the clearance requirements as specified in South Sydney Council Street Tree Master Plan Report (2001) from awnings, street intersections, telegraph poles, storm water inlets, major underground service junctions, bus stops and traffic lights.
- (41) That prior to the collection of approved plans and specifications, it shall be necessary to lodge with Council a fee in accordance with Council's fees and charges for the stormwater connection to Council's system and no work shall be commenced until the fee is paid;
- (42) That before erecting any hoarding, an application must be made to the Director of Public Works and Services for a Builders Hoarding Permit (for approval under Part 9 Division 3, Roads Act, 1993). No excavation shall be carried out on the public way beneath or adjacent to the hoarding without the approval of by the Director of City Works;
- (43) That the applicant shall submit a designed alignment levels plan, in accordance with Council's "Requirements for Alignment Levels" for approval by the City Works Department. These approved levels shall be adopted for the design of the building and other on-site works, prior to the issuing of a construction certificate. The applicant shall be responsible for the cost of preparing the plans and for payment of application fees. (Warning - to ensure that the future vehicular or pedestrian access is possible you should not fix any boundary levels, either physically or in design drawings, until the alignment levels are issued);

- (44) That prior to the commencement of any work on the public way a Road Opening Permit shall be obtained for any excavation or building works, as required under the provisions of Part 9 Division 3 of the Roads Act, 1993;
- (45) That any excavation below the footpath level adjacent to the street alignment shall require shoring in accordance with Council's Shoring Policy;
- (46) That the existing lots shall be consolidated into one single lot prior to the issuing of an Occupation Certificate;
- (47) That the street number(s) shall be clearly displayed, with such number(s) being of contrasting colour and adequate size and location for viewing from the footway and roadway, prior to the issuing of an Occupation Certificate;
- (48) That all loading and unloading operations shall be carried out within the confines of the site, at all times (and shall not obstruct other properties/units);
- (49) That at all times the loading docks, car parking spaces and access driveways shall be kept clear of goods and shall not be used for storage purposes, including garbage storage;
- (50) That before entering a purchase/lease/occupancy agreement, all intending owners, tenants and occupiers of the development are to be advised by the owner of the building and owners of individual units once on-sold, that residents are not eligible to participate in any existing or proposed Council on-street resident parking schemes. Signs to this effect shall be located in prominent places, to Council's satisfaction, such as at display units and on all directory boards or notice boards, where they can easily be observed and read by persons entering the building. The sign shall read, "all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council". The signs shall be erected in conjunction with all display units and within completed buildings prior to release of an occupancy certificate or prior to council issuing final strata subdivision approval (whichever occurs first) and shall be maintained in good order at all times;
- (51) That the visitor parking spaces shall not at any time be allocated, sold or leased to an individual owner/occupier and shall be strictly retained as common property by the Owners Corporation of the site;
- (52) That during demolition, excavation and building work, the public way shall not be obstructed by building materials or materials from the site in any way;

- (53) That the applicant must make an application to utilise the public way for the loading and unloading of materials associated with the building site, but NOT for the stockpiling of construction materials, to Council for referral to the South Sydney Local Traffic Committee for approval of an on-street Works Zone. If a Works Zone is not obtained then all loading & unloading of materials must occur on-site. It should be noted that it is not always possible to provide a Works Zone at every building site, for example at intersections, near traffic signals or pedestrian crossings, in narrow streets or where Clearway restrictions exist;
- (54) That prior to the release of the Construction Certificate, the applicant shall make a further application to the Director of City Works for the provision of the necessary vehicular footway crossing, and also bear the cost of that crossing. A similar process shall be followed for the reinstatement of the footpath where any existing crossings adjacent to the site are no longer required. The applicant shall accept responsibility for the cost of construction of any consequential roadworks in the nature of kerb, guttering, paving and drainage. Such approval is required under the Roads Act, 1993. The work shall be done by Council unless other arrangements are approved in writing by the Director of City Works;
- (55) That all loading and unloading of construction materials shall take place off street at all times unless the South Sydney Local Traffic Committee approves an on-street Works Zone;
- (56) That the building, during construction and when completed, shall be designed so as to take into consideration Council's Pedestrian Safety Guidelines. The applicant shall be responsible for any costs associated with the implementation of any pedestrian safety measures such as street signs, pedestrian crossings and the like;
- (57) That the applicant shall accept responsibility for all costs associated with the design; construction; alteration; adjustment; relocation or restoration of any works on the public way including: kerb; gutter; pavement; footpath paving; landscaping; street furniture; signage; drainage and public utility services. The reinstatement of any damaged kerb and gutters are to be in materials similar to those existing. Such works are to be carried out by Council's workforce unless otherwise agreed in writing by the Director of City Works;
- (58) That stormwater shall not be connected to the sewerage system and shall be disposed from the site in accordance with Council's standard requirements for stormwater discharge;
- (59) That only clean and unpolluted water shall be permitted to discharge from the subject development into Council's stormwater drainage system;

- (60) That the applicant shall provide a system of on-site detention of stormwater in accordance with Council's Standard Requirements for the Discharge of Stormwater from Private Property. Details shall include the provision and maintenance of overland flow-paths and shall be approved together with the Construction Certificate. Such approval may, wholly or in part, rely on a certificate issued by a Council-registered stormwater certifier. If it is to be connected into Council's Stormwater System the maintenance procedures for the entire system shall be documented on the Certificate of Title for the property in the form of a "positive covenant";
- (61) That any connection to Council's stormwater drainage pit and/or stormwater pipeline shall have a positive covenant imposed on the land title. The wording of this covenant shall be in accordance with that provided by Council. (Please contact the Traffic and Road Management section on 9288 5472 for further information).
- (62) A separate application for works on the public way related to the connection shall be made to Council pursuant to section 68 of the Local Government Act, 1993. Approval shall be obtained prior to the issue of the Construction Certificate.
- (63) The applicant shall be responsible for payment of application fees and the full cost of work, as well as the lodgement of security deposits, public liability insurance and the positive covenant;
- (64) That the applicant shall submit an Overland Flowpath Plan for approval by the Director of City Works prior to the release of the Construction Certificate. The Plan shall provide information regarding the extent of the one in 100 year flood that traverses the property and how the flow is to be safely managed so that it is not diverted onto adjoining properties and does not flood into underground car parks or other underground areas. A Drainage Easement, with rights vested in Council, is also to be created over the property to encompass the extent of the overland flowpath and any stormwater pipeline. If significant overland flows emanate from upstream private properties the applicant shall create the necessary private Easement to Drain Water with rights vested in the upstream properties;
- (65) That the applicant shall submit a plan to the Certifying Authority to indicate extent of landscape areas on slab / planter boxes and provide details that include a cellular drainage system, water proofing and irrigation system, tanking and flushing tubes in accordance with Council's Landscape Code. The minimum soil depths for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for grass;
- (66) That the applicant shall provide a fully automatic irrigation system to all landscape areas and turf in common landscape areas. Hosecocks / QCVs installed in private landscape areas are to be at a minimum one per 80m<sup>2</sup> of landscaped area, or one for each separate private or communal landscaped space. The owner/applicant is responsible for all liaison, authorities certificates, approvals and commissioning from all relevant authorities;

- (67) That any lighting on the site shall be designed to ensure no adverse impact on the amenity of the surrounding area by light overspill. Lighting shall comply with the AS 4282-1997 - Control of the Obtrusive Effects of Outdoor Lighting.
- (68) Lighting shall also provide a safe and comfortable visual environment for pedestrian movement at night. Lighting shall comply with the AS/NZS 1158.3.1:1999 standard - Pedestrian area (category P) lighting, performance and installation design requirements;
- (69) That the Certifying Authority (Council or private) shall arrange for a qualified Landscape Architect to inspect the completed landscape works to certify adherence to the DA conditions and Construction Certificate drawings. Landscape works undertaken on Council owned land are subject to final approval by Council's Landscape Architect. Landscape works, both on private and Council owned land, are to be fully completed prior to the issue of an Occupation Certificate;
- (70) That the applicant shall submit to the Certifying Authority and Council's Landscape Architect an annual maintenance program for landscape works, prior to the issue of Occupation Certificate. A copy is to be supplied to the Owner/Body Corporate for ongoing maintenance of the site. The Owner/Body Corporate shall be responsible for a defect liability and maintenance period of 12 months for landscape works undertaken on Council owned land, to the satisfaction of Council's Landscape Architect;
- (71) That no garbage or industrial waste shall be placed on the public way (including footpaths, roadways, plazas, reserves etc) at any time;
- (72) That only refuse skips by approved suppliers who comply with Council's Code for the Placement of Waste Containers on the Public Way shall be delivered and placed on the public way (contact Council's One Stop Shop for a list of approved suppliers);
- (73) That a garbage /recycling storage facility shall be located within the site at street level in a position approved by Council's Waste Services Manager that can be accessed by a kerbside collection service. Construction, containerisation and handling of garbage and recyclables shall be in accordance with Council's "Waste Management - Minimisation Fact Sheets". Details to be submitted with the application for a Construction;
- (74) That applicant shall submit an environmental management plan comprehensively detailing how the following environmental aspects are proposed to be managed during any demolition and construction activities:

- (75) Proposed measures to control noise emissions to reasonable levels during demolitions and construction (guidance may be obtained for the EPA Noise Control Manual); Australian Standard 2436-1981 Guide to Noise Control on Construction, Maintenance and Demolition Sites; and proposed noise monitoring techniques to be used on and off site; and contents of any reports to demonstrate compliance with the criteria.
- Measures to suppress off site migration of odour and dust emissions during demolition and construction
  - Measures to identify hazardous wastes and the procedure to identify and removal of hazardous or industrial waste
  - Soil and sediment control measures excluding hay bails adjacent to stormwater pits
  - Proposed designated procedure of receiving complaints directly from the public and resolving environmental complaints (noise, air and water)

Carried unanimously.

Note - Mr Lindsay Fletcher addressed the meeting of the Planning Development and Transport Committee on Item 8.8.

**DEVELOPMENT APPLICATION: 328-342 KING STREET NEWTOWN (U03-00572)**

**8.9**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application U03-00572 made by Metro Plaza (Newtown) Pty Ltd for the site at 328-342 King Street Newtown, for demolition of existing commercial building to erect a mixed use building comprising two basement car parking levels, four commercial tenancies on the ground level and 30 residential units over three levels, 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:-

**Part A**

- (1) That an Environmental Management Plan (EMP) shall be submitted to Council for approval comprehensively detailing how the following environmental aspects are proposed to be managed during any demolition or construction activities:
- (a) Proposed measures to control noise emissions at reasonable levels during demolition and construction activities and proposed noise monitoring techniques to be used on and off the site and contents of any report to demonstrate compliance with the criteria.

- (b) Measures to suppress off site migration of odour and dust emissions.
  - (c) Measures to identify hazardous wastes and the procedure for removal of such waste.
  - (d) Soil and sediment control measure.
  - (e) Proposed designated procedure for receiving and resolving environmental complaints directly from the public.
  - (f) Community consultation
- (2) That details shall be submitted (coloured elevations to a scale of 1:50), including proposed materials, colours and finishes to be approved by the Director of City Planning in respect to the following:
- (a) external finishes to walls;
  - (b) roofing;
  - (c) balcony treatment;
  - (d) proposed fences; and
  - (e) windows and door
- and such materials shall respect and be consistent with the attributes and character of the surrounding area;
- (3) That the façade to King Street be redesigned in order to reduce the horizontal emphasis currently represented and the amount of solid to void be reduced so that the building better relates to the existing heritage streetscape;

The applicant must provide to the Council evidence sufficient to enable it to be satisfied of the matters in Clause (A) within three months from the date of this consent.

- (B) Upon compliance with the requirements of Part A, a full consent will be issued subject to the following conditions as detailed under Part B;

**Part B**

- (1) That the development shall be generally in accordance with plans numbered DA-1001, DA-1002, DA-1101, DA-1102, DA-1103, DA-1104, DA-1105, DA-1106, DA-1201, DA-1202, DA-1301, DA-1302, DA-1303 and DA-1501 drawn by Candalepas Associates dated 2 July 2004 except as amended by the following conditions;
- (2) That the architect of the project shall not be changed without prior notice to Council;

- (3) That prior to issuing a Construction Certificate, it will be necessary to lodge with Council a fee of \$124,613.54 (including 93,263.54 for shoring) in the form of Cash or non expiry Bank Guarantee being the building damage deposit for the public way. This deposit will be returned upon the satisfactory completion of the work approved under this application and the submission of all relevant certificates provided that there is no damage to the public way. A written request shall be made to the Council for the return of the deposit;
- (4) That prior to issuing the Construction Certificate, it will be necessary to produce evidence of the payment of the levy, or the first instalment of the levy, required under the Building and Construction Industry Long Service Payments Act 1986, and to ensure that the plans are suitably endorsed. The levy, to the value of \$15,000.00 (or 0.2% of the total cost of construction at the time of submission of the construction certificate whichever is the greater), or first instalment (as applicable), can be paid to the Council, providing that a completed levy payment form accompanies. For staged construction certificate the levy may be based on the value of the works covered by that Certificate;
- (5) Part A

As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, and Sydney City Council Section 94 Contributions Plan 1998, the following monetary contributions towards the cost of providing facilities and amenities are required.

Contribution Category	Amount
Open Space: LGA Works Programme	\$16,014.00
Open Space: New Parks	\$134,757.00
Accessibility And Transport	\$277.00
Management	\$4,208.00
Library Resources	\$5,360.00
 Total	 \$160,616.00

The above payments, with the exception of the land acquisition component of New Parks and Management, will be adjusted according to the relative change in the Consumer Price Index using the following formula. The contribution for land will be adjusted in accordance with the latest annual valuations.

$$\text{Contributions at Time of Payment} = C \times \frac{\text{CPI}_2}{\text{CPI}_1}$$

where:

C is the original contribution amount as shown above;

CPI<sub>2</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of payment; and

CPI<sub>1</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the date of calculation being – March Quarter 2004.

The above amount must be paid to the Council in cash or by unendorsed bank cheque.

Payment shall be made (before the release of the Construction Certificate / before the use is commenced or the release of the Occupation Certificate whichever occurs first.) (Delete as applicable)

Note: No works, including works listed in the adopted Section 94 Contributions Plan, will be off-set against monetary Section 94 Contributions without prior written approval by Council in the form of a letter referring to detailed specifications and costs. Endorsed DA and construction plans relate to the subject site only and cannot be taken as approval to carry out any works beyond the boundary of the site.

#### Part B

Applications for the payment of contributions by carrying out works which are identified in the Section 94 Contributions Plan will be considered on their merits.

To support the case for carrying out works, Council requires the submission, for formal approval, of complete construction documentation and detailed cost estimates of the works based on established industry standards.

Applicants are advised to contact the Council as soon as possible concerning the specific requirements for any proposal for works-in-kind. Details submitted after the lodgement of the Building Application may not be approved in time to allow the work to be carried out concurrent with the main project. Approved Works will only be off-set against the same category of works.

Unless otherwise agreed, security in the form of an unconditional bank guarantee for the full contribution amount must be lodged with Council and will be held until the approved works have been certified as complete to the satisfaction of Council. For substantial works, Council may, at its discretion, hold the bank guarantee, or part thereof, until the elapse of a minimum defects liability period of at least twelve months after the practical completion of the works. Works to be carried out on public land will also require proof of public liability insurance.

Council also reserves the right to require the future management of the completed work to be formally agreed prior to acceptance.

Note: Works carried out without written approval by Council, in the form of a letter referring to detailed specifications and costs, will not be off-set against Section 94 Contributions and, if carried out on public land, may expose the responsible party to prosecution in addition to the cost of reinstatement.

