



**19 APRIL 2004**

**Meeting No 1409**

**MINUTES** of a Meeting of the Council of the City of Sydney held in the The Vestibule at the Sydney Town Hall, commencing at 6.18pm on 19 April 2004 pursuant to Notice issued by The Hon Tony Kelly MLC, Minister for Local Government, dated 15 April 2004.

**INDEX TO MINUTES**

<b><u>Subject</u></b>	<b><u>Page No.</u></b>
1. The Late Sir David Griffin, Kt., CBE - Condolences .....	4
2. Election of Deputy Lord Mayor .....	7
3. Council Committees - Functions, Membership, Election of Chairpersons.....	10
4. Central Sydney Planning Committee - Election of Councillors.....	22
5. Small Permits Appeals Panel – Renewal .....	24

<u>Subject</u>	<u>Page No.</u>
6. Schedule of Council Meetings to the end of 2004 – Adoption .....	30
7. Pyrmont Traffic and Open Space Study .....	34
8. Improving Certainty and Transparency in Applying Planning Controls.....	35
9. Delegations – Review Following Amalgamation .....	39
10. Preservation of Heritage Trees in the Domain .....	5
11. Staffing Matters Following Amalgamation.....	40
Administrative Note – Numbering of Council Meetings.....	41

### **PRESENT**

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

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

At the commencement of business at 6.18pm those present were:-

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

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

### **Filming**

At this stage of the meeting, the Chair (the Lord Mayor) advised Council that a request had been received from the media to film the Council meeting.

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

That authority be granted for the media to film the Council meeting.

Carried.

### **Lord Mayor's Welcome**

The Chair, the Lord Mayor, officially opened the first meeting of the newly elected Council as follows:

I would like to welcome you all to this historic meeting of the new City of Sydney for the enlarged area. I am very pleased that so many of you have come tonight to reclaim our Council for the people of the City.

I would like to congratulate Councillors John McInerney, Robyn Kemmis, Marcelle Hoff and Phillip Black from my team. I also congratulate Councillor Chris Harris of the Greens; Shayne Mallard, Liberal; Michael Lee, Verity Firth and Phillip Black, ALP.

I look forward to working cooperatively and constructively with all the new Councillors for the benefit of our City. Our role is to provide a vision for our City, driven by action. We will promote a liveable City and encourage community input and involvement. Our Council will be open, inclusive and consultative. As part of this commitment, I have asked Council to provide Council and Committee papers to the community a week earlier, rather than three days, and I will keep late items to a minimum.

We will put the rights and amenities of the people of the City before vested or political interests. Tonight Council will consider a proposal to begin this process by increasing certainty in development controls.

We will plan for the future. We will prepare an integrated traffic and transport plan; a growth plan for the City; and an open space and community amenity plan.

Under our stewardship, the public assets of our City – its foreshores and open space – will be defended, protected and enhanced. Our city will be an environmental leader.

We will find progressive and compassionate solutions to problem areas such as Eveleigh Street. We will promote affordable housing and offer accommodation needs for the homeless and the mentally ill. We will work to sensitively integrate the merged Council areas, conscious of community concerns about the amalgamation and the impacts on Council staff.

I do welcome you all. I understand that other Councillors might like to make a brief contribution now before I move on to our agenda.

### **Councillor Lee**

First of all, I would like to extend to the new Lord Mayor, Clover Moore, my congratulations and I am sure the congratulations of not just the Lord Mayor's team, but of all Councillors here tonight. Congratulations on a very, very substantial majority.

It is fitting that not only is the first Council meeting being held in this room, but this room and the Centennial Hall next door were the locations of two of the debates during that very long campaign. Someone said to me the other day that we had three times as many debates for the election of the Lord Mayor of Sydney as they are likely to have for the American Presidency.

I am sure, like some of those debates, there will be occasions when, at Council meetings, there will be differences of opinion. Sometimes those differences of opinion will be vigorously argued, but at no time will either myself or any of the Lord Mayor's colleagues be seeking to work in other than a positive way to get the best outcomes for the residents of the City. In particular, we look forward to working constructively with the new Lord Mayor.

Note - during the course of the meeting, other Councillors extended congratulations to the Lord Mayor on her election success.

## **ITEM 1. THE LATE SIR DAVID GRIFFIN, Kt., CBE - CONDOLENCES**

FILE NO:

DATE: 15/4/04

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

#### To Council:

It is with deep regret that I advise Council of the death of a former Lord Mayor of Sydney, Sir David Griffin, Kt., CBE, on Thursday 25 March 2004.

David Griffin was born in 1915 and educated at Cranbrook School and the University of Sydney. Graduating with a law degree in 1938, he worked at Stephen Jacques and Stephen (now Mallesons) until joining the army in 1940.

In March 1941 he married Jean Whyte and almost immediately headed overseas with the 8<sup>th</sup> Australian Division 2<sup>nd</sup> AIF. When Singapore fell in 1942 he spent almost four years as a prisoner of war in Changi. During his time there he wrote a children's book, "The Happiness Box", as a Christmas gift for young children interned in Changi. It was typed and bound by fellow prisoners but was ordered to be destroyed by the guards. The book was subsequently buried in Changi from where it was exhumed after the war and republished.

Returning to Australia in 1945, Sir David returned to his job at Stephen Jacques Stephen. He was later called to the Bar and was subsequently appointed one of the Counsel for the Commissioner for Railways.

Sir David will be remembered by the citizens of Sydney for his contribution to civic life, firstly as an Alderman from 1962 and then as Lord Mayor from 1972 to 1973. During his time here he served on the City Planning Committee, the Community Services Committee and the Finance Committee and contributed to the cultural life of the city through organisations such as the City of Sydney Eisteddfod.

Sir David is acknowledged for his tireless service to the broader community through organisations that include the Scout Association of Australia, the Royal Agricultural Society, the National Parks and Wildlife Foundation and the Elizabethan Theatre Trust where he held the position of Deputy Chairman for many years. He was also a Board Member of a number of companies including Barclays Bank and John Fairfax Ltd.

Sir David Griffin was closely identified with Australian public life for many years and achieved success in public office, as a businessman and also as an author. He was appointed CBE for Services to Industry in 1972 and was knighted for Public Service in 1974.

I recommend that Councillors stand and observe one minute silence in Memory of Sir David, and also that a letter of condolence under the Seal of the Council be forwarded to Sir David's widow Jean and family.

(SGD) COUNCILLOR CLOVER MOORE

Lord Mayor

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

That the Minute by the Lord Mayor be adopted.

Carried.

Note - Councillors, staff, press and members of the public stood in silence as a mark of respect for the late Sir David Griffin.

At this stage of the meeting, the Chairman (the Lord Mayor) introduced a Minute by the Lord Mayor as follows:

#### **ITEM 10: PRESERVATION OF HERITAGE TREES IN THE DOMAIN**

FILE NO.

DATE: 19/04/04

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

##### To Council:

This week the Royal Botanic Gardens Trust sought to proceed with destruction of mature and historic trees in the Domain, along Hospital Road, in the face of strong community opposition and conflicting expert advice.

