



MINUTES: 3501st MEETING OF THE NORTH SYDNEY COUNCIL & COUNCIL (ASSESSMENTS) HELD ON MONDAY, 29 SEPTEMBER 2008 AT 7.00 PM.

PRESENT

The Mayor, Genia McCaffery, in the Chair, and Councillors Gibson, Reymond, Christie, Marchandean, Raymond, Barbour Zimmerman, Baker, Robjohns, Carland, Burke and Pearson.

At the commencement of business (7.00 pm) those present were:
The Mayor, and Councillors Gibson, Reymond, Christie, Marchandean, Raymond, Barbour Zimmerman, Baker, Robjohns, Carland, Burke and Pearson.

616. Matters Brought Forward at the Request of Members of the Public Gallery

It was moved, seconded and carried -

THAT the following items be brought forward and dealt with at this stage:

- | | |
|--------|---|
| G01: | Election of Deputy Mayor
(See Min. No. 621) |
| PDS02: | Woolcott Avenue, Waverton (W) Vehicle Crossing Application VC09/08
(See Min. No. 622) |
| PDS03: | 27 Harriette Street, Neutral Bay (C) DA212/08
(See Min. No. 619) |
| PDS04: | 275 Alfred Street, North Sydney (V) DA217/08
(See Min. No. 623) |
| PDS05: | 23 Holbrook Avenue, Kirribilli (V) DA151/08
(See Min. No. 620) |
| PDS06: | 10 Shellbank Parade, Cremorne (T) DA 11/0
(See Min. No. 624) |
| PDS07: | 45 Ryries Parade, Cremorne (T) DA594/07
(See Min. No. 625) |
| PDS08: | 3 – 6/125 Kurraba Road, Neutral Bay (C) DA 14/08/2
(See Min. No. 628) |
| PDS09: | 43 Kareela Road, Cremorne Point (C) DA173/08
(See Min. No. 626) |
| NoM01: | Notice of Motion No. 27/08 Re: Unsatisfactory process on election day
(See Min. No. 627) |

617. Minutes

The Minutes of the previous 3500th Council Meeting held on Monday, 8 September 2008, copies of which had been previously circulated, were taken as read and confirmed.

The Motion was moved by Councillor Reymond and seconded by Councillor Zimmerman.

Voting was unanimous.

618. Declarations of Interest

Re Item PDS02	11 Woolcott Avenue, Waverton
Councillor Pearson	Owner of property was employed as a planner (Non-pecuniary)
Re Item PDS04	275 Alfred Street, North Sydney
Councillor Zimmerman	Donor prior to 2004 election(Non-pecuniary)

MATTERS BROUGHT FORWARD**619. PDS03: 27 Harriette Street, Neutral Bay (C) DA212/08**

Applicant: Marc Biancardi

Report of Geoff Mossemenear, Executive Planner, 17 September 2008

The proposal involves the following works:

- Modification of the existing first floor including minor internal alterations, the addition of two bedrooms with ensuite and balconies.
- Modification of the existing ground floor including minor internal alterations, the addition of a kitchen, guest room and study, informal living and dining area and two car garage.
- New lower ground floor including pool cabana, bath, sauna and storage rooms with direct access to relocated pool to the south east of the existing dwelling, decking and terrace.
- Relocation of the existing tennis court to the north of the existing dwelling.
- Additional landscaping and planting.
- Retention of vehicle access from Harriette Street for temporary visitor parking.

Recommending:

- A. **THAT** Council defers consideration of Development Application No.212/08.
- B. **THAT** the applicant be requested to lodge amended plans addressing the following issues and concerns:
- 1) Delete the tennis court from the proposal and the landform of the site be maintained with any changes to level being within 500mm of existing ground level. The applicant may wish to reconsider the relocation of the swimming pool.
 - 2) The height of the proposed pool and surrounding coping be lowered by 1m.
 - 3) The setback of the proposed addition from the western boundary be increased by 600mm to a minimum of 1.5m.

- 4) The proposed garage be amended by either lowering of the floor and roof level by 400mm or setting the southern wall of the garage back a further 400mm.
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Development Application No.212/08:
- (i) in the event that amended plans are lodged by the applicant, to determine whether or not to notify the amended application in accordance with the North Sydney Local Environmental Plan 2001 and the Environmental Planning & Assessment Act 1979 (as amended); and
- (ii) in the event that amended plans are lodged by the applicant, to determine the application having regard for the stated issues and concerns in (B) of this resolution.
- D. **THAT** in the event that amended plans are not lodged as requested the application be referred back to the Council for determination.

RESOLVED:

THAT the matter be deferred to a Councillor inspection.

Note: Councillor inspection to be held on Saturday, 11 October 2008 at 9.00am.

The Motion was moved by Councillor McCaffery and seconded by Councillor Burke.

Note: Councillors Gibson and Raymond gave their apologies for the inspection.

Voting was unanimous.

620. PDS05: 23 Holbrook Avenue, Kirribilli (V) DA151/08

Applicant: Cracknell & Lonergan Architects

Report of Robin Tse, Senior Assessment Officer, 21 September 2008

The proposal seeks the consent of Council for the following work on an existing five storey heritage-listed apartment building:

East Elevation (Waterfront)

- Reconfiguration of the window openings in the central bays for Levels 1 to 4 and replacement of existing timber windows with steel sashless off-set pivot windows;
- Installation of glass balustrade behind the windows;
- Enlargement of existing windows at ground level to provide new door openings and installation of new steel windows;
- Replacement of existing opening on the outer bays by steel double hung windows;
- Removal of existing string course for the central bays on Level 4.

West Elevation (Holbrook Avenue)

- Replacement of existing walkway slab at building entrance to Holbrook Avenue.

General

- Re-rendering and repainting building to match existing finish.

Recommending:

PURSUANT TO SECTION 80/91 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** Council resolve to refuse development consent to Development Application No. DA151/08 for development on land at 23 Holbrook Avenue, as shown on Drawings numbered DA01 Issue A, DA02 Issue A, DA03 Issue A

dated 12.12.07, drawn by Cracknell & Lonergan, and Drawing number S01 Issue 01, dated March 08, drawn by Baigents Consulting Engineers, all received by Council on 18 April 2008, for the following reasons:-

1. The application cannot be approved having regard to the non-compliance with Council's development standards for building height and the absence of any submission under State Environmental Planning Policy No.1 – Development Standards.

Particulars:

i) State Environmental Planning Policy No.1; and

ii) Clause 17 NSLEP 2001.

2. The application cannot be approved having regard to the non-compliance with Council's development standards for building height plane and the absence of any submission under State Environmental Planning Policy No.1 – Development Standards.

Particulars:

(i) State Environmental Planning Policy No.1; and

(ii) Clause 18 NSLEP 2001.

3. The proposed development fails to satisfy the specific aims of North Sydney Local Environmental Plan 2001 (NSLEP 2001) as listed in Clause 3(a)(i)(iii) and Clause 3(e) of NSLEP 2001 and as such does not satisfy the provisions of Clause 14 of NSLEP 2001 – *Consistency with aims of the plan, zone objectives and desired character.*

4. The proposed development fails to satisfy Clause 44 of NSLEP 2001 – Heritage Conservation Objectives, and is inconsistent with the objectives (c) to ensure the conservation of heritage item (and their curtilages) and conservation areas, and (d) to ensure that development does not adversely affect the heritage significance of heritage item and conservation areas.

5. The proposed development fails to satisfy Clause 48 of NSLEP2001 – Heritage items as it will result in an adverse impact on the heritage item at 23 Holbrook Avenue, Kirribilli.

6. The proposed development fails to satisfy the Clause 49 of NSLEP 2001 – Conservation Area as it will result in an adverse impact on Kirribilli Conservation Area.

