

Council Meeting

Monday 12 November 2007

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Items Determined Under Delegated Authority by Council Committees

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

Corporate & Works Committee Meeting held on Monday 5 November 2007

- D1 Confirmation of Minutes of Meeting held on 15 October 2007
- D2 Presentation of the Financial Reports for the year ended 30 June 2007 to the Public
- D3 Statutory Review Of Policy - Payment of Expenses and Provision of Facilities to The Mayor, Deputy Mayor and Councillors Policy
- D4 Customer Service and Communication Principal Activity - 1st Quarter Management Plan Review
- D5 Organisation Support Principal Activity - 1st Quarter Management Plan Review
- D6 Environmental, Infrastructure and Stormwater Works Program - 1st Quarter Management Plan Review
- D7 Roads, Traffic And Transport Principal Activity - 1st Quarter Management Plan Review
- D8 279 Edgecliff Road, Woollahra - Road Reserve Encroachment
- D9 4 Wunulla Road, Point Piper - Proposed Road Closure and Sale

Development Control Committee Meeting held on Monday 5 November 2007

- D1 Confirmation of Minutes of Meeting held on 15 October 2007
- D2 DA20/2007 – 4 Carthona Avenue, Darling Point – Alterations & additions to an existing dwelling including a new boatshed – 10/1/2007
- D3 DA320/2004 Part 2 – 112 Wolseley Road, Point Piper – Section 96 Application Proposed Modification including conditions of consent to allow removal of trees required to be retained & their replacement with new plantings – 30/5/2007 – (See Item R2)
- D4 DA114/2006 Part 2 – 70-72 Wolseley Road, Point Piper – Section 96 Application - Proposed Modification including addition of 2nd car lift, timber deck & landscaped works in the foreshore area, changes to balconies & changes to conditions – 29/5/2007
- D5 DA166/2007 – 116 Queen Street, Woollahra – Alterations & additions to accommodate new 3rd level for offices – 20/3/2007 – (See Item R3)
- D6 DA129/2007 – 102-106 Oxford Street, Paddington – Alterations & additions to 1st floor to provide two commercial tenancies above existing hotel – 6/3/2007
- D7 DA294/2007 - 102-106 Oxford Street, Paddington – Alterations to existing hotel – 8/5/2007
- D8 DA555/2006 – 419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of George’s Restaurant to a Hotel & the use of Level 3 of the Golden Sheaf Hotel as offices – 30/8/2006-(See Item R1)
- D9 Register of Current Land and Environment Court Appeals for Development Applications

Urban Planning Committee Meeting held on Monday 29 October 2007

- D1 Confirmation of Minutes of Meeting held on 8 October 2007
- D2 Built Environment Principal Activity – First Quarterly Management Plan Review

Community & Environment Committee Meeting held on Monday 29 October 2007

- D1 Confirmation of Minutes of Meeting held on 8 October 2007
- D2 Extraordinary Meeting Woollahra Traffic Committee Minutes 16 October 2007
 - Y12 No. 599-601 New South Head Road (Cranbrook Road), Rose Bay – Words Zone
 - Y13 No. 9 Victoria Street, Watsons Bay – Works Zone
 - Y14 Five Ways Streetscape Project – TCP & Signage
- D3 Parks & Public Space Principal Activity - 1st Quarter Management Plan Review
- D4 Natural Environment Principal Activity - 1st Quarter Management Plan Review
- D5 Community Services Principal Activity - Management Plan Quarterly Report
- D6 The Way Forward : Woollahra Library and Information Services Strategic Plan
- D7 Proposed Community Garden and Policy



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 12 November 2007 at 8.00pm.**

Present: His Worship the Mayor, Councillor Geoff Rundle

Councillors John Comino
Claudia Cullen
Christopher Dawson
Wilhelmina Gardner
Keri Huxley
Andrew Petrie
Isabelle Shapiro
David Shoebridge
Fiona Sinclair King
John Walker

Staff:

A Coker (Director – Planning & Development)
G Clarke (Director – Corporate Services)
W Hatton (Director – Technical Services)
G James (General Manager)
D Johnston (Manager – Finance)
S O’Connor (Secretarial Support)
K Walshe (Director – Community Services)

Also in Attendance: Nil

Confirmation of Minutes

(Cullen/Shapiro)

- 1/41** THAT the Minutes of the Council Meeting held on 29 October 2007 be taken as read and confirmed.

