



Corporate & Works Committee

Agenda: *Corporate & Works Committee*

Date: *Monday 2 October 2007*

Time: *6.00pm*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed four (4) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the person(s) against the recommendation speak first.
- At the conclusion of the allotted four (4) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a recommendation (R items which proceed to Full Council) or a resolution (D items for which the Committee has delegated authority).

Delegated Authority (“D” Items):

- General financial and corporate management of the Council, except those specifically excluded by statute, by Council direction or delegated specifically to another Committee.
- Note: This not to limit the discretions of nominated staff members exercising Delegated Authorities granted by the Council.
- Quarterly review of Council's Management Plan.
- Finance Regulations, including:-
 - Authorisation of expenditures within budgetary provisions where not delegated;
 - Quarterly review of Budget Review Statements;
 - Quarterly and other reports on Works and Services provision; and
 - Writing off of rates, fees and charges because of non-rateability, bad debts, and impracticality of collection.
- Auditing.
- Property Management.
- Asset Management.
- Traffic Management - Works Implementation.
- Works and Services - Monitoring and Implementations.
- Legal Matters and Legal Register.
- Parks and Reserves Management.
- Infrastructure Management, Design and Investigation.
- To require such investigations, reports or actions as considered necessary in respect of matters contained within the Business Agenda (and as may be limited by specific Council resolution).
- Confirmation of Minutes of its Meeting.
- Any other matter falling within the responsibility of the Corporate and Works Committee and not restricted by the Local Government Act or required to be a Recommendation to Full Council as listed below.

Recommendation only to the Full Council (“R” Items):

- Such matters as are specified in Section 377 and within the ambit of the Committee considerations.
- The voting of money for expenditure on works, services and operations.
- Rates, Fees and Charges.
- Donations
- Matters which involve broad strategic or policy initiatives within responsibilities of the Committee.
- Matters not within the specified functions of the Committee.
- Asset Rationalisation.
- Corporate Operations:-
 - Statutory Reporting; - Delegations.
 - Adoption of Council's Management Plans; - Policies.
 - Quality Service/Communications; - Tenders as per Regulation requirements.
 - Leases.
 - Matters reserved by individual Councillors in accordance with any Council policy on "safeguards" and substantive changes

Committee Membership:

7 Councillors

Quorum:

The quorum for a Committee meeting is 4 Councillors.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

26 September 2007

To: His Worship The Mayor, Councillor Rundle, ex-officio
Councillors Andrew Petrie (Chair)
Anthony Boskovitz
John Comino
Claudia Cullen
Marcus Ehrlich
Fiona Sinclair King
John Walker

Dear Councillors

Corporate & Works Committee Meeting – 2 October 2007

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Corporate and Works Committee** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Tuesday 2 October 2007 at 6.00pm.**

Gary James
General Manager

Additional Information Relating to Committee Matters

Site Inspection

Other Matters

Meeting Agenda

Item	Subject	Pages
1	Leave of Absence and Apologies	
2	Late Correspondence	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Election of Deputy Chairperson	1
D2	Confirmation of Minutes of Meeting held on 17 September 2007	2
D3	Investments Update – 389.G	3
D4	Customer Request – An Update	5
D5	Release of Covenant Registered on Title (K804544) – 25A Fitzwilliam Road, Vaocluse – 167.25A	26

Items to be Submitted to the Council for Decision with Recommendations from this Committee

R1	Capital Project Status Report & Revotes – 331.G 2006/2007	37
R2	Hopetoun Avenue/Petrarch Steps, Vaocluse – Pedestrian Access – T240.	60

Item No: D1 Delegated to Committee
Subject: Election of Deputy Chairperson
Author: Les Windle - Manager Governance
File No:
Reason for Report: For the Committee to elect a Deputy Chairperson

Recommendation:

That Councillor _____ be elected as Deputy Chairperson of the Corporate and Works Committee for the ensuing twelve months.

Background:

It has been the practice for the Committee to elect a Deputy Chairperson who can chair the meeting in the absence of the chairperson.

Les Windle
Manager Governance

ANNEXURES:

Nil

Item No: D2 Delegated to Committee
Subject: **Confirmation of minutes of meeting held on 2 October 2007**
Author: Les Windle, Manager – Governance
File No: See Council Minutes
Reason for Report: The Minutes of the Meeting of Monday 2 October 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

Recommendation:

That the Minutes of the Corporate and Works Committee Meeting of 2 October 2007 be taken as read and confirmed.

Les Windle
Manager - Governance

Item No: D3 Delegated to Committee
Subject: **Investments Update**
Author: Don Johnston, Manager Finance
File No: 389.G
Reason for Report: To update the Committee on Council's CDO investments.

Recommendation:

That the report be received and noted

Background:

At the Extraordinary Council meeting held on 17 September 2007 a confidential resolution was adopted. In open session, the Mayor advised:

That the Council has resolved to embark upon a course of action to continue the monitoring and reviewing of Council's investments and that the Council's decisions made in closed session are to remain confidential.

An update report will come to each meeting of the Corporate & Works Committee as a result of this resolution.

Discussion:

Since the meeting on 17 September a number of actions have been taken.

Sale of Endeavour & Wentworth CDOs

Refreshed bids were obtained for both securities on 20 September and instructions for their sale issued. They were both sold at 99.00. Settlement was on the basis of T+3 which occurred on Tuesday 25 September. As a result of this sale a loss of \$29,965 was crystallised.