I am concerned by the proposed removal of these mature trees that can still be nurtured to provide shade, amenity, beauty and environmental benefit for up to another 30 years. I have been told that at least one tree, a eucalypt, is being removed because it does not fit in with the Trust's landscape plan.

However, the Trust has a responsibility to manage this very valuable public asset and a duty for the widest possible consultation on any changes.

The Trust's decision has been undertaken without proper or meaningful consultation with Council and in the face of clear community support for preservation of the trees.

The Trust claims that the trees' removal will further a 50 year grand plan for Hospital Road. That plan has not been subject to independent community review, meaningful consultation or proper consideration of the urban amenity.

Indeed, signs in the Domain about the Trust's proposals were deceptive and gave no indication that the Trust intended to remove the trees.

City Councillors met last week with Botanic Gardens Director Dr Tim Entwistle to try to prevent the trees' destruction and I spoke with him to request that replacement trees be planted and allowed to mature *before* existing trees are removed.

I further requested that the Trust not proceed with the immediate removal of the trees so that a full assessment of their condition could be carried out by an independent arborist. Even though I offered for Council to share in the cost of preparing independent expert advice, that proposal was rejected.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor seeking to prevent the wilful destruction by the Royal Botanic Gardens and Domain Trust of mature trees that make a significant contribution to the Domain Parkland, it be resolved that:

- (A) the City of Sydney tree preservation order be amended so that it applies to all land owned by or under the care, control and management of the Royal Botanical Gardens and Domain Trust in the local government area of the City of Sydney; and
- (B) the City request the Minister for the Environment immediately halt the removal of any further trees and meet with the Lord Mayor to find a way forward to preserve these healthy and viable mature trees.

(SGD) COUNCILLOR CLOVER MOORE

Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to the Extraordinary Meeting of Council on 19 April 2004, on Preservation of Heritage Trees in the Domain, it be resolved that:

- (A) the City of Sydney tree preservation order be amended so that it applies to all land owned by or under the care, control and management of the royal Botanic Gardens and Domain Trust in the local government area of the City of Sydney;
- (B) the City request the Minister for the Environment immediately halt the removal of any further trees and meet with the Lord Mayor to find a way forward to preserve these healthy and viable mature trees; and

Amendment. At the request of Councillor Mallard, and by consent, the motion was amended to include a clause (C) as follows –

- (C) Council receive an urgent report on the creation of a register of significant trees.

Motion, as amended by consent, carried.

**ITEM 2. ELECTION OF DEPUTY LORD MAYOR**

FILE NO:

DATE: 15/4/04

**MEMORANDUM BY THE GENERAL MANAGER**To Council:

Section 231 of the Local Government Act 1993 provides:

- (1) The councillors may elect a person from among their number to be the deputy mayor.
- (2) The person may be elected for the mayoral term or a shorter term.
- (3) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of the mayor.
- (4) The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.

Section 249 of the Act provides -

- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

On 5 June 2000, Council resolved to –

*“Pay Councillors the maximum of the range – as a matter of standing policy.*

*Pay the Lord Mayor the maximum of the range (in addition to his fee as a Councillor) – as a matter of standing policy (less the Deputy Lord Mayor's fee).*

*Pay the Deputy Lord Mayor, in addition to her fee as a Councillor, an amount equal to 10% of the mayoral fee actually paid to the Lord Mayor – as a matter of standing policy.”*

This resolution was never intended to address the situation where a Lord Mayor will not accept the salary.

The Lord Mayor has publicly announced that she will not accept the Lord Mayor's salary, but that this decision should not affect any other Councillor or subsequent Lord Mayor. The Lord Mayor has informed me that she will table a minute at the earliest opportunity to explicitly meet her election commitment.

In the previous Council, the Deputy Lord Mayor was elected for two years (other than following the departure of the former Lord Mayor, Frank Sartor, in April 2003).

Nominations are to be made in writing by two or more Councillors (one of whom may be the nominee).

The Local Government (Elections) Regulation 1998 provides the method of conducting an election for Deputy Lord Mayor. If more than one Councillor is nominated the Council is to resolve whether the election is to proceed by:-

- preferential (secret) ballot;
- ordinary (secret) ballot; or
- open, exhaustive voting.

Procedures for the election have been circulated separately to Councillors.

The last time that the Deputy Lord Mayor's position was contested the method of voting selected by the Council was open, exhaustive voting.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Election of Deputy Lord Mayor, it be resolved that -

- (A) Council elect a Deputy Lord Mayor for a term commencing immediately and ending on 30 September 2005;
- (B) the method of voting be by open, exhaustive voting; and
- (C) the General Manager conduct the election forthwith.

(SGD) ROBERT DOMM  
General Manager

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

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Election of Deputy Lord Mayor, it be resolved that -

- (A) Council elect a Deputy Lord Mayor for a term commencing immediately and ending on 30 September 2005;
- (B) the method of voting be by open, exhaustive voting; and
- (C) the General Manager conduct the election forthwith.

Carried.

At this stage of the meeting, the General Manager, as Returning Officer, called upon the General Counsel to assist with the conduct of the ballot.

The General Counsel invited nominations from Councillors for the office of Deputy Lord Mayor.

The General Counsel announced that two duly completed, written nominations had been received, namely –

Councillors	Michael Lee	(nominated by Councillor Pooley, seconded by Councillor Firth)
	John McInerney	(nominated by Councillor Hoff, seconded by Councillor Black)

Councillors Lee and McInerney in turn indicated their acceptance of their nominations.

An election for the office of Deputy Lord Mayor was then conducted and resulted as follows –

Councillor Michael Lee	-	3 votes
Councillor John McInerney	-	7 votes

The General Counsel then declared Councillor McInerney duly elected to the office of Deputy Lord Mayor in accordance with the provisions of Section 231 of the Local Government Act 1998 for a term commencing immediately and ending on 30 September 2005.

Note - the Chair (the Lord Mayor) congratulated Councillor McInerney on his election as Deputy Lord Mayor. Councillor McInerney responded to the congratulatory remarks.

**ITEM 3. COUNCIL COMMITTEES - FUNCTIONS, MEMBERSHIP,  
ELECTION OF CHAIRPERSONS (S00-8350)**

FILE NO: S00-8350

DATE: 15/4/04

**MEMORANDUM BY THE GENERAL MANAGER**

To Council:

The Local Government (Meetings) Regulation 1999 provides -

- Clause 33 (1) A council may, by resolution, establish such committees as it considers necessary.
- (2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council;
- (3) The quorum for a meeting of a committee is to be:
- (a) such number of members as the council decides; or
  - (b) if the council has not decided a number - a majority of the members of the committee.

Clause 34 A Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

The details of the functions, procedures and delegations of Committees, as previously determined by the former City of Sydney, are shown at Attachment A.

The details of the functions, procedures and delegations of Committees, as previously determined by the former South Sydney Council, are shown at Attachment B.

It will be necessary for Council to determine those matters to enable the cycle of meetings for the new Council to commence.

The former City of Sydney had previously delegated to the Planning Development and Transport Committee limited powers to determine development applications and other matters.