7. The proposed development fails to satisfy the Clause 25 of Sydney Regional Environment Policy (Sydney Harbour Catchment) 2005 as it will result in an adverse impact on the scenic quality of Sydney Harbour and its foreshore.

8. The application fails to satisfy the following provisions of North Sydney Development Control Plan (NSDCP) 2002 and is therefore unacceptable:

- a. Part A – Section 8.8 Heritage Items and Conservation Areas

(i) Section 8.8 (l) Windows and Doors

(ii) Section 8.8 (m) Materials and Colours

(iii) Section 8.8 (o) Details

- b. Part B – Area Character Statement – 4. Kirribilli Conservation Area

(i) 4.5 Kirribilli Conservation Area.

Addendum to Item PDS05 was brought forward and dealt with at this stage.

Addendum to report of Robin Tse- 26/09/08, 23 Holbrook Avenue, Kirribilli DA151/08

This addendum report should be read in conjunction with the assessment report, agenda Item PDS05 which, in outlining the development history of the subject site, makes

reference to a previous development application (DA 258/99) approved by Council on 31 May 1999. This consent gave approval for the provision of eight balconies on the eastern elevation and encompassing a total of four levels of the building and associated fenestration changes to the heritage listed building.

During the assessment process, this application was the subject of much negotiation between Council staff and the applicant and subsequent amendment. The final assessment report to Council however recommended refusal of this application primarily on heritage conservation grounds including concerns raised about the inappropriate modern materials and design. Council considered the application at its meeting on 31 May 1999 and resolved to grant consent with additional specific conditions that sought to address the outstanding heritage conservation issues. Amongst others, one of the specific conditions required multi pane windows on either side of the proposed balconies:

I The windows on either side of the doors to the balconies shall be of multi paned design comprising a total of twelve panes.

(Reason: Heritage Conservation)

A copy of the approved elevation is attached to this report. The approved east elevation indicated that the design (multi pane) and material (timber) of the doors to the balconies were more traditional than those proposed in the current development application. This approval has not been enacted and has since lapsed.

RESOLVED:

THAT the matter be deferred to the meeting of Council to take place on Tuesday, 7 October 2008 and that a briefing for Councillors attended by the Heritage Planner be held prior to the meeting.

The Motion was moved by Councillor Pearson and seconded by Councillor Burke.

Voting was as follows:

For/Against 12/1

Councillors For	Councillors Against
McCaffery Gibson Reymond Christie, Marchandean Raymond Barbour Zimmerman Robjohns Carland Burke Pearson	Baker

621.

G01: Election of Deputy Mayor

Report of Kerry Gilbert, Director of Corporate Services, 24/09/08.

An election to the position of Deputy Mayor is to be conducted for the year from 29 September 2008 to 30 September 2009. Nominations forms have been distributed and the following nomination have been received:

- Councillor Reymond

In accordance with the Code of Meeting Principles and Practices, the election will take the following form:

In line with Council's policy of open government, elections shall be conducted by open voting unless, at the meeting in which the election is to take place, Council resolves to hold a secret ballot. Should the Council resolve to hold a ballot, ballot papers will be distributed to Councillors. The ballot shall be conducted in accordance with Schedule 7 Part 2 of the Local Government (General) Regulation 2005.

The General Manager, acting as Returning Officer, shall conduct the election by open voting as follows:

- (a) Where more than one Councillor has been nominated, the name of each nominee

shall be put to the Council in alphabetical order. Councillors shall vote for their chosen nominee by show of hands. The voting shall be by elimination vote with the councillor receiving the majority of votes being declared Deputy Mayor for the forthcoming year.

- (b) In the event of voting being equal, lots shall be drawn by the Returning Officer. The first name drawn shall be declared Deputy Mayor for the forthcoming year.

Recommending:

THAT the election for the position of Deputy Mayor be held.

RESOLVED:

THAT the election for Deputy Mayor was held and Councillor Reymond was declared Deputy Mayor for the forthcoming year.

The Motion was moved by Councillor Marchandean and seconded by Councillor Raymond.

Voting was unanimous.

622. PDS02: Woolcott Avenue, Waverton (W) Vehicle Crossing Application VC09/08

Applicant: N & L Sheridan

Report of Geoff Mossemeneer, Executive Planner, 27 August 2008

Part 5 application for the construction of a driveway down the unformed part of Woolcott Avenue from Woolcott Street to provide vehicle access to the dwelling known as 11 Woolcott Avenue, Waverton.

The applicant has submitted amended engineering plans of the driveway; amended landscape plan and report; arboricultural advice; risk assessment; works method statement and a legal opinion in support of the application.

Recommending:

- A. **THAT** Council defers consideration of Vehicular Crossing Application VC09/08.
- B. **THAT** the applicant be requested to lodge additional information addressing the following issues:
- (i) The Landscape Plan only details revegetation along the edges of the road foot-print and should be amended to include all areas of the road reserve, as in reality these areas will also be affected by the proposed development. The use of erosion matting through which planting would be undertaken is also discouraged. Terracing with logs sourced from those trees being removed from the site (or purchased hardwood sleepers) would achieve the same result whilst being longer lasting and more suited to ongoing maintenance. Better still, capping of these areas with clean crushed sandstone (retained with sandstone boulders) would provide the best outcome.
 - (ii) The Landscape Plan needs to be more specific in relation to the provenance of species for revegetation; frequency of maintenance and duration of maintenance activities.
 - (iii) Preparation of a Site Rehabilitation Plan for the unmade road reserve, to guide the re-establishment of bushland habitat to the site following construction of the driveway access. A professional bush regeneration contractor, whom holds current membership of the Australian Association of Bush Regenerators (AABR), must prepare the Plan.

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- (iv) The footpath/driveway levels on Woolcott Street are to be set above the existing kerb height (150mm above the adjacent gutter levels), to ensure that stormwater from Woolcott Street does not enter the driveway. The footpath crossfall is to be set at 2% falling towards the top of kerb. Transitioning works would be required on both sides of the footpath.
- (v) The lower footpath/driveway levels fronting the property to be modified so the footpath crossfall is to be set at 2% falling away from the property.
- (vi) A detailed geotechnical report (addressing proposed crossing structure, retaining walls/batters).
- (vii) Construction management plan.
- (viii) A longitudinal section of the reconfigured lower footpath is required showing proposed and existing levels and dimensions. The configuration of the steps and landings are to comply with the Building Code of Australia (BCA).
- C. **THAT** Council delegates to the General Manager pursuant to Section 377 of the Local Government Act 1993 the following functions in respect of Vehicular Crossing Application VC09/08:
- (i) in the event that the additional information is lodged by the applicant, to determine the application having regard for the stated issues and concerns in (B) of this resolution.
- (ii) in the event that the General Manager determines Vehicular Crossing Application VC09/08 by way of granting consent, the following issues are to be covered by site special conditions that will form part of any such consent:
- Compliance with structural/civil design.
 - Landscape plan.
 - Site rehabilitation plan.
 - Construction management plan.
 - Engineering bond (\$50,000).
 - Site rehabilitation bond (\$10,000).
 - Covenant agreement for maintenance of road structure and surrounding regenerated bushland.
 - Clearance heights to overhead wires, ensuring compliance with the relevant Australian Standards.
 - Existing gate used by Council Vehicles to maintain Merrett Playground to be relocated to Council's satisfaction.
 - A series of adequately sized grate / pit inlets are required at regular intervals throughout the driveway to cater for a 1% AEP.
 - Signage details directing pedestrians and riders to the Woolcott Avenue stairs to be installed at the top and bottom of the driveway.
 - Signage details that the driveway is steep.
 - Signage detail that Woolcott Avenue is a No Through Road.
 - Signage details of Advisory speed of 15km/hr along driveway.
 - No gates are to be permitted at the top of driveway.
 - A 200mm high kerb is required on both sides of the driveway.
 - Adequate lighting in accordance to the relevant Australian standards to be provided along the driveway, with reflectors along the curves.