Copies of the Section 94 Contributions plan may be inspected at Council's offices located at Town Hall House 456 Kent Street Sydney;

- (6) As a consequence of this development, Council has identified an additional demand for public amenities and facilities. Pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979, and Sydney City Council Section 94 Contributions Plan – Multi-Function Administration Centre, the following monetary contribution towards the cost of providing the facility and amenities supported by that plan are required.

Contribution Category	Amount
Multi-Function Administration Centre	\$ 16,737.00

The above payment will be adjusted according to the relative change in the Consumer Price Index using the following formula.

$$\text{Contributions at Time of Payment} = C \times \frac{\text{CPI}_2}{\text{CPI}_1}$$

where:

C is the original contribution amount as shown above;

CPI<sub>2</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the time of payment; and

CPI<sub>1</sub> is the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of statistics at the date of the consent being the March Quarter 2004 (Amend as applicable)

The above amount must be paid to the Council in cash or by unendorsed bank cheque. Payment shall be made (before the release of the Construction Certificate / before the use is commenced or the release of the Occupation Certificate whichever occurs first.) (Delete as applicable)

- (7) That the Detailed Site Assessment (Stage 2) prepared by Brink & Associates and dated 2 June 2004 shall be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to Council prior to the granting of consent, certifying that the site is suitable for the proposed use;
- (8) That a separate Development Application shall be submitted for each of the commercial tenancies;

- (9) That shopfront windows shall be included on the Newman Street elevation for the proposed supermarket;
- (10) That the applicant shall enter into an agreement with a local artist to issue public art along the Newman Street elevation free of cost to Council. It is advised that the applicant shall liaise with Council's Community Services Department to locate an appropriate artist;
- (11) That the floor space ratio (utilising the definition of gross floor area in LEP 1998) shall not exceed 2:1, and calculations demonstrating compliance with this condition shall be lodged with the application for a Construction Certificate;
- (12) That a separate, direct entrance to the residential garbage room shall be created and that details of this be prepared prior to the issuing of a Construction Certificate. This is to ensure that garbage receptacles not have to travel through the residential lobby area to be emptied;
- (13) That any letterboxes to be constructed shall be designed to be accessible and in accordance with Sydney Council's Exempt and Complying Development provisions;
- (14) That the building shall be painted in external colours in accordance with the King Street/Enmore Road Main Street Study recommendations. The Colour Scheme recommendations from the King Street/Enmore Road study can be viewed at Council's website: [www.cityofsydney.nsw.gov.au](http://www.cityofsydney.nsw.gov.au), follow links to Heritage. All colours are from the Wattyl Solarguard range. Do not apply paint colours over face brick or tiled wall surfaces, as these are to be left unpainted;
- (15) That a separate development application shall be submitted at the appropriate time for any proposed signs;
- (16) That one residential unit shall be adaptable and that details shall be submitted prior to the release of a Construction Certificate;
- (17) That before entering a purchase/lease/occupancy agreement, all intending owners, tenants and occupiers of the development are to be advised by the owner of the building and owners of individual units once on-sold, that residents are not eligible to participate in any existing or proposed Council on-street resident parking schemes. Signs to this effect shall be located in prominent places, to Council's satisfaction, such as at display units and on all directory boards or notice boards, where they can easily be observed and read by persons entering the building. The sign shall read, "all owners, tenants and occupiers of this building are advised that they are not eligible to obtain an on-street resident parking permit from Council". The signs shall be erected in conjunction with all display units and within completed buildings prior to release of an occupancy certificate or prior to council issuing final strata subdivision approval (whichever occurs first) and shall be maintained in good order at all times;

- (18) That each dwelling shall have a solar hot water heating system (electric or gas boosted). For each one bedroom and two bedroom dwelling, the solar hot water heating system shall have a tank with a capacity of 180 litres (one panel system) and for each three bedroom dwelling, the heating system shall have a capacity of 300 litres (2 panel system). Should the design, layout and orientation preclude a solar hot water heating system, a heating system with a minimum energy star rating of 3.5 stars shall serve as a replacement system;
- (19) That prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from RIC and the applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed;
- (20) That a Transfer Granting Easement shall be created over the land and its buildings to permit vibration and electrolysis as may arise directly or indirectly from the current and future railway operations in the area. This easement must be created prior to the release of the construction certificate and must be to the satisfaction of StateRail and RIC;
- (21) That the applicant is to procure a report on the Electrolysis Risk to the development from stray currents, and the measures that will be taken to control the risk. The applicant is advised to consult an Electrolysis expert. The expert report must be submitted to StateRail for review by the Senior Electrolysis Engineer or nominated Electrolysis Section personnel;
- (22) That the applicant shall provide a Geotechnical Engineering report to RIC for review by RIC's Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by RIC. The report shall include the potential impact of demolition and excavation induced vibration in rail facilities, and loadings imposed on Rail Party Facilities by the development;
- (23) That a Risk Assessment/Management Plan and detailed Work Method Statements (WMS) for the proposed works are to be submitted to RIC for review and comment prior to the works commencing on site. It should be noted that RIC's representative may impose conditions on the methods to be used and require the provision of on-site Safe Working supervision for certain aspects of the works;
- (24) That should according to RIC's representative any unforeseen risks to rail infrastructure become apparent (eg falling material) the applicant/contractor will be required to submit information relating to the attenuation of that risk for approval by RIC's Representative;

- (25) That the use of any crane, plant or machinery shall comply with the RIC Electrical Safety Manual and all relevant RIC Standards and Guidelines. It is noted that no crane, plant or machinery is to be operated within three (3) metres (horizontally) of any electrified infrastructure, or with the potential to reach over the rail corridor at anytime. Construction equipment such as scaffolding shall not impinge over the rail corridor;
- (26) That no metal ladders, tapes, scaffolding and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor. No metal ladders are to be used within the rail corridor;
- (27) That no excavation or boring is permitted within 2.0metres (measured horizontally) of high voltage underground cable and 1.0metre (measured horizontally) for low voltage cables;
- (28) That no plant or vehicle is permitted to encroach the ballast shoulder or track without prior arrangements being made to certify the track for the effects of disturbance;
- (29) That no infrastructure or equipment is to be placed or installed on the rail corridor without proposer assessment by authorised persons to ensure no impact will occur to rail infrastructure, e.g. signal sighting, safety signage, emergency access;
- (30) That as large scale excavation is involved, the applicant is required to put in place a vibration monitoring system to monitor vibration levels on the adjoining rail corridor for the duration of the works. The plan for this is to be submitted to RIC for review prior to the commencement of works;
- (31) That the drainage from the development must be adequately disposed of/ managed and not allowed to be discharged into the rail corridor unless prior approval has been obtained from State Rail;
- (32) That no work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Access Deed has been entered into with State Rail. The applicant is required to approach State Rail to determine whether such Deed is required. It should be noted that the cost of supervision, design checks, meetings, approvals and service searches is to be borne by the applicant;
- (33) That should the applicant require access to the rail corridor prior to entering into a Rail Deed, the applicant is required to enter into a Release and Indemnity agreement, which will cover all railway parties from any possible claims whilst the applicant is carrying out any work within or adjacent to the railway corridor;

- (34) That all works are to be carried out in accordance with railway Safeworking rules and regulations, including the Network Rules and Procedures. It should be noted that RIC's representatives might impose conditions on the methods to be used and require the provision of on-site Safeworking supervision for certain aspects of the works;
- (35) That details of the proposed piling, sheet piling, batter and anchors should be provided to State Rail for review and comment prior to work commencing. RIC may require the removal of such construction aids;
- (36) That a maximum of 49 car parking spaces be provided on-site with parking allocated on the following basis: 10 x 1 bedroom units, 7 x 2 bedroom units, 1 x 3 bedroom units, 5 x visitors; 2 x space for people with disabilities (one on each level), and 19 x retail in accordance with DCP 11;
- (37) That each parking space shall be a minimum of 2.6m x 5.4m, with a minimum headroom of 2.2m and the layout of the parking area and ramps shall comply with DCP 11 and AS2890.1;
- (38) That each car parking space for people with disabilities shall have a minimum dimension of 3.2m x 5.5m and shall have a vertical clearance of 2.5m from the entrance of the space to 2.16m from the front of the space and be clearly marked;
- (39) That parking spaces on basement level 2 contain adequate measures (e.g wheelstops) to ensure parked vehicles do not encroach into the pedestrian aisle that provides access to the bicycle storage spaces (see AS 2890.1, Section 2.4.4.4). This is particularly relevant considering the pedestrian aisle is only 1.4m wide (it should be a minimum of 1.5m according to AS2890.0 requirements);
- (40) A minimum of 11 bicycle parking rails to class 3 standard (AS2890.3) are to be relocated to basement level 1 to accommodate the parking needs of cyclists;
- (41) That the visitor parking spaces shall not at any time be allocated, sold or leased to an individual owner/occupier and shall be strictly retained as common property by the Owners Corporation of the site;
- (42) That the surface of the car park shall be sealed to allow safe and clear operation of the car park, appropriately line-marked for spaces and to aid traffic circulation, prior to issuing an Occupation Certificate;
- (43) That all loading and unloading operations shall be carried out within the confines of the site, at all times (and shall not obstruct other properties/units);
- (44) That at all times the loading docks, car parking spaces and access driveways shall be kept clear of goods and shall not be used for storage purposes, including garbage storage;

- (45) That at no time shall the premises be serviced by articulated vehicles or vehicles bearing containers;
- (46) That the size of trucks servicing the premises shall be a maximum length of 8.8m – equivalent to a Medium Rigid Vehicle;
- (47) That appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress, compelling vehicles to stop before proceeding onto the public way;
- (48) That all relevant sections of the BCA shall be complied with;
- (49) That an application for a construction certificate, with supporting plans, specifications and details demonstrating compliance with conditions of this consent and the Building Code of Australia shall be lodged and no building or excavation work shall be commenced until that application has been approved and at least two days written notice of the intention to commence work has been given to the Council. Where staged development is being undertaken, no building or excavation work shall be commenced or carried out other than that approved under the relevant staged construction certificate until a construction certificate application has been approved for each stage;
- (50) That a Survey Certificate shall be submitted from a Registered Surveyor to the effect that the proposed building has been set out so that the dimensions and location on the site are in accordance with the approved plan prior to the foundation excavations being commenced;
- (51) That a Survey Certificate shall be submitted at the completion of the building work from a Registered Surveyor certifying the location of the building in relation to the boundary lines of the allotment;
- (52) That existing and proposed stormwater details and certificate shall be submitted and approved prior to the commencement of any building work;
- (53) That structural drawings and certificate from a qualified structural engineer, certifying that the design is in accordance with the relevant Australian Standards and design codes shall be submitted prior to commencement of work;
- (54) That a building or part of a building shall not be occupied until a occupation certificate has been issued in respect of the building or part;
- (55) That the requirements of the Work Cover Authority shall be complied with;
- (56) That all excavation, demolition and building work in connection with the proposed development shall only be carried out between the hours of 7.00am and 5.00pm on Mondays to Fridays, and 7.00am and 3.00pm on Saturdays and no work shall be carried out on Sundays or public holidays;

- (57) That the building/demolition work shall comply with Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites";
- (58) That the existing building shall be maintained in a stable condition during construction and/or demolition work to Council's approval;
- (59) That new work including footings shall not project beyond the street alignment or boundaries of the allotment;
- (60) That all excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property;
- (61) That the demolition work shall comply with Australian Standard 2601-1991; That if an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (a) must preserve and protect the building from damage, and
  - (b) if necessary, must underpin and support the building in an approved manner, and
  - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished
- (Note) The owner of the adjoining allotment of land is not liable for any part of the cost carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land and in this condition, allotment of land includes a public road and any other public place;
- (62) That if the soil conditions require it:
- (a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided; and
  - (b) adequate provision must be made for drainage;
- (63) That all residential building work shall comply with the Home Building Act 1989 in relation to contract of insurance;
- (64) That the applicant is advised that this application has not been assessed for compliance with the Building Code of Australia;

- (65) 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);
- (66) That approved systems of supply and exhaust mechanical ventilation shall be installed to the basement carpark areas in accordance with the requirements of AS 1668 Parts 1 & 2.
- (67) That the construction, containerisation and handling of residential and commercial waste shall comply with Council's Code for Waste Handling in Buildings.
- (68) That adequate provision shall be made for the commercial tenancies on the ground floor for the installation of mechanical exhaust ventilation system(s) where future food premises involving cooking, heating or similar food preparation may be carried out.
- (69) That all internal bathrooms and laundries not naturally ventilated shall be provided with a system of mechanical exhaust ventilation in accordance with the Building Code of Australia and AS 1668 Parts 1 & 2.
- (70) That the use of 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 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 bank from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00am to midnight daily and 0dB above the L90 background between 12 midnight and 7.00am 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 equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies;
  - (c) During the period 12 midnight to 7.00am the use shall be inaudible in any habitable room or 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.

- (71) 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: STANDARD REQUIREMENT – Building Code of Australia. (If using deemed to satisfy provisions: AS 1668, Parts 1 & 2);
  - (e) Car park ventilation systems: STANDARD REQUIREMENT – Building Code of Australia (If using deemed to satisfy provisions: AS 1668, Parts 1 & 2);
  - (f) The location of exhaust and intake vents: STANDARD REQUIREMENT – Building Code of Australia (If using deemed to satisfy provisions: AS 1668, Parts 1 & 2);
  - (k) The garbage room or garbage receptacle storage area: STANDARD REQUIREMENT – SSCC Waste Management – Minimisation Fact Sheets;
  - (r) 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 Fitout of Food Premises & the Food Act 1989 and Regulations thereunder;
- (72) That the development must satisfy the requirements in Council's DCP No. 11, Transport Guidelines for Development 1996. In particular the development must have satisfactory:
- (a) Ramp grades and transitions;
  - (b) Clearances;
  - (c) Aisle widths;
  - (d) Width of car parking spaces;
  - (e) Width of vehicular entrances;
  - (f) Designated visitor spaces;
  - (g) Designated spaces for people with disabilities;
  - (h) Designated bicycle spaces;
- (73) That the current-parking restrictions around the site shall not be altered for any proposed vehicle servicing for the site after an occupation certificate has been issued;

- (74) That the applicant shall ensure that there shall be no encroachments over or under the public way;
- (75) That the applicant shall ensure that all building works shall be within the confines of the site boundary;
- (76) That the applicant shall dedicate for road purposes, free of cost to Council,
- (a) a 2.0m by 2.0m splay, unlimited in height and depth, at the intersection of King Street and Newman Street, and
- (b) a 1.0m by 1.0m splay, unlimited in height and depth, at the intersection of Thomas Street and Newman Street.

To be detailed in a plan of subdivision/consolidation of the land, to be registered at the Land and Property Information NSW prior to the issuing of an Occupation Certificate;

- (77) That the applicant shall ensure that all stormwater connections will be perpendicular from the building line to Council's kerb;
- (78) That the street trees shall be specified and planted in accordance with the Street Tree Master Plan Report (2001):

Street	Species	Common Name	No	Size	Spacings	Tree Guard
King Street	<i>Platanus orinetalis 'Digitata'</i>	Oriental Plane Tree	2	100L	10-12	Major Road
Newman Street	<i>Pistacia chinensis</i>	Pistachio	7	100L	5-7m	Major Road

- (79) That the detailed treatment of the adjoining streets shall adhere to the principles as outlined in the Streetscape Masterplan Technical Manual. The applicants Landscape Architects should liaise with Council's Landscape Architect to ensure that a suitable design to integrate with the adjoining footways and a quality finish is achieved for the pavement works and street tree planting, contact Katherine Hipwell on 9288 5460.
- (80) That the applicant shall meet with Councils Waste Services Operations Manager prior to issuing a construction Certificate to discuss suitability of the storage area and to present a waste management plan including expected waste generation rates, general requirements regarding collection services and waste management responsibilities.

