

Council Meeting

Monday 13 September 2004

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Items Determined Under Delegated Authority by Council Committees

The following Items were determined under Delegated Authority. To see the delegated decisions of Council please refer to the individual Committee Meeting Minutes.

Corporate & Works Committee Meeting held on Monday 6 September 2004

- D1 Confirmation of Minutes of Meeting held on 16 August 2004
- D2 Watsons Bay Commercial Centre Streetscape Design - 950.G, 311 Streetscape
- D3 Management of Council's Infrastructure Assets - 331.G

Development Control Committee Meeting held on Monday 6 September 2004

- D1 Confirmation of Minutes of Meeting held on 16 August 2004
- D2 DA1006/2003 – 36 Wallis Street, Woollahra – New two storey addition to rear of property & excavation for a cellar – 20/11/2003
- D3 DA240/2004 – 2 Fernleigh Gardens, Rose Bay – New roof terrace & external access stair – 23/4/2004
- D4 DA1125/2003 – 4 Salisbury Street, Watsons Bay – Section 82A Review of refusal of Development Application – 30/6/2004 & 4/8/2004
- D5 DA149/2004 – 489 New South Head Road, Double Bay – Alterations to existing building to convert into two apartments & construction of new residential flat building on the site – 11/3/2004
- D6 DA1010/2003 – 34 & 38 Wolseley Road, Point Piper – Demolition of two apartment complexes on adjoining titles – Consolidation of lost – Construction of two new (4) storey residential flat buildings accommodating (8) apartments with two levels of underground parking for (22) vehicles via a vehicle elevator – Strata subdivision – 21/11/2003
- D7 DA378/2003 – 23 Harris Street, Paddington – Front dormer window to existing attic room – 16/5/2003 & 19/8/2004
- D8 Register of Current Land and Environment Court Appeals for Building and Development Applications

Urban Planning Committee Meeting held on Monday 30 August 2004

- D1 Confirmation of Minutes of Meeting held on 9 August 2004

Community & Environment Committee Meeting held on Monday 30 August 2004

- D1 Confirmation of Minutes of Meeting held on 9 August 2004
- D2 Library report for the quarter April to June 2004 and the Comparative Information on Library Services 2002/03 (NSW Local Government Councils) - 48.G
- D3 2005 Australia Day - 680.G



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 13 September 2004 at 8.00pm.**

Present: His Worship the Mayor, Councillor Geoff Rundle
Councillors Anthony Boskovitz
John Comino
Claudia Cullen
Christopher Dawson
Marcus Ehrlich
Tanya Excell
Wilhelmina Gardner
Keri Huxley
Julian Martin
Andrew Petrie
Isabelle Shapiro
David Shoebridge
John Walker

Staff: A Coker (Director – Planning & Development)
G Clarke (Director – Corporate Services)
W Hatton (Director – Technical Services)
G James (General Manager)
K Walshe (Director – Community Services)
L Windle (Manager – Governance)

Also in Attendance: Nil

Suspension of Standing Orders

(Huxley)

- 1/16** That Standing Orders be suspended to move a vote of deep and sincere condolence to the families and friends of the victims of the 9 September 2004 bomb attack on the Australian Embassy in Jakarta and on behalf of the Woollahra community to the Indonesian people and the Ambassador. We respectively ask that the Indonesian Ambassador convey our condolences to the Indonesian Government. That Council also move a vote of deep and sincere condolence to the families and friends of the victims of the Beslan hostage tragedy and similar correspondence be forwarded to the Russian Government on behalf of Council.

Adopted

The Mayor ruled Urgency and permitted the Suspension of Standing Orders.

(Huxley/Petrie)

- 2/16** That Council move a vote of deep and sincere condolence to the families and friends of the victims of the 9 September 2004 bomb attack on the Australian Embassy in Jakarta and on behalf of the Woollahra community to the Indonesian people and the Ambassador. We respectively ask that the Indonesian Ambassador convey our condolences to the Indonesian Government. That Council also move a vote of deep and sincere condolence to the families and friends of the victims of the Beslan hostage tragedy and similar correspondence be forwarded to the Russian Government on behalf of Council.

Adopted

Confirmation of Minutes

(Ehrlich/Martin)

- 3/16** THAT the Minutes of the Council Meeting held on 30 August 2004 be taken as read and confirmed.

Adopted

Leave of Absence

- 4/16** (Cullen/Boskovitz)

Resolved without debate:

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Comino for the period Tuesday 21 September to Friday 8 October 2004, inclusive.

Adopted

Apologies

Note: Councillor Gardner notified the Manager Governance that she had received a phone call from Councillor Sinclair King expressing her apologies for the Council Meeting, prior to the close of the meeting.

Declarations of Interest

Nil

General Managers Report

Item No: 1
Subject: Election of Deputy Mayor to September 2005
Author: Gary James, General Manager
File No: 40.G
Reason for Report: To facilitate the Election of the Deputy Mayor.

Note: The General Manager as Returning Officer called for nominations. When nominations closed there were two nominations. They were:

Councillor Huxley
Councillor Shoebridge

The Returning Officer asked the meeting as to the method of voting.