Adopted

Apologies

(Cullen/Shapiro)

- 2/41** Apologies were received and accepted from Councillors Marcus Ehrlich, Tanya Excell, Anthony Boskovitz & Julian Martin and Leave of Absence granted.

Adopted

Declarations of Interest

Nil

Suspension of Standing Orders

(Shapiro/Petrie)

- 3/41** That Standing Orders be suspended to allow Councillor Shapiro to express her thanks to the Mayor for arranging meetings with the outdoor staff from the various depots and to thank all the outdoor staff on behalf of the Councillors of all the good work they do for the Council and the Community.

Adopted

- 4/41** The Mayor ruled Urgency and permitted the Suspension of Standing Orders.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 5 November 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: 2007/2008 Budget Review for the Quarter ended 30 September 2007
Author: Michelle Phair – Team Leader Financial Services
File No: 331.G
Reason for Report: To report on the review of the 2007/2008 Budget for the quarter ended 30 September 2007

(Petrie/Sinclair King)

5/41 Resolved without debate:

A. THAT the report be received and noted and the variations to the Budget be adopted.

Item No: R2 Recommendation to Council
Subject: Release of Covenant Registered on Title (K804544), 25A Fitzwilliam Road, 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.

(Petrie/Sinclair King)

6/41 Resolved without debate:

A. That Council consent to a variation of the covenant K804544 in terms of not exceeding the current building footprint with respect to 25A Fitzwilliam Road, Vacluse being lot 10 DP 55431; subject to receipt by Council of the written evidence of consensus between the owners of 25A Fitzwilliam Rd and all owners of properties which benefit from the covenant.

Item No: R3 Recommendation to Council
Subject: **Civil Construction of Minor Works Under Council Supervision – Schedule of Rates**
Author: Joe Cavagnino – Purchasing Coordinator.
File No: Tender No 07/12
Reason for Report: To recommend to Council the acceptance of a Tender

(Petrie/Sinclair King)

7/41 Resolved without debate:

- A. That Council enter into a Schedule of Rates contract with the following contractors for the categories of Minor Works specified:

Category - Minor Concrete Works

Kingston Civil Pty Ltd, Merko Services Pty Ltd, Ally Property Services, Sydney Civil Pty Ltd

Category – Minor Asphalt Works

Bernipave Pty Ltd, Kingston Civil Pty Ltd, Sydney Civil Pty Ltd, Merko Services Pty Ltd

Category - Minor Paving Works

Bernipave Pty Ltd, Chrisos Pty Ltd, Ally Property Services, NSW Civil Constructions

Minor Stormwater Pipes and Pit Works

Merko Services Pty Ltd, Kingston Pty Ltd, Ally Property Services, Chrisos Pty Ltd

- B. That successful and unsuccessful tenderers be advised accordingly.

Item No: R4 Recommendation to Council
Subject: **Investments Update**
Author: Don Johnston, Manager Finance
Michelle Phair, Team Leader Financial Services
File No: 389.G
Reason for Report: To update the Committee on Council's CDO investments.

(Petrie/Sinclair King)

8/41 Resolved without debate:

That Council authorise a Committee made up of not more than 4 Councillors (appointed by and including the Mayor and the Chairman of the Corporate and Works Committee), in consultation with an independent investment advisor, Council's Financial Controller and the General Manager, such Committee to have the following responsibilities and powers:

1. To meet as necessary to make decisions on sale of CDO's (including by telephone backup).
2. To make urgent determinations (where appropriate) on sale of CDO's and to instruct staff to implement such determination, on an urgent basis.
3. To report on it's decisions and outcomes to the Corporate and Works Committee and Council.

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 5 November 2007 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: 419-421 New South Head Road, Double Bay (Georges Restaurant) & 423-431 New South Head Road, Double Bay (Golden Sheaf Hotel) – Alterations & additions to existing Golden Sheaf Hotel & Georges’s Restaurant – Change of use of George’s Restaurant to a Hotel & the use of level 3 of The Golden Sheaf Hotel as offices – 30/8/2006

Author: Simon Taylor - Assessment Officer

File No: DA555/2006

Reason for Report: In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Petrie reason being the importance of the matter should be considered by the Council as a whole.

Note: Late correspondence was tabled by Jane Hewitt of Home Wilkinson Lowry & HM Saunders of Design Collaborative.

**Motion moved by Councillor Petrie
Seconded by Councillor Shapiro**

THAT the Development Application be moved approved in accordance with the staff recommendation of Development Control Committee of 5 November 2007 and recommendations for acoustic treatment as tabled in late correspondence from Challis Consulting.