Ongoing meetings with Grange Securities

Staff met with representatives from Grange Securities on Tuesday 25 September. They were quite positive about the current market, advising that trading volumes had returned to 20% of pre credit crisis levels and were optimistic about this improvement continuing. Staff will continue to meet with Grange Securities on a weekly basis to keep abreast of market conditions and the outlook for our CDO holdings.

Bid updates

Both Grange Securities and Oakvale Capital have been asked to provide bids for each of our CDOs on an ongoing basis. The bids will be provided each Monday of a Committee meeting, as at the previous Friday, and will be tabled at the Corporate & Works Committee meetings. The first of these updates will be tabled at the meeting.

Independent advice

Staff met with representatives from Ernst & Young on Tuesday 25 September with a view to engaging them to provide independent advice on our investment portfolio. Based on discussion at that meeting, Ernst & Young will be submitting a proposal. This proposal will be circulated to Councillors when received and tabled at the meeting.

Conclusion:

Council will continue to monitor and review its investments and provide an update report to each meeting of the Corporate & Works Committee.

Don Johnston
Manager Finance

Geoff Clarke
Director Corporate Services

Annexures:

Nil.

Item No: D4 Delegated to Committee
Subject: **Customer Requests - An update**
Author: Geoff Clarke - Director Corporate Services
File No:
Reason for Report: To provide an update to Councillors on the customer request actioned in the Council's Customer Request Management System

Recommendation:

- A. That the information be received and noted.
- B. That an annual report be provided to the committee on the year on year comparison of customer requests.

Background:

The Committee received a previous customer requests update on 19 March 2007, when it resolved as follows:

That the report be received and noted.

b) That a further report be provided following the completion of the current financial year's statistics.

c) That the report include information on:

- changes and issues impacting on service delivery*
- performance against service levels set*
- information on actions taken or to be taken to respond to request volumes and charges, and*
- the frequency of reporting to the Committee on customer request issues.*

Customer request volumes

There are 17 major categories of request types, which are based on asset type or service area. Within each category, there are a number of sub-asset types or sub-services area. In total, there are more than 250 separate request types. Listed below, is the volume of requests received in each of the 17 major categories in the financial years 2003/2004, 2004/2005, 2005/2006 and 2006/2007. The percentage variation in volumes is also shown for the last two years, ie a comparison between the 2005/2006 year and the 2006/2007 year.

	Between 05/06 & 06/07					
	2003/2004	2004/2005	2005/2006	2006/2007	Variance	% Change
Waste Services	7121	6666	6531	6432	-99	-1.5%
Trees	2473	2117	1491	1759	268	18.0%
Roads	1697	1607	1334	1516	182	13.6%
Building Control	839	593	429	773	344	80.2%
Traffic Management (enforcement)	387	390	601	538	-63	-10.5%
Parks & Reserves	476	461	427	465	38	8.9%
Public Place Nuisances	721	513	384	429	45	11.7%
Drainage & Stormwater	215	192	200	397	197	98.5%
Street Cleaning	482	453	475	371	-104	-21.9%
Animals	249	189	277	299	22	7.9%
Health Control	203	183	168	199	31	18.5%
Environmental Control	227	172	154	182	28	18.2%
Council Records Access	0	26	88	140	52	59.1%
Graffiti	190	75	77	96	19	24.7%
Foreshore Facilities	57	34	44	60	16	36.4%
Council Car Parks	28	39	21	21	0	0.0%
Complaints	41	33	21	19	-2	-9.5%
Total	15407	13743	12703	13696	993	7.8%

Included in Annexure 1 is the volume information for every request type. The major categories in the Annexure are listed in alphabetical order.

Performance against service levels set

Each of the request types has a performance target for its finalisation. A request can be finalised when the requests have been:

- completed, in accordance with the customer's expectations; or
- completed, but not necessarily to the customer's expectation, **and** the customer has been advised of the reason for the variation, or
- no action is proposed **and** the Customer has been advised of the reason for no action.

Shown in the table below are the performance statistics for the **2006/2007** year:

	Outside	Inside	Total	% Inside
Waste Services	548	5884	6432	91.5%
Trees	573	1186	1759	67.4%
Roads	383	1133	1516	74.7%
Building Control	389	384	773	49.7%
Traffic Management (enforcement)	274	264	538	49.1%
Parks & Reserves	222	243	465	52.3%
Public Place Nuisances	96	333	429	77.6%
Drainage & Stormwater	160	237	397	59.7%
Street Cleaning	60	311	371	83.8%
Animals	173	126	299	42.1%

Health Control	138	61	199	30.7%
Environmental Control	134	48	182	26.4%
Council Records Access	65	75	140	53.6%
Graffiti	46	50	96	52.1%
Foreshore Facilities	20	40	60	66.7%
Council Car Parks	6	15	21	71.4%
Complaints	3	16	19	84.2%
Total	3290	10406	13696	76.0%

Included in **Annexure 2** is the performance information for every request type for the 2006/2007 year. The major categories in the Annexure are listed in alphabetical order.

Commentary on each major category

Below is a commentary on the top 13 major request types by volume:

1. Waste Services (Technical Services Division)

Customer requests for Waste Services have remained reasonably static, with a slight reduction overall.

The increase in missed services in domestic recycling can be attributed to Council staff and our contractors taking a harder stance on contamination and presentation issues.

2. Trees (Technical Services Division)

The volume of tree related customer requests reduced gradually from 2473 to 1491 in the three previous years. These gains were largely due to improved pruning methods and the establishment of a proactive annual tree maintenance schedule.

The increase of 268 customer requests for 2006/2007 was mostly due to an increase in the number of broken branches that needed to be collected, The increase occurred because the Queen's Birthday weekend storms. Only one whole tree failed in Woollahra during these storms, which indicates that our overall tree inspection and maintenance programs are working.