Motion moved by Councillor Comino
Seconded by Councillor Petrie

That the method of election of the Deputy Mayor be by open voting.

Resolved:

5/16 That the method of election of the Deputy Mayor be by open voting.

Note: The Returning Officer then asked for a show of hands for each of the candidates. The result was:-

Councillor Huxley	7 votes
Councillor Shoebridge	7 votes

The General Manager advised the meeting that as the votes for the candidates were tied, the position of Deputy Mayor would be determined by the choosing by lot in accordance with the procedures required by Clause 12 of the Local Government (Elections) Regulation 1998.

The result of the choosing by lot was that Councillor Shoebridge was chosen.

Councillor Shoebridge was declared elected as the Deputy Mayor for the period to September 2005.

(Comino/Shoebridge)**Resolved:**

- 6/16** That the meeting adjourn for a short period to allow informal discussion on the membership of the Committees.

Note: The Meeting adjourned at 8.10pm.
The Meeting reconvened at 8.15pm with the following Councillors present:
The Mayor Councillor Rundle, Councillors Boskovitz, Comino, Cullen, Dawson, Ehrlich, Excell, Gardner, Huxley, Martin, Petrie, Shapiro, Shoebridge and Walker.

Motion moved by Councillor Shoebridge**Seconded by Councillor Cullen**

- 7/16** That Council determine the election of Chairpersons of Committees.

Adopted

Item No: 2
Subject: **Chairpersons of Committees**
Author: Gary James, General Manager
File No: 40.G
Reason for Report: For the Council to determine which method is to be used to determine the Chairperson of Committees.

(Shoebridge/Cullen)**Resolved:**

- 8/16** THAT the Chair of the Development Control Committee, Urban Planning Committee, Corporate and Works Committee and Community and Environment Committee be elected by the Council.

Councillor Martin was nominated by Councillor Shoebridge and seconded by Councillor Cullen for the position of Chair of the Corporate and Works Committee.

Councillor Huxley was nominated by Councillor Boskovitz and seconded by Councillor Shapiro for the position of Chair of the Corporate and Works Committee.

Note: The Mayor then asked for a show of hands for each of the candidates. The result was:-

Councillor Huxley	7 votes
Councillor Martin	7 votes

The position of Chair of the Corporate and Works Committee was determined by the choosing of lot which was conducted by the General Manager.

The result of the choosing by lot was that Councillor Huxley was chosen.

Resolved:

- 9/16** THAT Councillor Huxley be the Chair of the Corporate and Works Committee to September 2005.

Councillor Gardner was nominated by Councillor Martin and seconded by Councillor Cullen for the position of Chair of the Development Control Committee.

Councillor Comino was nominated by Councillor Petrie and seconded by Councillor Huxley for the position of Chair of the Development Control Committee.

Note: The Mayor then asked for a show of hands for each of the candidates. The result was:-

Councillor Comino	7 votes
Councillor Gardner	7 votes

The position of Chair of the Development Control Committee was determined by the choosing of lot which was conducted by the General Manager.

The result of the choosing by lot was that Councillor Gardner was chosen.

Resolved:

- 10/16** THAT Councillor Gardner be the Chair of the Development Control Committee to September 2005.

Councillor Shoebridge was nominated by Councillor Martin and seconded by Councillor Cullen for the position of Chair of the Urban Planning Committee.

Councillor Petrie was nominated by Councillor Comino and seconded by Councillor Boskovitz for the position of Chair of the Urban Planning Committee.

Note: The Mayor then asked for a show of hands for each of the candidates. The result was:-

Councillor Petrie	6 votes
Councillor Shoebridge	8 votes

Resolved:

- 11/16** That Councillor Shoebridge be the Chair of the Urban Planning Committee to September 2005.

Councillor Petrie was nominated by Councillor Boskovitz and seconded by Councillor Huxley for the position of Chair of the Community and Environment Control Committee.

Councillor Ehrlich was nominated by Councillor Cullen and seconded by Councillor Shoebridge for the position of Chair of the Community and Environment Committee.

Note: The Mayor then asked for a show of hands for each of the candidates. The result was:-

Councillor Ehrlich	8 votes
Councillor Petrie	6 votes

Resolved:

- 12/16** THAT Councillor Ehrlich be the Chair of the Community and Environment Committee to September 2005.

(Petrie/Gardner)

- 13/16** That the meeting adjourn for a further short period to allow informal discussion on the membership of the Committees.

Adopted

Note: The Meeting adjourned at 8.22pm.
The Meeting reconvened at 8.27pm with the following Councillors present:

The Mayor Councillor Rundle, Councillors Boskovitz, Comino, Cullen, Dawson, Ehrlich, Excell, Gardner, Huxley, Martin, Petrie, Shapiro, Shoebridge and Walker.

Item No: 3
Subject: **Appointment of Standing Committees to September 2005**
Author: Gary James, General Manager
File No: 40.G
Reason for Report: For the Council to appoint the members of the various Standing Committees of the Council.