- Timber handrails along both sides the proposed new steps are required in accordance to Council's current Infrastructure Specification.
- Appropriate site triangles are to be provided for pedestrians accessing the footpaths generally in accordance to Figure 3.3 Minimum Sight Lines For Pedestrian Safety, AS 2890.1 2004.

Mr Donald, Mr Morris, Ms Colless, Ms Sheridan, Ms Cunningham, Mr Finnegan and Ms Clarke-Nash addressed the meeting.

Note: Councillor Pearson declared an interest in this item and left the Chamber taking no part in debate or voting.

It was moved by Councillor Baker and seconded by Councillor Robjohns -

THAT application VC09/08 be refused for the following reason:

- Council should not be supporting the change of use of land from public open space to private use.

THAT Council investigate the potential for re-activation of the original access by licence across Waverton Park from John Street or access could be considered via Commodore Crescent.

It was moved as an amendment by Councillor Gibson and seconded by Councillor Burke -

THAT the report be adopted.

The amendment was put and **lost**.

Voting on the amendment was as follows: For/Against 5/7

Councillors For	Councillors Against
Gibson Marchandean Barbour Zimmerman Burke	McCaffery Reymond Christie Raymond Baker Robjohns Carland

The motion was put and **carried**.

Voting was as follows: For/Against 6/6

Councillors For	Councillors Against
McCaffery Reymond Christie Raymond Baker Carland	Gibson Marchandean Barbour Zimmerman Robjohns Burke

Voting being equal the Mayor used her casting vote for the motion.

RESOLVED:

THAT application VC09/08 be refused for the following reason:

- Council should not be supporting the change of use of land from public open space to private use.

THAT Council investigate the potential for re-activation of the original access by licence across Waverton Park from John Street or access could be considered via Commodore Crescent.

623. PDS04: 275 Alfred Street, North Sydney (V) DA217/08

Applicant: Legge Architects

Report of Ian Pickles, Executive Planner, 19 September 2008

The subject amended application seeks consent for the removal of the existing 14.8m x 1.1m wall advertising sign on the western elevation of the commercial office building, and the erection in lieu of a larger illuminated advertising sign the same length but with an increase in width or height to 1.94m. The sign box is to protrude a maximum of approximately 250mm from the external surface of the building, and the top of the sign is to be located 18.4m above ground level.

The sign is proposed to display a variable electronic ticker-tape style LED (light emitting diodes) message consisting of 2 lines each displaying up to 20 characters (text 670mm high). The messages will be static and each message will be displayed a minimum of 60 seconds, with use of discrete fade in/fade out methodology between messages, with no animated, flashing or scrolling displays.

The messages are proposed to consist primarily of 'community' related information such as latest news, weather and stock exchange information, and a degree of product general advertising. The proportions are not specified.

Recommending:

PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

A. **THAT** Council, as the consent authority, assume the concurrence of the Director-General of the Department of Planning in respect of the departure from the building height control (Clause 28G of NSLEP 2001), and grant consent to Development Application No. 217/08 subject to the attached standard conditions and the following site specific conditions:-

Time-limited Consent

11. This consent shall cease to be in force on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with Section 83 of the Environmental Planning and Assessment Act 1979. Should the owner of the site wish to extend this period, a new development application shall be lodged with Council prior to the cessation of the current consent.

(Reason: To satisfy the provisions of SEPP No. 64 – Advertising and Signage)

Sign Content, Minimum Display Period, and Operation

12. The sign shall consist of electronic (ticker-tape style) LED message consisting of 2 lines each displaying up to 20 characters (text 670mm high), and shall have or use the following:

- The sign display shall be fixed or static for the whole of a **minimum 5 minute display period** for each message;
- Fade-in/ fade-out methodology to be utilised at the message change-over, with interval at the change-over of the message to commence with a black background fading into and out of the advertisement;
- The change over time to be no more than **2 seconds**;
- Characters in each message displayed shall be letters and numerals only in a single colour orange to red;
- No animated or scrolling display, any flashing lights, moving parts or simulated movement shall be permitted (ie: the sign display shall be fixed or static for the whole of the minimum 5 minute display period for each message);
- Shall not have an excessive or unreasonable level of illumination that results in glare or distracts or dazzles, and the

level of illumination shall be varied to take account of ambient light levels;

- At least half of the messages shall be display community information such as weather or major events not general advertising related to a corporate entity or product;
- Wording of the sign messages must not cause offence, must not be discriminatory in terms of the Anti-Discrimination Act 1977, must not be for tobacco products, or for alcoholic products, and must satisfy the Code of Ethics of the Australian Association of National Advertisers.

(Reason: To ensure that information is displayed effectively with minimal visual clutter, to minimise distraction to motorists, and protect the amenity of the locality)

- B. **THAT** in approving Development Application No. 217/08, and in the event of the applicant lodging an appeal to the Land & Environment Court against any conditions of any consent of the application, the Council resolves to resist such appeals subsequently lodged having regard to the reasons for the conditions identified above and having regard to standard advising (a). (Section 34 Conference).
- C. **THAT** Council as the consent authority pursuant to Section 95 (2) of the Environmental Planning and Assessment (Amendment) Act 1979, vary the provisions of Section 95 (1) and advise the applicant that this consent will lapse 3 years from the date of determination.

Note: Councillor Zimmerman declared a non-pecuniary interest in this item, participating in debate and voting.

Mr Moody addressed the meeting.

RESOLVED:

THAT the report be adopted subject to the deletion of dot point 4 - Characters in each message displayed shall be letters and numerals only in a single colour orange to red;.

The Motion was moved by Councillor McCaffery and seconded by Councillor Gibson.

Voting was as follows:

For/Against 12/1

Councillors For	Councillors Against
McCaffery Gibson Reymond Christie, Raymond Barbour Zimmerman Baker Robjohns Carland Burke Pearson	Marchandean

624. PDS06: 10 Shellbank Parade, Cremorne (T) DA 11/08

Applicant: Jason Henry Murray

Report of James Groundwater - Assessment Officer, 22 September 2008

Pool Level

- The existing kidney shaped pool will be removed and replaced by rectangular lap pool;
- The existing pool terrace retaining wall will be demolished and replaced by a retaining wall behind the Foreshore Building Line at a right angle to the side boundaries;

- Reduce the size of the terrace and increase the soft landscaping adjoining the foreshore;
- Create new wider access stairs to the foreshore area; and
- New WC located on the pool terrace, under the new access stairs.

Ground Level

- Internal configuration layout to include a kitchen, family and dining room, including a small balcony on the foreshore façade; and
- Excavation to accommodate new internal stairs and lift.

First Level

- Internal configuration to accommodate four bedrooms, including ensuites;
- Enclose existing balconies; and
- Excavation to accommodate new internal stairs and lift.

Second Level

- Extend an existing room on the western corner of the dwelling to the edge of the balcony;
- Revise layout to include a master bedroom with walk-in robe and ensuite, formal dining and seating area, laundry, and library;
- Excavation to accommodate a sunken courtyard; and
- New internal stairs and lift.

Third Level (Upper Floor Addition)

- New terrace on the northwest elevation, serving an office;
- New internal rooms, including an office, two guest bedrooms with ensuites, powder room and the dwelling entrance; and
- New lift and internal stair case.

Landscaping & Garage

- Increase the soft landscaping adjoining the foreshore by relocating an existing pool terrace retaining wall;
- Raise the existing topography within the front setback adjoining Shellbank Parade, however maintain the existing topography along the southwest boundary;
- New double garage located 1.2 metres setback from the Shellbank Parade boundary, on the southern corner of the site; and
- Increase soft landscaping within the front setback by replacing the existing double carport and driveway with lawn.