- (81) That before erecting any hoarding, an application must be made to the Director of City Works for a Builders Hoarding Permit (for approval under Part 9 Division 3, Roads Act, 1993). No excavation shall be carried out on the public way beneath or adjacent to the hoarding without the approval of by the Director of City Works;
- (82) That the applicant shall submit a designed alignment levels plan, in accordance with Council's "Requirements for Alignment Levels" for approval by the City Works Department. These approved levels shall be adopted for the design of the building and other on-site works, prior to the issuing of a construction certificate. The applicant shall be responsible for the cost of preparing the plans and for payment of application fees;
- (83) That prior to the commencement of any work on the public way a Road Opening Permit shall be obtained for any excavation or building works, as required under the provisions of Part 9 Division 3 of the Roads Act, 1993;
- (84) That the owner shall dedicate to the appropriate electricity authority, free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established, if such is required, the size and location of which is to be in accordance with the requirements of the appropriate electricity authority and the Director of Planning and Building and so that the opening of any doors of such substation shall not intrude upon the public way;
- (85) That any excavation below the footpath level adjacent to the street alignment shall require shoring in accordance with Council's Shoring Policy;
- (86) That the existing lots shall be consolidated into one single lot prior to the issuing of an Occupation Certificate;
- (87) That the street number(s) shall be clearly displayed, with such number(s) being of contrasting colour and adequate size and location for viewing from the footway and roadway, prior to the issuing of an Occupation Certificate;
- (88) That the face of the awning(s) shall be set back a minimum distance of 600mm from the front of the of the kerb;
- (89) That the visitor parking spaces shall not at any time be allocated, sold or leased to an individual owner/occupier and shall be strictly retained as common property by the Owners Corporation of the site;
- (90) That all loading and unloading operations shall be carried out within the confines of the site, at all times (and shall not obstruct other properties/units);
- (91) That at all times the loading docks, car parking spaces and access driveways shall be kept clear of goods and shall not be used for storage purposes, including garbage storage;

- (92) That all vehicles shall always be driven onto and off the site in a forward direction;
- (93) That at least one main entry without steps and useable by people in wheelchairs shall be provided from the public way to the lift lobby in accordance with the design requirements of the relevant Australian Standards;
- (94) That during demolition, excavation and building work, the public way shall not be obstructed by building materials or materials from the site in any way;
- (95) That the applicant must make an application to utilise the public way for the loading and unloading of materials associated with the building site, but NOT for the stockpiling of construction materials, to Council for referral to the South Sydney Local Traffic Committee for approval of an on-street Works Zone. If a Works Zone is not obtained then all loading & unloading of materials must occur on-site. It should be noted that it is not always possible to provide a Works Zone at every building site, for example at intersections, near traffic signals or pedestrian crossings, in narrow streets or where Clearway restrictions exist;
- (96) That prior to the release of the Construction Certificate, the applicant shall make a further application to the Director of City Works for the provision of the necessary vehicular footway crossing, and also bear the cost of that crossing. A similar process shall be followed for the reinstatement of the footpath where any existing crossings adjacent to the site are no longer required. The applicant shall accept responsibility for the cost of construction of any consequential roadworks in the nature of kerb, guttering, paving and drainage. Such approval is required under the Roads Act, 1993. The work shall be done by Council unless other arrangements are approved in writing by the Director of City Works;
- (97) That all loading and unloading of construction materials shall take place off street at all times unless the South Sydney Local Traffic Committee approves an on-street Works Zone;
- (98) That the applicant shall submit a Construction Management Plan, for the construction and demolition period, to be approved by Council prior to the release of the Construction Certificate. A copy of the Construction Management Plan is available from Council's One Stop Shop;
- (99) That the applicant shall provide off-street parking for construction workers. The location of these spaces should be indicated on the plans submitted with the Construction Certificate;

- (100) That the applicant shall accept responsibility for all costs associated with the design; construction; alteration; adjustment; relocation or restoration of any works on the public way including: kerb; gutter; pavement; footpath paving; landscaping; street furniture; signage; drainage and public utility services. The reinstatement of any damaged kerb and gutters are to be in materials similar to those existing. Such works are to be carried out by Council's workforce unless otherwise agreed in writing by the Director of City Works;
- (101) That stormwater shall not be connected to the sewerage system and shall be disposed from the site in accordance with Council's standard requirements for stormwater discharge;
- (102) That only clean and unpolluted water shall be permitted to discharge from the subject development into Council's stormwater drainage system;
- (103) That a detailed landscape plan and specification for the site in accordance with the approved DA landscape plan shall be prepared by a qualified Landscape Architect, be submitted to the Certifying Authority with the application for a Construction Certificate.

The Certifying Authority shall then submit a copy of the approved Landscape Plan and Specification to Council's Landscape Architect prior to issue of Construction Certificate.

The Landscape Plan shall nominate:

- (i) Materials and Finishes -Plans, sections and schedules to indicate type, extent, layout, setout, installation requirements of all hardworks and surface finishes (i.e. lighting, walls, paving, furniture, fixtures, fences, disabled access) including the relationship to adjoining finishes in accordance with the approved DA landscape plan. Garden walls and edging are to be masonry or approved material that compliment the architecture and character of the development.
- (ii) Levels and Drainage- Plans, details and or sections indicating existing and proposed nominal levels, stairs and ramps for disabled access, fall arrows, inlet pits, sub surface drainage, swales or detention points.

- (iii) Planting Plan- Plan and schedules indicating layout, location, species, size at installation, staking requirements and numbers of each species. Details of ground preparation, soil mix and staking/tree guards. Mulch to be hardwood chip at 75mm depth. Planting layout and massing shall be in accordance with the approved DA landscape plan. Minimum requirements for planting to be as follows:

Material	Mature Height	Min. Spacing	Min. Size
Trees			75L (min. 2.0m tall)
Shrubs	>3.0m	1/4m <sup>2</sup>	10L
Shrubs	1.0-3.0m	1/2m <sup>2</sup>	5L or 200mm pot
Groundcovers	<1.0m	6/ per m <sup>2</sup>	150mm pot

- (104) That the applicant shall submit a plan to the Certifying Authority to indicate extent of landscape areas on slab / planter boxes and provide details that include a cellular drainage system, water proofing, irrigation system, tanking and flushing tubes in accordance with Council's Landscape Code. The minimum soil depths for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for grass;
- (105) That the applicant shall provide a fully automatic irrigation system to all landscape areas and turf in common landscape areas. Hosecocks / QCV's installed in private landscape areas are to be at a minimum one per 80m<sup>2</sup> of landscaped area, or one for each separate private or communal landscaped space. The owner/applicant is responsible for all liaison, authorities certificates, approvals and commissioning from all relevant authorities;
- (106) That any lighting on the site shall be designed to ensure no adverse impact on the amenity of the surrounding area by light overspill. Lighting shall comply with the AS 4282-1997 - Control of the Obtrusive Effects of Outdoor Lighting.

Lighting shall also provide a safe and comfortable visual environment for pedestrian movement at night. Lighting shall comply with the AS/NZS 1158.3.1:1999 standard - Pedestrian area (category P) lighting, performance and installation design requirements;

- (107) That the Certifying Authority (Council or private) shall arrange for a qualified Landscape Architect to inspect the completed landscape works to certify adherence to the DA conditions and Construction Certificate drawings. Landscape works undertaken on Council owned land are subject to final approval by Council's Landscape Architect.

Landscape works, both on private and Council owned land, are to be fully completed prior to the issue of an Occupation Certificate;

- (108) That the applicant shall submit to the Certifying Authority and Council's Landscape Architect an annual maintenance program for landscape works, prior to the issue of Occupation Certificate. A copy is to be supplied to the Owner/Body Corporate for ongoing maintenance of the site. The Owner/Body Corporate shall be responsible for a defect liability and maintenance period of 12 months for landscape works undertaken on Council owned land, to the satisfaction of Council's Landscape Architect;
- (109) That no garbage or industrial waste shall be placed on the public way (including footpaths, roadways, plazas, reserves etc) at any time. Refer to Council's Domestic Collection Policies as adopted by Council on 10 September 2003;
- (110) That only refuse skips by approved suppliers who comply with Council's Code for the Placement of Waste Containers on the Public Way shall be delivered and placed on the public way (contact Council's One Stop Shop for a list of approved suppliers);
- (111) That the applicant shall submit a waste management plan as outlined in Council's Code for Waste Minimisation in new developments prior to the issue of a Construction Certificate. This condition applies to all residential, commercial and mixed-use developments;
- (112) The applicant shall comply with Council's Code for Waste Minimisation in new developments. This condition applies to all residential, commercial and mixed-use developments.
- (C) the reason for Council granting consent, subject to the above conditions, is:-
- Granting unconditional consent would be likely to adversely affect the amenity of the neighbourhood and would not be in the public interest.
- (D) those persons who put in written submissions be advised of Council's determination.

Carried unanimously.

**DEVELOPMENT APPLICATION: 241-245 SYDNEY PARK ROAD, ERSKINEVILLE (U04-00040)**

### **8.10**

That arising from consideration of a report by the Senior Town Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application U04-00040 made by Baker Kavanagh Architects for the site at 241-245 Sydney Park Road Erskineville, for demolition of an existing service station and all existing structures on the site and erection of a new residential flat building (multiple dwellings) comprising 26 units, with basement car parking, and landscaping it be resolved that -

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

- (1) The proposal is unsatisfactory having regard to Section 79(c)(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 in that it does not comply with the zone objectives in Clause 21 (1)(a)-(g) of South Sydney Local Environmental Plan, 1998;
- (2) The proposal is unsatisfactory having regard to Section 79(c)(1)(a)(i) of the Environmental Planning and Assessment Act, 1979, in that it does not comply with Clause 10 of South Sydney Local Environmental Plan 1998, because it is not consistent with the zone objectives;
- (3) The proposal is unsatisfactory having regard to Section 79(c)(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 in that the proposal does not comply with Clause 24 of South Sydney Local Environmental Plan, 1998;
- (4) The proposal is unsatisfactory having regard to Section 79(c)(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 in that it does not comply with Clause 28(1)(a-h) of South Sydney Local Environmental Plan, 1998;
- (5) The proposal does not satisfy the provision of clauses 7 and 8 of State Environment Planning Policy No.55 – Contaminated Land;
- (6) The proposal is unsatisfactory in relation to Clause 30(2) of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Developments;
- (7) The proposal is unsatisfactory having regard to Section 79(c)(1)(b) of the Environmental Planning and Assessment Act, 1979 in that the proposal will not provide for satisfactory internal and external amenity to the occupants, breaches Council's height, setbacks, and FSR controls, and does not satisfy Council's landscape, communal open space, safety and security controls;
- (8) The proposal is unsatisfactory having regard to Section 79(c)(1)(c) of the Environmental Planning and Assessment Act, 1979 in that the site is not suitable for the proposed use;
- (9) The proposal is unsatisfactory having regard to Section 79(c)(1)(e) of the Environmental Planning and Assessment Act, 1979 in that the proposal is not in the public interest;

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

Carried unanimously.

**DEVELOPMENT APPLICATION: PCYC MINOGUE CRESCENT, FOREST LODGE (D03/01058)****8.11**

That arising from consideration of a report by the Town Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application D/2003/01058 made by Police and Community Youth Clubs NSW Ltd for the site at 16 Minogue Crescent Forest Lodge, for development consent for activities including three (3) 10-14 year olds, Saturday night discos between the hours of 7.00pm and 12.00 midnight per year, along with Housie (bingo) nights on Saturday evenings between the hours of 7.00pm and 10.30pm, it be resolved that a one year trial consent be granted subject to the following conditions -

**APPROVED DEVELOPMENT**

- (1) Development must be in accordance with Development Application No. D2003/01058 dated the 8 of October 2003 and additional information contained in the letter prepared by Kerry Morrison of the PCYC, dated the 2 of December 2003 and drawings numbered 1:4 and 2:4 prepared by R Verrelli dated 12/90 and as amended by the following conditions:

**SECTION 68 APPROVAL REQUIRED**

- (2) The use of premises (or subject part) for the provision of entertainment shall not commence until such a 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

**TIME LIMIT ON USE**

- (3) The use and provision of entertainment within the premises shall cease after a period of 12 months from the date of consent. A further development application may be lodged before the expiration of the consent for Council's consideration of the continuation of the use and provision of entertainment.

**BEHAVIOUR OF PATRONS**

- (4) The management 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.

**APPROVED ACTIVITIES AND ASSOCIATED HOURS**

- (5) This approval is for the following activities and associated hours:
  - (a) Housie nights every Saturday night from 7.00pm until 10.30pm.
  - (b) Three (3) youth discos (10-14 years olds) per year held on a Saturday night from 7.00pm until 12.00midnight.

- (c) A further application may be lodged before the expiration of the one year trial period for Council's consideration of the continuation of the above hours of operation. 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.
- (6) Council reserves the right to review the hours during which entertainment may be provided should complaints be received during the trial period referred to above.

**SUFFICIENT SUPERVISION REQUIRED**

- (7) The youth discos are to be suitably managed with a minimum of seven (7) members of staff or volunteers in a supervisory capacity to ensure that patron welfare is sufficiently safeguarded.

**MAXIMUM NUMBER OF PATRONS**

- (8) During the approved activities described in condition 4 the maximum number of patrons permitted to be within the building is to be limited to 100 persons.

**MANAGEMENT PLAN REQUIRED**

- (9) A Management Plan must be submitted to and approved by the Director of City Planning – Northern Zone which specifies, but need not be limited to, appropriate management of noise, parking and transport, behaviour of patrons, and response methods to complaints, and procedures to liaise with the surrounding community on an ongoing basis, prior to commencement of the use.
- (10) The premises shall, in relation to the use approved by this consent, always be operated/managed in accordance with the approved Management Plan.

**DISCO TO BE MANAGED BY THE PROPOSED ORGANISERS**

- (11) The discos are to continue to be run as a joint venture between the City of Sydney Council and the PCYC.

**ANNUAL FIRE SAFETY STATEMENT REQUIRED**

- (12) 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.

**FIRE SAFETY CERTIFICATE REQUIRED**

- (13) 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.

**NUMBERING**

- (14) 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 is required, a separate application shall be made to Council.

**IMPROVEMENTS TO FIRE SERVICES REQUIRED**

- (15) 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 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) Conspicuous treads are to be provided to the main entry stair and the two stairs leading from the main hall in accordance with Clause NSW D2.13 (j) of the BCA. Design details shall be submitted with the Section 68 approval application to the City of Sydney Council.
  - (b) The main entrance door onto Minogue Crescent, the two doors leading into the entry foyer from the hall and the two exits providing egress from the main hall are to be fitted with panic bars in accordance with Clause NSW D2.21 (g).
  - (c) Emergency lighting, and exit signage and directional signage are to be provided to service the Ground Floor level of the building, to comply with the requirements of AS/NZS2293.1 1998. Electrical drawings together with design certification to AS/NZS2293.1 1998 are to be submitted with the Section 68 approval application to the City of Sydney Council.

**REMOVAL OF GRAFFITI**

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

**NOISE AND VIBRATION**

- (17) That noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to "offensive noise" as defined under the Protection of the Environment Operation Act, 1997.

**MECHANICAL PLANT NOISE**

- (18) That 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 3 dB 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 9dB above the L90 background between 12 midnight and 1.00 a.m. on Sundays 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) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

**NOISE ASSOCIATED WITH USE**

- (19) That the use of the premises shall not give rise to:
- (a) Transmission of 'offensive noise' to any place of different occupancy, and,
  - (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15min and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content, and,
  - (c) A sound pressure level at any affected premises that exceeds the recommended planning levels outlined in the NSW, EPA Industrial Noise.
- (20) That 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 a 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 3 dB 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 9dB above the L90 background between 12 midnight and 1.00 a.m. on Sundays the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this sub-clause does not apply to any such frequencies.
- (c) During the period of 12 midnight to 7.00 a.m. the use shall be inaudible in any habitable room of any residential premises.
- (d) The emission of an “offensive noise” as defined under the Protection of the Environment (Operations) Act 1997.
- (e) 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

#### **BUS PICK UP AND SET DOWN**

- (21) Buses associated with the approved activities detailed in condition four (4) are to set down and pick up passengers from The Crescent and not from Minogue Crescent.