(Huxley/Shoebridge)

- 14/16** That the Corporate and Works Committee comprise the following Councillors to September 2005:-

The Mayor, Councillor Rundle, ex-officio
 Councillor Cullen
 Dawson
 Ehrlich
 Huxley
 Martin
 Petrie
 Walker

(Huxley/Shoebridge)**Resolved:**

- 15/16** That the Development Control Committee comprise the following Councillors to September 2005:-
The Mayor, Councillor Rundle, ex-officio
Councillor Boskovitz
Comino
Excell
Gardner
Shapiro
Shoebridge
Sinclair King

(Huxley/Shoebridge)**Resolved:**

- 16/16** That the Community and Environment Committee comprise the following Councillors to September 2005:-
The Mayor, Councillor Rundle, ex-officio
Councillor Boskovitz
Cullen
Ehrlich
Excell
Gardner
Petrie
Walker

(Huxley/Shoebridge)**Resolved:**

- 17/16** That the Urban Planning Committee comprise the following Councillors to September 2005:-
The Mayor, Councillor Rundle, ex-officio
Councillor Comino
Dawson
Huxley
Martin
Shapiro
Shoebridge
Sinclair King

(Huxley/Shoebridge)

Resolved:

18/16 That the Strategic and Corporate Committee comprise of the following Councillors to September 2005:-

The Mayor, Rundle, ex-officio
All Councillors

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 6 September 2004 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Trumper Park Pond Reconstruction Project Tender**
Author: David Sheils - Manager Public Open Space
File No: 498.G, Tender 04/04
Reason for Report: To recommend to Council the acceptance of a tender.

(Walker/Petrie)

19/16 Resolved Without Debate:

- A. That Council enter into a contract with *Antoun Civil Engineering Pty Ltd*, for the Trumper Park Pond Reconstruction Tender for the Lump Sum of \$109,584.
- B. That, if required, the Seal of Council be affixed to the Tender documents.

Item No: R2 Recommendation to Council
Subject: **Local History Publications - *Paddington Heritage & St Brigid's***
Author: F Lawrence - Manager Library Services
File No: 474.G
Reason for Report: To report to Council at the end of the public exhibition period on the proposed charges for the new local history publications *Paddington Heritage* and *St Brigids*.

(Walker/Petrie)

20/16 Resolved Without Debate:

- A. THAT Council note that no submissions on the proposed charges were received following public exhibition for:
 - i. Paddington Heritage (publication) \$25
 - ii. St Brigid's : a house and its people 1897 – 1950 (publication) \$20
- B. THAT the charges be adopted as part of the schedule of Fees and Charges 2004/05.

Note: The Mayor thanked Councillor Walker for his contribution as past Chair of the Corporate and Works Committee.

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 6 September 2004 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **45 Cranbrook Road, Bellevue Hill – Section 82A Review of refusal of the Section 96 application – 16/2/2004 & 15/6/2004**
Author: Mr D Waghorn – Assessment Officer
File No: DA697/2002
Reason for Report: Referred to the council meeting as the matter is a Section 82A Review of a previous determination made at the Development Control Committee.

(Gardner/Comino)

21/16 Resolved Without Debate: Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, having considered the application for review of the previous determination, resolve to grant modified development consent to DA 697/2002 for the demolition of the existing dwelling and construction of a new dwelling on land at 45 Cranbrook Road Bellevue Hill, subject to the following conditions:

Modification of Condition No 1 as follows:

1. Approved Plans

This consent relates to the work, shown in colour, on plans numbered 99019/03 Revision F, 99019/04, Revision F, 99019/05, Revision F, 99019/06, Revision F, 99019/07, Revision F, 99019/08, Revision F and 99019/09, Revision F dated 01.05.03, drawn by Lippmann Associates, including landscape plans dated June 2002, drawn by Yates Garden Design, all of which carry a Council stamp “*Approved DA Plans*” and the signature of a Council officer, as amended by plans numbered 99019/DA03-DA09 Revision L, dated 11 June 2004, drawn by Lippmann Associates, all of which carry a Council stamp “*Approved S96 Plans*” and the signature of a Council officer on the plans except where amended by the following conditions.

The modification of Condition Nos 11 and 13 as follows:

11. Existing trees which must be retained

Approval is NOT granted for the removal of the following trees, which Council has determined to be significant landscape elements. Where indicated a Tree Preservation Bond is required to be lodged with Council. The Bond has been applied in accordance with Council’s policy regarding the bonding of trees on or adjacent development sites, where an assessment has determined that the proposed development may impact on the preservation of the following trees.

Council Reference No:	Species	Location	Dimension (Metres)	Tree Preservation Bond required
1	<i>Cinnamomum camphora</i> Camphor Laurel	NW corner of property	15 x 15	2000
			Total bond	\$2000

The Construction Certificate plans must include reference to the retention of the above mentioned trees and identify the trees by Council's reference number and colour or shade them in the colour green for trees to be retained and yellow for trees to be transplanted.

A bond is placed on individual trees when considered appropriate by Council's Landscape Development Officer. The value of the bond may represent the full value of the tree or the Officer's Assessment of potential damage to the tree or a group of trees during development. The bond may be in the form of a bank guarantee and must be lodged prior to the issue of a Construction Certificate. The bond will not be released until Council has inspected and is satisfied with the condition of the trees. Council may use part or the entire bond to carry out works to trees or replace them, if they are not in a satisfactory condition.