**Amendment moved by Councillor Huxley
Seconded by Councillor Sinclair King**

That the matter be referred to the Development Control Committee of 19 November 2007 for consideration and recommendation to the Council Meeting on 26 November 2007.

**The Amendment was put and lost
The Motion was adopted**

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

9/41 THAT the Council, as the consent authority, grant development consent to DA 555/2006 for alterations and additions to the existing Golden Sheaf Hotel and George's Restaurant, the change of use of George's Restaurant to a Hotel and the use of Level 3 of the Golden sheaf as offices on land at 419-421 and 423-431 New South Head Road, Double Bay, subject to the following conditions:

1. **Approved Plans**

This consent relates to the work, shown in colour, on plans numbered 05050.00, 05050.01, 05050.02, 05050.03, 05050.04 and 05050.05, dated 9 August 2006 and drawn by Tzannes Associates, all of which carry a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions.

2. **Awning**

The awning to 419 New South Head Road is to be continued so that it provides continuous cover to the existing awning of the Golden Sheaf Hotel at 423 New South Head Road. It is to be constructed in a way that is reversible so that it does not affect the existing the heritage significance of the awning of the Golden Sheaf Hotel. Details are to be included in the application for a Construction Certificate.

3. **Safety barrier**

At the request of NSW Police, the applicant is to consult with Council, prior to the issue of the Occupation Certificate, in relation to the construction of a permanent pedestrian safety barrier on the southern side of New South Head Road bordering the footpath and road between the two sets of pedestrian traffic lights.

4. **Smoking**

The Smoke-free Environment Amendment (Enclosed Places) Regulation 2006 provides guidelines for the minimum amount of open space that can be used to consider an ‘outdoor’ area as unenclosed. This development consent does not ensure compliance with the provisions of the Smoke-Free Environment Act.

5. **Trading hours of take away shop**

The take away shop at 419 New South Head Road is to cease trading two hours prior to the closing times for the Golden Sheaf Hotel. ie by 11:00pm on Monday, Tuesday and Wednesday nights, by midnight on Thursday, Friday and Saturday nights and 10:00pm on Sunday night and public holidays.

This condition has been imposed in order to mitigate amenity impacts upon the neighbourhood associated with anti-social behaviour.

Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

6. **Trading hours of expanded premises at 419-421 New South Head Road**

The trading hours for the expanded premises within 419-421 New South Head Road are to be consistent with the existing license for the Golden Sheaf Hotel, namely 7am – 1am on Monday-Wednesday, 7am – 2am on Thursday-Saturday and 7am–12midnight on Sunday.

This condition has been imposed in order to mitigate amenity impacts upon the neighbourhood associated with anti-social behaviour.

Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

7. Light and Ventilation

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1. If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability. This condition does not set aside the mandatory requirements of the Public Health (Microbial Control) Regulation 2000 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the Regulation prevents the issue of a Construction Certificate unless the Accredited Certifier/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the Regulation details what information must be submitted with any Construction Certificate. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.

8. Food Premises – Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the Food Act 2003, Food Regulation 2004; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: Construction and fit out of food premises.

No Construction Certificate relating to the construction or fitout of food premises must be issued until Council's Environmental Health Officers' have advised in writing that the plans and specification are considered satisfactory. The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any Construction Certificate.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the Environmental Planning & Assessment Regulation 2000 as a matter that a Certifying Authority may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any Construction Certificate for such works.

9. Food Premises - Inspection and Registration

Prior to the issue of any Occupation Certificate or occupation or use of any food premises: -

- the Principal Contractor or owner must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer

- a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer
- the owner or occupier must have registered the Food Premises (Notification of conduct under section 100 of the Food Act 2003)

Note: Notification can be done on-line at www.foodnotify.nsw.gov.au

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires the proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation.”

Note: *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

10. Noise Control

The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

11. Noise from licensed premises

The L_{A10}^* noise level emitted from the licenced premises shall not exceed the *background noise* level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5 dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10}^* noise level emitted from the licenced premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licenced premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Licenced premises means premises licenced under the Liquor Act 1982, the Registered Clubs Act 1976.
* For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.