Although 32% of tree maintenance fell outside the nominated turn around times, approximately half of these were due to a system error, which was sending some requests to "open space works", a department which no longer exists. This error has now been rectified.

The upcoming acquisition of a second branch chipper will see the full separation of proactive and reactive tree services, which will also reduce turn around times in 2007/2008.

3. Roads (Technical Services Division)

The increase in CRMS variance is attributed to more vigilant recording of all requests, than in past years. In addition to this, in the second half of this financial year, significant heavy rainfall has increased the number of potholes which require attention.

4. Building control (Planning and Development Division)

The 80.2% increase in the volume of requests is largely attributed to two category types, 127 additional requests for 'Security Deposits – Refund' and 121 additional requests for 'Unauthorised Work'.

Over the past 12 months a new work procedure was introduced to utilise the CRMS to workflow and manage the refund of security deposits and bonds when development work is completed. The system was introduced to manage the process and maintain its integrity, replacing manual paper handling across three divisions of Council. The process can be readily monitored and tracked and has improved Council's responsiveness and accuracy with regard to the release of security deposits and bonds.

The increase in the number of 'Unauthorised Work' requests may be the result of residents continuing to be dissatisfied with the current private certification system that operates in New South Wales and an increasing requirement to seek clarification from Council that building work is progressing in accordance with the relevant consent.

The percentage of requests completed within the service standard was affected by a number of factors including the following;

- Significant increase in the number of requests;
- Difficulty recruiting qualified building surveyors. As reported in annual management plan review, it is estimated that the Compliance Section operated, on average, at only 75% of the approved staffing level for the past 12 months; and
- "Building Site" requests require investigation, instruction and possible follow up inspections which means requests can not be completed to the customers expectations within the service standard, many being less than 7 days.

5. Traffic Management (enforcement) (Planning and Development Division)

There was a marginal decrease in the number of requests recorded over the past 12 months, however the 2006/07 results were still significantly higher than 2003/04 (up by 39%) and 2004/05 (up by 37.9%).

Parking enforcement matters requiring immediate action have a service standard of only one day and are reported to Council's Parking Enforcement Officers by telephone. It is likely not all of these requests are captured in the CRMS. This has improved over the years, but further improvement is required.

The Parking Enforcement Officers are generally in the field when they receive requests for immediate action and they are able to action the majority of these matters within a few hours, as priorities permit. However, the Officers are not completing the administrative functions of finalising the requests within the nominal service standard, with more than 73% being completed outside the service standard. This is understandable, considering the nature of the Parking Enforcement Officers work and how and when they receive the majority of their requests.

6. Parks and reserves (Technical Services Division)

The overall volume of customer requests for work in parks and gardens has remained consistently in the mid 400's for the past four years.

The creation of a projects team within Parks and Street Trees has meant that many simple customer requests can be dealt with quickly. However, tasks such as infrastructure repairs require a longer lead time and some tasks, such as turf replacement, are best dealt with seasonally. We are reviewing the service standard times for these.

7. Public place nuisances (Planning and Development Division)

This category of requests largely relates to road and footpath obstructions including abandoned vehicles and abandoned items. The number of requests has significantly decreased from 2003/04 and 2004/05, although there has been a marginal increase in the number of requests over the past 12 months.

When undertaking their routine patrols of the local area it is a priority for the Council's Rangers to identify public nuisances that may be a risk to public safety. This practice will continue and should lead to further reductions in this category of requests.

The factors that have resulted in more than 3 in 4 requests being completed within the nominated service standards include;

- Council's procedures for dealing with requests in this category are well documented and have been improved over time; and
- Staffing within the Rangers has been stable for some time.

8. Drainage and stormwater (Technical Services Division)

The number of customer requests to resolve drainage and stormwater problems has almost doubled from the previous year. Significant heavy rainfall in the second half of the year resulted in flash flooding in Double Bay, due to the combination of surcharging and flows in excess of pipe capacity.

9. Street cleaning (Technical Services Division)

A slight increase in the number of requests received for litter & leaves clean-ups is attributable to the drought conditions and changing weather patterns.

Council offers residents a quarterly household collection service performed by the Street Cleaning Section. We collect, on average, 50 tonnes of dry waste per week. The slight increase in missed services may be attributable to residents, initially, having to get used to the service now being carried out on a Monday, rather than across the entire week and, therefore, having to ensure their dry waste is placed out on time.

10. Animals (Planning and Development Division)

The number of requests for animal related matters has continued to increase since the introduction of the current customer request system, with the increase in recent years being due to the improved recording of lost dogs and cats and an increase in the number of dangerous dog and dog attack requests being received. The latter increase may be the result of improved community awareness of these issues and changing community expectations.

Parks and Street Trees staff remove dead animals from roads, nature strips and parks. The number of dead animals has been very consistent (between 12 and 14 per year) for some years.

With many residents contacting Council's Animal Control Officer direct while he is in the field, it is considered that not of the animal related matters are being captured.

Less than 50% of the requests in this category are completed within the current service standards. However not all of the current service standards provide sufficient time to permit a full and through investigation of the matters. For example, requests relating to dog attacks have a service standard of only two days. Any reported dog attack is investigated as a priority, but to be able to conclude such an investigation it may be necessary to interview multiple parties, including witnesses and consider a number of reports from experts, including temperament assessments and medical reports. As such it would not be possible to finalise the entire investigation within the current service standard.

Accordingly, the current service standards need to be reviewed and updated.