Where trees have not been preserved and retained in accordance with the approval the developer may forfeit the total bond amount.

13. No excavation within tree root zones

To allow for the preservation of a viable root zone, excavation work must not be undertaken within the specified radius of the trunks of the following trees. Beyond this radius, excavation is permissible only after root pruning by hand along the perimeter line of such works has been carried out.

Council Reference No:	Species	Location	Radius from Trunk(Metres)
1	<i>Cinnamomum camphora</i> Camphor Laurel	NW corner of property	4m

The addition of the following condition:

53. Replacement trees which must be planted

The following replacement tree species must be planted to ensure the preservation of the landscape character of the area. Details in compliance with the following criteria specifying the species and planting locations of the replacement plants must be included on the Landscape Plan for approval by Council or the accredited certifier with or before the application for a Construction Certificate.

Species/Type	Planting Location	Container Size or Size of Tree	Minimum Dimensions at Maturity
Suitable tree	On-site to the rear	100 litre bag	8x5

The deletion of Condition No 2.

Item No: R2 Recommendation to Council
Subject: **36 Wallis Street, Woollahra – New two storey addition to rear of property & excavation for a cellar – 20/11/2003**
Author: Mr J Lukas – Senior Assessment Officer
File No: DA1006/2003
Reason for Report: In accordance with Council’s codes and policy this matter is referred to the Council Meeting of 13 September 2004 due to a substantive change to the conditions of the Officer’s recommendation for approval of the application.

Motion moved by Councillor Comino
Seconded by Councillor Huxley

That the recommendation from the Site Inspection that was submitted to the Development Control Committee Meeting held on 6 September 2004 be adopted and that the title of Condition No. 43 be amended to be 43. Building design amendments.

Amendment moved by Councillor Gardner
Seconded by Councillor Shoebridge

That the recommendation be adopted subject to Condition 43(e) being amended to read “The pergola is to be amended to be set back from the eastern boundary by 1 metre” and that the title of Condition No. 43 be amended to be 43. Building design amendments.

The Amendment was put and LOST
The Motion was carried

(Comino/Huxley)

22/16 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 1006/2003 for a new two storey addition to rear of property and excavation for a cellar on land at 36 Wallis Street Woollahra, subject to the following conditions:

1. Approved Plans

The development must be carried out in accordance with plans numbered WR05C, WR06D, WR07D, WR11D, WR12D and WR24A, dated 8/6/04, drawn by archengine, all of which carry a Council stamp “*Approved DA Plans*” and the signature of a Council officer, except where amended by the following conditions.

2. Reduced height

The overall height of the building is to be reduced by 500mm. In this regard, the roof height and the east and west boundary walls to the first floor shall not extend above RL79.24 whilst maintaining the lean to roof. The roof height and the east and west boundary walls to the ground floor shall not extend above RL 75.56. The paved patio to the rear ground floor shall not extend above RL71.96. The courtyard level shall not extend above RL71.32. This condition is imposed to reduce the scale and bulk of the proposal and to reduce the impact of the proposal on the amenity of adjoining residents. Details are to be submitted with the construction certificate application.

3. Fencing

The boundary fencing shall be limited to a maximum height of 1.8metres at any point when measured from the ground level of the immediate adjoining property. This condition is imposed to reduce the scale and bulk of the development. Details are to be submitted with the construction certificate application.

4. Masonry wall

The west wall of the bedroom to the first floor is to be of masonry. This condition is imposed to ensure the materials are consistent with those used in the conservation area. Details are to be submitted with the construction certificate application.

5. Skylight

The skylight is to have a flush finish with the roof and be suitably treated to so that its colour matches the roof. Details are to be submitted with the construction certificate application.

6. Replacement trees which must be planted

The following replacement tree species must be planted to ensure the preservation of the landscape character of the area. Details in compliance with the following criteria specifying the species and planting locations of the replacement plants must be included on the Landscape Plan for approval by Council or the accredited certifier with or before the application for a Construction Certificate.

Species/Type	Planting Location	Container Size or Size of Tree	Minimum Dimensions at Maturity
Small Tree	Rear	75 Litre	3m (height) x 3m (width)

7. Connection to existing drainage system

Stormwater run-off from the proposed addition and extension must drain to the existing stormwater drainage system.

The existing stormwater drainage pipes on the property must be checked and certified by a practising hydraulic engineer to ensure that all existing stormwater pipes are in good condition and are operating satisfactorily. Certification and a plan showing pipe locations and diameters must be submitted to the Accredited Certifier prior to the final building inspection.

Note: connection of stormwater run-off to the Sydney Water sewer system is not permitted.

If the existing stormwater pipes are not in good condition and/or not operating satisfactorily, the existing drainage system must be upgraded. Certification and a plan showing pipe locations and diameters of the upgraded system must be submitted to the Accredited Certifier prior to the final building inspection.