The former South Sydney Council had previously delegated to the Finance, Community Services and Policy Committee all powers, authorities, duties and functions other than those reserved for the Council itself by Section 377 and any other regulatory functions under Chapter 7 of the Local Government Act 1993. However, such broad ranging delegations are not recommended.

During the term of the previous Council -

- (a) the Cultural and City Care Committee met infrequently (approximately twice per year) and the Community Services, Small Business and Tourism Committee did not meet in 2003 or 2002; and
- (b) the Priorities and Outcomes Committee held no meetings for approximately 12 months prior to the recent Council election.

The Lord Mayor has requested that the former City of Sydney Committees remain substantially unchanged for the immediate future to assist in a smooth transition to the new Council and to assist in providing stability during the current amalgamation process.

It is therefore proposed that -

- (a) the new Committees to be established are substantially the same as the existing Committees (other than the Priorities and Outcomes Committee, which is not recommended);
- (b) the functions, procedures and membership of the Committees be reviewed prior to 30 September 2004.

The Lord Mayor has advised that she will table minor variations to the Terms of Reference of each Committee to reflect the expanded boundaries of the City of Sydney.

The Local Government (Meetings) Regulation 1999 provides:

Clause 40 (1) The chairperson of each committee of council must be:

- (a) the mayor; or
  - (b) if the mayor does not wish to be the chairperson of a committee - a member of the committee elected by the committee; or
  - (c) if the council does not elect such a member – a member of the committee elected by the committee.
- (2) A council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

**RECOMMENDATION:**

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Council Committees – Functions, Membership, Election of Chairpersons, it be resolved that -

- (A) Council determine that the following Committees, in accordance with the terms of reference of the former City of Sydney Committees, subject to any amendments made at the meeting, be adopted:

- (i) Planning Development and Transport
  - (ii) Community Services, Small Business and Tourism
  - (iii) Finance, Properties and Tenders
  - (iv) Cultural and City Care
  - (v) Traffic (Sub-Committee of the Planning Development and Transport Committee)
- (B) Council delegate authority to each Committee in accordance with the Terms of Reference adopted in clause (A);
- (C) Council determine membership of each Committee and Sub-Committee for a term ending on 30 September 2004;
- (D) Council elect the Deputy Chairperson of each Committee and, if the Lord Mayor does not wish to be the Chairperson of any Committee, elect the Chairperson of each such Committee for a term ending on 30 September 2004;
- (E) the method of voting be open, exhaustive voting;
- (F) the General Manager conduct the election forthwith; and
- (G) the functions, procedures and membership of each Committee be reviewed prior to 30 September 2004.

(SGD) ROBERT DOMM  
General Manager

Moved by the Chair, the Lord Mayor, seconded by Councillor Lee –

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Council Committees – Functions, Membership, Election of Chairpersons, it be resolved that -

- (A) Council determine that the following Committees, in accordance with the terms of reference as tabled at this meeting, be adopted:
- (i) Planning Development and Transport
  - (ii) Community Services, Small Business and Tourism
  - (iii) Finance, Properties and Tenders
  - (iv) Cultural and Community Care
  - (v) Traffic (Sub-Committee of the Planning Development and Transport Committee)
- (B) Council delegate authority to each Committee in accordance with the Terms of Reference adopted in clause (A);

- (C) Council appoint all Councillors to the Planning Development and Transport Committee, the Community Services, Small Business and Tourism Committee, the Finance, Properties and Tenders Committee and the Cultural and Community Care Committee, in respect of each Committee, for a term ending on 30 September 2004;
- (D) Council elect the Chairperson and the Deputy Chairperson of each Committee for a term ending on 30 September 2004;
- (E) the method of voting be open, exhaustive voting;
- (F) the General Manager conduct the election forthwith; and
- (G) the functions, procedures and membership of each Committee be reviewed prior to 30 September 2004.

Carried.

**Part 1 – The Terms of Reference of the Committees are as follows:**

**Planning Development And Transport Committee**

- Meeting Time: Monday, following the meeting of the Community Services, Small Business and Tourism Committee, but not commencing before 6pm
- Chairperson: *To be elected by Council*  
 Deputy Chairperson: *To be elected by Council*
- Members: Determined by Council
- Quorum: (A majority of the members of the committee)
- Functions: To deal with all matters relating to:
- (a) Development applications not dealt with by the Central Sydney Planning Committee
  - (b) Planning instruments ie LEPs, DCPs, Policies
  - (c) Transport initiatives and issues
  - (d) Parking
  - (e) Traffic and Sydney Traffic Committee
  - (f) Access

- (g) Design of City of Sydney projects, including public spaces, street furniture, parks, city buildings and community facilities
- (h) Safety Programs
- (i) Urban infrastructure, particularly roads, stormwater, drainage and footpaths
- (j) The environment and sustainability

Delegations:

Council delegates its powers under the Environmental Planning and Assessment Act 1979 to the Planning Development and Transport Committee as follows:

- (a) under section 80(1), to determine development applications;
- (b) under section 80(3) to grant deferred commencement consent;
- (c) under section 80(4) and 80(5) to grant staged development consent;
- (d) and under section 96 to approve modifications to any of those consents;

except -

- (a) where fewer than four (4) councillors are present;
- (b) where one or more councillors requests that an application, or applications, be referred to Council for determination, such request either being made in person at the meeting or submitted in writing to the relevant Committee Secretary prior to the finalisation of the item at the meeting.

The items to which the delegation applies are to be so listed on the agenda.

The Council also authorises the Planning Development and Transport Committee to approve submissions, relating to the matters listed above, to other consent authorities.

## **Finance, Properties And Tenders Committee**

Meeting Time: Monday 4.00pm

Chairperson: *To be elected by Council*

Deputy Chairperson: *To be elected by Council*

Members: Determined by Council

Quorum: (A majority of the members of the committee)

Functions: To deal with matters relating to:

- (a) Finance
- (b) Consideration of budgets and quarterly budget performance
- (c) Information Technology Policy
- (d) Asset management
- (e) Internal and external audit
- (f) Fees and charges
- (g) Rating matters
- (h) Council vehicles and fleet management
- (i) Industrial relations
- (j) Organisational policy issues eg industrial agreements
- (k) Council property management, including management, maintenance, leasing, licensing and sale of Council property (including footways) and the use, leasing and purchase of non-Council property
- (l) Tenders

## **Community Services, Small Business And Tourism Committee**

Meeting Time: Monday 6.00pm

Chairperson: *To be elected by Council*

Deputy Chairperson: *To be elected by Council*

Members: Determined by Council

Quorum: (A majority of the members of the committee)

Functions: To deal with all matters relating to:

- (a) Community services
- (b) Recreation services
- (c) Assistance to community groups
- (d) Libraries
- (e) Retailing
- (f) Small Business
- (g) Precinct and community consultation
- (h) Tourism
- (i) Health inspections
- (j) Recycling
- (k) Environmental management
- (l) Operational and promotional issues relating to Restaurants and hotels
- (m) Liquor Licensing
- (n) Community housing
- (o) Cultural and social diversity
- (p) Cultural, social and economic disadvantage

## **Cultural And Community Care Committee**

Meeting Time: Monday, following the meeting of the Finance, Properties and Tenders Committee

Chairperson: *To be elected by Council*

Deputy Chairperson: *To be elected by Council*

Members: Determined by Council

Quorum: (A majority of the members of the committee)

Functions: To deal with all matters relating to:

- (a) Arts (including visual and performing) and culture within the City of Sydney
- (b) City of Sydney events, programs and activities, including themed weekends and the Living Colour Program.
- (c) City of Sydney Care program including:
  - Graffiti removal
  - footpath and street cleaning
  - waste collection
  - trees
  - City of Sydney aesthetic improvement program
  - Street and footpath maintenance
- (d) The management and maintenance of open spaces
- (e) Street furniture program
- (f) Financial assistance to cultural organisations
- (g) Cultural venue management
- (h) City of Sydney lighting program
- (i) History and heritage projects
- (j) the Film Industry

## Traffic Committee

A Sub-Committee of the Planning Development and Transport Committee. The Committee is a Statutory Committee, established under the Roads Act and in accordance with RTA administrative procedures.