Also, a recent management review carried out on the Regulatory Section indicated that more patrol staff were required for Animal Control functions and work is progressing on the introduction of reclassified “hybrid” positions that will have a dual role of Parking Enforcement and Animal Control. The reclassified “hybrid” officers will perform morning patrol duties of the reserves and beaches in relation to dog offences, enabling the Animal Control Officer to concentrate on the investigation of the ever increasing CRMS matters.

11. Health Control and Environmental Control (Planning and Development Division)

These two categories of requests are generally the responsibility of Council’s Environmental Health Officers. Both categories showed similar moderate increases over the past 12 months. No specific reason for the increases can be identified.

In addition to responding to customer requests, Council’s Environmental Health Officers are responsible for the following proactive programs;

- Food Safety – Council currently has 352 premises recorded as handling, preparing and/or selling food. Our Environmental Health Officers endeavour to inspect all premises that prepare and handle food twice a year and those premises that only have packaged food should be inspected at least once a year.
- Public Health – Council currently has 141 health premises recorded. These premises include skin penetrations, hairdressers, and beauty salons and our Environmental health Officers endeavour to inspect these premises once a year.
- Microbial Control – Council currently has 57 premises with cooling towers and warm water systems recorded under this program and documentation is required to be submitted annually from the owner of these premises to ensure compliance with minimum health standards.

Over the coming 12 months the State Government will be introducing the NSW Food Regulation Partnership between local councils and the NSW Food Authority. Under this new legislative framework, local councils will be required to specify the food surveillance role that they can provide and they will be required to enter into a formal agreement with the NSW Food Authority to achieve the agreed level of service. It is likely this new food surveillance regime will increase Council’s inspection and reporting obligations and has led to the need to consider a reorganisation of Council’s Environmental Health resources.

Accordingly, as detailed in the 2007/08 Management Plan, a review of the Environmental Health Section has commenced to determine how best to achieve all tasks required to be undertaken by this small professional team. In addition to addressing the NSW Food Regulation Partnership, the review will also consider whether the current service standards for Health Control and Environmental Control requests are reasonable.

The majority of the individual request categories have a service standard of only five days, which does not provide sufficient time to investigate and resolve the sometimes complex issues. Also a five day service standard does not provide any opportunity to prioritise the requests with the proactive programs listed above.

A further influence on the number of requests that were completed within the current service standards over the past 12 months was staff shortages, especially in the final quarter of the year. To address this shortfall, the currently vacant Environmental Health Officer's position is being filled on a casual part-time basis with a senior officer who is focusing solely on Council's Food Safety and Public Health Programs, permitting Council's remaining two Environmental Officers to focus on the other Environmental Health functions to be carried out, including customer requests.

12. Council records access (Corporate Services Division)

The increase in request in this category has occurred as we now use the CRMS system to manage this type of request. The service standard for FOI request is 21 day (as set out in the act) and 7 days for Sec 12 request. Provision of the information is normally completed within these time frames, however we do not finalise the requests until the customer has viewed the requested material. This can sometimes delay the request completion by a week or two.

13. Graffiti (Technical Services Division)

Graffiti requests have declined considerably in calendar year 2007 and this is a result of the twelve-month graffiti trial, which has been running since 1/11/06. As Customer service staff and others within the organisation are gradually becoming more accustomed to the procedure of logging requests straight onto the contractor's website, there is less need for graffiti requests on the CRMS. It is envisaged that, if the graffiti program is to continue, this category on the CRMS may become redundant.

In the past, while the large majority of graffiti requests were dealt with almost immediately (passed on to contractor), they were not finalised as we were waiting for the work to actually be carried out before finalising. As a result, some of these requests were overlooked for finalisation even though the work had actually taken place, therefore, giving the impression that more were outside (47.9%) the service standard than was actually the case. The service standard of 4 days was probably unrealistic at the time, but as requests are steadily declining there is probably no real need to amend this unless the current program is discontinued.

All graffiti requests are now being dealt with rapidly (generally completed within 5-7 days) as the backlog of graffiti has been eliminated allowing us to respond quickly to new requests.

Reporting frequency

Directors, Managers, and responsible officers have a large range of on-line system reports that give them up to the minute details on outstanding request. In addition request that exceed the service standard are escalated to the responsible officer every day until they are completed.

This summary provides a full years statistic and compares it with previous years. It is beneficial to continue this comparison in future years. In examining the statistic in detail there is a significant degree of variability in the monthly figure in any one year. This is due to seasonal, weather and sometimes unidentifiable causes. The year on year comparison appears to provide the necessary information for policy and planning. In the circumstance, I recommend that we continue the year on year reporting to the Committee.

Conclusion:

This past financial year has seen an increase in request numbers of 7.8 % over the previous financial year. This returns the volumes to similar levels to that of the prior years. Much of this increase has occurred due to the increased use of the system and by one-off factors. The system used provides for the active management and control of request on a day to day basis and the annual reporting of year on year statistics provides information for policy and planning activities.

Geoff Clarke
Director Corporate Services

Annexures:

1. Volume information for every request type
2. Performance statistics for 2006/2007

Item No: D5 Delegated to Council
Subject: **Release Of Covenant Registered On Title (K804544), 25a Fitzwilliam Rd, Vacluse**
Author: Anthony Sheedy, Property Officer
File No: 167.25A
Reason for Report: To give consideration to the release of registered covenant (K804544) in respect of 25A Fitzwilliam Rd, Vacluse.

Recommendations:

That the site be inspected prior to the Corporate and Works Committee meeting of 15 October 2007.