Recommending:

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** Council as the consent authority assume the concurrence of the Director General of DOP and invoke the provisions of SEPP 1 in relation to Clause 17 (Building Height) and Clause 18 (Building Height Plane) of the North Sydney Local Environmental Plan 2001, and grant consent to Development Application No.11/08, proposing alterations and additions to existing dwelling located at No. 10 Shellbank Parade, Cremorne subject to the following site-specific and attached standard conditions: -

External Finishes and Materials

- A4. The colour and type of all external materials shall be generally be in accordance with the submitted schedule, drawing numbered 0634_DA_32, dated 27 August 2008, drawn by csquared architects Pty Ltd, and received at Council on 1 September 2008.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Screening Planting

C1. Screen planting with a maximum mature height of 2.5 metres shall be provided adjacent to the northeast boundary of the site forward of the building line. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the privacy and amenity of the adjoining property is maintained and protected)

Geotechnical Report

C2. A certificate prepared by an appropriately qualified Geotechnical Engineer shall be submitted to the Certifying Authority for approval with the Construction Certificate, certifying that the existing rock formations and substrate on the site are capable of:

- (a) Withstanding the proposed loads to be imposed;
- (b) Withstanding the extent of the proposed excavation, including any recommendations for shoring works that may be required to ensure the stability of the excavation;
- (c) Providing protection and support of adjoining properties; and
- (d) The provision of appropriate subsoil drainage during and upon completion of construction works.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Pool Lighting

C3. Low-level pool lighting only must be used and directed away from neighbouring properties. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with approved plans and to ensure pool lighting does not adversely affect residents of adjoining properties)

Pool Cover

I1. A pool cover must be installed and available for use at all times when the pool is not in use.

(Reason: To minimise water usage)

Noise Impact on Surrounding Area

I2. The pool equipment shall not operate between 10.00 pm and 7.00 am.

(Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines)

- B. **THAT** Council vary the position of the foreshore building line on the site for the purposes of the application of Clause 38(4) of NSLEP 2001 in respect to the current proposal.
- C. **THAT** in approving Development Application No. 11/08, and in the event of the applicant lodging an appeal to the Land & Environment Court against any conditions of any consent of the application, the Council resolves to resist such appeals subsequently lodged having regard to the reasons for the conditions.
- D. **THAT** Council as the consent authority pursuant to Section 95 (2) of the Environmental Planning and Assessment (Amendment) Act 1979, vary the provisions of Section 95 (1) and advise the applicant that this consent will lapse 3 years from the date of determination.

Addendum to Item PDS06 was brought forward and dealt with at this stage.

Addendum by Geoff Mossemenear to report of James Groundwater - 22/09/08, 10 Shellbank Parade, Cremorne DA11/08

The application was referred to a Council Meeting held on 8 September 2008 with a recommendation of approval. At this meeting Council resolved to conduct a Councillor Inspection on 27 September 2008. A copy of the notes of the Councillor Inspection are attached for Council's information.

The impacts on existing views and solar access were not supported by the Councillors present at the inspection particularly when the impacts are the result of non compliance with the building height plane and building height. It was evident that the majority of dwellings in the street have substantial breaches of the building height plane and recent consents at 4 and 12 Shellbank Parade demonstrate breaches of the building height control though not to the same degree as the current proposal (assessed heights of 11.4m (4) and 12m (12)).

It was the view of those attending the site meeting that the application as proposed would not be supported with regard to the SEPP 1 objections because of the impacts on surrounding properties. If the applicant is willing to investigate an alternative layout and design of the addition, the alternative design must reduce the bulk and scale of the proposed dwelling, improve the solar access to No. 8 Shellbank Parade than currently proposed, and minimise (or have no additional) the impacts on views from the properties opposite.

The applicant would need to demonstrate that any floor area on proposed level 4 would be fully compliant with the height control or where non compliant, not impact on views from surrounding properties. Where non compliant with the building height plane the proposal must have no impact on views from the pool terrace level of 9 Shellcove Parade. It would seem that the elements currently in breach include the area on level 4 to the north of the proposed lift as well as the pitch roof over the ensuite on level 3. The proposed guest room on level 4 may need to be setback further to maintain summer sunlight to the adjoining property. With regard to the garage, a better solution may involve relocating the proposed garage to the eastern side of the property adjacent to No.12, this would improve the amount of open space at level 3 and permit additional floor space under the garage that would need to be deleted from level 4. Retention of the current carparking doesn't allow for any increase in landscape area and retains a steep driveway that is not as safe to reverse out of onto the street. A garage at street level on the eastern side may not result in view loss (as it is lower than the existing landscaping along the frontage) and would be located on the side adjacent to No.12 that has a similar height. Photos of the frontage of the subject site and the properties opposite are reproduced below:

Should Council agree with the above comments, the application should be deferred to allow the applicant to amend the proposal to overcome the issues raised at the Councillor Inspection. If the applicant is unwilling to amend the plans, then the application would be refused on the basis of Council not being able to support the SEPP 1 objections that are necessary to allow the proposed

breaches of the height and building height controls. A suitable resolution would read:

- A. **THAT** Council defers consideration of Development Application No. 11/08.
- B. **THAT** the applicant be invited to amended the application to address the following: -
 - a. Full compliance with the height control.
 - b. Any additional breach of the building height plane will only be permitted if there is no additional shadow impact on No8. Shellbank Parade and no view loss from the properties opposite in Shellbank Parade at the living area level above their garages.
 - c. The proposed double garage be located to the eastern side adjacent to No.12 Shellbank Parade subject to compliance with item b.
- C. **THAT** in the event that amended plans are lodged by the applicant, to notify the

amended application in accordance with the North Sydney Development Control Plan 2002.

- D. **THAT** the amended plans be referred back to the Council for determination.
 E. **THAT** in the event that amended plans are not lodged as requested the application be refused on the basis of Council not being able to support the SEPP 1 objections for the proposed breaches of the height and building height controls.

Dr Holt, Mr Creber and Mr Murray addressed the meeting.

RESOLVED:

- A. **THAT** Council defers consideration of Development Application No. 11/08.
 B. **THAT** the applicant be invited to amend the application to address the following: -
 a. Full compliance with the height control.
 b. Any additional breach of the building height plane will only be permitted if there is no additional shadow impact on No8. Shellbank Parade and no material view loss from the properties opposite in Shellbank Parade at the living area level above their garages.
 c. The proposed double garage be located to the eastern side adjacent to No.12 Shellbank Parade subject to compliance with item b.
 d. Ensure that the set back of the double garage provides adequate turning space for access to the garages without removal of on-street parking on the opposite side of the road.
 C. **THAT** in the event that amended plans are lodged by the applicant, to notify the amended application in accordance with the North Sydney Development Control Plan 2002.
 D. **THAT** the amended plans be referred back to the Council for determination.
 E. **THAT** in the event that amended plans are not lodged as requested the application be refused on the basis of Council not being able to support the SEPP 1 objections for the proposed breaches of the height and building height controls.

The Motion was moved by Councillor McCaffery and seconded by Councillor Baker.