Meeting Time: The Committee shall meet when required and shall determine the days and times it meets.

Chairperson: *To be elected by Council*

Alternate

Chairperson: *To be elected by Council*

Members: Membership as determined by the Roads and Traffic Authority administrative procedures being:

(a) Four formal (voting) representatives, one from each of the following-

- Council (Chairperson)
- Police Service
- Roads and Traffic Authority
- Local Members of Parliament

(b) Informal (non-voting) representatives, where relevant, from each of the following -

- State Transit Authority
- Transport Workers Union
- Sydney Harbour Foreshore Authority
- A cycling representative appointed by the Lord Mayor

The Chairperson and their alternate shall be determined by Council.

The views of informal members are considered but not binding.

Administration: The City's Transport Management Unit investigates road safety and traffic management issues and also provides administrative support for the Traffic Committee, including the compilation of agendas and minutes.

Quorum: A representative from Council and the RTA and the NSW Police must each be present.

Function: The function of the Traffic Committee is to advise council on any proposal concerning a traffic control facility.

## **Policies and Procedures of Committees**

- (a) The structure and functions of Committees is standing policy of Council.
- (b) All correspondence from, or to, all Committees, and Sub-Committees, shall be handled through normal Council processes.

Correspondence to any Committee/Sub-Committee shall be tabled at the Committee meeting and placed on the relevant file.

The contents of any outward correspondence, purporting to state the views of a Committee/Sub-Committee shall conform with existing Council policy and shall be circulated to Councillors via the Councillors' Information Service.

- (c) All Committees and Sub-Committees shall be advisory to Council and have no independent role, except where specific authorities are delegated to them by Council.
- (d) The quorum for each Committee shall be half of the members except where otherwise specified in this policy.
- (e) Matters dealt with in Committee shall be submitted to Council without recommendation only when the chairperson so determines.
- (f) The chairpersons of Standing Committees shall have a casting vote in the event of an equality of voting.

## **Part 2 – Chairpersons and Deputy Chairpersons of Standing Committees**

At this stage of the meeting, the General Manager, as Returning Officer, called upon the General Counsel to assist with the conduct of the ballot.

The General Counsel invited nominations. Nominations were made, seconded and accepted as follows. Where necessary, an election was conducted with results as follows.

### **(A) Planning Development and Transport Committee**

One nomination for the Chairperson was received, as follows:

Councillor John McInerney (nominated by Councillor Hoff, seconded by Councillor Black)

Councillor McInerney was declared elected.

One nomination for the Deputy Chairperson was received, as follows:

Councillor Chris Harris (nominated by Councillor Hoff, seconded by Councillor Black)

Councillor Harris was declared elected.

(B) Community Services, Small Business and Tourism Committee

Nominations for the Chairperson were as follows:

Councillor Tony Pooley (nominated by Councillor Lee, seconded by Councillor Firth)

Councillor Marcelle Hoff (nominated by Councillor Kemmis, seconded by Councillor Harris)

The results of the election were as follows:

Councillor Marcelle Hoff 7 votes

Councillor Tony Pooley 3 votes

The General Counsel then declared Councillor Hoff elected as Chairperson.

One nomination for the Deputy Chairperson was received, as follows:

Councillor Verity Firth (nominated by Councillor Pooley, seconded by Councillor Lee)

Councillor Firth was declared elected.

(C) Finance, Properties and Tenders Committee

Nominations for the Chairperson were as follows:

Councillor Verity Firth (nominated by Councillor Lee, seconded by Councillor Pooley)

Councillor Robyn Kemmis (nominated by Councillor Black, seconded by Councillor McInerney)

The results of the election were as follows:

Councillor Verity Firth 3 votes

Councillor Robyn Kemmis 7 votes

The General Counsel then declared Councillor Kemmis elected as Chairperson.

Nominations for the Deputy Chairperson were as follows:

Councillor Michael Lee (nominated by Councillor Pooley, seconded by Councillor Firth)

Councillor Shayne Mallard (nominated by Councillor Black, seconded by Councillor McInerney)

The results of the election were as follow

Councillor Michael Lee 3 votes

Councillor Shayne Mallard 7 votes

The General Counsel then declared Councillor Mallard elected as Deputy Chairperson.

(D) Cultural and Community Care Committee

One nomination for the Chairperson was received, as follows:

Councillor Phillip Black (nominated by Councillor McInerney, seconded by Councillor Hoff)

Councillor Black was declared elected.

One nomination for the Deputy Chairperson was received, as follows

Councillor Michael Lee (nominated by Councillor Firth, seconded by Councillor Pooley)

Councillor Lee was declared elected.

(E) Traffic Sub-Committee

One nomination for the Chairperson was received, as follows:

Councillor John McInerney (nominated by Councillor Kemmis, seconded by Councillor Hoff)

Councillor McInerney was declared elected.

One nomination for the Deputy Chairperson was received, as follows:

Councillor Chris Harris (nominated by Councillor Black, seconded by Councillor McInerney)

Councillor Harris was declared elected.

#### **ITEM 4. CENTRAL SYDNEY PLANNING COMMITTEE - ELECTION OF COUNCILLORS**

FILE NO:

DATE: 14/4/04

#### **MEMORANDUM BY THE GENERAL MANAGER**

##### To Council:

The Central Sydney Planning Committee is constituted by the City of Sydney Act 1988.

Section 34(1) of that act provides that the Committee shall consist of seven members:-

- (a) the Lord Mayor of Sydney;
- (b) a senior government employee with architectural experience nominated by the Minister administering the Public Works Act 1912;
- (c) 2 Councillors of the City of Sydney elected by the City Council;
- (d) the Director of Planning under the Planning Act; and
- (e) 2 persons appointed by the Minister administering Part 4 of the Planning Act.

The person appointed pursuant to Clause (b) is Mr Chris Johnson, NSW Government Architect, Department of Commerce. The term of office for Mr Johnson expires on 5 August 2006.

The two persons appointed by the Minister pursuant to clause (e) are Ms Antoinette le Marchant and Mr Neil Bird. The term of office for Ms le Marchant expires on 3 September 2006 and the term of office for Mr Bird expires on 15 December 2004.