Background:

In 1997, the owners of 25A Fitzwilliam Road approached Council to have a building covenant (K84544) released. This covenant "K84544" restricts certain development on 25A Fitzwilliam Rd, Vacluse (Annexure 1). In particular, Lot 1 (subject land) shall only have erected on it one private dwelling not to exceed two storeys in height; and such dwelling shall not occupy more than 1,670 square feet (155.13 m²) if a single storey dwelling or 1,255 square feet (116.6 m²) if a two storey dwelling (building footprint). Because of a recent acquisition of adjoining land by Lot 1 owners, the covenant now appears on the consolidated property Title of Lot 10 in DP 554431.

At the Corporate and Works Committee meeting of 8 September 1997, Council resolved:

- "A. That Council not consent to the removal or variation of covenant over 25A Fitzwilliam Road, Vacluse being lot 10 DP 55431 unless the consensus of all owners of properties which benefit from the covenant is gained.*
- B. That the applicant be advised the Council would reconsider the removal of the covenant should they obtain written declarations from all owners of properties which benefit from the covenant."*

The covenant identifies the 'benefiting' parties as "said Lot 2 the lands respectively comprised in the said Certificates of Title registered Volume 2503 folio 143 and registered volume 2885 folio 99 and that part of Fitzwilliam Road, Vacluse aforesaid to which the said Lot 1 has frontage."

Lot 2 is 25 Fitzwilliam Road, whose original property was subdivided to form the original lots 1 and 2 (Annexure 2). A recent title search revealed that property parcel being Volume 2503 Folio 143 refers to a property in the Sydney suburb of Gordon. This obviously has nothing to do with Fitzwilliam Rd in Vacluse. It is likely that a property reference error has occurred during covenant registration. The registered volume 2885 folio 99 fronts Fitzwilliam Road and is the adjoining No 25 (lot 2). The covenant also refers to benefiting parties situated directly to the "south east" being No 23 and "north west" being most likely No 27 Fitzwilliam Road (Annexure 3).

I note that there is no power of covenant release attached to the 'benefit' nor rights. Council's legal counsel, HWL Lawyers, advise that sole power to release the covenant rests with Council and that Council does not have to satisfy the 'benefiting' parties in any legal respect as they are not parties to the covenant Deed.

The owners of 25A Fitzwilliam Road have, in recent years, continued to pursue development of their property through DA 661/98/1 & 2 consents; notwithstanding that this would result in the breach of the historical building covenant K84544 on Title (Annexure 4).

Council assessed the development applications DA 661/1998/1 & 2, in accordance with the Woollahra Local Environmental plan and other relevant development controls, and decided to grant consent to the further development of the property; overriding the covenant and wording the DA consent "Advisings" in such a way as to request that the owners arrange for its extinguishment. All adjoining property owners were notified of the proposal during the DA advertisement period.

DA 661/98/1 allowed for the two storey building footprint to be extended to 197 m²; and DA 661/98/2 on 7 January 2003 granted consent for 215 m². I note that these consents permit a building 'footprint' approximately 100 square metres greater than allowed by the Covenant K84544.

Council made this decision because the conditions imposed by the covenant are more restrictive than the current planning controls. It is understood that, when the covenant was created, circa 1967, Woollahra Council was imposing covenants on properties where there were no formal planning instruments in place. Council staff now believe that this covenant is redundant and look to modern planning controls during the building development assessment process.

On 2 May 2007 I discussed the matter with Council's Director of Planning and Development. He stated that the covenant was no longer required. Further, that it was a rudimentary form of planning control which has been replaced by more sophisticated planning controls now combined in the Residential Development Control Plan 2003. The works lawfully approved by Council under BA 661/1998 provided for a building footprint of 197.2 m² and this was extended to 215.4 m² under a Section 96 approval in January 2003. The building works have been carried out and the covenant no longer serves any useful planning purpose.

In accordance with the DA 661/1998/2 consent "advisings", the owners of 25A Fitzwilliam Road have now requested that Council reconsider the extinguishment of the Building covenant "K84544" that is registered on the Certificate of Title to the property. The owners have agreed to pay all Council's legal and valuation costs in relation to this matter.

Consultation:

Pursuant to Council's resolution of 8 September 1997, a written notice of the proposal has been provided to neighbours who are within a 50 metre radius of 25A Fitzwilliam Rd, including those "benefiting" parties as identified in the covenant (Annexure 3).

Objections to release of the covenant K84544 were received from the following property owners and reasons given as tabled below:

Objector Address	Comments
23 Fitzwilliam Rd	State that No 23 is a beneficiary of the covenant and that the proposed release would reduce No 23 property value. Covenant creates rights at law that No 23 can enforce. State that Council has no power to extinguish the covenant other than with the agreement of the beneficiaries; an action to which they do not agree.

25 Fitzwilliam Rd	Covenant originally imposed by Council as consent condition re subdivision into lots 1&2. Current owner of 30 yrs purchased property full knowing that they were beneficiary of covenant. Removal of covenant will have a significant adverse effect on their property value. No 25A has no development application before Council therefore covenant release is unnecessary. Council has consistently decided not to release the covenant, including in recent DA consent of 2003. Property, No 25A, is for sale on the real estate market and owner would benefit financially from covenant removal, whilst No 25 decrease in property value. May agree to variation of Covenant if owner of 25A makes a further development application.
27 Fitzwilliam Rd	Any further development will block sun and result in loss of privacy.
5 Parsley Rd	Loss of Privacy

Council's legal counsel, HWL Lawyers, advise that that there is no power of covenant release attached to the 'beneficiaries' nor legal rights. Council imposed the covenant on the owners of 25A Fitzwilliam Rd as a subdivision consent condition in 1967. The sole power to release rests with Council, as the 'beneficiaries' are not parties to the covenant Deed.