8. Stockpiles

Stockpiles of topsoil, sand, aggregate, soil or other material must not be located on any drainage line or easement, natural watercourse, footpath or roadway, or within the dripline of any Street Tree. Stockpiles within the construction site must be protected with adequate sediment controls, in accordance with Council's Code for Sediment Control.

9. Location of building operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system.

Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

10. Temporary disposal of roof water

Stormwater from any roof areas must be linked, via a temporary downpipe, to a Council approved stormwater disposal system immediately upon completion of the roof installation.

11. Footpath levels

The existing footpath level and grade at the street alignment of the property must be maintained.

12. Protection of services

Prior to any excavation works, the location and depth of all services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The developer must meet all costs of any adjustment, relocation or reinstatement of any services.

13. Storage of materials and plant on Council's footpath

Building, excavation or demolition materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Development Engineer.

14. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*".

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

15. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

If work is not undertaken to the satisfaction of the Development Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

16. Damage security deposit

A security deposit of \$ 8,000 (Eight thousand Dollars) for the cost of making good any damage to Council property caused as a consequence of the construction work, plus an administration fee of \$150.00, must be paid to Council prior to the issue of the Construction Certificate. The security deposit, which may be in the form of a bank guarantee, has been calculated in accordance with the following schedule.

Estimated cost of work	Deposit
Works up to \$50,000	\$2,000
Works in excess of \$50,000 & up to \$100,000	\$4,000
Works in excess of \$100,000	\$4,000+\$200/\$10,000 estimated cost>\$100,000

Council may use all or part of the Damage Security Deposit to complete damage restoration works if they do not meet Council's requirements.

17. Construction management plan

The retention of the existing garage will restrict access to the site and area of construction. To ensure that the construction works do not impose on pedestrian or vehicular traffic at the rear of the site, the developer must consider management of construction works.

A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:-

- a. describe the anticipated impact of the construction works on:**
 - pedestrian circulation adjacent to the building site
 - on-street parking and traffic in the local area.
- b. describe the means proposed to:**
 - manage construction works to minimise such impacts,
 - provide for the standing of vehicles during construction,
 - provide for the movement of deliveries to the site, and;
- c. show the location of:**
 - on street parking zones
 - garage entrances in the rear lane surrounding the site.
 - any areas of Council property on which it is proposed to install a construction zone.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate consent from Council. Standing of concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

18. Compliance with the construction management plan

All excavation, demolition and construction work and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the PCA or Council on request.

19. Boundary Setback of basement footprint

To reduce the potential for the proposed excavation works to undermine the neighbouring sites, the proposed cellar footprint must be setback approximately 800mm from the adjoining property.

Revised architectural plans showing agreement with this condition must be submitted with the application for a Construction Certificate.

20. Compliance with the Construction Methodology Report

The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report prepared by Astroc Structural Engineering dated 16th January 2004.

21. Structural Certification of excavation works and associated structures.

The excavation of the proposed cellar may possibly effect the stability of surrounding property and structures if conducted improperly.

Due to this, the excavation and construction of these development works must be overseen by an engineer. This is to ensure the stability of surrounding property / infrastructure is not adversely effected by such works.

Excavation, retention, underpinning and construction must be undertaken on-site by an excavation contractor with specialist excavation experience. A suitably qualified geotechnical or structural engineer, specialising in excavation, must supervise the excavation procedure.

This engineer is to provide certification to the Accredited Certifier, prior to issue of Final Building Certificate, that excavation, retention, underpinning and construction of all the excavation works stated above has been conducted:

- a. According to the relevant Australian Standards and Codes of Practice, and
- b. In a manner that does not compromise the structural integrity of all adjacent structures and property.

22. Dilapidation survey

A dilapidation survey of the property and infrastructure must be conducted prior to any site work. The lateral extent of the survey must cover the likely “zone of influence” of any dewatering and/or construction induced vibration. A practicing structural engineer must prepare a full dilapidation report on the structural condition of all existing structures at the following locations:

- No. 34 Wallis Street
- No. 38 Wallis Street

The Report must be completed and submitted to Council prior to the commencement of **any** demolition, excavation or construction works.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

23. Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of *the Environmental Planning and Assessment Act 1979*, the erection of the building must not be commenced until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

24. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members.

This condition is imposed to ensure the structural integrity of the proposed building work.

25. Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

26. Demolition, excavation and construction hours

Demolition, excavation and construction work must not take place outside the hours of 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays. Noise from construction activities associated with the development must comply with the guidelines contained in the NSW EPA *Environmental Noise Control Manual* Chapter 171.

27. Machine excavation

Excavation or removal of any materials involving the use of machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00 pm Mondays to Fridays, with regular breaks of 15 minutes each hour. This condition is imposed to ensure reasonable standards of amenity for occupants of neighbouring properties.

28. Building Inspections

The Applicant, Owner and Builder, jointly and severally, must ensure that they call their Principal Certifying Authority ("the PCA") to carry out such critical phase building inspections required by the PCA, the PCA Service Agreement and that the PCA is satisfied with the level of compliance achieved before the Builder proceeds to the next phase of construction. Ample notice of required inspections must be given to the PCA in accordance with the PCA Service Agreement. The Applicant, Owner and Builder must comply with the PCA Service Agreement (Service Contract) and any lawful direction given by the Principal Certifying Authority.