Voting was as follows:

For/Against 11/2

Councillors For	Councillors Against
McCaffery Gibson Reymond Christie, Marchandean Raymond Barbour Zimmerman Baker Robjohns Carland	Burke Pearson

625. PDS07: 45 Ryries Parade, Cremorne (T) DA594/07

Applicant: D-Studio Architects Pty Ltd, c/o Simon Tso

Report of James Groundwater - Assessment Officer, 24 September 2008

The development application proposes the following works to No. 45 Ryries Parade, Cremorne: -

- Demolish the existing residential dwelling and single garage;
- Excavation for a double garage, dwelling entrance, swimming pool and lift access;
- Construct a three storey dwelling, with northwest facing balconies;
- New double garage fronting Ryries Parade;

- Construction of a swimming pool, 2.5 metres by 5.5 metres within the front setback;
- Level the front yard to RL 40.90 by constructing a 3.6 metre high front fence, with incorporated garden beds; and
- Landscape the roof of the double garage.

Recommending:

PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

- A. **THAT** Council resolve to refuse development consent to Development Application No. 594/07, proposing a new dwelling to land known as No. 45 Ryries Parade, Cremorne for the following reasons: -

1. Solar Access

The proposal will result in material overshadowing of an internal living area of the adjoining property, No. 43 Ryries Parade, Cremorne.

Particulars

Clause 3(a)(i) (Specific aims of this plan) of NSLEP 2001.

Clause 14 (2) (Consistency with aims of plan, zone objectives and desired character) of NSLEP 2001.

Clause 16 (b), (c) and (d) (Residential zone objectives) of NSLEP 2001.

Clause 17 (1)(a1) (b), (d) and (3) (Building Height) of NSLEP 2001.

Clause 18 (1)(c), (2), (5)(a) and (d) (Building Height Plane) of NSLEP 2001.

NSDCP 2002 (Environmental Criteria – Section 7.2 (f) Solar Access).

NSDCP 2002 (Quality Built Form - Section 7.3(h) Form, Massing and Scale).

NSDCP 2002 (Quality Built Form - Section 7.3(i) Built Form).

2. Views

The proposal will result in a material impact on the views currently enjoyed by No. 72 Ellalong Road, Cremorne.

Clause 3(a)(i) (Specific aims of this plan) of NSLEP 2001.

Clause 14 (2) (Consistency with aims of plan, zone objectives and desired character) of NSLEP 2001.

Clause 16 (b), (c) and (d) (Residential zone objectives) of NSLEP 2001.

Clause 17 (1)(a1) (b), (c) and (3) (Building Height) of NSLEP 2001.

Clause 18 (1)(c), (2), (5)(a) and (c) (Building Height Plane) of NSLEP 2001.

NSDCP 2002 (Environmental Criteria – Section 7.2 (e) Views).

NSDCP 2002 (Quality Built Form - Section 7.3(h) Form, Massing and Scale).

NSDCP 2002 (Quality Built Form - Section 7.3(i) Built Form).

NSDCP 2002 (Quality Built Form - Section 7.3(k) Roofs).

3. The proposal is not in the public interest.

Particulars

- (i) Section 79C Part 1(b) of the Environmental Planning and Assessment Act 1979.

- B. **THAT** in refusing Development Application No.594/07, and in the event of the applicant lodging an appeal to the Land & Environment Court against the decision, the Council hereby resolves to resist any appeal subsequently lodged having regard to the reasons for refusal identified above.

Mr Creber, Mr Thevenen and Mr Mirams addressed the meeting.

RESOLVED:

THAT the report be adopted with an additional reason for refusal:

Side Balconies

The open design of the balconies on the side elevations has an unacceptable impact on the privacy of neighbouring properties. This can be overcome by recessing the balconies into the building envelope.

The Motion was moved by Councillor McCaffery and seconded by Councillor Zimmerman.

Voting was unanimous.

At its meeting of 7 October 2008, Council resolved that the Minute be corrected as follows:

RESOLVED:

THAT the report be adopted with an additional reason for refusal:

Side Balconies

The open design of the balconies on the side elevations has an unacceptable impact on the privacy of the neighbouring properties. This can be overcome by removal of the side balconies and replacement with an internal corridor.

626. PDS09: 43 Kareela Road, Cremorne Point (C) DA173/08

Applicant: Fiona Hicks

Report of Antonia Stuart, Team Leader (Assessments), 22 September 2008

The proposal is for a lift and alterations to an approved studio with garage above. In detail the proposed works are for: -

- Construction of a steel and glass lift at the rear of a garage approved under Development Consent No.171/03;
- Lift shaft to approximately 9.2 metres below existing ground level to the level of the dwelling. It is proposed to cut and fill a tunnel from the lift shaft to the existing dwelling approximately 11 metres in length. Resultant excavation being 120m³ for just this structure. Significant excavation is also proposed above this structure; and
- Extension of a balcony to the approved and partially constructed studio (eastern elevation) and the enclosure of a balcony (northern elevation) to the partially constructed studio.

Recommending:

A. **THAT** Council, as the consent authority, resolves to refuse DA 173/08 on the basis of the following issues:

Landscaping

1. The proposed development provides an excessive level of excavation and site disturbance which contributes to an inadequate and inappropriate quantum of landscaped area.

Particulars

- (i) *Clauses 3(d)(i), 14(2), 20(1)(a) - (h), and 20 of the NSLEP 2001; and*
- (ii) *Part 7.2(a) and 7.4(k) of DCP 2002.*

Excavation

2. The development proposes excessive excavation resulting in poor levels of landscaping and risks to the long-term survival of vegetation of the property.

Particulars

- (i) Clause 14(2) (Consistency with aims of plan, zone objectives and desired character) and clause 3(d)(vi), (vii), and (vii) of the NSLEP 2001;
- (ii) Clause 39 (Excavation) of the NSLEP 2002; and
- (iii) Part 7.2(a), 7.4(k), 7.4(m), 7.4(mm).

Cumulative Impact

3. The likely cumulative impact of the development on the natural and built environment.

Particulars

- (i) Section 79C Part 1(b) of the Environmental Planning and Assessment Act 1979.

B. **THAT** in refusing Development Application No. 173/08, and in the event of the applicant lodging an appeal to the Land & Environment Court, the Council pursuant to Section 377 of the Local Government Act 1993 grants delegated authority to the General Manager to resist such appeals having regard to the reasons for refusal identified above.

Ms Hill and Mr Lonergan addressed the meeting.

It was moved by Councillor Zimmerman and seconded by Councillor Burke - **THAT** the applicant be requested to submit amended, detailed, plans addressing the following issues and concerns:

1. Clarification of the width of the driveway.
2. Location of privacy screens.
3. Clarification of how the fill is to be removed from the site.
4. If used, the method of excavation must be tunnelling, not cut and fill and the ultimate safety of the tunnel must be demonstrated.
5. Submission of an arborist's report on the effect of the works on the long term survival of the Angophora tree.
6. Clarification of the cost of works.
7. Consideration of alternative solutions to the tunnel including the provision of a walkway from the garage.
8. Submission of a construction management plan.
9. Minimise any further reduction in landscaped area from that approved in the original consent.

It was moved as an amendment by Councillor McCaffery and seconded by Councillor Pearson -

THAT the report be adopted.

The amendment was put and **lost**.

Voting on the amendment was as follows: For/Against 6/7

Councillors For	Councillors Against
McCaffery Gibson Marchandean Raymond Barbour Pearson	Reymond Christie Zimmerman Baker Robjohns Carland Burke

The motion was put and **carried**.

Voting was as follows: For/Against 10/3

Councillors For	Councillors Against
McCaffery Gibson Reymond Christie, Barbour Zimmerman Baker Robjohns Carland Burke	Marchandean Raymond Pearson

RESOLVED:

THAT the applicant be requested to submit amended, detailed, plans addressing the following issues and concerns:

1. Clarification of the width of the driveway.
2. Location of privacy screens.
3. Clarification of how the fill is to be removed from the site.
4. If used, the method of excavation must be tunnelling, not cut and fill and the ultimate safety of the tunnel must be demonstrated.
5. Submission of an arborist's report on the effect of the works on the long term survival of the Angophora tree.
6. Clarification of the cost of works.
7. Consideration of alternative solutions to the tunnel including the provision of a walkway from the garage.
8. Submission of a construction management plan.
9. Minimise any further reduction in landscaped area from that approved in the original consent.