The election of Councillors to the Committee is required by Clause 2(1)(b) of Schedule 1 of the City of Sydney Act 1988, which provides:

An ordinary election of elected members is to be held at a meeting of the City Council held within 3 weeks of the election of the Lord Mayor by electors of the City of Sydney under section 289 of the Principal Act (ie the Local Government Act 1993).

The method of election to be used is a matter for the Council to decide. The methods may be by:-

- preferential (secret) ballot;
- ordinary (secret) ballot; or
- open, exhaustive voting.

Previously, the Council has chosen to hold a separate election for each of the two positions and the elections were by open, exhaustive voting.

Procedures for the election have been circulated separately to Councillors.

The City of Sydney Act provides that Council may appoint an alternate for each of the elected members.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Central Sydney Planning Committee – Election of Councillors, it be resolved that -

- (A) Council elect two Councillors to be members of the Central Sydney Planning Committee until 30 September 2005;
- (B) the method of voting for the election of Councillors to the Central Sydney Planning Committee be open, exhaustive voting;
- (C) the General Manager conduct the election forthwith; and
- (D) Council appoint alternates for each member elected.

(SGD) ROBERT DOMM  
General Manager

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

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Central Sydney Planning Committee – Election of Councillors, it be resolved that -

- (A) Council elect two Councillors to be members of the Central Sydney Planning Committee until 30 September 2005;
- (B) the method of voting for the election of Councillors to the Central Sydney Planning Committee be open, exhaustive voting;
- (C) the General Manager conduct the election forthwith; and
- (D) Council appoint alternates for each member elected.

Carried.

The General Manager, as Returning Officer, called upon the General Counsel to assist with the conduct of the ballot.

The General Counsel invited nominations from Councillors to the first position on the Central Sydney Planning Committee.

The General Counsel announced that one nomination had been received, namely –

Councillor John McInerney (nominated by Councillor Kemmis, seconded by Councillor Hoff)

The General Counsel declared Councillor McInerney elected to the first position on the Central Sydney Planning Committee.

The General Counsel invited nominations from Councillors to the second position on the Central Sydney Planning Committee.

The General Counsel announced that one nomination had been received, namely –

Councillor Chris Harris (nominated by Councillor McInerney, seconded by Councillor Black)

The General Counsel declared Councillor Harris elected to the second position on the Central Sydney Planning Committee.

Pursuant to clause (D) of the Council resolution, and in accordance with Section 34(3) of the City of Sydney Act 1988, it was moved by the Chair (the Lord Mayor), seconded by Councillor Lee –

- (A) That Councillor Phillip Black be appointed as the alternate for Councillor John McInerney; and
- (B) That Councillor Robyn Kemmis be appointed as the alternate for Councillor Chris Harris.

Carried.

#### **ITEM 5. SMALL PERMITS APPEALS PANEL - RENEWAL (S010284)**

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

That arising from consideration of a report by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, in relation to the Small Permits Appeals Panel, it be resolved that the Small Permits Appeals Panel be re-established, with the Terms of Reference of the Panel to be as detailed at Attachment A to the subject report.

Carried unanimously.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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**SMALL PERMITS APPEALS PANEL**

**1. Preamble**

The jurisdiction of the Small Permits Appeals Panel ('the Panel') is limited to:

- (a) determining the review of applications which would not otherwise be dealt with by Council or the Central Sydney Planning Committee or Council's Planning Development and Transport Committee; and
- (b) determining requests for review of decisions by a delegate of Council as specified below; and
- (c) investigating the delay to an application for an approval or permit as specified below.

**2. Terms of Reference**

Subject to 3., upon a request from an applicant or a person/company who is to be the subject of a proposed order and on payment of a fee to Council, the Panel is to review:

**Development Applications and s96 Modifications to Development**

- (a) Pursuant to the provisions of section 82(A) of the Environmental Planning and Assessment Act 1979, the review of a determination of applications made under delegated authority.

**Local Government Act matters**

- (b) Pursuant to the provisions of section 100 of the Local Government Act 1993, determinations of applications for approval under section 68 of the Local Government Act 1993 made under delegated authority. This includes Places of Public Entertainment (POPEs) and approvals for temporary structures (hoardings).

**Notices of Intention to Serve an Order under the Planning Act**

- (c) Notices of Intention to Serve an Order under Section 121 of the Environmental Planning and Assessment Act 1979 (except in cases where the General Manager is satisfied that the nature of the proposed order involves matters of health and/or public safety, and report such exclusions to the Lord Mayor within a month.

**Notices of Intention to serve an Order under the Local Government Act**

- (d) Notices of Intention to serve an Order under Section 132 of the Local Government Act 1993 (except in cases where the General Manager is satisfied that the nature of the proposed order involves matters of health and/or public safety, and report such exclusions to the Lord Mayor within a month.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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**Film Permits**

- (e) Film permits issued under the Local Government Act 1993.

**Footway Cafes**

- (f) Licences for outdoor seating on council land associated with cafes/restaurants and the like (in addition to the review of the DA for such proposals).

**Other Matters**

- (g) The Panel shall also consider items referred to it by the Lord Mayor, Council or the General Manager.

**Delayed applications**

- (h) The Panel may determine delayed applications. An application is taken to be a delayed application if the time taken to process the application exceeds that in a schedule to be prepared by the General Manager and approved by the Lord Mayor.

**Resubmitted applications**

- (i) Where the delegate on the Panel has the power to do so, the Panel may determine an application made in substantially similar terms to an application which has recently been determined.

**3. Matters ineligible for review**

The Panel is not to deal with the following matters:

- (a) Applications that are Integrated Development, Designated Development or Complying Development Certificates.
- (b) Waiver of statutory charges, for example under Section 61 of the City of Sydney Act 1988 or Section 94 of the Environmental Planning and Assessment Act 1979 or to waive or vary Council's fees or other financial matters.
- (c) Any matter dealt with by Council or the Central Sydney Planning Committee.
- (d) Dealings with Council Property, excluding footway café licences.
- (e) Orders where the General Manager is satisfied that the nature of a proposed order involves matters of health and/or public safety; a report of such exclusions to be submitted to the Lord Mayor within a month.
- (f) Matters other than those stated expressly in paragraph 2 above.
- (g) Matters which, by law, cannot be delegated.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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- (h) The Panel will not be able to review and re-determine an application such that the applicant is given approval for more than that originally applied for.
- 4. Panel determinations must be generally consistent with Council's controls and policies.
- 5. The Panel should draw to the attention of Council any policies or controls that, in its opinion, need review.

**6. Panel Membership**

The Panel generally shall comprise:

- (a) The Chairperson of the Planning Development and Transport Committee or the Lord Mayor (or an alternate approved by the Lord Mayor); and
- (b) A further member determined by the General Counsel being a senior council officer, being the Director who has the delegation to deal with the matters subject of that Panel (or alternate approved by the General Counsel); - the Council officer must not be subordinate to the original decision maker, nor be the actual decision maker; and
- (c) A member of an approved list of external persons comprising not more than eight persons, to be determined by the Lord Mayor in consultation with the General Manager.
- (d) In addition, the Lord Mayor and General Manager are ex officio members of the Panel and may choose to join Panel meetings.