Note: It is the responsibility of the PCA to ensure that critical phase building inspections are undertaken in accordance with a PCA Service Agreement and issue to the Applicant, Owner and Builder appropriate Notice under Section 109L of the Environmental Planning & Assessment Act 1979 ("the Act") where any breach of this consent occurs. Failure of the PCA to issue such notice may result in Council taking action under Section 109V of the Act. Failure of the Applicant, Owner and Builder to comply with a PCA Service Agreement and comply with lawful directions of the PCA under this condition may result in Council issuing fines, notices, orders and commencing legal proceedings. Council will only enter into PCA Agreements with the Owner of the land being developed. Council, if appointed as the PCA, will report to the owner of the land being developed.

29. Occupation of premises

The premises must not be occupied prior to the issue of an Occupation Certificate.

30. Long Service Levy Payment

A Long Service Levy under Section 34 of the *Building & Construction Industry Long Service Payment Act*, 1986, must be paid and proof of payment provided prior to the issue of a Construction Certificate.

The Levy can be paid directly to the Long Services Payments Corporation or to Council.

31. Water conservation

Water saving showerheads must be fitted to all showers within the development to reduce water consumption and promote energy efficiency.

32. Energy efficiency

The development must be designed and constructed so that each dwelling achieves a performance rating of 3.5 stars (NatHERS or equivalent). A NatHERS certificate, or equivalent, is to be submitted by an accredited NatHERS assessor. (A list of accredited assessors is available from Council's Customer Services Counter or from the Sustainable Energy Development Authority).

33. Standard for demolition

All demolition work must be undertaken in accordance with the provisions of *Australian Standard AS2601-2001: The Demolition of Structures*.

34. Compliance with Building Code of Australia

- (a) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
- (b) This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188, of the *Environmental Planning and Assessment Regulation 2000*, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188 (4) of the Regulation.

35. Residential building work

- (a) Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the principal certifying authority (PCA) for the development to which the work relates:
 - in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor license number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - in the case of work to be done by any other person:
 - (iii) has been informed in writing of the person's name and owner-builder permit number; or
 - (iv) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (a) (iv) above is prescribed by regulations under the *Home Building Act 1989*. As at the date on which this Regulation was Gazetted, that amount was \$5,000. As those regulations are amended from time to time, so that amount may vary.

- (b) A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

36. Excavations and backfilling

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (b) 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.

37. Retaining walls and drainage

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.

38. Support for neighbouring buildings

- (a) 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:
 - (i) must preserve and protect the building from damage; and
 - (ii) if necessary, must underpin and support the building in an approved manner; and
 - (iii) 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.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this condition, allotment of land includes a public road and any other public place.

39. Protection of public places

- (a) If the work involved in the erection or demolition of a building:
 - (i) is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place;a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning must be removed when the work has been completed.

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid. (*See Condition No. #*)

40. Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- (b) Any such sign must be removed when the work has been completed.
- (c) This clause does not apply to:
 - (i) building work carried out inside an existing building; or
 - (ii) building work carried out on premises that must be occupied continuously (both during and outside working hours) while the work is being carried out.

41. Toilet facilities

- (a) Toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (b) Each toilet provided:
 - (a) must be a standard flushing toilet; and
 - (b) must be connected:

- (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (d) In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the Local Government (Approvals) Regulation 1993 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in Clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the Local Government (Approvals) Regulation 1993.

42. Residential building work over \$12,000 in value

Council must be provided with the following information prior to the commencement of any works;

- (a) the proposed builder's details (in writing); and
- (b) proof of payment of the required insurance premium pursuant to Part 6 of the *Home Building Act 1989*.

43. Building design amendments

The Construction Certificate plans and specifications required by clause 139 of the Environmental Planning & Assessment Regulation 2000 must demonstrate that:

- (a) the first floor (north facing) balcony has a maximum width of 1m;
- (b) the length (east to west) of the balcony does not extend more than 100mm beyond the extent of the opening in the northern first floor wall; and
- (c) the balcony is generally a Juliette balcony with no fin walls or privacy screening or the like.

Item No: R3 Recommendation to Council
Subject: **2 Fernleigh Gardens, Rose Bay – New roof terrace & external access stair – 23/4/2004**
Author: Mr D Waghorn – Assessment Officer
File No: DA240/2004
Reason for Report: In accordance with Council’s codes and policy this matter is referred to the Council Meeting of 13 September 2004 due to the Committee recommending refusal of the application which is a substantive change to the Officer’s recommendation for approval of the application.

(Gardner/Comino)

23/16 Resolved Without Debate:

THAT Council, as the consent authority, refuse development consent to Development Application 240/2004 for the construction of a new roof terrace and external access stair on land at 2 Fernleigh Gardens, Rose Bay, for the following reasons:

1. The proposal would have an adverse impact upon the visual and acoustic privacy of adjoining properties.
 2. The proposal would have an adverse visual impact upon the streetscape and adjoining properties.
 3. Any provision of outdoor lighting to the roof terrace would adversely affect the amenity of adjoining properties.
 4. The height of the proposal is excessive and unreasonable in terms of the envisaged adverse impacts upon the amenity of the locality involving visual impact, loss of acoustic and visual privacy and loss of views.
-

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 30 August 2004 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Stormwater Development Control Plan**
Author: Myl Senthilvasan - Asset Management Engineer - Drainage
File No: 19 G
Reason for Report: To present proposed Development Control Plans for Stormwater and Flooding and recommend that they be exhibited for public consultation.