There is some concern by objectors that release of the covenant will result in a loss of improved property value, and that scope exists for further development applications which could block sun and cause a loss of privacy to adjoining property.

Egan National Valuers (NSW) were engaged to test the claim that release of the covenant would result in a negative impact on neighbouring improved property values. The Valuer observed that, because the site was already redeveloped to the maximum allowable Floor Space Ratio (FSR), no further growth in the building 'footprint' could occur and thus concluded that release of the covenant would have no impact on adjoining property value.

The current status of maximum building 'footprint' development would also preclude any likely blocking of the sun and loss of privacy to adjoining property owners. It follows that the covenant on title of 25A Fitzwilliam Rd is redundant, not necessary, and that Council should release it.

Proposal:

The owners of 25 Fitzwilliam Road have engaged Levitt Robinson, Solicitors to prepare a suitable Deed of Release of Restriction on the Use of Land, in accordance with advice from Council's Planning & Development Division, including the DA consent 'advising',

Subject to Council's resolution in this matter, this Deed will, upon execution by the parties and its formal registration, cause the release of the covenant K84544 in accordance with Sections 88, 88D(12), 88E(7) of the Conveyancing Act, 1919. Council's Lawyers, HWL, have reviewed the Deed of Release and advised Council's Property staff that it protects Council's interests and is in order for execution.

Conclusion:

Council's Property staff recommend that the covenant K84544 be released.

This is because the subject property building footprint has already been developed to the maximum FSR allowable 216 m² under Council's planning instruments. We note that in 2003 Council consented to a building footprint increase of 86% beyond the 116 m² restriction imposed by the covenant. This development has occurred and completed building works have been certified by Council. The covenant, therefore, has no further practical bearing on site development matters.

Council's Valuer has further advised that, because of the maximum FSR development on site, in their opinion, there will be no discernible loss in adjoining property values if the covenant is released.

Council created the covenant on title of 25A Fitzwilliam pursuant to a consent condition for land subdivision of No 25. To that end, Council's legal counsel, HWL Lawyers, advise that that there is no power of covenant release attached to the 'beneficiaries' nor legal rights. The sole power to release rests with Council as the 'beneficiaries' are not parties to the covenant Deed.

Having regard to Council's resolution of 8 September 1997 and subsequent development consents in 2003, it is recommended that the Corporate and Works Committee inspect the site of 25A Fitzwilliam Road in the first instance.

Anthony Sheedy
Property Officer

Zubin Marolia
Acting Director Technical Services

Annexures:

1. Covenant K84544
2. Plan of Subdivision
3. Area Plan of notified properties re proposed Covenant release.
4. Site Photograph of Residence.

Item No: R1 Recommendation to Council
Subject: **CAPITAL PROJECT STATUS REPORT & REVOTES**
Author: Michelle Phair, Team Leader Financial Services
File No: 331G 2006/2007
Reason for Report: To report on the status of capital projects in the 2007/2008 budget as at 31 August 2007 and recommend the revote of budget allocations for 2006/2007 projects not commenced before 30 June 2007.

Recommendation:

1. THAT the report on project delivery performance and the capital status update report be received and noted; and
2. THAT the revote of budget allocations for the projects detailed in ANNEXURES 1 and 2 to this report be adopted

Background:

The Capital Project Status Report and Revotes submitted to the Corporate & Works Committee at the meeting of 17 September 2007 was deferred as per the following recommendation:

1. *That the item be deferred for further consideration at the next Corporate and Works Committee.*

The report is restated below for consideration of the Committee.

17 September 2007 report:

Background:

Expenditure relating to the 2006/2007 financial year has been finalised. This report provides an update of the status of projects in the 2006/2007 and 2007/2008 Budget as at 31 August and also seeks a recommendation to revote budget allocations for some projects.

Council adopts an annual budget for the provision of works and services and the delivery of projects each year. At the end of each year the votes of expenditure lapse, except as provided in Clause 211 of the Local Government (General) Regulation 2005, whereby:

- (3) *All such approvals and votes lapse at the end of a council's financial year. However, this subclause does not apply to approvals and votes relating to:*
 - (a) *work carried out or started, or contracted to be carried out, for the council, or*
 - (b) *any service provided, or contracted to be provided, for the council, or*
 - (c) *goods or materials provided, or contracted to be provided, for the council, or*
 - (d) *facilities provided or started, or contracted to be provided, for the council,*

before the end of the year concerned, or to the payment of remuneration to members of the council's staff.

There are instances where projects are commenced toward the end of a financial year but not completed. Where this is the case the budget allocation remains and can be rolled into the new financial year for the completion of the project. As the Regulation does not require these amounts to be revoked, this has been done administratively. An overview is provided later in the report. Where the project has not been commenced Council is required to formally revoke the budget allocation into the new financial year budget.

Capital Works Program

A summary of the delivery of capital projects appears in the table below.

Revote recommendations have been noted in each program area. Details of the Capital Works Program rollovers and revotes for 2006/2007 are attached as ANNEXURE 1. Included in the report is the Project Status Update as at 31 August 2007, at this stage the Ward areas have not been attached to the 2007/2008 works program however future Project Status Update reports will include this breakdown.