#### **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.

Note - Mr Les McMahon, Ms Katina Comino, Ms Maureen Puechberty and Mr Gordon Williams addressed the meeting of the Planning Development and Transport Committee on Item 8.11.

Carried unanimously.

**DEVELOPMENT APPLICATION: 39 GLEBE POINT ROAD, GLEBE (D/04/00092)**

**8.12**

That arising from consideration of a report by the Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application D/04/00092 made by Weir + Phillips Architects for the site at 39 Glebe Point Road Glebe, for alterations and additions to the existing two storey terrace, including ground floor rear extension to provide toilet facilities and rear first floor deck to residence, internal alterations to enable use of the premises as a café on the ground floor and separate dwelling on the first floor, with new access to Minogue Reserve, it be resolved that consent be granted subject to the following conditions -

## **Schedule 1A**

### **Approved Development, Contributions and Covenants**

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

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

#### **APPROVED DEVELOPMENT**

- (1) Development must be in accordance with Development Application No. D/04/00092 dated 4 February 2004 and Statement of Effects prepared by ABC Planning, dated January 2004 and drawings numbered DA01 – DA06 prepared by Weir + Phillips Architects dated January 2004 and as amended by the following conditions:

**NO CONSENT GRANTED TO UNAUTHORISED WORKS**

- (2) This consent does not relate to those works which are unauthorised and have already been carried out without prior development consent.

**ENTRY AND ACCESS**

- (3) The new gate and entry in the side boundary (eastern) fence shall be deleted and the wall/fence retained and/or made good. Detailed plans showing these changes are to be submitted for the approval of Council prior to the issue of the Construction Certificate.
- (4) The two new glazed timber doors to the ground floor cafe in the side (eastern) boundary elevation shall be deleted and replaced with windows. Detailed plans showing these changes are to be submitted for the approval of Council prior to the issue of the Construction Certificate.

**INTERNAL STAIR**

- (5) The existing internal stair shall be retained and repaired where necessary to enable access to the first floor residence through the ground floor. The stair shall be fire separated at ground floor level in accordance with Part C of the Building Code of Australia. A smoke detection alarm system shall be installed in the Class 4 residence in accordance with Specification E2.2a of the Building Code of Australia. Detailed plans showing these changes are to be submitted for the approval of Council prior to the issue of the Construction Certificate.

**STRATA SUBDIVISION**

- (6) Given the shared entry point and internal access stair, the first floor residence can only be used in association with the ground floor premises and the two floors cannot be strata subdivided at a later date.

**REMOVAL OF AIR CONDITIONING UNIT AND PROJECTING WALL SIGN**

- (7) The existing external air conditioning unit, located on the side (eastern) boundary wall, shall be removed and the wall made good, prior to the release of the Occupation Certificate.
- (8) The existing projecting wall sign located between the ground and first floors on the front elevation shall be removed and the wall made good, prior to the release of the Occupation Certificate

**ACCESS FOR PEOPLE WITH DISABILITIES**

- (9) The applicant must provide access and facilities, or an alternative solution, to the ground floor café for people with disabilities, 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.

**CAFÉ USE**

- (10) Separate development consent is required to be obtained for the fit-out of the ground floor cafe. Any development application lodged shall be accompanied by relevant details, including but not limited to, details of the internal fit-out, number of tables and chairs, mechanical services and kitchen equipment.

**BUILDING CODE OF AUSTRALIA**

- (11) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000 the following works are required to be completed prior to the issue of an Occupation Certificate to ensure that there is adequate fire safety in the building:-
- (a) The floor separating the Class 6 and Class 4 parts shall be upgraded to achieve a resistance to the incipient spread of fire not less than 60 minutes, or have an FRL of at least 30/30/30. A certificate of compliance prepared by a suitably qualified person shall be submitted to the principal certifying authority (PCA) prior to the issue of an Occupation Certificate and a copy furnished to Council (if not the PCA);
  - (b) The kitchen exhaust duct shall be completely protected in a shaft by construction which achieves a resistance to the incipient spread of fire of not less than 60 minutes or an FRL of at least 30/30/30 which extends to the top of the duct. The penetration of the duct through the protected floor shall not impair its fire resistance. A certificate of compliance prepared by a suitably qualified person shall be submitted to the principal certifying authority (PCA) prior to the issue of an Occupation Certificate and a copy furnished to Council (if not the PCA);
  - (c) Service installations that penetrate a building element required to have an FRL or a resistance to the incipient spread of fire must be protected in accordance with C3.15 of the Building Code of Australia. A certificate of compliance prepared by a suitably qualified person shall be submitted to the principal certifying authority (PCA) prior to the issue of an Occupation Certificate and a copy furnished to Council (if not the PCA).

### **APPROVED DESIGN**

- (12) The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the **approval of Council**.
- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations, new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.

### **ANNUAL FIRE SAFETY STATEMENT**

- (13) 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.

### **SIGNS**

- (14) A separate development application for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council prior to the erection or display of any such signs.
- (15) The design details of the proposed building facade including all external finishes and colours are to be submitted for the approval of Council prior to the issue of the Construction Certificate.

## **Schedule 1B**

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

- (16) 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.

### **STORMWATER AND DRAINAGE**

- (17)
- (a) Certification by a hydraulic engineer that stormwater will be disposed from the site in accordance with Council's standard requirements, shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

- (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 and obtain registration on Title of a Positive Covenant prior to commencement of any work within the public way, at no cost to the City.

#### **VENTILATION**

- (18) 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).
- (19) All mechanical exhaust discharge points shall be positioned to comply with Section 3.7 of Australian Standard 1668 Part 2-1991

#### **MECHANICAL EXHAUST - TOILETS**

- (20) The mechanical exhaust ventilation system to the toilets must exhaust at least 10 l/s per square metre of floor area of each sanitary compartment but not less than 25 l/s from each sanitary fixture and at least 5 l/s per square metre of floor area from each privacy lock. Each 0.6m length of urinal or part thereof shall be equivalent to one fixture.

#### **SANITARY FACILITIES**

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

#### **WASTE WATER**

- (22) That wastewater arising from the premises shall be directed to the sewers in accordance with Sydney Water Corporation requirements.

#### **WASTE MANAGEMENT**

- (23) That the construction, containerisation and handling of waste arising from the development shall comply with the requirements of Council's Code for Waste Handling in Buildings.

#### **NO SMOKING IN ENCLOSED PUBLIC PLACES**

- (24) Attention is drawn to the requirements of the Smoke-Free Environment Act, 2000, which prohibits smoking in all enclosed public spaces. An enclosed public space means a place having a ceiling or roof and, except for doors and passageways, completely or substantially enclosed, whether permanently or temporary. Under the Act there is an onus of responsibility on both individual and occupiers of premises to refrain and prevent smoking within defined smoke-free areas.

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

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

**INSTALLATION OF DUAL-FLUSH TOILETS**

- (26) 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.

**INSTALLATION OF WATER-EFFICIENT SHOWER HEADS AND TAPS**

- (27) All shower heads and taps installed shall be water efficient 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 development under the Environmental Planning and Assessment Act 1979.

**HOT WATER SYSTEM**

- (28) Centralised, gas boosted solar hot water services or centralised heat pump services shall be installed. The service must be adequately sized to meet the anticipated maximum hot water demand of each dwelling. Consideration should be given to position of the hot water system such that its efficiency is maximised by minimising heat loss in pipe-work.
- (29) In the case of centralised solar hot water services, the service installer must provide written confirmation that a minimum of 50% of the water heating per annum is provided from solar energy input. Where a pump is used to circulate water between tank and remote panels, any noise associated with the pump must not exceed 5dB at the property boundary. Details to be submitted to Council or the accredited certifier prior the issue of a Construction Certificate.

**SPACE HEATING**

- (30) The method of space heating for the dwelling shall conform to the requirements of Leichhardt Council DCP 2000 and shall exclude solid fuel heaters/ fireplaces.

**INSULATION**

- (31) To reduce both summer heat gain and winter heat loss, the proposed residential building is to be insulated to achieve energy efficiency and thermal comfort. Insulation to the following R value standard is to be provided;
- (a) R1.5 for roofs and ceilings (combined value)
  - (b) R1.0 for walls

- (32) Details are to be included in the specification submitted with the Construction Certificate.

#### **NON COMPLIANCE WITH THE DEEMED TO SATISFY PROVISIONS OF THE BCA**

- (33) 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**

- (34) 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).

#### **ARCHAEOLOGICAL MONITORING DURING EXCAVATION**

- (35) Excavation of the site requires the works to be monitored by an archaeologist and any remains are to be suitably recorded. To this affect, the applicant must make application to the Heritage Office for an archaeological monitoring permit under Section 140 of the Heritage Act 1977.

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

- (36) 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.

#### **BARRICADE PERMIT**

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

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

- (38) A Pedestrian and Traffic Management Plan must be submitted to and approved by Council prior to commencement of construction on the site and must include details of:-
- (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.

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

#### **CERTIFICATION OF MECHANICAL VENTILATION**

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

#### **STRUCTURAL CERTIFICATION FOR DESIGN - MINOR WORKS**

- (41) Prior to commencement of work, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA), (Council or a private accredited certifier). A copy to the Certificate must be submitted to Council if it is not the PCA.
  - (a) Structural Drawing/s prepared by an appropriately qualified practising Structural Engineer; corresponding with and attached to a Structural Certificate (see (b));
  - (b) A Structural Certificate for Design, submitted in the form of Attachment S1, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979), after the structural drawings have been checked and comply with:-

- (i) The relevant clauses of the Building Code of Australia (BCA);
  - (ii) The relevant conditions of Development Consent;
  - (iii) The Architectural Plans incorporated with the Construction Certificate; and
  - (iv) The relevant Australian Standards listed in the BCA (Specification A1.3).
- (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

#### **Notes**

- (d) An appropriately qualified practising structural engineer certifying by completing Attachment S1 must have:-
- (i) Appropriate tertiary qualifications in Civil or Structural Engineering; AND
  - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
  - (iii) Evidence of relevant experience in the form of a CV/Resume.
- (e) Appropriate current professional indemnity insurance.
- (i) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
  - (ii) Certification of Inspection/s is also required prior to issue of the Occupation Certificate, and/or prior to use. See Schedule 1E Conditions.

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

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

- (a) Prior to the commencement of construction work, a Water and Sediment Control Statement must be submitted and approved by the Principal Certifying Authority.
- (b) Such statement must include:-
  - (i) The procedures by which stormwater and waste water deposited or generated on site is to be collected and treated prior to discharge including details of any proposed pollution control device;

- (ii) The proposed method of discharge;
- (iii) The procedures to be adopted for the prevention of run-off from the site onto the public way;
- (iv) The procedures to be adopted for the prevention of loose material and litter from being blown onto the public way;
- (v) The statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's "Erosion and Sediment Control Manual".
- (vi) 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).
- (vii) The Water and Sediment Control Statement shall be implemented during the construction period.
- (viii) Any seepage or rainwater collected on site during construction must not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.
- (ix) The applicant must also comply with the NSW Protection of the Environment Operations Act 1997, whereby it is an offence to pollute classified waters such as Sydney Harbour to which much of the City's street drainage is directly connected.

## **Schedule 1D**

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

#### **CITY OF SYDNEY COMPLIANCE INSPECTIONS**

- (43) The purpose of this condition is to ensure that the Council is given sufficient notice prior to the issuing of the Occupation Certificate to carry out inspections of soon to be completed buildings, where Council considers it necessary. In doing so, this ensures that the Council is able to provide an independent analysis of whether the building is constructed to a standard that complies with the BCA and in accordance with the development consent.
  - (a) The applicant and building owner are to note that it is an offence under S.109N of the Environmental Planning and Assessment Act 1979, to occupy or use a building in whole or in part, unless an Occupation Certificate has been issued in relation to the building or the part.

- (b) A maximum penalty of 25 penalty units applies under the provisions of the Environmental Planning and Assessment Act 1979, for the contravention of the above requirements.
- (c) Council officers may undertake random inspections from time to time during construction and toward the end of building works to ensure that buildings or part of buildings are not occupied without a partial or final Occupation Certificate, and to check compliance with conditions of development consent and the BCA.
- (d) In the event that a Principal Certifying Authority (PCA) other than Council is appointed, written notice shall be given to Council (whether by the developer, builder or other person relying on the development consent) on each of the following occasions:
  - (i) Within 7 days of installation of services, such as plumbing, mechanical ventilation and the like which penetrate fire rated walls and slabs (excluding basement areas); and
  - (ii) 7 days prior to the installation of false ceilings or cornices which abut fire rated walls and slabs; and
  - (iii) 14 days prior to the final inspection to be carried out by the PCA for the purpose of issuing an Occupation Certificate.
- (e) The PCA shall be advised in writing (whether by the developer, builder or other person relying on the development consent) of Council's requirements pursuant to paragraph (d).
- (f) This reserves time for Council or persons appointed by Council to conduct any random inspections Council may choose to do, prior to the issue of the Occupation Certificate, in order to ensure that buildings or part of buildings are not occupied without a partial or final occupation certificate, and to undertake random audits of certified works.

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

- (44) The hours of construction and work on the development shall be:
  - (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30 a.m. and 5.30 p.m. on Mondays to Fridays, inclusive, and 7.30 a.m. and 1.30 p.m. on Saturdays, with safety inspections being permitted at 7.00 a.m. on work days 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 a 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 Building Sites Noise Code" and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".
- (45) 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.

#### **CONTROL OF RUN-OFF DURING CONSTRUCTION**

- (46) 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.

#### **PUBLIC WAY**

- (47) 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.
- (48) Portable signs or goods for sale or display must not be placed on the footway or other public areas.

- (49) 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**

- (50) 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.

#### **FIRE SAFETY CERTIFICATE**

- (51) 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.

#### **FOOTINGS AND WALLS**

- (52) Prior to the issue of an Occupation Certificate, a certificate from a practising structural engineer must be submitted to the principal certifying authority to certify that the existing footings walls are structurally adequate to support the loads from the existing structure.

**MECHANICAL VENTILATION PERFORMANCE CERTIFICATE**

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

**CERTIFICATION FOR STRUCTURAL INSPECTIONS**

- (54) 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.
- (55) 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.

**EXIT SIGNS**

- (56) Exit signs with directional arrows where necessary, shall be provided in accordance with E4.5, E4.6 and E4.8 of the Building Code of Australia.

**Schedule 1F****Conditions to be complied with during the use of Premises****REMOVAL OF GRAFFITI**

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

**NOISE - USE**

- (58) The use of the premises including music and other activities must not give rise to any one or more of the following:
- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
  - (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to midnight daily and 0dB above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this sub-clause does not apply to any such frequencies.
  - (c) During the period 12 midnight to 7.00 a.m. the use shall be inaudible in any habitable room of any residential premises.
  - (d) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

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

**NOISE - MECHANICAL PLANT**

- (59) Noise associated with mechanical plant must not give rise to any one or more of the following:

- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
- (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to 10.00 p.m. daily and 0dB above the L90 background between 10.00 p.m. and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this subclause does not apply to any such frequencies.
- (c) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

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

#### **CARE OF BUILDING SURROUNDS**

- (60) 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.
- (61) The glass shop front must not be tinted, screened by blinds, curtains or the like or obscured.

#### **NUMBERING**

- (62) Prior to issue of an Occupation Certificate street, numbers and the building name, shall be clearly displayed at either end of the ground level frontage in accordance with the "Policy on Numbering of Premises within the City of Sydney". If new street numbers or a change to street numbers are required, a separate application shall be made to Council.