The Motion was moved by Councillor Zimmerman and seconded by Councillor Burke.

627. NoM01: Notice of Motion No. 27/08 by Councillor Burke - 22/09/08

Re: Unsatisfactory process on election day

THAT Council write to the Electoral Commission stating its dissatisfaction with regard to the process, set up and general organisation of election day and insist on a better managed effort for the next elections with specific examples of those points below.

THAT Council limit the number of referendum questions that are put forward on election day

Ms Colless addressed the meeting.

It was moved by Councillor Burke and seconded by Councillor Zimmerman -

THAT Council write to the Electoral Commission stating its dissatisfaction with regard to the process, set up and general organisation of election day and insist on a better managed effort for the next elections.

THAT Council consider the structure of referendum questions with a view to making them easier to understand.

It was moved as an amendment by Councillor McCaffery and seconded by Councillor Robjohns -

THAT Council write to the Electoral Commission stating its dissatisfaction with regard to the process, set up and general organisation of election day and insist on a better managed effort for the next elections.

The amendment was put and **carried**.

Voting on the amendment was as follows: For/Against 9/4

Councillors For	Councillors Against
McCaffery Reymond Christie, Marchandean Raymond Barbour Baker Robjohns Carland	Gibson Zimmerman Burke Pearson

The amendment thereupon became the motion, was put and **carried unanimously**.

RESOLVED:

THAT Council write to the Electoral Commission stating its dissatisfaction with regard to the process, set up and general organisation of election day and insist on a better managed effort for the next elections.

628. PDS08: 3 – 6/125 Kurraba Road, Neutral Bay (C) DA 14/08/2

Applicant: Eric Wisden, c/o Wisden Architects

Report of James Groundwater - Assessment Officer, 22 September 2008

The current application involves the modifications to Development Consent No. 14/08 for balcony extensions to an apartment building at No. 125 Kurraba Road, Neutral Bay.

The proposal includes the following modifications: -

- Removal of the existing southern balustrade and extending the balcony south towards No. 133 Kurraba Road; and
- Installing a 1.5 metre high timber privacy screen along the southern elevation of the balcony.

Recommending:

PURSUANT TO SECTION 96(2) OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

A. **THAT** Council as the consent authority assume the concurrence of the Director General of DOP, modify consent dated 4 July 2008, in respect to the alterations and additions to No. 125 Kurraba Road, Neutral Bay, under the provisions of Section 96 of the Environmental Planning and Assessment Act, by approval of Section 96(2) application DA14/08/2, only in so far as will provide for the following: -

1. To delete condition (A1) of the consent and insert in lieu the following new condition namely: -

Development in Accordance with Plans

A1. The development being carried out in accordance with Drawings numbered DA A 01C – DA A 07C (inclusive), dated June 2008, drawn by Wisden Architects, and received at Council on 27 June 2008, and endorsed with Council's approval stamp, except where amended by the following conditions and endorsed with Council's approval stamp, except as modified by highlighting on: -

- a. *Drawings numbered DA 01, DA 03, DA 06, DA 07 all revision D, dated July 2008, drawn by Wisden Architects, and received at Council on 12 August 2008, and*

except as amended by the following conditions.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

2. To insert Condition C8 (Privacy Screen) of the consent.

Privacy Screen

- C8. The privacy screen along the southern elevation of Unit 4's balcony shall be built to a height of 1.5 metres above the finished floor level of the balcony and extended west for the entire length of the balcony. The Certifying Authority issuing the Construction Certificate must ensure that the building plans and specifications referenced and issued with the Construction Certificate satisfy the requirements of this Condition.

(Reason: Visual privacy impacts on the adjoining property to the adjoining properties are minimised)

RESOLVED:

THAT the report be adopted.

The Motion was moved by Councillor Zimmerman and seconded by Councillor McCaffery.

Voting was as follows:

For/Against 12/1

Councillors For	Councillors Against
McCaffery Gibson Christie, Marchandean Raymond Barbour Zimmerman Baker Robjohns Carland Burke Pearson	Reymond

REPORTS

General

629. G01: Election of Deputy Mayor

(Previously dealt with see Minute No 621)

630. G02: Statement of Accounts for the year ended 30 June 2008

Report of Garry Ross, Manager of Financial Planning, 19 September 2008

Audited Statement of Accounts for the year ended 30 June 2008

Recommending:

THAT under Section 413(1) of the Local Government Act, 1993, the Statement of Accounts for the year ended 30 June 2008 be referred to audit.

THAT under Section 413(2) of the Local Government Act, 1993, the Statement of Accounts for the year ended 30 June 2008 have been prepared in accordance with:

- The Local Government Act 1993 (as amended) and the Regulations made there under,
- The Australian Accounting Standards and professional pronouncements, and
- The Local Government Code of Accounting Practice and Financial Reporting.

THAT Council authorise the completion of the "Statement by Councillors and Management" for the General Purpose Financial Report and the Special Purpose Financial Report.

THAT under Section 418(1) of the Local Government Act, 1993, both the audited financial reports and the auditor's reports on the financial statements (Section 417(2)

LGA), be placed on public exhibition and presented to the public at the Council meeting, 3 November 2008.

RESOLVED:

THAT the report be adopted.

The Motion was moved by Councillor Marchandean and seconded by Councillor Reymond.

Voting was unanimous.

631. G03: Investments Held as at 31 August 2008

Report of Garry Ross, Manager of Financial Planning, 18 September 2008
Council is required to report on a monthly basis, all invested funds which have been made in accordance with the Local Government Act 1993, the Local Government (Financial Management) regulations 1993 and Council's Investment Policy.

Recommending:

THAT the report be received.

RESOLVED:

THAT the report be received.

The Motion was moved by Councillor Reymond and seconded by Councillor Zimmerman.

Voting was unanimous.

632. G04: Delegates – 2008 Local Government Association Conference

Report of Kerry Gilbert, Director of Corporate Services, 23 September 2008
The 2008 Local Government Conference will be held in Broken Hill from Saturday 25 October 2008 to Wednesday 29 October 2008.

North Sydney Council is entitled to four (4) voting delegates to the 2008 LGA Conference. However, accommodation and flights have been arranged for five (5) Councillors to attend, in addition to the Mayor and the General Manager. The Mayor also has voting rights. The General Manager does not have voting rights.

Recommending:

THAT Council nominate four 'voting' delegates and one 'non-voting' delegate to the 2008 Local Government Conference.

RESOLVED:

THAT the following voting delegates represent North Sydney Council at the 2008 Local Government Association Conference:

Councillor Reymond
Councillor Marchandean
Councillor Raymond
Councillor Robjohns

The Motion was moved by Councillor Burke and seconded by Councillor Marchandean.

Voting was unanimous.

633. **G05: Reconstitution of Council Committees**

Report of Faith Woolacott, Corporate Administration Manager, 03/09/07

Committees of Council

The Charter adopted by Council for each Committee requires that the Committees be reconstituted in September each year.

The position of Chairperson must also be determined.

Special Purpose Committees

Special Purpose Committees have been formed to deal with specific issues. The position of Chairperson does not need to be determined by Council, nor do they require a quorum.

Sub-Committees

The membership of Sub-committees is open to all Councillors. The position of Chairperson is determined at the respective Committees.

Citizen Members

Applications for citizen membership of Council committees have been called for and nominations will be presented to the first available meeting of the relevant committee.

Recommending:

THAT existing committees be reconstituted as per the attached list.

THAT Council determine the Chairperson of each Committee of Council.