(Shoebridge/Petrie)

24/16 Resolved Without Debate:

- A. THAT the Draft **Stormwater Drainage Management DCP** and the Draft **Flood Risk Management DCP** be placed on public exhibition for not less than 28 days subject to Section 7.1.6 of the Draft **Stormwater Drainage Management DCP** being amended to read as follows:

7.1.6 *What happens if an agreement to acquire an easement cannot be reached?*

Section 88K of the Conveyancing Act 1919 provides for the compulsory acquisition of easements.

You should seek legal advice on this matter, which may involve an application under Section 88K to the Supreme Court of New South Wales.

- B. THAT a further report be prepared addressing any submissions received during the exhibition period.
- C. That a further report be prepared regarding the making of a draft Local Environmental Plan to amend Clause 25 of Woollahra LEP 1995, which deals with water, wastewater and stormwater systems, so that consent to development applications may be granted upon the Council considering the adequacy of water, sewerage and stormwater drainage systems applying to the land that is proposed to be developed, including compliance with an approved Stormwater Management Plan.
- D. That the report detailing the outcomes from the exhibition period discuss any recommended consequential amendments to other Development Control Plans requiring provisions for easements.
-

Item No: R2 Recommendation to Council
Subject: **Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39) - Acid Sulfate Soils**
Author: George Losonci - Senior Strategic Planner
File No: 1064.G (Amend 39)
Reason for Report: To report on the public exhibition of Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39)

(Shoebridge/Petrie)

25/16 Resolved Without Debate:

- A. THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 39) as amended, and contained in **Annexure 3** of the report to the Urban Planning Committee meeting of 30 August 2004, be referred to the Department of Infrastructure, Planning and Natural Resources for approval by the Minister and for gazettal subject to any legal drafting alterations requested by Parliamentary Counsel.
- B. THAT the proposed amendments to the Woollahra Exempt and Complying Development DCP include an alteration to the general criteria for exempt and complying development relating to acid sulfate soils as outlined in the report to the Urban Planning Committee meeting of 30 August 2004.

Item No: R3 Recommendation to Council
Subject: **Draft Woollahra LEP 1995 (Amendment No. 52)**
Author: Libby Maher, Strategic Heritage Officer
File No: 1064 G Amend 52
Reason for Report: To report on the public exhibition of Draft Woollahra Local Environmental Plan 1995 (Amendment No. 52).

Note: Late correspondence on this matter was tabled at the meeting from Mr Jeff Jago of 15 Mona Road, Darling Point and Libby Maher, Council's Strategic Heritage Officer.

(Shoebridge/Petrie)

26/16 Resolved:

- A. THAT Draft Woollahra Local Environmental Plan 1995 (Amendment No. 52), as altered and as contained in **Annexure 6** of the report to the Urban Planning Committee meeting of 30 August 2004, be referred to the NSW Heritage Office and then to the Department of Infrastructure, Planning and Natural Resources for approval by the Minister and for gazettal.
- B. THAT the amended heritage inventory sheets shown in **Annexure 5** of the report to the Urban Planning Committee meeting of 30 August 2004, be adopted by Council and used in the assessment of development applications for those subject properties.
- C. THAT the Royal Sydney Golf Club House and grounds within the immediate curtilage of the club house be nominated to the Heritage Council of NSW for inclusion on the State Heritage Register as an item of State significance.

Notice of Motion

Item No: 1
From: Councillors Shoebridge and Excell
Date: 9 September 2004
File No: 900.G

(Shoebridge/Excell)

That Council, noting the clear scientific evidence of human induced climate change caused by global warming and the increasing concentrations of carbon dioxide and other greenhouse gasses in our atmosphere, and recognising the substantial potential affects of climate change on our local environment:

1. Calls for a report on the potential affects of climate change in Woollahra over the course of the 21st century including:
 - (a) The rise of sea levels in accordance with internationally recognised scientific predictions;
 - (b) The loss of coastal land including our harbour beaches from rising sea levels and storm surges;
 - (c) The exposure of large sections of low lying coastal areas in Woollahra, namely Double Bay, Rose Bay and Watsons Bay to rising sea levels and storm surges;
 - (d) The potential increase in ground water levels in Double Bay and Rose Bay from rising sea levels noting the existing evidence that ground water levels in the municipality do rise and fall with tidal levels;
 - (e) The effect on our municipality of increasingly severe weather patterns including flooding, drought and storm surge damage;
 - (f) The potential areas of future expense to council and local residents of steps required to mitigate the affects of climate change including remedial drainage works, relocation or alteration of low lying housing and public land, beach remediation, sea wall extensions and maintenance and alteration housing stock.
2. Further that the report address what concrete steps Council can take, both in relation to its own operations and in relation to its regulatory capacity to reduce the greenhouse gas emissions of both Council and the municipality generally.