#### **STREET NAME PLATE**

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

## Schedule 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 unanimously.

Note - Mr James Phillips and Mr Amir Bodenstein addressed the meeting of the Planning Development and Transport Committee on Item 8.12.

#### **DEVELOPMENT APPLICATION: 231-217 PALMER STREET AND 279-285 LIVERPOOL STREET DARLINGHURST (D/03/01324)**

#### **8.13**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application D/03/01324 made by Planning Workshop Australia for the site at 213-217 Palmer Street and 279-285 Liverpool Street Darlinghurst, for the redevelopment of the former telephone exchange building, it be resolved that -

- (A) if it were able, Council would have refused the development application for the reasons set out in the subject report. However, as the application was withdrawn, Council notes such withdrawal; and

- (B) the applicant be advised that any future scheme for the redevelopment of the site should involve the retention and conservation of the existing heritage buildings, with adaptive re-use of all buildings on the site favoured. Any new proposal should involve a floor space ratio no greater than that which currently exists on the site, which is noted to be in excess of the maximum permissible in the South Sydney Local Environmental Plan 1997.

Carried unanimously.

**DEVELOPMENT APPLICATION: 27-31 HUGHES STREET, POTTS POINT (WAYSIDE CHAPEL) (U02/00748)**

**8.14**

That consideration of this matter be deferred to the meeting of Council on 2 August 2004.

Carried.

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

Note - At the meeting of the Planning Development and Transport Committee, it was moved by Councillor Pooley, seconded by Councillor Firth -

That the recommendation by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, on Development Application: 27-31 Hughes Street, Potts Point, as printed in the agenda paper, be adopted.

The motion was lost on the following show of hands -

Ayes (3) - Councillors Firth, Lee and Pooley

Noes (7) - The Lord Mayor, Councillors Black, Harris, Hoff, Kemmis, McInerney and Mallard.

Note - Mr Derek Hand, Mr Robert Weir, Mr Andrew Woodhouse and Mr Tone Wheelan addressed the meeting of the Planning Development and Transport Committee on Item 8.14.

**DEVELOPMENT APPLICATION: 342 BULWARA ROAD, ULTIMO (D/2004/312)**

**8.15**

That consideration of this matter be deferred to the meeting of Council on 2 August 2004.

Carried.

Note - This matter was dealt with by Council as Item 11 on the Business Paper.

Note - At the meeting of the Planning Development and Transport Committee, it was moved by Councillor Firth, seconded by Councillor Lee -

That the recommendation by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, on Development Application: 342 Bulwara Road, Ultimo, as printed in the agenda paper, not be approved.

The motion was lost on the following show of hands -

Ayes (3) - Councillors Firth, Harris and Lee

Noes (7) - The Lord Mayor, Councillors Black, Hoff, Kemmis, McInerney, Mallard and Pooley.

Note - Mr David Hardaker, Mr Mohammed Abuhassan and Mr Nicholas Angelos addressed the meeting of the Planning Development and Transport Committee on Item 8.15.

#### **DEVELOPMENT APPLICATION: 15 REGENT STREET, CHIPPENDALE (D/2003/00761)**

##### **8.16**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004 in relation to the development application D/2003/00761 made by Prescott Architects for the site at 15 Regent Street Chippendale, for construction of a new six storey mixed use building with basement storage, ground floor commercial area and 15 residential apartments, it be resolved that consent be granted subject to the following conditions -

## **Schedule 1A**

### **Approved Development and Contributions**

**Note 1:** Some conditions in Schedule A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

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

**APPROVED DEVELOPMENT**

- (1) Development must be in accordance with the following:
- (a) Development Application No. D2003/00761 dated 6 August 2003;
  - (b) Traffic Noise Attenuation Internal Acoustic Assessment Report by Acoustica Pty Ltd dated 6 August 2003;
  - (c) Environmental Site Assessment by Environmental Investigations, Report No. E334.1 AE dated 16 February 2004;
  - (d) Revised Archaeological Assessment by HLA Enviro-Sciences Pty Ltd Reference No. S6010201 dated February 2004; and
  - (e) drawings by Prescott Architects dated and numbered as follows:
    - DA 2000 Basement Store, Amendment E, dated 17/05/04
    - DA 2001 Ground Floor Level 1 Floor Plan, Amendment E, 17/05/04
    - DA 2002 Level 2 Plan, Amendment E, dated 17/05/04
    - DA 2003 Level 3 Plan, Amendment E, dated 17/05/04
    - DA 2004 Level 4 Plan, Amendment E, dated 17/05/04
    - DA 2005 Level 5 Plan, Amendment E, dated 17/05/04
    - DA 2006 Level 6 Plan, Amendment E, dated 17/05/04
    - DA 2007 Level 7 Plan, Amendment E, dated 17/05/04
    - DA 2008 Roof Plan, Amendment E, dated 17/05/04
    - DA 3000 East Elevation, Amendment D, dated 5/02/04
    - DA 3001 North Elevation, Amendment D, dated 5/02/04
    - DA 3002 West Elevation, Amendment D, dated 5/02/04
    - DA 3100 Section AA, Amendment D, dated 17/02/04

and as amended by the following conditions:

**SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- (2) A cash contribution comprising 1% of the total cost of the development, is payable to the City of Sydney pursuant to section 61 of the City of Sydney Act and the "City of Sydney Section 61 Contributions Plan 1997" in accordance with the following:-
- (a) Prior to the release of the construction certificate, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment shall be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney.

- (b) The contribution shall not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the “City of Sydney Registered Quantity Surveyor's Detailed Cost 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 Registered Quantity Surveyor's Detailed Cost Report” may be obtained from the City of Sydney One Stop Shop and the City of Sydney’s website ([www.cityofsydney.nsw.gov.au](http://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.

### **PHYSICAL MODELS**

- (3) 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
- (4) 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.

**SEPARATE APPLICATION FOR SPECIFIC USE**

- (5) A separate development application must be submitted at the appropriate time for the approval to use the ground floor commercial area for any specific use.

**ARCHAEOLOGICAL INVESTIGATION**

- (6)
  - (a) Should any historical relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
  - (b) Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

**STREET WIDENING REQUIRED**

- (7) Limited in stratum to a height of the concrete structure above the widened footpath the owners are to dedicate for road purposes, free of cost to Council:
  - (a) A widening of Goold Street of 230mm for the full frontage to the north-western boundary of the site;
  - (b) A widening of Goold Street of 90mm for the full frontage to the western boundary of the site;
  - (c) A widening of Regent Street of 220mm for the partial frontage to the north-eastern boundary of the site;
  - (d) A splay corner of approximately 2.0m x 2.0m at the intersection of the Goold Street alignments at the western corner of the site.

**DEVELOPMENT CONSENT REQUIRED FOR STRATA SUBDIVISION**

- (8) Any proposal to Strata subdivide the building and site will require separate applications to obtain Development Consent for the subdivision proposal from Council and subsequent approval of the final strata plan and endorsement of the Strata Certificate in accordance with Section 37 of the Strata Schemes (Freehold Development) Act 1973.

**BALCONY ENCROACHMENTS**

- (9) In accordance with Council's standard requirements, 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.

**APPROVAL FOR KERB CROSSING REQUIRED**

- (10) 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 crossing required for the development and the reinstatement of the footway formation where any existing crossing are no longer required.

**PARKING PERMITS NOT TO BE PROVIDED**

- (11) The following conditions apply to car parking:-
- (a) The ground floor car parking space shall be used exclusively for loading and owners or occupiers will not be eligible for parking permits.
  - (b) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyancing Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
  - (c) Any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act, 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking part - lots in the strata scheme.

**Note:**

- (i) The covenant/restriction will be noted on the Section 149 Certificates for all the units/building so burdened by this condition.

**BATHROOM VENTILATION**

- (12) A system of mechanical exhaust ventilation shall be provided to the residential bathrooms exhausting at least 25L/s from each sanitary fixture.

#### **LAUNDRY VENTILATION**

- (13) A system of mechanical exhaust ventilation shall be provided to the residential laundries exhausting at least 20L/s per laundry.

#### **CARE OF BUILDING SURROUNDS**

- (14) 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.

## **Schedule 1B**

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

#### **CONSTRUCTION CERTIFICATE**

- (15) 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.

#### **ENGINEER'S CERTIFICATE REQUIRED**

- (16) That prior to the issue of a Construction Certificate, Council shall be provided with an engineer's certificate that certifies that the thermal air duct riser is sufficiently sized and designed to naturally ventilate the units it is proposed to serve.

#### **ACOUSTIC PRIVACY BETWEEN UNITS**

- (17) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, an acoustic assessment report must be submitted to and approved by the Certifying Authority (Council or a private accredited certifying authority) addressing the requirements of the Central Sydney DCP 1996 Amendment No.5 Internal Residential Amenity. The approved drawings and specifications for construction are to be in accordance with the following:

- (a) In order to assist acoustic control of airborne noise between units:

- (i) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like.
  - (ii) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an FSTC of not less than 55.
  - (iii) A floor separating sole occupancy units must not have a FSTC of less than 50.
- (b) In order to assist acoustic control of impact noise between units:
- (i) A floor shall have an Impact Isolation Class (IIC) of not less than 50 if it separates habitable rooms of sole occupancy units or a sole occupancy unit from a plant room, stairway, public corridor, hallway or the like.
  - (ii) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an IIC of not less than 55.
  - (iii) Walls between sole-occupancy units shall comply with impact sound resistance standards specified in the BCA.
- (c) Council or the private Principal Certifying Authority must ensure that the completed work complies with the above conditions prior to issuing an Occupation Certificate (see condition in Schedule E of this consent).

#### **RECEPTACLES FOR CIGARETTE BUTTS**

- (18) 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.

#### **INSTALLATION OF WATER EFFICIENT TAPS**

- (19) 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.

#### **INSTALLATION OF DUAL-FLUSH TOILETS**

- (20) 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**

- (21) 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.

#### **PLANTATION OR RECYCLED TIMBERS**

- (22) To minimise the damage to the environment, 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. These are to be limited to plantation timbers grown on Australian farms, or State Forest Plantations, or recycled timbers.

#### **NOISE REDUCTION**

- (23) Prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979, an acoustic assessment report must be submitted to and approved by Council or the private accredited certifying authority addressing the requirements of the Central Sydney DCP 1996 Amendment No.5 Internal Residential Amenity. The approved drawings and specifications for construction are to be in accordance with the following:

- (a) The report shall indicate measures to preserve the amenity for residents/apartment users such that the repeatable  $L_{Aeq}$  (1 hour) level will not exceed the following levels:-

- (i) In a naturally ventilated - windows closed condition:

- |    |   |      |
|----|---|------|
| a. | Sleeping areas (night time only: 2200-0700) | 35dB |
| b. | Living areas (24 hours)                     | 45dB |

- (ii) In a naturally ventilated - windows open condition, (ie windows open up to 5% of the floor area, or attenuated natural ventilation open to 5% of the floor area):
  - a. Sleeping areas (night time only: 2200-0700) 45dB
  - b. Living areas (24 hours) 55dB
- (iii) Where a naturally ventilated - windows open conditions cannot be achieved, it is necessary to incorporate mechanical ventilation or air conditioning.
- (iv) The following repeatable maximum  $L_{Aeq}$  (1 hour) levels shall not be exceeded when doors and windows are shut and mechanical ventilation or air conditioning is operating. These levels correspond to the combined measured level of external sources and the ventilation system operating normally:-
  - a. Sleeping areas (night time only: 2200-0700) 38dB
  - b. Living areas (24 hours) 46dB
- (b) In the preparation of the report:
  - (i) The environmental noise monitoring at the site of the proposed development shall be undertaken for not less than 3 week days, or not less than 2 weeks where the site is affected by noise from part-time operations;
  - (ii) The repeatable maximum  $L_{Aeq}$  (1 hour) for the daytime period (0700-2200 hours) and for the night time period (2200-0700 hours) is to be identified, and
  - (iii) The  $L_{Aeq}$  (1 hour) noise levels within living rooms and bedrooms with windows and doors both open and closed shall be shown.
- (c) All residential buildings and serviced apartments are to be designed and constructed in accordance with the above criteria. The completed work must comply with the above conditions prior to issuing an Occupation Certificate (see condition in Schedule E of this consent).

## **EQUITABLE ACCESS**

- (24) 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.

**PUBLIC DOMAIN PLAN**

(25) 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.

- (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:**

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

**ELECTRICITY SUBSTATION**

- (26) Should an electricity substation be required, the owner must dedicate to Energy Australia, free of cost, an area within the building that is screened from public view 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)**

(27)

- (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).
- (c) **Note:**
  - (i) For Quick Check agent details please refer to “your business” section of Sydney Water’s website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see Building and Renovating under the heading Building & Developing, or telephone 132 092.

- (d) 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).
- (e) **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](http://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](http://www.sydneywater.com.au) or telephone 132 092.

## **STORMWATER AND DRAINAGE**

(28) 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**

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

### **ALIGNMENT LEVELS**

- (30) Prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act, 1979, footpath alignment levels for the building must be submitted to Council for approval. This submission shall be accompanied by a plan prepared by a Registered Surveyor showing the existing location, size and levels (AHD) of all service covers, trees, poles and street furniture, kerb, gutter and alignment levels at 10m cross/sections, alignment levels at proposed and existing vehicular and/or pedestrian entrances within the footway adjacent to and extending 20 metres past either side of the site.
- (31) These alignment levels, as approved by Council, are then to be incorporated into the plans submitted with the Application for a Construction Certificate.

### **RECYCLING AREAS**

- (32) The following provisions apply to recycling areas:
  - (a) The building design must incorporate separate garbage rooms constructed in accordance with Council’s Code, for the separation of commercial waste from residential waste, including recyclable materials.
  - (b) The building must incorporate design features which will allow waste to be minimised and managed within each individual unit or office, on each floor of the building, and within the garbage/recycling storage and collection area.

- (c) The building design must allow easy access to the garbage and recycling areas by residents and tenants, but prevent their use by non-residents/tenants.

#### **BUILDING WASTE MANAGEMENT PLAN**

- (33) A Building Waste Management Plan is to be submitted to Council and approved by the Director City Development prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979 for construction of the development. Such Plan must address compliance with Council's Code for Waste Handling in Buildings 1994 and include details of the following:
  - (a) The location, design and construction of the garbage rooms, recycling rooms, bin washing and collection areas and collection vehicle standing areas, incorporating the separation of residential waste from waste generated by other uses of development.
  - (b) Calculations of the volumes of waste generated by the various uses of the development and verification of garbage room sizes.
  - (c) The natural and mechanical ventilation of garbage rooms and service areas, in accordance with the Waste Code and Australian Standard 1668.
  - (d) The location, design and specification of garbage chutes and compaction systems if proposed;
  - (e) The proximity of waste handling facilities to any commercial food areas or loading docks, with the view to avoiding cross contamination.
  - (f) The design features incorporated in the building and procedures adopted by building management to ensure waste separation and minimization within individual units and offices, on each floor of the development and within garbage storage and recycling areas.
- (34) Upon completion of construction of the development and prior to the issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979 (Form 12) or part thereof, compliance of all the building's waste management facilities with the requirements set out in the approved Building Waste Management Plan and in accordance with Council's Code for Waste Handling in Buildings, is to be verified and approved by Council.

## **Schedule 1C**

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

**PLANS AND SPECIFICATIONS REQUIRED**

- (35) 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 garbage and recycling storage room (Council's Code for Waste Handling in Buildings).

**SITE RECTIFICATION**

- (36) 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 \$54,000 dollars as security for the costs of such works provided that:-
    - a. the maximum liability under the Deed shall not exceed \$54,000; 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.

#### **EXCAVATION WORK METHOD STATEMENT**

- (37) 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 OR EXCAVATION**

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

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

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

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

- (39) 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**

- (40) 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.