RESOLVED:

THAT Council's existing committees be reconstituted as per the attached list.

The Motion was moved by Councillor Burke and seconded by Councillor Marchandeanu.

Voting was unanimous.

THAT the Chairperson of each committee be as follows:

Committee	2008/2009 Chair
Community Access & Safety	Councillor Marchandeanu
Community Services	Councillor Barbour
Environmental Services	Councillor Gibson
Historical & Cultural Resources	Councillor Marchandeanu Alternate Councillor Barbour
Legal Services	The Mayor
Library Management	Councillor Carland
Management Services	The Mayor
Planning & Development	The Mayor
Resources Allocation	The Mayor
Traffic	The Mayor Alternate Councillor Reymond

The Motion was moved by Councillor Baker and seconded by Councillor Marchandeanu.

Voting was unanimous.

634. **G06: Appointment of Council Representatives to Committees & Trusts**

Report of Faith Woolacott, Corporate Administration Manager, 03/09/07

The following Committees and Trusts require Council to nominate representatives:

- | | |
|---|---|
| 1. Crows Nest Centre | 3 representatives |
| 2. Shorelink Committee (Library network) | 1 representative &
1 alternative representative |
| 3. Northern Suburbs Regional Organisation of Councils | The Mayor & 1 representative
Plus 1 alternative representative |
| 4. Nutcote Trust | 3 representatives &
1 alternative representative |
| 5. Sydney Coastal Councils Group | 2 representatives |
| 6. North Sydney Indoor Sports Centre | 4 representatives |
| 7. North Sydney Retirement Trust (James Milson Village) | 3 representatives |

A list of representatives for 2007/2008 is attached.

Recommending:

THAT Council appoint representatives to the bodies listed above.

RESOLVED:

THAT Council's representatives for the 2008/2009 year be:

Crows Nest Centre	Councillors Zimmerman, Marchandean & Baker
Shorelink Committee (Library network)	Councillors Carland & Marchandean
Northern Suburbs Regional Organisation of Councils	The Mayor, Councillors Marchandean & Baker (alternate)
Nutcote Trust	Councillors Raymond, Barbour , Marchandean, Robjohns and Reymond
Sydney Coastal Councils Group	Councillors Marchandean & Robjohns
North Sydney Indoor Sports Centre	Councillors Zimmerman, Pearson, Raymond & Marchandean
North Sydney Retirement Trust (James Milson Village)	Councillors Christie, Marchandean & Reymond

THAT the Mayor be the Chair of the Sports Reference Group and Councillor Pearson be the Deputy Chair.

The Motion was moved by Councillor Burke and seconded by Councillor Reymond.

Voting was unanimous.

At its meeting of 7 October 2008, Council resolved that the Minute be corrected in part as follows:

RESOLVED:

THAT the representatives of Nutcote Trust for the 2008/2009 year be clarified as follows:

Councillors Raymond, Barbour and Marchandean – representatives
Councillors Robjohns and Reymond – alternates.

Division of Planning & Development Services

635. PDS01: Bushfire Prone Land Mapping

Report of Asanthika Kappagoda, Strategic Planner, 11 September 2008

At its meeting on 12 May 2008, Council adopted the Draft North Sydney Bushfire Prone Land Map for exhibition. The Map forms a statutory requirement under the *Rural Fires and Environmental Assessment Legislation Amendment Act 2002*, whereby Council is required to assess and categorise the fire risk of its bushland areas and map these areas accordingly. The resultant Bushfire Prone Land Map acts as a trigger mechanism for development of land identified as being bushfire prone, to ensure where appropriate, that bush fire safety provisions are incorporated into any *new* development proposal.

The Draft Map was placed on public exhibition from 3 July 2008 to 15 August 2008. A total of 6 submissions were received and the issues raised within have been considered. Based on ongoing consultation with the Rural Fire Services (RFS) it is unlikely that any further changes to the Map as a result of the issues raised in the submissions would be supported. Consequently no changes to the Map are recommended.

The subject Bushfire Prone Land Map is attached for adoption by Council.

Recommending:

- A. **THAT** Council adopt and forward the North Sydney Bushfire Prone Land Affected Properties Map for final sign off by the Commissioner of Rural Fire Services.
- B. **THAT** all submissions received during the exhibition of the North Sydney Bushfire Prone Land Affected Properties Map be forwarded to the Rural Fire Services for information.
- C. **THAT** Section 149 Planning Certificates for affected properties be amended to include a notation that refers to the Bushfire Prone Land Map.

RESOLVED:

THAT the report be adopted.

THAT Council officers inform submitters that the report is available on Council's website.

The Motion was moved by Councillor Gibson and seconded by Councillor Reymond.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

636. PDS02: Woolcott Avenue, Waverton (W) Vehicle Crossing Application VC09/08

(Previously dealt with see Minute No 622)

637. PDS03: 27 Harriette Street, Neutral Bay (C) DA212/08

(Previously dealt with see Minute No 619)

638. PDS04: 275 Alfred Street, North Sydney (V) DA217/08

(Previously dealt with see Minute No 623)

639. **PDS05: 23 Holbrook Avenue, Kirribilli (V) DA151/08**
(Previously dealt with see Minute No 620)
640. **PDS06: 10 Shellbank Parade, Cremorne (T) DA 11/08**
(Previously dealt with see Minute No 624)
641. **PDS07: 45 Ryries Parade, Cremorne (T) DA594/07**
(Previously dealt with see Minute No 625)
642. **PDS08: 3 – 6/125 Kurraba Road, Neutral Bay (C) DA 14/08/2**
(Previously dealt with see Minute No 628)
643. **PDS09: 43 Kareela Road, Cremorne Point (C) DA173/08**
(Previously dealt with see Minute No 626)

Division of Community & Library Services

644. **CLS01: Temporary Exhibition – Elizabeth Plaza (Mount Street), North Sydney**

Report of Martin Ellis, Director, Community and Library Services, 22 September 2008
A student at Monte Sant' Angelo Mercy College in North Sydney, as part of her studies for Visual Arts, has approached Council for permission to place a 1 metre in diameter sculpture (30cm high in the middle) , for one hour during lunchtime, and to film the feet of passersby (stopping or not stopping).

While the art work is ceramic (a tiny seated figure surrounded by diminutive ceramic flames), commemorating the anti-Vietnam demonstration of Quaker Norman Morrison in 1965, it is also a conceptual piece and intended to juxtapose public reaction then with public reaction now.

The exact location has not been determined but it will not block a busy walkway. The student, her art teacher and a Council officer will be present throughout the exhibition, which needs to take place before the end of the first week in October 2008

Recommending:

THAT Council allow the exhibition

RESOLVED:

THAT the report be adopted.

The Motion was moved by Councillor Reymond and seconded by Councillor Zimmerman.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

645. CLS02: Deed of Release with DoH – 156 Pacific Highway

Report of Martin Ellis, Director, Community and Library Services, 16 September 2008
Following the decision by the Department of Housing to not proceed with the redevelopment of 156 Pacific Highway for community housing, Council's contribution (from Section 94 funds: Affordable Housing) of \$806, 763, has been returned to Council. Council's Directors of Finance and Information Management and Community Services met with the Department in August to negotiate an additional sum to be repaid to Council for the interest foregone. A sum of \$309,219 has been agreed and the arrangement is recorded in a Deed of Termination and Mutual release that has been forwarded to Council

Recommending:

THAT Council hereby authorises its Official Seal to be affixed to the Deed of Termination and Mutual Release, under the signature of the Mayor and the General Manager.

RESOLVED:

THAT the report be adopted.