**7. Frequency of Panel Meetings**

The Panel will meet as and when required

**8. Notification and Advertising of DA matters for review**

In the case of development applications that were notified and/or advertised and where there were submissions that are related to the subject of the review, or when the subject of the review warrants (in the opinion of the Director City Planning), persons who previously made a relevant submission or any other persons as decided by the Director City Planning, are to be notified by mail of the lodgement of the section 82A application and advised of the date and time of the Panel meeting, so that they may make a representation and/or address the Panel.

**9. Fee**

The fee for review shall be:

- (a) 50% of the original application fee up to a maximum of \$500;

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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- (b) for matters which did not involve an application fee, \$50.00.

**10. Site Visit**

Site visits may be undertaken, at the discretion of the Chairperson, before the Panel meeting.

**11. Determination of Applications**

- (a) Subject to the Preamble and the Terms of Reference, to the extent permitted by law, Council delegates authority to the Panel to determine applications made under section 82A of the Environmental Planning and Assessment Act 1979, section 100 of the Local Government Act 1993, representations made under Clause 121H and 121J of the Environmental Planning and Assessment Act 1979 and representations made under Section 133 of the Local Government Act 1993.
- (b) Decisions of the Panel are to be made within 14 days of a request for review and are to be conveyed to the applicant and to any person who made a submission or addressed the Panel, within three (3) working days of the Panel determination.

**12. Term of Office**

Panel members (other than ex officio members) shall be appointed for a period of up to three years.

**13. Panel Meetings**

- (a) The General Counsel is responsible for the conduct and administration of the Panel.
- (b) The relevant Council Unit will provide the necessary resources as required.
- (c) The Panel shall meet as and when required. The meetings shall be open to the public and agendas will be produced and minutes taken by Secretariat staff.
- (d) Applicants and persons who previously made a submission on a development application or adjoining owners/occupants will be invited to attend and make submissions. The purpose of the Panel is to expeditiously review actions and decisions made by Council staff and to assess the merits of an issue. Legal representation is not encouraged. The Panel will not have its own legal representative, except it may in the case when it is reviewing a representation on an Order, if the Panel applicant has legal representation.

**14. Appeal Rights**

Appeal rights to the Land and Environment Court are notified to all applicants as part of the normal determination of DAs and the issue of Orders.

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**TERMS OF REFERENCE - SMALL PERMITS APPEALS PANEL**

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**15. Quorum**

A quorum of the Panel shall be two, comprising:-

- (a) the Chairperson of the Planning Development and Transport Committee, or the Lord Mayor, or the alternate approved by the Lord Mayor;
- (b) the external member, except where that member is unable to attend in exceptional circumstances, in which case a senior Council officer shall attend.

**16. Conflict of Interest**

Panel Members will be required to declare any conflict of interest in relation to any matter that comes before them. In such instances, that member will be ineligible to participate in that particular review matter.

**17. Fees for Panel Members (other than the Chairperson and Council Officers)**

An annual fee shall be paid to the Panel representatives, other than the Chairperson and the Council officers or their alternates. The amount of the annual fee shall be determined by the General Manager in consultation with the Lord Mayor.

**18. Reporting of Decisions to Council**

Quarterly reports to Councillors and annual reports to Council summarising the decisions and operation of the Panel will be submitted.

**19. Process**

The applicant shall lodge their Request for Review by the Small Permits Appeal Panel with the One Stop Shop who will immediately advise the Secretariat who commences the process.

**20. Review**

The functions of the Panel will be reviewed within twelve months of a general election of Council.

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**ITEM 6. SCHEDULE OF COUNCIL MEETINGS TO THE END OF 2004 - ADOPTION**

FILE NO:

DATE: 15/4/04

**MEMORANDUM BY THE GENERAL MANAGER**To Council:

Last year the Council adopted a program of meetings for the 2004 calendar year. It is appropriate for the Council now to set a schedule of meetings for the remainder of the year.

The attached draft schedule (Attachment A) proposes a variation to the program previously adopted by Council. The proposed changes are to facilitate a more co-ordinated program with meetings of the Central Sydney Planning Committee.

The Lord Mayor has also advised there will be an extensive program of community forums across the whole Council area. These will be closely linked with the schedule of Committee and Council meetings to facilitate the participation of Councillors. This program is currently being developed by the Office of the Lord Mayor and will be tabled and publicised at the earliest opportunity.

The draft program of Council and Committee meetings that is attached follows policies and guidelines previously adopted by Council and detailed in the Code of Meeting Practice, namely -

- a three weekly cycle based on:
  - briefings
  - Committee meetings; and
  - Council meeting;
- including recesses for school holidays and over the Christmas/New Year period;
- holding no meeting on the day of the Local Government Association Annual Conference;
- there will also be additional briefings scheduled prior to Council and Committee meetings as may be required.

The Local Government Act 1993 provides (section 365) that Council is required to meet at least 10 times each year, each time in a different month. Taking into account the Council meetings already held so far this calendar year, that minimum requirement will be exceeded.

The Lord Mayor has advised that Council meetings will conventionally commence at 6.00pm. Meetings of the Planning Development and Transport Committee will conventionally commence no earlier than 6.00pm. Briefings will conventionally be in the afternoons to allow for community meetings to be held in the evenings.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Schedule of Council Meetings to the end of 2004, it be resolved that Council adopt the schedule of meetings for the remainder of 2004, as shown at Attachment A to the subject report.

(SGD) ROBERT DOMM  
General Manager

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

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Schedule of Council Meetings to the end of 2004, it be resolved that Council adopt the schedule of meetings for the remainder of 2004, as shown at Attachment A to the subject report.

Carried unanimously.

Note – during discussion on this matter, the Chair (the Lord Mayor) tabled a schedule containing two rounds of proposed community meetings. This schedule was made available to the press and members of the public.

Note – the Program of Council Meetings adopted by Council is as follows.

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**SCHEDULE OF MEETINGS AND BRIEFINGS FOR THE REMAINDER OF 2004**


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Date	Proposed Meeting/Briefing
<b>Friday 9 April to Monday 26 April 2004, inclusive - School Holidays</b>	
Monday 19 April	Recess – School Holidays Extraordinary Council Meeting
Monday 26 April	Recess - Anzac Day Public Holiday
Monday 3 May	Briefings
Monday 10 May	Committees
Monday 17 May	Council Meeting
Monday 24 May	Briefings
Monday 31 May	Committees
Monday 7 June	Council Meeting
Monday 14 June	Recess (Queen's Birthday Public Holiday)
Monday 21 June	Committees
Monday 28 June	Council
<b>Monday 5 July to Friday 16 July 2004, inclusive - School Holidays</b>	
Monday 5 July	Recess - School Holidays
Monday 12 July	Recess - School Holidays
Monday 19 July	Briefings
Monday 26 July	Committees
Monday 2 August	Council
Monday 9 August	Briefings
Monday 16 August	Committees
Monday 23 August	Council
Monday 30 August	Briefings