- (41) 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.
- (42) The Waste Management Plan must address demolition and excavation, as applicable. The Plan must describe procedures by which waste will be minimised, managed and recycled and must address the following issues:-
- (a) Compliance with the requirements set out in Annexure ("A") of the Code for Waste Handling in Buildings adopted by Council 17 October 1994.
  - (b) Details of recycling and the removal of spoil and rubbish from the site in the course of demolition and excavation operations including:-
    - (i) Type and quantities of material expected from demolition and excavation;
    - (ii) Name and address of transport company;
    - (iii) Address of proposed site of disposal;
    - (iv) Name/address of company/organisation accepting material;
    - (v) Types and quantities of materials that are to be reused or recycled, on and off site and procedures involved;
    - (vi) Name of company/contractor undertaking on and off site reuse and recycling, and address of recycling outlet;
    - (vii) Material for disposal and justification of disposal;
    - (viii) If details of items (ii) to (vii) are not known at the time of preparation of the Waste Management Plan, the information must be supplied immediately after the letting of the contracts.
- (43) 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**

- (44) A separate application is to be made to Council for Approval under Section 68 of the Local Government Act 1993 to erect a hoarding or scaffolding in a public place and such application is to include:-
- (a) Architectural, construction and structural details of the design in accordance with the Policy for the Design and Construction of Hoarding (September 1997) and the Guidelines for Temporary Protective Structures (April 2001).
  - (b) Structural certification prepared and signed by an appropriately qualified practising structural Engineer.
  - (c) Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of demolition or construction works on site.
  - (d) 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**

- (45)
- (a) 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:-
    - (i) Excavation in or disturbance of a public way, or
    - (ii) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).
  - (b) Documents required with the Road Opening Permit application include:-

- (i) A plan and relevant sections showing scope of works, boundaries, utility services, levels of proposed excavation, and details of method of reinstating public way;
  - (ii) Evidence that public utility drawings have been inspected;
  - (iii) 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;
  - (iv) A Security Deposit for reinstatement of public way.
- (46) The Road Opening Permit will be subject to further conditions that shall be complied with.

### **BARRICADE PERMIT**

- (47) 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**

- (48) 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 a sum to be assessed by Council.

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

- (49) For temporary shoring, a separate application must be lodged to Council under the provisions of Section 68 of the Local Government Act 1993.

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.

**HOARDING PROTECTION**

- (50) 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.

**STRUCTURAL CERTIFICATION FOR DESIGN - MAJOR WORKS**

- (51) 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.

Certification of Inspection/s is also required prior to issue of the Occupation Certificate, and/or prior to use.

## **Schedule 1D**

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

#### **SITE CONTAMINATION**

(52)

- (a) Should soils be excavated for off-site disposal, then under the EPA (1999) Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes, any waste soils being removed from the site need to be classified on the basis of soil quality to enable appropriate disposal to an appropriately licensed landfill facility; and
- (b) Any soils to be imported onto the site for the purpose of back-filling excavated areas will also require validation testing in accordance with the EPA (1995) Sampling Design Guidelines in order to confirm the suitability of the imported material for the proposed land use.

**LOADING AND UNLOADING DURING CONSTRUCTION**

(53) The following requirements apply:-

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

**STREET TREE PROTECTION**

(54) 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**

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

- (a) concrete trucks, concrete pumps and their attachments, and trucks used for the disposal of spoil shall not be washed out on the public way;
- (b) any water collected from on-site washing down of concrete trucks, concrete pumps or their attachments and trucks used for the disposal of spoil shall not be pumped, directed or allowed to flow to the street stormwater system;

- (c) any seepage or rain water collected on site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council and evidence of approval is to be submitted to the Principal Certifying Authority prior to discharge into such system.

#### **NO OBSTRUCTION OF THE PUBLIC WAY**

- (56) 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 DRIVEWAY ACCESS**

- (57) 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 VEHICLE LOADS TO BE COVERED**

- (58) 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.

#### **GEOTECHNICAL REPORT AND CERTIFICATION**

- (59) 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.
  - (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.
  - (g) 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.

#### **CERTIFICATION OF MECHANICAL VENTILATION**

- (60) 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.

- (61) 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.

## **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**

- (62) 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.

## **CERTIFICATION FOR STRUCTURAL INSPECTIONS**

- (63) Prior to issue of an Occupation Certificate or use of the premises, a Structural Inspection Certificate in the form of Attachment S1C OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier) after:
- (a) The site has been periodically inspected and the structural certifier is satisfied that the Structural Works are deemed to comply with the final Design Drawings; and
  - (b) The drawing revisions listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s. A copy of the Certificate with a microfilm set of the final drawings shall be submitted to Council if it was not the PCA.
  - (c) An appropriately qualified practising structural engineer certifying by completing Attachment S1C must have:-
    - (i) Appropriate tertiary qualifications in Civil or Structural Engineering, AND;
    - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
    - (iii) Evidence of relevant experience in the form of a CV/Resume;
    - (iv) Appropriate current professional indemnity insurance.
  - (d) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.

### **MECHANICAL VENTILATION PERFORMANCE CERTIFICATE**

- (64) 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.

### **WASTE COLLECTION CONTRACTS**

- (65) 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.

### **STREET NAME PLATE**

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

### **SHOP NUMBERING**

- (67) 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".

### **PREMISES NUMBERING**

- (68) 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".

### **CERTIFICATION OF GEOTECHNICAL INSPECTION**

- (69) 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).
- (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.

### **COMPLIANCE CERTIFICATE FOR NOISE REDUCTION**

- (70) Prior to issue of an Occupation Certificate, 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 certifying authority). This must certify compliance with the Noise Reduction conditions in Schedule B of this consent, being the requirements in the Central Sydney DCP 1996 Amendment No. 5 - Internal Residential Amenity. A copy of the Certificate shall be submitted to Council if it was not the PCA.

## **Schedule 1F**

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

#### **NOISE - MECHANICAL PLANT**

- (71) 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.

Carried unanimously.

**SECTION 82A REVIEW APPLICATION: 2 CHARLES STREET, GLEBE (LD/02/422)**

**8.17**

That -

- (A) consideration of this matter be deferred to the meeting of Council on 2 August 2004; and
- (B) if possible prior to the meeting of Council, a report be provided on the significance of the subject building and the subject site in the growth of the suburb of Glebe and the general area.

Carried.

Note - This matter was dealt with by Council as Item 12 on the Business Paper.

Note - Mr Grant Ogders, Mr Andrew Toogood, Mr Stuart Ewings, Mr Craig Homer, Ms Marie Homer, Mr Neil Macindoe and Ms Jan Falloon addressed the meeting of the Planning Development and Transport Committee on Item 8.17.

**DEVELOPMENT APPLICATION: 90 CARILLON AVENUE, NEWTOWN - FIT-OUT AND USE OF BUILDING FOR EDUCATIONAL PURPOSES (D/2004/00243)**

**8.18**

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, in relation to Development Application D/2004/00243 made by The University of Sydney for the site at 90 Carillon Avenue, Newtown, for the use and fit-out of an existing building for the purposes of an educational establishment, to accommodate a maximum of 31 staff and 187 students, it be resolved that consent be granted subject to the following conditions:-

## **Schedule 1A**

### **Approved Development, Contributions and Covenants**

**Note1:** Some conditions in Schedule A are to be satisfied prior to commencement of works and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

### **APPROVED DEVELOPMENT**

- (1) Development must be in accordance with Development Application No.D/2004/00243 dated 10/03/04 and information and drawings numbered SK641 Issue L dated 27/02/04 prepared by Multiplex Constructions and as amended by the following conditions:

### **HOURS OF OPERATION**

- (2) The hours of operation must be restricted to between 8.30am and 9.00pm Mondays to Friday, inclusive, and 9.00am to 5.00pm on Saturdays and Sundays, inclusive, with no operation on Public Holidays.

### **CAR PARKING SPACES**

- (3) Three (3) car parking spaces are to be allocated on-site for the exclusive use of the approved development and shall be located close to the Darling Building.

### **SHUTTLE BUS SERVICE TO BE PROVIDED**

- (4) The shuttle bus service and route that currently transports students from the main campus of the University of Sydney between Redfern train station and major bus stops surrounding the University of Sydney shall be extended to service the evening classes being undertaken at the Centre for Continuing Education located at 90 Carillon Avenue Newtown. Details of compliance with this matter shall be submitted to Council prior to the occupation of the building.

### **INFORMATION TO BE MADE AVAILABLE FOR FUTURE STUDENTS**

- (5) The Centre for Continuing Education shall update their website and make available information brochures, to inform and make future students aware of the shuttle bus service, alternative modes of transport other than private vehicle usage, agreements with local car parking operators providing discounted parking rates for future students of the Centre and advise students that the surrounding on-street parking is generally limited to one hour time restricted parking and that they should not be parking in surrounding streets due to the time duration of the courses and on-street parking restrictions. Details of compliance with this matter shall be submitted to Council prior to the occupation of the building.

### **SIGNS**

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

### **INSTALLATION OF DUAL-FLUSH TOILETS**

- (7) All toilets installed within the development shall be of water efficient dual-flush capacity with a minimum "AAA" rating.

**INSTALLATION OF WATER EFFICIENT TAPS**

- (8) All taps and shower heads installed shall be water efficient with a minimum “AAA” rating.

**ACCESS AND FACILITIES FOR PEOPLE WITH DISABILITIES**

- (9) 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 the works commencing 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.

**BARRICADE PERMIT REQUIREMENT**

- (10) 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.

**VENTILATION**

- (11) 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).

**CERTIFICATION OF MECHANICAL VENTILATION**

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

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

- (a) Certified plans (in duplicate), coloured so as to adequately distinguish the proposed alterations;
- (b) A general description of the project plus mechanical ventilation drawings and documentation in duplicate, coloured to show ductwork and equipment as set out below. (Where appropriate a schematic drawing should also be submitted).
  - (i) Supply Air Ducts, Shafts and Fans - Blue
  - (ii) Return Air Ducts, Shafts and Fans - Pink
  - (iii) Outside Air Ducts, Shafts, Intakes and Stair Pressurisation - Green

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

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

(13) The hours of construction and work on the development shall be:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30 a.m. and 5.30 p.m. on Mondays to Fridays, inclusive, and 7.30 a.m. and 3.30 p.m. on Saturdays, with safety inspections being permitted at 7.00 a.m. on work days 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 a 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 Building Sites Noise Code" and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

**NO OBSTRUCTION OF THE PUBLIC WAY**

- (14) 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.

**OCCUPATION CERTIFICATE REQUIREMENT**

- (15) 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.

**WASTE CONTRACT ARRANGEMENTS**

- (16) 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.

**NUMBERING**

- (17) Prior to issue of an Occupation Certificate street, numbers and the building name, shall be clearly displayed at either end of the ground level frontage in accordance with the "Policy on Numbering of Premises within the City of Sydney". If new street numbers or a change to street numbers are required, a separate application shall be made to Council.

**STREET NAME PLATE**

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

**CERTIFICATION FOR STRUCTURAL INSPECTIONS**

- (19) Prior to issue of an Occupation Certificate or use of the premises, a Structural Inspection Certificate in the form of Attachment S1C OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979) must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier) after:
- (a) The site has been periodically inspected and the structural certifier is satisfied that the Structural Works are deemed to comply with the final Design Drawings; and

- (b) The drawing revisions listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

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

**Notes:**

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

**CARE OF BUILDING SURROUNDS**

- (20) 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**

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

**NO SIGNS OR GOODS ON PUBLIC AREA**

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

**RECEPTACLES FOR CIGARETTE BUTTS**

- (23) 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 works commencing, 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.

#### **WINDOW CLEANING**

- (24) 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.

#### **NO SPRUIKERS OR AMPLIFIED NOISE**

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

#### **NOISE - USE**

- (26) The use of the premises including music and other activities must not give rise to any one or more of the following:
- (a) Transmission of vibration to any place of different occupancy greater than specified in AS 2670.
  - (b) An indoor sound pressure level in any place of different occupancy (and/or public place) greater than 3dB above the L90 background level or greater than 5dB at the boundary of any affected property in any octave band from 31.5 Hz to 8,000 Hz centre frequencies inclusive between the hours of 7.00 a.m. to midnight daily and 0dB above the L90 background between 12 midnight and 7.00 a.m. the following morning. However, when the L90 background levels in frequencies below 63 Hz are equal to or below the threshold of hearing, as specified by the equal loudness contours for octave bands of noise, this sub-clause does not apply to any such frequencies.
  - (c) During the period 12 midnight to 7.00 a.m. the use shall be inaudible in any habitable room of any residential premises.

- (d) The emission of an "offensive noise" as defined under the Protection of the Environment (Operations) Act 1997.

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

#### **NOISE - MECHANICAL PLANT**

- (27) 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.

## **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 requirements 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 contract of insurance is in force.

Carried unanimously.

**ITEM 9. REPEAL OF LEICHHARDT DEVELOPMENT CONTROL PLAN NO. 49 AND PRINCIPLES TO GUIDE DEVELOPMENT AT 156-160 BRIDGE ROAD, GLEBE**

Moved by Councillor McInerney, seconded by Councillor Kemmis -

That arising from consideration of a report by the Strategic Planning Manager and the Development Assessment Manager (North) to the Planning Development and Transport Committee on 26 July 2004, and to Council on 2 August 2004, and arising from consideration of the Memorandum from the Director City Planning (Northern Zone) to the Councillors dated 30 July 2004, in relation to the repeal of Leichhardt Development Control Plan No. 49 and Principles to Guide Development at 156-160 Bridge Street Glebe, it be resolved that:-

- (A) Council commence and comply with the procedures outlined in the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000 in regard to the repeal of a Development Control Plan (DCP), specifically by giving public notice in a local newspaper of an intention to repeal Leichhardt Development Control Plan 49;
- (B) in addition to the procedures outlined in clause (A), the following additional steps be undertaken:
  - (i) the public notice shall invite comments from the owner/applicant, general public and relevant stakeholders on the intention to repeal the DCP, for a period of 14 days;
  - (ii) any submissions received be reported to both the Council and Central Sydney Planning Commission (CSPC) for their respective consideration;
  - (iii) the Council and CSPC consider any submissions made in response to the intended repeal prior to deciding whether to repeal the DCP.
- (C) the reasons to be given for the intention to repeal the DCP be as follows:
  - (i) the objectives and provisions of the DCP are not considered to provide appropriate development guidelines for the site, particularly noting its heritage significance, at both the local and State level;
  - (ii) there are conflicting objectives and provisions within the DCP;
  - (iii) the DCP is inconsistent with the provisions of Leichhardt LEP 2000. In particular, it is noted that the DCP's height and envelope provisions allow for a development with a floor space ratio that exceeds the maximum permissible floor space ratio in the LEP;
  - (iv) there are adequate other assessment criteria under Section 79C of the Environmental Planning and Assessment Act 1979 and the Heritage Act 1977 to more appropriately guide future development of the site.

- (D) Council adopt the following principles to guide any future development at 156-160 Bridge Road, Glebe:
- (i) future development should not exceed the statutory maximum floor space ratio of 0.7:1 under Leichhardt Local Environmental Plan 2000, and this floor space ratio should not be viewed as a guaranteed minimum;
  - (ii) future development should contemplate either the retention of all sufficiently intact elements of Hamilton as an item of local heritage significance or, failing that, only a replacement building which corresponds to its important cartilage, setbacks, scale, size and context. Hence, should Hamilton be demolished, it should be replaced with open space, or by a single dwelling with a similar footprint to the existing footprint of Hamilton;
  - (iii) any replacement building or elements must have regard to accepted heritage practice under the Burra Charter and applicable environmental planning instruments, to be interpreted as new work and clearly discernable as a contemporary addition;
  - (iv) future residential infill development should be strictly limited to low scale residential development along the Ruess Street boundary at the rear of the site (maximum two storeys with possible dormer windows linked to the dwelling below), in scale and in sympathy with the location, bulk and scale of the surrounding area, allowing the retention of the front portion of the site as a landscaped garden setting for the Abbey, Reussdale and Hamilton (or a low scale replacement building which corresponds to the existing and important cartilage, setback, size, scale and context of Hamilton); and
  - (v) the Abbey should be restored with a publicly accessible use.