CAPITAL WORKS PROGRAM

Description	Budget	Complete or in Progress	% of Budget Spent	Not Commenced (Revote)
Infrastructure Renewal Program	4,195,434	4,143,997	99%	184,913
Environmental Works Program	3,273,300	2,520,761	77%	752,539
Open Space Project Management	91,468	94,492	103%	-
Parks & Reserves	1,118,808	1,097,468	98%	-
Playgrounds	333,399	342,297	103%	-
Sportsfields	160,144	151,323	94%	-
Roads and Kerb & Gutter Infrastructure	101,922	101,922	100%	-
Traffic Infrastructure	908,364	705,988	78%	98,900
Streetscapes	5,327,281	4,884,952	92%	442,328
Commercial/Leased Properties	146,514	12,448	8%	130,610
Sportsfield Buildings	115,197	125,799	109%	-
Parks / Ovals Buildings	75,999	63,450	83%	5,000
Depots	99,953	99,953	100%	-
Council Offices	293,867	301,599	103%	6,000
Community Facilities	312,066	256,107	82%	47,800
Library Buildings	198,422	58,337	29%	134,915
Car Parks	45,000	76,325	170%	45,000
	16,797,138	15,037,218	90%	1,848,005

90% of projects were completed or in progress at 30 June. Funding for projects in progress at 30 June has been rolled forward into the 2007/2008 Budget.

Other Projects

Numerous other projects were completed over the course of the year. A summary appears in the table below:

OTHER PROJECTS

Description	Budget	Complete or in Progress	% of Budget Spent	Not Commenced (Revote)
Library Information Services	40,400	39,975	99%	-
Library Lending Services	18,000	14,890	83%	-
Library General	393,000	393,000	100%	-
Family & Community Development	24,645	25,747	104%	1,000
EJ Ward Centre Operating	2,000	-	0%	-
Aged & Disability Service Mgmt & Planning	2,000	1,500	75%	-
Cultural Development	60,824	57,925	95%	2,899
Director Corporate Services	249,500	249,500	100%	-
Computers & Office Equipment	997,695	953,981	96%	8,000
Customer Service	19,350	-	0%	19,350
Traffic Investigation & Reports	94,965	38,550	41%	43,000
Infrastructure Asset Management	251,839	187,839	75%	34,000
Public Open Space Planning & Asset Mgmt	28,000	28,000	100%	-
Waste Services Supervision	127,479	41,488	33%	20,000
Plant Replacement Program	3,311,537	3,400,174	103%	26,700
Environmental Planning	65,000	65,840	101%	-
Environmental Protection	29,168	20,930	72%	7,265
Urban Design	50,000	5,000	10%	40,000
Communications	61,144	57,822	95%	-
	5,826,546	5,582,161	96%	202,214

A full list of projects budgets recommended for revote appears in **ANNEXURE 2**.

Conclusion:

At the end of each financial year the budget provisions for projects that have not commenced, or are not contracted to commence, lapse. The budget provisions for these projects are required to be revoted into the new financial year budget. This needs to be done by resolution of Council. Budget provisions for projects in progress at 30 June do not lapse and, therefore, have been rolled into the new financial year administratively.

This report primarily deals with 2006/2007 project delivery performance and updates the status of capital projects in the 2007/2008 Budget. Overall 90% of the capital works program and 96% of other projects were completed or in progress at 30 June. The report also details a number of projects recommended for revote in both the operating and capital budgets. Details of rollovers plus the revote recommendations are summarised in ANNEXURES 1 & 2.

Michelle Phair
Team Leader Financial Services

Don Johnston
Manager Finance

Annexures:

1. Capital Works Program – 2006/2007 Rollovers & Revotes (including Project Status update as at 31 August 2007)
2. Other Projects – 2006/2007 Rollovers & Revote

Item No: R2 Recommendation to Council
Subject: **HOPETOUN AVENUE / PETRARCH STEPS, vaocluse
PEDESTRIAN ACCESS**
Author: Alan Opera – Manager- Public Infrastructure
File No: T.240 240.
Reason for Report: To improve safety for pedestrians in Hopetoun Avenue between Wentworth Road and Petrarch Ave, Vaocluse.

Recommendation:

- A. That Council relocate the arris rail fence and regrade and return the section of nature strip between Nos.6 -16 Hopetoun Avenue to improve pedestrian access to these properties.
- B. That Council provide a pedestrian proof fence behind the kerb from the eastern side of the driveway outside No.18 Hopetoun Avenue to the southern side of the driveway to No.24 Hopetoun Avenue to prevent pedestrian crossing and pedestrian access along this section of Hopetoun Avenue.
- C. That Council advise the residents of the properties on the northern side of Hopetoun Ave between Wentworth Road and Petrarch Ave that the works referred to in A. and B. above are for safety reasons and that pedestrians should be using the concrete footpath on the southern side of Hopetoun Avenue at this location.

Background:

Council has received correspondence from two residents complaining about the new traffic calming works in Hopetoun Avenue, claiming that it is dangerous for pedestrians to walk along the northern side of Hopetoun Avenue, generally between Wentworth Road and Petrarch Avenue steps, Vaocluse.

Issues:

The issues raised are:

1. Request for a footpath to be constructed outside Nos. 6-16 Hopetoun Avenue.

The section of nature strip between the longitudinal arris rail fence and the kerb between Nos.6 - 16 Hopetoun Avenue is narrow and unmade. On-street parking which predominantly serves these residences is provided in this location and it is desirable to retain this public parking. At present, because the nature strip is narrow and hard to traverse, residents are forced to walk down the roadway to gain access to their premises. This represents a serious traffic hazard, especially with children and strollers involved.

The provision of a formal footpath is not feasible in this location as there is insufficient width between the kerb and the adjacent steep embankment to provide a minimum width 1.5 metre footpath and the cost of reconstruction of this embankment is prohibitive. Further the provision of a formal footpath in this location would encourage pedestrian traffic along the frontage of Nos. 18-24 Hopetoun Avenue which is considered to be dangerous (see 2. below).