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**SCHEDULE OF MEETINGS AND BRIEFINGS FOR THE REMAINDER OF 2004**


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<b>Date</b>	<b>Proposed Meeting/Briefing</b>
Monday 6 September	Committees
Monday 13 September	Council
Monday 20 September	Briefings
Monday 27 September to Friday 8 October 2004, inclusive - School Holidays	
Monday 27 September	Recess - School Holidays
Monday 4 October	Recess - Labour Day Public Holiday
Monday 11 October	Committees
Monday 18 October	Council
Monday 25 October	Recess - NSW Local Government Association Annual Conference
Monday 1 November	Briefings
Monday 8 November	Committees
Monday 15 November	Council
Monday 22 November	Briefings
Monday 29 November	Committees
Monday 6 December	Council
Monday 13 December	Committees
Monday 20 December	Council
Wednesday 22 December 2004 to Thursday 27 January 2005, inclusive - School Holidays	

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**ITEM 7. PYRMONT TRAFFIC AND OPEN SPACE STUDY (S027677)**

FILE NO: S027677

DATE: 14/4/04

**MINUTE BY THE LORD MAYOR**

To Council:

In late 2003, Council resolved to prepare a brief and commission a multi-dimensional traffic and infrastructure study which considers community needs and supply in respect of traffic, parking, public domain and open space on the Pyrmont peninsula. In accordance with this resolution of Council, the City has commissioned consultants to undertake the study.

This review was prompted by a decade of aggressive growth in Pyrmont, community concern that this represented unsustainable over-development and the need to effectively 'take stock' and review infrastructure in light of such existing and planned growth.

The outcome of this study will be beneficial in assessing the future development of key sites in Pyrmont, such the Water Police site, so-called site "M" in Point Street, and the Sydney Fishmarkets.

The importance of the Study is also reflected in the fact that the CFMEU has placed a temporary "Green Ban" on the Water Police site and the State Government has announced they will not determine the development application for this site until the Study has been finalised and considered.

In view of the unique circumstances pertaining to this study, it is recommended that a 'steering committee' be established to meet with and be advised by relevant staff on an as-needs basis at key stages in the Study's progress.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to the Extraordinary Meeting Council on 19 April 2004, on Pyrmont Traffic and Open Space Study, it be resolved that, given the unique circumstances pertaining to the nature of this Study, the Lord Mayor nominate up to three Councillors to form a steering-committee to be advised by staff at key stages in the Study's progress and to report to the Lord Mayor on issues, concerns and strategic directions for the Study.

(SGD) COUNCILLOR CLOVER MOORE  
Lord Mayor

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

That arising from consideration of a Minute by the Lord Mayor to the Extraordinary Meeting Council on 19 April 2004, on Pymont Traffic and Open Space Study, it be resolved that, given the unique circumstances pertaining to the nature of this Study, the Lord Mayor nominate up to three Councillors to form a steering-committee to be advised by staff at key stages in the Study's progress and to report to the Lord Mayor on issues, concerns and strategic directions for the Study.

Amendment. At the request of Councillor Firth, and by consent, the motion was amended by the deletion of the words

“nominate up to three Councillors to form a steering-committee”

and the substitution of the words

“nominate up to three Councillors and two representatives of the Pymont community who are not Councillors to form a steering committee of up to five persons”.

Motion, as amended by consent, carried.

## **ITEM 8. IMPROVING CERTAINTY AND TRANSPARENCY IN APPLYING PLANNING CONTROLS**

FILE NO.

DATE: 15/4/04

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

#### To Council:

The use of discretion in applying planning controls was a fundamental issue debated during the City of Sydney elections. This is a particularly important in respect of the “core” planning controls that determine the bulk, scale and height of development, such as floor space ratio and height provisions. The exercising of such discretion can influence the scale of development and the flow-on impacts on the surrounding community.

During the election campaign I gave a firm commitment to address this issue. The outcome of the election demonstrates a strong mandate to deliver on the issues for which my team and I stood and campaigned on.

There is public benefit in councils applying a strict approach to height and floorspace ratio controls. This adds certainty to the development process for applicants, and allows neighbours and the community to anticipate the likely outcomes of new development on a site. Large variations of core planning controls should simply not occur. If such large variations are warranted, this should be done by changing the controls themselves, which involves a process of extensive public consultation and consideration of the wider impacts of such changes.

A related matter that also causes considerable community concern is the process whereby developers have access to “bonus floorspace”. There have been past instances in the implementation of South Sydney Development Control Plan 1997 where large variations to floorspace ratio controls were granted in return for monetary or in kind contributions for public works. At times these variations were well in excess of the 0.25:1 contained in the Plan. Where there has been a lack of transparency or public understanding of the process, the community does not accept the claimed public benefits for which the “bonus” was given, undermining community confidence in the very plan from which the bonus provisions came. Where the planning controls allow extra floorspace, then the public should see and understand the “public benefit” being provided, so its overall merits can be weighed and considered.

The public benefit in a stricter approach to core planning controls was recognised in a recent Land and Environment Court Case for the former Kings Cross Post Office site (*Australand Holdings v Sydney City Council*). The judgement stated:

*“Where a planning instrument includes a maximum FSR and building height, it is unavoidable that members of the public will assume that the FSR and height controls will be upheld. Those few who have read the full 89 pages of the DCP would understand that the controls may be exceeded, but only if the exceedance does not lead to adverse environmental impact”.*

In the former South Sydney City Council local government area, the controls and provisions relating to height and floorspace ratios are contained in a Development Control Plan (DCP 1997). I have made firm public commitments during the election campaign that a stricter approach to such controls should be applied, as occurs in the former City of Sydney’s planning controls, wherein these controls are in a Local Environmental Plan. Embodying the core planning controls in a LEP provides them with greater statutory weight.

At the same time, Council should note that in order to strictly apply planning controls as is proposed, the planning controls need to be appropriate for a site and area. For example, I am advised by Council’s planning staff that the majority of relatively small minor residential extensions exceed the mandated floorspace ratio in Glebe of 0.7:1. Just as community confidence can be eroded by exceeding the maxima for inappropriate new development, the same can occur if the maximum is set too low such that strict application stifles acceptable residential extensions and developments.

The process of varying controls and creating new Local Environmental Plans will take some time, and involve extensive community involvement and public consultation, and I will ask Council to commence this process.

In the interim however, the existing planning controls continue to apply. It is important that the City be clear in articulating its philosophy and approach for applicants and the community. The recommendation below is framed accordingly.