Carried unanimously.

Note - the Lord Mayor, supported by Councillor McInerney, commended Council staff for the quality and speed of the report and the proposal contained therein.

**ITEM 10. DEVELOPMENT APPLICATION: 27-31 HUGHES STREET, POTTS POINT (WAYSIDE CHAPEL)**

Moved by Councillor McInerney, seconded by Councillor Black -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, and to Council on 2 August 2004, in relation to Development Application 2002/00748 made by Environa Studio Pty Ltd for the site at 27-31 Hughes Street Potts Point, for proposed alterations and additions of two existing buildings and the demolition of two buildings and the erection of a new 4 storey building all for use by the Uniting Church as a chapel, offices and meeting rooms it be resolved that:-

- (A) despite the recommendation contained in the subject report, Council can not support such a major variation to the floor space ratio (FSR) control for the site (proposed 2.69:1 compared to the control of 1.5:1) without changing the FSR control for the site. To do so would undermine the certainty the Council is seeking to achieve in applying core development controls for sites (such as height and FSR) and contrary to Council's resolution of 19 April 2004;
- (B) however, given the arguments put forward in the subject report, and the apparent mismatch of the height and FSR standard for the subject site, Council would be willing to consider public submissions about a draft Development Control Plan amendment which alters the FSR for the subject site;
- (C) Council staff prepare a draft DCP amendment as a matter of some urgency; and
- (D) determination of the development application be deferred until Council has considered the draft DCP amendment.

The motion was carried on the following show of hands –

Ayes (6) The Lord Mayor, Councillors Black, Hoff, Kemmis, Mallard and McInerney.

Noes (3) Councillors Firth, Lee and Pooley.

Motion carried.

#### **ITEM 11. DEVELOPMENT APPLICATION: 342 BULWARA ROAD, ULTIMO**

Moved by Councillor McInerney, seconded by Councillor Hoff -

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, and to Council on 2 August 2004, in relation to Development Application D/2004/312 made by Mr Ismail Alwawah for the site at 342 Bulwara Road Ultimo, to use the ground floor shop as a convenience store, it be resolved that consent be granted subject to the following conditions:-

##### **APPROVED DEVELOPMENT**

- (1) Development must be in accordance with Development Application No. D/2004/312 dated 22 March 2004 and the Plan of Management prepared by Tsang and Lee Architects, dated April 2004 and drawing numbered 1568/DA/01/A prepared by Tsang and Lee Architects dated March 2004 and as amended by the following conditions:

##### **TIME LIMIT ON USE**

- (2) The use must cease after a period of three (3) years from the date of consent. A further development application may be lodged before the expiration of the consent for Council's consideration of the continuation of the use.

**HOURS OF OPERATION**

- (3) The hours of operation of the premises shall be restricted to between 8.00am to 10.00pm, 7 days a week.

**HOURS OF DELIVERIES**

- (4) All deliveries to the shop shall be restricted to between the hours of 8.00am and 11.00am Mondays to Saturdays, with no deliveries on Sundays and/or public holidays.
- (5) The lease of car space 2 in the garage shall be retained for use in association with the use of the convenience store hereby approved.

**SHOPFRONT VISIBILITY**

- (6) In order to maintain visibility to the shop interior, the shopfront windows 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.
- (7) All shelving, including machinery, fridges and counters, which are placed in front of windows, are to be kept a minimum of one metre from the inside face of the window. This will require the repositioning of the counter and ice-cream fridge.
- (8) The approved layout shall not be altered, without the prior approval of Council, where it would result in the shopfront being obscured in any way.
- (9) Any proposed shelving along the glass shopfronts is to be of an open-framed, see through construction and the combined height of shelving and any goods displayed or stored thereon are not to exceed 1200 mm above the finished floor level.
- (10) The owner/manager of the building shall ensure that all windows on the façade of the shopfront are cleaned regularly.

**FOOTPATH ILLUMINATION**

- (11) Illumination of the footpath by light fittings installed internally 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.

### **SIGNAGE AND ADVERTISEMENTS**

- (12) The existing rounded projecting wall sign on the Macarthur Street frontage displaying the words 'Segafredo' must be removed and the wall made good prior to the use commencing and/or prior to the issue of an Occupation Certificate to the satisfaction of Council. The remaining rectangular projecting wall sign (located below the rounded sign) can be reused and the graphics altered to say 'Ultimo Minimarket'.
- (13) The illumination of the retained rectangular sign shall be to a level no greater than 200 lux and shall only be illuminated during the approved trading hours of the shop. The illumination of the sign shall be switched off when the shop is closed. The illumination shall not flash and at no time is the intensity, period of intermittency and hours of illumination of the sign to cause injury to the amenity of the neighbourhood. If in the opinion of Council injury is likely to be caused, the intensity, period of intermittency and hours of illumination must be varied to the approval of Council
- (14) No advertising flags or banners or the like are to be erected on or attached to the shopfront.
- (15) 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.
- (16) Merchandise, public telephones, stored material or the like shall not be placed on the footway or other public areas.

### **GARBAGE**

- (17) Prior to issue of an Occupation Certificate and/or prior to commencement of the use the building owner must ensure that there is a contract either with Council or a licensed contractor (in accordance with the approved Plan of Management prepared by Tsang and Lee, dated April 2004) for the removal of trade waste, including recyclable material. The garbage and recyclable material is to be stored within the premises and no garbage is to be stored on the public way, except directly prior to collection. In addition, a rubbish bin shall be kept within the shop, near the entrance for use by patrons.
- (18) 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.

**SECURITY**

- (19) Prior to the commencement of the use the operator/manager shall install a security alarm system and enter into an agreement with a private security firm, in accordance with the approved Plan of Management. Written evidence shall be submitted to the satisfaction of Council demonstrating that the security system is in place prior to the use commencing.

**CCTV INSTALLATION**

- (20) The management shall also install digital video surveillance cameras, strategically placed within the premises with particular coverage to the principal entrance area, along with appropriate warning signage. The video tapes/disc shall have the time and date automatically recorded and shall be kept for a minimum period of 14 days before being reused or destroyed. The video tapes/discs are to be made available to the police upon request.

**BEHAVIOUR OF PATRONS**

- (21) The Management 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. 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.

**CARE OF BUILDING SURROUNDS**

- (22) In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the premises shall ensure that the footpath, gutter, entry and surrounds are kept clean and clear of litter at all times and a survey of the surrounding streets for litter shall be conducted prior to opening and closing the shop. The Manager shall also install and retain a litter bin within the shop, near the entry.

**REMOVAL OF GRAFFITI**

- (23) The owner/manager of the premises shall be responsible for the removal of any graffiti from the premises within 48 hours of the graffiti appearing.

**NOISE - MECHANICAL PLANT**

- (24) 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.

#### **NOISE - USE**

- (25) 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 subclause 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.

### **NO SPRUIKING**

- (26) 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.

### **HERITAGE**

- (27) The proposed works are to be carried out in a manner that minimises demolition, alterations, new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (28) 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.
- (29) 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

### **STRUCTURAL CERTIFICATION FOR DESIGN - MINOR WORKS**

- (30) Prior to commencement of work, the following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA), (Council or a private accredited certifier). A copy to the Certificate must be submitted to Council if it is not the PCA.
  - (a) Structural Drawing/s prepared by an appropriately qualified practising Structural Engineer; corresponding with and attached to a Structural Certificate (see (b));
  - (b) A Structural Certificate for Design, submitted in the form of Attachment S1, OR a Compliance Certificate (in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979), after the structural drawings have been checked and comply with:-

- (i) The relevant clauses of the Building Code of Australia (BCA);
  - (ii) The relevant conditions of Development Consent;
  - (iii) The Architectural Plans incorporated with the Construction Certificate; and
  - (iv) The relevant Australian Standards listed in the BCA (Specification A1.3).
- (c) Repeat (a) and (b) for any revision, or staged submission of structural drawings.

#### **Notes**

- (d) An appropriately qualified practising structural engineer certifying by completing Attachment S1 must have:-
- (i) Appropriate tertiary qualifications in Civil or Structural Engineering; AND
  - (ii) Corporate membership of the Institution of Engineers Australia or equivalent; AND
  - (iii) Evidence of relevant experience in the form of a CV/Resume.
- (e) Appropriate current professional indemnity insurance.
- (i) An appropriately qualified practising structural engineer certifying by issuing a Compliance Certificate must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
  - (ii) Certification of Inspection/s is also required prior to issue of the Occupation Certificate, and/or prior to use. See Schedule 1E Conditions.

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

- (31) The hours of construction and work on the development shall be:
- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30 a.m. and 5.30 p.m. on Mondays to Fridays, inclusive, and 7.30 a.m. and 3.30 p.m. on Saturdays, with safety inspections being permitted at 7.00 a.m. on work days 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 a 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 Building Sites Noise Code" and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".
- (32) 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.
- (33) 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.
- (34) 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.
- (35) All materials used in the building shall comply with specification C1.10 of the Building Code of Australia.

#### **CERTIFICATION FOR STRUCTURAL INSPECTIONS**

- (36) 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.
- (c) 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:**

- (d) 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.
- (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.

**VENTILATION**

- (37) 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).

**REGISTRATION OF FOOD PREMISES**

- (38) Prior to issue of an Occupation Certificate, Council's City Care Unit (Health Section) shall be notified of the premises being used for the preparation, manufacture or storage of food for sale. The premises will be registered on Council's Food Premises Database.

Amendment. Moved by Councillor Firth, seconded by Councillor Lee, that the motion be amended by the deletion of condition (3) and the substitution of a new condition (3) as follows -

- (3) The hours of operation of the premises shall be restricted to between 8.00am and 9.00pm Monday to Saturday, and between 10.00am and 9.00pm on Sunday, such hours of operation to be reviewed after one year.

The amendment was carried on the following show of hands –

Ayes (8) The Lord Mayor, Councillors Black, Firth, Hoff, Kemmis, Lee, McInerney and Pooley.

Noes (1) Councillor Mallard.

Amendment carried.

The motion, as amended, was carried unanimously

Note - Correspondence from Mr David Hardaker was circulated to Councillors prior to the Council meeting.

**ITEM 12. SECTION 82A REVIEW APPLICATION: 2 CHARLES STREET, GLEBE (LD/02/422)**

Moved by Councillor McInerney, seconded by Councillor Black -

That arising from consideration of a report by the Assistant Specialist Planner to the Planning Development and Transport Committee on 26 July 2004, and to Council on 2 August 2004, after submissions received, and after a site inspection, in relation to a Section 82A Review of Determination Application D/02/422 made by Odette Trapani for the site at 2 Charles Street, Glebe, for the demolition of the existing dwelling, removal of eight trees and construction of a new two storey dwelling, it be resolved that the determination made by Leichhardt Municipal Council be upheld, including all previous reasons for refusal.

Carried unanimously.

### **ITEM 13. QUESTIONS ON NOTICE**

FILE NO:

DATE: 28/7/04

#### **MOBILE ADVERTISING (S032455)**

1. By Councillor Mallard

##### **Question**

Council, at its last meeting, was talking about mobile advertising on our roads. Of growing concern to many pedestrians is the use of people holding 'sandwich boards' to promote CBD retail businesses. Even more concerning is the sight of box like frames carried around by two people to promote a 'needlecraft and knitting sale in the city'. This activity adds to both visual pollution, detracts from the amenity of the city and poses serious impediments to pedestrians. Can the Council take enforcement action to prohibit this activity? And if not what can be done?

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

Council's standard development consent conditions include prohibitions on goods, advertising/A-frames and the like on the public way which are associated with the business. It is appropriate to expand this condition to also include any mobile advertising of the premises/business to cover those situations cited in the question, and others. This is being arranged and will apply to relevant future development applications.

Council has the capacity to take enforcement action under Section 124 of the Local Government Act 1993 and issue an Order to remove an object from a public place that is likely to cause an obstruction or encroachment of or on a public place and is likely to cause danger, annoyance or inconvenience to the public. The Order can be served on the person causing the obstruction or their employer

#### **COMMUNITY BASED MARKETS – TAYLOR SQUARE (S032455)**

2. By Councillor Mallard

##### **Question**

I would like to table correspondence from a resident near Taylor Square who is proposing a regular community based markets for the underutilised area. Can the proposal be considered in conjunction to the current report being prepared for markets in Kings Cross and reported back to Council.

**Answer by the Lord Mayor**

The proposal to establish a regular fresh food market in the Fitzroy Gardens was approved by Council on 17 November 2003, as one of a series of community building initiatives to revitalise Kings Cross. An expression of interest process has been undertaken to deliver this event, which was the subject of a report to the Cultural and Community Care Committee on Monday 26 July, along with a Minute from the Lord Mayor. The matter is to be considered by Council on 2 August 2004. The report to Council also discusses a range of proposals for new markets in the City.

The Director of Planning (Northern Zone) also informs me that Kinselas is proposing to host a Food and Wine Fair in Taylor Square on Sunday 26 September 2004. The development application was publicly exhibited. No objections were received and it has been approved under delegation. The event is however also subject to an approval under the Roads Act 1993 for the temporary closure of Forbes and Bourke Streets, between Taylor Square and Burton Street, and will need to be considered by the Traffic Committee. If the event proves successful, Kinselas have indicated that they will consider hosting it up to four times a year, subject to Council approval.

**EXCHANGE PROGRAMS FOR COUNCILLORS (S032455)**

3. By Councillor Mallard

**Question**

I acknowledge the presence of Father Roderick from Kokoda in Northern Papua New Guinea at the last meeting of Council. Father Roderick is an Anglican Minister recently appointed to his own parish in Port Moresby. I am sure we all wish him well in his work. Can Council investigate with the Local Government Association of NSW whether there is in existence any exchange programs for local Councillors in Papua New Guinea to visit Australian Councils and could a response be provided to Councillors in the Councillors' Information Service.

**Answer by the Lord Mayor**

The Manager Secretariat has been asked make inquiries into this matter and provide a report to Councillors through the Councillors' Information Service.

## **QUESTIONS WITHOUT NOTICE**

### **HERITAGE CONTROLS (S032438)**

1. By Councillor McInerney

#### **Question**

Lord Mayor, we seem to be often getting into difficulties with our heritage matters and, to my knowledge, and certainly Councillor Black's knowledge, a lot of that has to do with heritage controls that we have inherited, which in some cases are significantly out of date.

Lord Mayor, I was wondering if you might consider bringing forward or obtaining from the staff a report on the issue of the adequacy of our heritage controls and the need, and there is some urgency, to update those controls across the whole of the new area.

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

Councillor McInerney, I share your concern and at my most recent meeting with the General Manager I raised this matter with him and have asked for a report from him to provide Councillors with information about the status of heritage in the former City of Sydney, the former South Sydney and the former Leichhardt areas. As soon as that report is ready, it will come to Council.

### **ST BENEDICT'S, BROADWAY (S032443)**

2. By Councillor Lee

#### **Question**

Lord Mayor, do you support the proposal to open a campus of Notre Dame University at St Benedict's, Broadway?

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

Councillor Lee, that is a very interesting question and I must say Cardinal Pell does seem to be fitting in with the current work that we are doing on the Carlton and United Breweries (CUB) site, which is to create an educational precinct in that area.

I share the concerns about the nurses who have had their courses cut by the Federal Government and I note the concerns of the Parish Priest of St Benedict's.