It is, however, considered feasible to carry out minor relocation of the existing arris rail fence and to regrade and return this section of nature strip to provide a usable nature strip of

approximately 1.0 metre width for local residents to gain access from their vehicles to their properties and visa versa.

2. Request for the nature strip outside 18-24 Hopetoun Avenue to be cleared and for a footpath to be installed.

Similar to the nature strip outside premises Nos. 6-16 Hopetoun Avenue, the section of nature strip between the arris rail fence and the kerb from the eastern side of the driveway outside No. 18 Hopetoun Avenue and the southern side of the driveway to No. 24 Hopetoun Avenue is very narrow, unmade and overgrown and is completely unsuitable for pedestrian traffic.

There is no pedestrian access directly from Hopetoun Avenue to these properties along this section of roadway until you reach the Petrarch Steps. The provision of a formal footpath is not feasible in this location as there is insufficient width to provide a minimum width footpath between the kerb and the steep embankment and reconstruction of the embankment is of prohibitive cost. Unlike issue 1. above, however, parking is restricted at this location and there is no need to provide a usable nature strip for residents to gain access between their vehicles and their premises.

The provision of a sub-standard footpath as proposed outside Nos. 6-16 (i.e. less than 1.5m in width) is inappropriate in this location as pedestrians walking down this footpath could be forced onto the carriageway to pass in an extremely dangerous location. Additionally, the existing of a formal footpath would be an invitation for pedestrians to cross the road.

This represents a serious traffic hazard and contrary to the resident's request it is considered that pedestrian access along this section of Hopetoun Avenue should be banned. It is therefore proposed to erect a pedestrian proof fence behind the kerb from the eastern side of the driveway outside No.18 Hopetoun Avenue to the southern side of the driveway to No.24 Hopetoun Avenue to prevent pedestrian access and crossing along this section of the road.

3. At present some pedestrians who access the Petrarch Steps cross Hopetoun Avenue at its intersection with Petrarch Avenue. The bend outside No.24 Hopetoun Avenue severely restricts sight distance for both motorists and pedestrians and therefore creates an extremely hazardous situation.

Because of the restricted sight distance it is not possible to introduce either a pedestrian refuge or a pedestrian crossing at this location. Although blister kerbs could be constructed sight distance would not be improved and these blisters would in themselves represent a hazard to motorists. It is considered that the only available means to reduce this hazard is to redirect pedestrians away from the bend as is proposed in 2. above. It should be noted that pedestrians will therefore have to go some 13 metres further north of the Petrarch Steps before crossing the carriageway of Hopetoun Avenue.

4. It is claimed that the dangerous pedestrian situations detailed in 1. – 3. above are a result of the recent traffic calming measures introduced in Hopetoun Avenue.

These traffic calming measures have in fact improved the situation by reducing vehicle speeds in this location. It is noted however that these previously unidentified pedestrian hazards still exist and appropriate action, as detailed above, should be taken to reduce these hazards.

Proposal:

The provision of a footpath on the northern side of Hopetoun Avenue is unnecessary as a formal concrete footpath is provided on the southern side. This footpath is to be reconstructed as part of the 2007/2008 Infrastructure Renewal Program.

The pedestrian hazards which have been identified can be satisfactorily addressed by providing for limited access outside 6-16 Hopetoun Avenue and by banning pedestrian access between 18-24 Hopetoun Avenue. It is proposed that:

- i. The existing arris rail fence outside 6-16 Hopetoun Avenue be relocated and that the nature strip be widened, regraded and returfed to provide a 1.0 metre (approximately) nature strip.
- ii. A pedestrian proof fence be introduced behind the kerb from the eastern side of the driveway outside No.18 Hopetoun Avenue to the southern side of the driveway to No.24 Hopetoun Avenue thereby preventing pedestrian crossing and pedestrian access along this section of Hopetoun Avenue.

A plan of this proposal is attached as Annexure 1.

Identification of Income and Expenditure:

The cost of (i) above would be of the order of \$2,000. The cost of (ii) above would be of the order of \$16,000. These works will be funded from the current 2007/08 Infrastructure Renewal Program.

Conclusion:

The section of nature strip outside premises Nos. 6 -16 Hopetoun Avenue is adjacent to the pedestrian and vehicular access to a number of properties and provides kerbside parking servicing these residences. While the provision of a formalised footpath for the general public is not considered appropriate the minor relocation of the arris rail fence and regrading and returfing of a section of nature strip approximately 1 metre wide directly behind the kerb would greatly improve pedestrian access to these properties.

The section of nature strip outside premises Nos. 18 - 24 Hopetoun Avenue cannot accommodate a formal footpath unless a substantial retaining wall is constructed at prohibitive cost. As there is no pedestrian access to any of the properties along this section of the street until you reach the Petrarch Steps, it is considered that a pedestrian proof fence denying access to pedestrians should be constructed along the back of kerb and at each end of this section of nature strip to exclude the public from this area. (Note: Alternative pedestrian access is available via the concrete footpath on the southern side of Hopetoun Avenue). The fence should be extended past the Petrarch Steps to the southern side of the driveway to No.24 Hopetoun Avenue to encourage any pedestrians crossing this road to do so as far as possible from the blind bend at this location.

Alan Opera
Manager – Public Infrastructure

Zubin Marolia
Acting Director Technical Services

Annexures:

1. Sketch plan indicating recommended works in Hopetoun Avenue.