The Motion was moved by Councillor Reymond and seconded by Councillor Zimmerman.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

Division of Engineering & Property Services

Division of Open Space & Environmental Services

646. OSES01: Tender 24/2008- Cleaning of Council Recreational Premises

Report of Kate Bambrick-Browne, Manager Parks and Reserves, 17 September 2008
Tenders were called and received until 4.00pm on Wednesday 18th June 2008 for the cleaning of premises at: North Sydney Olympic Pool; Parks Depot Administration Building and; for the cleaning of all Park Amenity Buildings and Sportsground Changerooms at different locations throughout the local government area.

The contract was divided into the three separate parts and offered on the basis that individual contracts could be awarded to different Tenderers

This report details the tenders received, available funding and recommends a preferred tender for each part of the contract.

Recommending:

1. **THAT** Council accept the tender of Xtremely Clean P/L to carry out Part A- Cleaning of North Sydney Olympic Pool under Contract 24/2008 Cleaning of Council Recreation Premises to the value of \$120 120.00 (inc GST) for an initial 1 year period.
2. **THAT** Council accept the tender of Storm International to carry out Part B- Cleaning of Parks Depot Administration Building under Contract 24/2008 Cleaning of Council Recreation Premises to the value of \$11 581.90 (inc GST) for an initial 1 year period.
3. **THAT** Council accept the tender of Storm International to carry out Part C- Cleaning of Parks Amenities Buildings and Sportsground Changerooms under Contract 24/2008 Cleaning of Council Recreation Premises to the value of \$117 235.80 (inc GST) for an initial 1 year period.
4. **THAT** Council hereby authorises its Official Seal to be affixed to all parts of Contract 24/2008- Cleaning of Council Recreation Premises, under the signature of the Mayor and the General Manager.

RESOLVED:

THAT the report be adopted.

The Motion was moved by Councillor Zimmerman and seconded by Councillor Marchandean.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

647. OSES02: Petition regarding Proposed Replacement of Fig Tree at Hayes Street

Report of Melissa McManus, Parks Department Technical Officer, 17 September 2008
North Sydney Council has received a petition with 81 signatures objecting to the proposed replacement of a semi-mature Port Jackson Fig tree growing in the roundabout at the southern end of Hayes Street, Neutral Bay.

Parks Department identified potential management issues with this tree in this location and saw an opportunity to gauge community feelings as part of other street tree consultation being undertaken in Hayes Street. A specific question about possible replacement of this Fig tree was included with the more extensive proposal to refurbish 29 palm trees along the length of Hayes Street. The survey response has been 66% against replacement of the Fig, therefore Parks Department has no intention of replacing this tree.

Recommending:

THAT Council accept the information.
Item PET01 on this agenda refers.

RESOLVED:

THAT the report be received.

The Motion was moved by Councillor Reymond and seconded by Councillor Marchandean.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

PETITIONS

648. **PET01: Petition not to remove Fig Tree at the end of Hayes Street**

Submitting a petition of 81 signatories requesting:

"This is a petition to stop the removal of the Fig Tree at the end of Hayes Street. Recently you will have received survey requesting your interest in improving the street scape of Hayes Street. One of the questions asked was if you agreed with the removal of the beautiful old fig tree at the end of the street. The reasoning for its removal was the expense to maintain it at a certain height so that it did not interfere with some residence (sic)views.

To date there have only been three responses to this survey. 2 in favour 1 against.

I personally feel very strongly about the removal of this tree. The plan is only to replace it by another species that does not incur the expenses for the council to maintain. I fail to understand why anyone would take such a beautiful old tree down. I would have thought we should be aiming to keep and preserves (sic) these trees.

If you feel the same please sign this partition (sic). It will be submitted to council on Monday, 1st September."

(Note: the petition was received at Council on 11 September 2008)

Item OSES 02 on this agenda refers.

RESOLVED:

THAT the petition be received.

The Motion was moved by Councillor Reymond and seconded by Councillor Marchandreau.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

CORRESPONDENCE

MOTIONS OF WHICH DUE NOTICE

HAS BEEN GIVEN**649. NoM01: Notice of Motion No. 27/08 by Councillor Burke - 22/09/08**

Re: Unsatisfactory process on election day
(Previously dealt with see Minute No 627)

650. NoM02: Notice of Motion No. 28/08 by Councillor Zimmerman - 24/09/08

Re: Rats in Atchison Lane, St Leonards
THAT Council undertake a rat baiting program in Atchison Lane, St Leonards.
Comment by the General Manager
The rat-baiting program that is already underway in Crow's Nest has been expanded to include Aitchison Lane in St Leonards

RESOLVED:

THAT the General Manager's comment that rat baiting is already underway be received..

The Motion was moved by Councillor Zimmerman and seconded by Councillor Baker.

Note: Councillor Barbour was out of the Chamber during debate and voting on this matter.

Voting was unanimous.

651. NoM03: Notice of Motion No. 29/08 by Councillor Zimmerman - 24/09/08

Re: Parking Requirements in the DCP for Multi-Dwelling Residential Developments

THAT Council amend the North Sydney DCP to make the current maximum parking requirements for new multi-dwelling residential developments minimum standards and that the General Manager report to Council on establishing new controls that would also incorporate new maximum standards that provide sufficient parking for residents in new residential developments.

It was moved by Councillor Zimmerman and seconded by Councillor Pearson -
THAT Council amend the North Sydney DCP to make the current maximum parking requirements for new multi-dwelling residential developments minimum standards and that the General Manager report to Council on establishing new controls that would also incorporate new maximum standards that provide sufficient parking for residents in new residential developments.

It was moved as an amendment by Councillor McCaffery and seconded by Councillor Christie -

THAT a report be submitted to the Planning & Development Committee on the impact of the proposed changes to the DCP including traffic impacts and changes to the parking controls.

The amendment was put and **carried**.

Voting on the amendment was as follows: For/Against 10/3

Councillors For	Councillors Against
McCaffery Gibson Reymond Christie, Marchandean Raymond Barbour Baker Carland Pearson	Zimmerman Robjohns Burke

The amendment thereupon became the motion, was put and **carried unanimously**.

RESOLVED:

THAT a report be submitted to the Planning & Development Committee the impact of the proposed changes to the DCP including traffic impacts and changes to the parking controls.

652. NoM04: Notice of Motion No. 30/08 by Councillor Reymond - 24/09/08

Re: Visitor Parking Permit Scheme

THAT Council call for a report in relation to the current visitor parking permit scheme so as to:

- (a) Increase the annual number of these permits from 30 to 50;
- (b) provide for the permits to be issued free to aged, TPI, veterans affairs, etc card holders
- (c) provide for the permits to be issued on a concessional basis to health card and senior card holders

By Consent the Motion was amended to read:

THAT Council call for a report in relation to the current visitor parking permit scheme so as to:

- (a) Increase the annual number of these permits from 30 to 50;
- (b) provide for the permits to be issued free to aged, TPI, veterans affairs, etc card holders
- (c) provide for the permits to be issued on a concessional basis to health card and senior card holders
- (d) information be provided on how other, and neighbouring councils handle these situations.
- (e) the budget implications of the proposal be included in the report.

The Motion as amended was moved by Councillor Reymond, seconded by Councillor Marchandean and **carried**.

Voting was unanimous.

QUESTIONS WITH NOTICE

QUESTIONS WITHOUT NOTICE

BUSINESS WITHOUT NOTICE (MATTERS OF URGENCY)

653. **Leave of Absence - Councillor Gibson**

The Councillor Burke raised as a matter of urgency the request from Councillor Gibson for leave of absence for the period 7 October 2008 to 29 October 2008 inclusive.

The Mayor ruled the matter be one of great Urgency

RESOLVED:

THAT leave of absence be granted

The Motion was moved by Councillor Burke and seconded by Councillor McCaffery.

The Meeting concluded at 10.27pm

CHAIRPERSON

GENERAL MANAGER