LOST

Note: A Division was called by Councillors Shoebridge and Petrie.

For

Gardner
Martin
Excell
Cullen
Shoebridge

Against

Petrie
Comino
Huxley
Dawson
Walker
Shapiro
Ehrlich
Boskovitz
Rundle

5/9

Item No: 2
From: Councillors Excell and Shoebridge
Date: 13 September 2004
File No: 900.G

(Excell/Shoebridge)

Currently DCC site inspection meetings are held every Wednesday morning at 8.00am. This prevents many Council members from participating on the DCC committee. This motion calls for DCC site inspections to be alternated annually from Wednesday to Saturday and so forth so that all Council members have the opportunity of participating in DCC.

As this motion affects the hours of work of staff of the Council can a report be presented to the relevant committee looking at the feasibility of such a change.

LOST

Questions Without Notice Tabled Answers

Item No: 11
Subject: Questions Without Notice
Author: Gary James, General Manager
File No: 467.G/Q01
Reason for Report: To provide a response to Questions without Notice from Council Meeting of 30 August 2004 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Motion moved by Councillor Petrie

Seconded by Councillor Boskovitz

27/16 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Petrie asking:

To the General Manager, Mr Malcolm Turnbull has indicated that he would be happy to remove the small number of corflutes on public property. Mr King staff have refused the same request. I am asking can the General Manager take steps to remove these signs as the Electricity Commission also wants them removed. Mr King has 500 corflutes flying on public property. This is way over the top and can the General Manager do anything about it?

General Manager in response:

On Notice.

As a short response, the Electricity Commission has control over the posts which most of these corflutes are attached. If they want them removed they can use their funds to actually remove them. We don't have specific control over those, we have control over our own properties and we have issued notice to the different members that are contesting the Election in October that we would expect them to be removed. I did not see any value in this Council expending its own funds in involving itself in what is nothing more than an election campaign, whether someone is on one side or another side it is not for local government to involve itself in, in my view.

Councillor Comino asking:

What is the current status of the Abranxa Study and report into the operations of the Holdsworth Street Community Centre?

Director – Community Services in response:

On Notice.

As a brief response, the Abraxa report is due to Council within the next few weeks. I am currently waiting for the service provider to provide their final response to my report which will hopefully be received this week.

Councillor Comino asking:

Will Council arrange a follow up seminar with Lifeline (and a training course of appropriate staff) following on the success of the recent Forum held at this Council on preventing suicide?

Director – Community Services in response:

On Notice.

Councillor Martin asking:

Following up my question of the last Meeting regarding the proposed meeting with Frank Sartor regarding Cecil Street Flooding issues.

I note your valiant attempts to get a meeting and I note the latest correspondence from the Minister who is considering matters.

What else can we do to expedite this matter of great community concern.

Director – Technical Services in response:

The Minister has advised that he is prepared to meet with us but he awaiting advice from his Department.

Councillor Huxley asking:

I have had many phone calls from local residents regarding the proliferation and visual pollution of the election corflutes in our streets. There are more corflutes than I have ever seen before, they are obstructing safety signage and are indeed dangerous to motorists and pedestrians. I would like to call on Council to removal all these corflutes or if Council is not able to do so then I would ask Council to write to all candidates requesting they remove the corflutes immediately?

General Manager in response:

In one aspect to your statement we have advised all Candidates that where those corflutes or A-frames are situated, that if they do pose a some safety aspect we have told them they will be confiscated under those circumstances. I don't believe that every corflute on every post constitutes a safety issue.

Councillor Huxley asking:

I have had a complaint from residents regarding the priority placed on the repair of footpaths in Paddington. A resident of Elizabeth Street in particular called regarding the very poor state of their footpath, between Oxford Street and Underwood Street. Mr Hatton please let this Council know what criteria is used to determine why a perfectly good footpath is dug up while more urgent paths remain in need of new surfacing?

Director – Technical Services in response:

On Notice.

Councillor Huxley asking:

A car with a for sale sign has been left on Queen Street over the weekend, would staff please inform Councillors as to how often cars are able to be booked?

Director – Planning & Development in response:

On Notice.

Councillor Dawson asking:

I have had complaints about the lack of garbage bins at the end of Ocean Street by Steyne Park. Are there going to be bins installed in this area?

Director – Technical Services in response:

On Notice.

Councillor Petrie asking:

Mr Mayor, during this evening you referred me to the Code of Conduct. In this regard can you please report to us, the Councillors, on the matter of two Mosman Councillors who the Minister has called for their resignations on pecuniary interest, or otherwise in favouring people in committee.

Mayor in response:

On Notice.

General Manager in response:

I would be more than happy to make available a copy of the report, I think it is something like 107 pages. I would be more than happy to make copies available. I think you should read the whole report and would prefer you to make your own judgement.

There being no further business the meeting concluded at 9.40pm.

We certify that the pages numbered 1551 to 1584 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 13 September 2004 and confirmed by Council at the ordinary Meeting of Council on 27 September 2004 as correct.

General Manager

Mayor