In terms of long term planning, I think it is a very interesting one for us as we look at the redevelopment of that whole precinct. I would certainly seek to have the proponents of this proposal involved in our discussions on the CUB site and we will be inviting them to our working sessions.

**Councillor Lee (Supplementary Question)**

Lord Mayor, have you or any Council officers received any advice from the proponents, either the Catholic Church or Notre Dame University, about what is proposed at Broadway?

**Answer by the Lord Mayor**

Councillor Lee, not at this stage, no, but we will certainly be pursuing it because it is very much in our sphere of influence at the moment as we look at proposals for the CUB site. Certainly one of the uses we have discussed there is tertiary educational use.

We have the UTS, we have Sydney University, and a number of other universities have campuses in that area. I know Boston University, for example, has its Sydney Campus in Regent Street Chippendale.

It is a very interesting proposal for us in terms of long term planning and we will pursue that matter.

**DARLINGHURST ROAD HERITAGE REPORT (S032444)****3. By Councillor Firth****Question**

Lord Mayor, what is the timetable for the Darlinghurst Road Heritage Report by Roy Jackson & Associates?

**Answer by the Lord Mayor**

Councillor Firth, I don't know if we have a date for that but, certainly, this issue is something that is very much of great concern, because we are proceeding with the work in Darlinghurst Road. There is concern from a number of spheres about protecting the unique heritage of Darlinghurst Road, particularly in relation to the neon signage.

I can say that I did have a meeting last Friday with Council officers and the Project Manager for Darlinghurst Road and got an undertaking that those signs, Playbirds International, Love Machines, Stripperama, Porkies and Showgirls, which have been identified as being important to creating the unique sense of place at Kings Cross, would all be preserved and that a heritage assessment is being prepared.

Perhaps the Executive Director City Development could tell us when that assessment will be ready.

**Executive Director City Development**

Lord Mayor, we have completed the draft document and the final document should be finalised in two weeks.

## **COMMERCIAL PROPERTY INVESTMENT PORTFOLIO (S032446)**

4. By Councillor Mallard

### **Question**

Lord Mayor, I have received representations from constituents concerned about Council's approach to administering our commercial property investment portfolio.

Rather than delve into specifics can Councillors receive a report via the Finance, Properties and Tenders Committee, outlining all Council's investment portfolio and the Council's policy to administering the portfolio?

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

Councillor Mallard, yes, a report will be coming forward very soon. It is being prepared at the moment by the General Counsel and it will report on our whole property portfolio and our policy in relation to it.

I invite the General Counsel to respond also.

### **General Counsel**

Lord Mayor, the report is under way and our timing is that it will coincide with the subsidised accommodation strategy, so it is probably one or two Council cycles away.

## **RECYCLED WATER (S032443)**

5. By Councillor Lee

### **Question**

Lord Mayor, my third question is about recycling water. You might be aware of a proposal by Ian Kiernan and a number of others to use water from Busby's Bore and also collect stormwater from the general Hyde Park area of the Domain to help replace the quantity of water which is currently drawn from Sydney's water supply.

I am wondering if you could give a commitment to the Council, or this may already be happening, to make Council officers available to talk to Mr Kiernan and Sydney Water to progress this plan to try to maximise the use of recycled stormwater and water which is currently going from Busby's Bore down stormwater drains into the Harbour, to minimise our drawdown on Sydney's water supply?

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

Councillor Lee, it is a matter that Council officers are currently working on and one of my Policy Advisers is also preparing work on this in relation to developing an environmental policy. It is an important question.

I am just wondering if the water from Busby's Bore goes towards watering Hyde Park, are we going to lose all the water that currently waters Moore Park? But that will all be part of the report we are to be provided with, I am sure.

I invite the Executive Director, City Development to respond also.

#### **Executive Director City Development**

Lord Mayor, we are presently meeting with a number of different players associated with the Cross City Tunnel, Clean Up Australia and the Environment Protection Authority. It will probably be a joint venture.

We are looking at extracting the water from Busby's Bore for re-use through a lake system, which is underground, and re-using that on Hyde Park. It will go through a treatment plant which is yet to be located. Its progress is substantially down the track.

We should be able to provide a report to Council, probably in about a month's time.

#### **Councillor Lee (Supplementary Question)**

Lord Mayor, given Council's strong financial position, will you consider asking Council officers to prepare a report for a future Council meeting to look at whether it is possible to supply all water needs for Council's major parks by the use of recycled stormwater and other recycled water sources?

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

Councillor Lee, certainly. That is currently being assessed. A report will be brought to Council as soon as possible.

I think these are all very important issues that we are thinking about and it is really important that this Council "walks its talk" and sets an example.

#### **ABORIGINAL TENT EMBASSY (S032446)**

6. By Councillor Mallard

#### **Question**

Lord Mayor, could you advise Councillors and the public on the current situation in regard to the so-called "Aboriginal tent embassy" at Victoria Park and when the illegal and unauthorised use of this Park will cease?

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

Councillor Mallard, as Councillors would know, I supported the tent embassy during the sitting of the Upper House Inquiry into Redfern/Waterloo and up until the end of NAIDOC Week, and since that time I have asked the leaders of the tent embassy to leave Victoria Park. I am still trying to progress that approach.

One of the problems I am having is that Isabel Coe, who is the spokesperson for the tent embassy, is very ill. She has cancer and diabetes, and whenever we seem to reach an agreement from her that it will be possible to shut down the embassy because they have been able to have this opportunity to make their political protest, the arrangements become unstuck because Isabel gets too ill. So we are at that impasse at the moment.

I am going to continue to try and progress it as quickly as I can. I do appreciate that there is concern from residents about the impact on their Park. You know I have a very strong position about not alienating parkland, but I also do know that there has been very strong support for the political statement that has been made and the statement of principle that has been made by this Council in supporting the Aboriginal community.

## **ABORIGINAL TENT EMBASSY**

### **Business of which due notice had not been given**

At this stage of the meeting, pursuant to the provisions of Clause 14(3) of the Local Government (Meetings) Regulation 1999, the following motion was moved by Councillor Mallard, seconded by Councillor McInerney -

That, as a matter of urgency, Council consider the following motion:

That the City of Sydney Council will immediately exercise all its legal powers to end the occupation of Victoria Park by the so called "Aboriginal tent embassy".

The motion that this matter be dealt with as a matter of urgency at this meeting was carried.

Councillor Mallard's motion subsequently lapsed for want of a seconder.

## **REVIEW OF PLANNING INSTRUMENTS (S032445)**

7. By Councillor Pooley

### **Question**

Lord Mayor, in the light of recent discussions that we had on planning instruments both today and at the last Planning Development and Transport Committee meeting and Council's Resolution of 19 April 2004 - and I am conscious that Council staff are under a lot of pressure - I was wondering whether a report could come to Council or a briefing could be held for Councillors on what the timetable for the review of the planning instruments is.

I understand the concern of Councillors to provide some certainty. My concern is that our Resolution does not match up with the planning instruments Council currently has and I am wondering whether we could just get an idea about (a) what the process is that we are undertaking, (b) the extent of that process, and (c) some guess about interim measures, some additional information on where we stand in the current array of planning instruments?

**Answer by the Lord Mayor**

Councillor Pooley, I will certainly request that we have that briefing as soon as practicable.

**NOTIFICATION OF DEVELOPMENT APPLICATIONS (S032444)**

8. By Councillor Firth

**Question**

Lord Mayor, I am emailed each day by Darlinghurst residents concerned about what they believe has been a reduction in the notice given for major development applications.

The residents are saying that they were only given 14 days notice for the Green Park Hotel development application and only 14 days notice for the Cauldron Nightclub development application, whereas they used to receive 21 days under South Sydney Council. Could that please be clarified?

**Answer by the Lord Mayor**

Councillor Firth, I will invite the Director for City Planning (Northern Zone) to respond.

**Director for City Planning (Northern Zone)**

Lord Mayor, the provision for notification and advertising under Council's Development Control Plan (DCP) is 14 days.

In terms of the Notification DCP, it is intended to have a discussion about that at a future Councillor briefing session. We are looking to submit a report to the Planning Development and Transport Committee about the notification procedures, including timing for development applications across the board.

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

I also invite the Director for City Planning (Southern Zone) to respond.

**Director for City Planning (Southern Zone)**

Lord Mayor, for conventional development applications, South Sydney's notification policy was 14 days, and 21 days only applied in the case of master plans. By and large it was 14 days for development applications, and remains so.

**DARLINGHURST ROAD UPGRADE (S032441)**

9. By Councillor Black

**Question**

Lord Mayor, my question relates to the Darlinghurst Road upgrade. Could I ask about the fate of the awnings and neon signs in the short term, while we are awaiting the heritage report from Roy Jackson & Associates?

Could you please let Councillors know the current situation because, as you are aware, we are all receiving lots of correspondence from the residents concerned, and we are taking on the information and advising there is a report coming.

**Answer by the Lord Mayor**

Councillor Black, there is concern about reduction in the awnings and I undertake to meet again with Council officers and the Project Manager for Darlinghurst Road to further discuss the awning issue and to try and address the very real concerns many Councillors and the community have.

I will come back to Councillors by the quickest possible method with that information.

**DARLINGHURST ROAD STREETSCAPE (S032444)**

10. By Councillor Firth

**Question**

Lord Mayor, will Council nominate the entire Darlinghurst Road streetscape, including the distinctive awnings and neons, for the State Heritage Register as soon as the heritage report is accepted?

**Answer by the Lord Mayor**

Councillor Firth, the answer is Yes.

**ITEM 14. NOTICES OF MOTION****REMOVAL OF COMMUNITY BASED POSTERS (S0324620)**

Moved by Councillor Firth, seconded by Councillor Lee -

The City of Sydney Council will instruct their contractors to desist from the removal of community based posters in King Street, Newtown.

It has been reported that contractors employed by the City of Sydney Council have been removing political posters from telegraph poles daily in King Street Newtown.

City of Sydney Council understands the difference between posters paid for by commercial operators with the intent of selling products; and posters created by small, not for profit community groups designed to inform people about upcoming community and political activities.

City of Sydney Council believes in freedom of political expression and organisation. The Council also believes that King Street Newtown has always been alive with this expression and that political posters form a part of its unique character.

Local community and political groups must be allowed to advertise events to the local community. Most organisations of this type do not have sufficient resources to advertise their activities any other way.

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

That consideration of the matters raised in the Notice of Motion be deferred until after Councillors have considered the Draft Graffiti Management Policy, which is being submitted to the next meeting of the Cultural and Community Care Committee.

Motion, as amended by consent, carried unanimously.

### **Closed Session**

At 8.55pm, it was moved by the Chair (the Lord Mayor), seconded by Councillor McInerney -

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

Section 10A(2)(c) of the Local Government Act 1993 to discuss Items 4B and 16 on the agenda as these matters comprised discussion of information that would, if disclosed, confer a commercial advantage on persons with whom the council is conducting (or proposed to conduct) business; and

Section 10A(2)(d)(i) of the Local Government Act 1993 to discuss Items 6.5 and 15 on the Agenda as these matters comprised discussion of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the persons who supplied it;

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

Motion carried.

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

Items 4B, 6.5, 15 and 16 were then dealt with by Council while the meeting was closed to the public.

### **Adjournment**

At 8.57pm, prior to discussion on Item 4B, the Council meeting adjourned. At 9.05pm, Council resumed and discussion on Item 4B commenced. At the resumption of the Council meeting, those present were -

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

### **ITEM 4B. ULTIMO AQUATIC CENTRE**

Note - in view of the confidential nature of the subject matter, the Council determined that the Resolution on this matter remain confidential until such time as negotiations are complete and the General Manager is satisfied that the City will suffer no commercial detriment by the resolution being made public.

Note – the confidential Memorandum by the General Manager on Ultimo Aquatic Centre was circulated to all Councillors.

**ITEM 6. REPORT OF THE FINANCE, PROPERTIES AND TENDERS COMMITTEE - 26 JULY 2004 (CONTINUED)**

The Committee recommended the following:-

Moved by Councillor Kemmis, seconded by McInerney -

That the recommendation of the Finance, Properties and Tenders Committee of its meeting of 26 July 2004 for Item 6.5 be adopted.

Carried.

**TENDER FOR MANUFACTURE OF SIGNAGE FOR NEW YEAR'S EVE 2004 (S031819-01)**

**6.5**

Note - in view of the confidential nature of the subject matter, the Council determined that the Resolution on this matter remain confidential until a contract has been entered into.

**ITEM 15. REPLACEMENT OF PARKING METER SERVICES - ACCEPTANCE OF TENDER NO. 0403 (S018027)**

Moved by Councillor Kemmis, seconded by Councillor Hoff -

That arising from consideration of a report by the tender panel to Council on 2 August 2004, on Replacement of Parking Meter Services - Acceptance of Tender No 0403, it be resolved that:

- (A) the tender submitted by the party named in paragraph 1 of the subject report be accepted for:
  - (i) Supply and Installation of 1000 parking meters;
  - (ii) Maintenance Services for 1117 meters (including 117 Hectronic meters) for a 5 year period, including a schedule of rates; and
  - (iii) The additional services as outlined in paragraphs 79 and 80 of the subject report;
- (B) authority be delegated to the General Manager to finalise and enter into a contract, including minor amendments which the General Manager considers appropriate to protect Council's interests;
- (C) authority be delegated to the General Manager to enter into a contract for the provision of transaction processing and credit card and mobile phone payments; and
- (D) Council's attorney be authorised to execute all necessary documentation.

Carried unanimously.

**ITEM 16. SYDNEY TOWN HALL UPGRADE PHASE A PROJECT - APPROVAL OF A PROJECT COMPLETION STRATEGY (15629)**

Moved by Councillor McInerney, seconded by Councillor Black -

That arising from consideration of a report by the Manager, Project Management Unit to Council on 2 August 2004, on Sydney Town Hall Upgrade Phase A Project – Approval of a Project Completion Strategy, it be resolved that -

- (A) Council note that the Drutt Street Lobby, Forecourt and other associated works including north lift shaft and fitout to Councillor rooms on Ground and Level 1 will be advertised and tendered (either separately or together);
- (B) In respect of the North and South Lift installation and associated services, Council not invite tenders, due to the following extenuating circumstances:
  - (i) the identified organisation has already installed 60% of the South Lift and has manufactured most of all the parts for the North Lift;
  - (ii) inviting tenders would delay the works, resulting in restricted use of the Town Hall and loss of revenue from the Town Hall;
  - (iii) inviting tenders would not achieve greater cost savings for Council,and accordingly a more satisfactory result would not be achieved by inviting tenders;
- (C) in respect of the North and South Life installation and associated services, authority be delegated to the General Manager to negotiate and enter into a contract with the organisation identified in paragraph 9(b) of the subject report;
- (D) Council note that the South lift glass façade and access bridges will be advertised and tendered;
- (E) Council note that the Toilet defects and minor works left by the organisation identified in paragraph 9(d) will be completed on a “do and charge” basis and daily managed by the City’s Project Manager;
- (F) Council note that, for the outswinging cubicle doors in the Ground Floor North female toilets, quotations will be obtained and contractor appointed to reverse the swing of the doors;
- (G) Council note that, for the supply items, equipment and artefacts, negotiations will take place to take possession of items held by subcontractors of the organisation identified in paragraph 9(f) of the subject report and to take over the lease of the hired plant and equipment on the project;
- (H) authority be delegated to the General Manager to negotiate and enter into contracts as set out in clauses (B), (C), (E), (F) and (G);

- (I) the General Manager be requested to review all works with respect to heritage, functionality and compliance issues prior to commencement, to ensure an outcome acceptable to the current Council; and
- (J) Council's attorney be authorised to execute all necessary documentation; and

Carried unanimously.

At 10.10pm the meeting concluded.

Chair of a meeting of the Council of the City  
of Sydney held on 23 August 2004 at which  
meeting the signature herein was subscribed.