RECOMMENDATION:

That arising from consideration of a Minute by the Lord Mayor to the Extraordinary Meeting of Council on 19 April 2004, on Improving Certainty and Transparency in Applying Planning Controls, it be resolved that Council:

- (A) note that in the process of development assessment there is public benefit in adopting a strict and careful approach in applying “core” planning controls, particularly height limits and floor space ratio controls, which largely determine the bulk and scale of new buildings, and their consequent impact. A strict and careful approach is needed, especially in areas where such controls are contained in a Development Control Plan (as in the South Sydney Development Control Plan 1997);
- (B) note that applying planning controls in a consistent and predictable way provides greater certainty for applicants and enables the community to better anticipate the building form of potential new development on sites which may impact on their amenity. This greater level of certainty regarding the potential impact of new development will be very helpful in people’s decision to buy property, which for many people is the largest investment they will make;
- (C) apply core floor space ratios and height limits as “maxima” (not as “givens”), with any variations being in exceptional circumstances only and where fully justified on planning grounds. Instances of such exceptional circumstances should only occur where the following criteria are met:
  - (i) where the additional variation improves the development in terms of its relationship with the existing and desired future character of an area; and
  - (ii) where the variation does not result in any adverse environmental impacts, or impacts on the amenity of surrounding land (such as overshadowing, privacy and views), and
  - (iii) where the variation is minor, as major variations to planning controls should only occur through varying the control itself, after necessary public consultation, and wider consideration of issues such as the character of an area, density, integrated transportation strategies, environmental capacity, sustainability and cumulative impacts of such variations;or
  - (iv) where the controls are inconsistent with the predominant built form, inconsistent with the desired future character of the area and inconsistent with the stated objectives of the planning instruments developed with community consultation.
- (D) discourage the option of receiving monetary contributions for public domain improvements arising from the “bonus floorspace incentive” provisions in the South Sydney Development Control Plan (DCP) 1997 and encourage developers to provide public domain benefits as envisaged in the DCP, such as: additional useable public open space; public transport enhancements; public pedestrian links; cycle paths; and the like; and

- (E) foreshadow that, in the anticipated review of the multitude of planning controls for the newly amalgamated City of Sydney Local Government Area, Council will favour the inclusion of floorspace ratio and height controls in a Local Environment Plan.

(SGD) COUNCILLOR CLOVER MOORE

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 the Extraordinary Meeting of Council on 19 April 2004, on Improving Certainty and Transparency in Applying Planning Controls, it be resolved that the Minute by the Lord Mayor be approved and adopted.

Carried.

## **ITEM 9. DELEGATIONS – REVIEW FOLLOWING AMALGAMATION**

FILE NO:

DATE: 14/4/04

### **MEMORANDUM BY THE GENERAL MANAGER**

To Council:

The Lord Mayor has submitted a minute to Council proposing the strict application of planning controls.

The delegations from South Sydney City Council (SSCC) to the General Manager, which continue in force following amalgamation, are inconsistent with the objectives set out in the Lord Mayor's Minute.

Specifically, the SSCC delegations authorise the General Manager to determine development applications for buildings without any limit as to height or compliance with planning controls. Accordingly, there is no restriction on staff approving development applications even where the height and floor space ratio of the proposed development exceed planning controls (provided there are less than five objections). An example of a significant development capable of approval under delegation is a proposed tower containing 240 apartments at the 'ACI' site.

The delegation of authority by the City of Sydney to the General Manager does not have the same level of authority in respect of development applications. Specifically, no building exceeding three storeys in height can be approved under delegation.

In the City's experience, this level of delegation remains practical and workable to enable assessment of development applications to continue, while reserving to Council the authority to consider more significant development applications.

Accordingly, I propose that the delegations to the General Manager by the former South Sydney City Council be revoked.

The Local Government Act requires delegations to be reviewed within the first 12 months of each Council term. I propose to submit a comprehensive review of delegations for that purpose in several months. However, I believe it is important to revoke the former South Sydney City Council delegation immediately, in order to ensure that stricter application of development controls is consistent with the levels of authority under delegations.

RECOMMENDATION:

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Delegations - Review Following Amalgamation, it be resolved that the delegations by the former South Sydney City Council to the General Manager be revoked with immediate effect.

(SGD) ROBERT DOMM  
General Manager

Prior to a motion being moved, the Lord Mayor invited the General Manager to address Council on the Memorandum by the General Manager. During discussion, Councillor Pooley foreshadowed proposed amendments if a motion in terms of the recommendation contained in the Memorandum by the General Manager were to be put.

Following further discussion, it was moved by the Chair (the Lord Mayor), seconded by Councillor McInerney -

That arising from consideration of a Memorandum by the General Manager to the Extraordinary Meeting of Council on 19 April 2004, on Delegations - Review Following Amalgamation, it be resolved that –

- (A) the delegations by the former South Sydney City Council to the General Manager be revoked with immediate effect;
- (B) Councillors be briefed in relation to the existing delegations to the General Manager and the Lord Mayor; and
- (C) the General Manager prepare a report to Council, through the relevant Committee, for a review of delegations.

Carried.

## **ITEM 11: STAFFING MATTERS FOLLOWING AMALGAMATION**

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

At this stage of the meeting, pursuant to the provisions of Clause 15(2) of the Local Government (Meetings) Regulation 1999, the following motion was moved –

Moved by Councillor Pooley, seconded by Councillor Lee –

That no further relocation of former South Sydney or City of Sydney staff occur until Council has had the opportunity to make some strategic decisions about where staff should be located.

That all delegations currently applying to the Acting General Manager in relation of the location of staff and appointment to positions be immediately withdrawn.

That a staff freeze remain in place until directed otherwise by the Council.

That, to inform a discussion on those strategic directions, Councillors be provided with the following information at the next meeting:

- (1) a detailed explanation of what staff from either the former South Sydney City Council or the City of Sydney Council have been relocated since 6 February 2004 and where they have been relocated to;
- (2) the number of staff currently located (and proposed to be located) at the three neighbourhood centres, ie, Redfern, Kings Cross and Glebe;
- (3) any current or proposed plans for the (former) South Sydney Civic Centre;
- (4) information on any changes of duties that have applied to staff transferred since 6 February 2004.

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

The substantive motion was then moved by Councillor Pooley, seconded by Councillor Lee.

Amendment. Following discussion and at the request of the Chairman (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 arising from consideration of a motion on Staffing Matters Following Amalgamation, it be resolved that –

- (A) the General Manager be requested that no significant relocation of former South Sydney or City of Sydney staff occur until Council has had the opportunity to consider the matter further following a briefing of Councillors, proposed to be held on Tuesday 27 April 2004;

- (B) to inform a discussion on this issue, Councillors request that they be provided with the following information at the next briefing:
- (i) a detailed explanation of what staff from either the former South Sydney City Council or the City of Sydney Council have been relocated since 6 February 2004 and where they have been relocated to;
  - (ii) the number of staff currently located (and proposed to be located) at the three neighbourhood centres, ie, Redfern, Kings Cross and Glebe;
  - (iii) any current or proposed plans for the (former) South Sydney Civic Centre;
  - (iv) information on any changes of duties that have applied to staff transferred since 6 February 2004

Motion, as amended by consent, carried.

At 7.44pm the meeting concluded.

Chair of a meeting of the Council of the City  
of Sydney held on 17 May 2004 at which  
meeting the signature herein was subscribed.

### **Administrative Note**

#### **Numbering of Council Meetings.**

Note that the 1404<sup>th</sup>, 1405<sup>th</sup>, 1406<sup>th</sup>, 1407<sup>th</sup> and 1408<sup>th</sup> meetings of the Council of the City of Sydney, held in February and March 2004, were meetings of the Administrators. Those meetings had, at the time, been numbered 1, 2, 3, 4 and 5.

However, numbering of Council meetings will continue in the sequence which commenced in 1948 when, by Act of Parliament, the Council of the City of Sydney replaced the Municipal Council of Sydney.