Note: This condition is identical to the minimum standard condition imposed by the Liquor Administration Board (LAB). The LAB may specify other standards in respect of the above condition under the Liquor Act 1982, the Registered Clubs Act 1976 and associated Regulations. Section 104 of the Liquor Act 1982 and section 17AA of the Registered Clubs Act 1976 provides an informal mechanism for complaints to be made (by residents, Police, local consent authorities and others) where the amenity of local neighbourhoods is unduly disturbed by the conduct of licensed premises and registered clubs (or their patrons). The LAB is responsible for resolving such complaints and may impose temporary or permanent conditions on any licence. For further information go to the Department of Gaming and Racing's website: (www.dgr.nsw.gov.au).

Note: Interior noise levels which still exceed safe hearing levels are in no way supported or condoned by Council.

12. Noise from mechanical plant and equipment

Noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest strata, stratum or community title boundary.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the *NSW Industrial Noise Policy* (http://www.environment.nsw.gov.au/resources/ind_noise.pdf) ISBN 0 7313 2715 2, dated January 2000, and *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) ISBN 1741370671, dated December 2004.

13. Outdoor lighting – Commercial

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

14. Recording of significant or contributory buildings prior to any demolition

An archival record of the building and landscape elements to be demolished is to be submitted, to the satisfaction of Council's heritage officer, prior to the commencement of the demolition work and prior to the issue of a Construction certificate.

The archival record is to be completed by a heritage consultant listed by the NSW Heritage Office or by another suitably qualified consultant who must demonstrate a working knowledge of archival principles. It is to be bound in an A4 format, with drawings folded to suit and is to include the following: -

- a copy of the final heritage report submitted with the development application

- a site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties, floor plans at scale of 1:100 and postcard sized photographs of: -
 - each elevation
 - each structure and landscape feature and significant parts of the property as defined in the submitted statement of significance
 - views to the subject property from each street and laneway or public space
 - external and internal details as nominated in the assessment report by Council's heritage officer
- each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice
- the original, coloured, photographic set and one coloured photocopy are to be submitted to the satisfaction of Council's heritage officer prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to the Woollahra Local History Library

15. Fire safety measures

A schedule of all existing and proposed fire safety measures within the building must be submitted to Council with or before the application for a Construction Certificate. Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, Council requires the building to be brought into total conformity with the Building Code of Australia as the measures contained in the building are inadequate to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and to restrict the spread of fire from the building to other buildings nearby.

16. Place of Public Entertainment License

The building shall not be used as a Place of Public Entertainment within the meaning of the Local Government Act 1993 without the prior approval of Woollahra Municipal Council.

17. Requirement for a Construction Certificate

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

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

18. Structural adequacy

A statement from a qualified practising Structural Engineer, certifying to the adequacy of the existing structural members, walls and footings to support the additional loads imposed by the proposed development, must be submitted with the Construction Certificate application. This condition is imposed to ensure the structural integrity of the proposed building work.

19. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members. This condition is imposed to ensure the structural integrity of the proposed building work.

20. Demolition, excavation and construction hours

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

21. Machine excavation

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

22. Building Inspections

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

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

23. Occupation of premises

A person must not commence occupation or use of the whole or any part of a *new building* (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

Note: *New building* includes an altered portion of, or an extension to, an existing building.

Note: In circumstance where the works do not relate to occupation the required *occupation certificate* is essentially a certificate of completion of the approved work.

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

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

25. Location of building operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system. Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

26. Standard for demolition

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

27. Hoarding

A Class B (Overhead) Hoarding is required for the length of the property at 419 New South Head Road. An application for the required Hoarding must be submitted to Woollahra Council prior to any Construction Certificate being issued. Prior to commencement of any demolition, construction or like work or the issue of a Notice of Commencement, approval for the required Hoarding must be obtained and the required Hoarding erected.

Note: A minimum of two weeks is required for assessment of a hoarding application. Failure to comply with this condition may result in fines and proceedings to stop work.

28. Repair of Damaged Infrastructure

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

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

29. Payment of Long Service Levy, Security, Development Levy and Fees

The certifying authority must not issue any Part 4A Certificate until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a construction certificate.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - making good damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates	\$26,200	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy	\$12,139 + Index Amount	Yes, quarterly	T94
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$38,502 plus any relevant indexed amounts and long service levy		

How must the payments be made?

Payments must be made by:

1. Cash deposit with Council,
2. Credit card payment with Council, or
3. Bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- a) the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b) the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- c) the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d) the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

How will the section 94A levy be indexed?

To ensure that the value of the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2005 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

Please contact our customer service officers. Failure to correctly calculate the development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- a) the reasons given;
- b) whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c) whether any prejudice will be caused to the efficacy and operation of this plan; and
- d) whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- a) the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b) the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- c) the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d) the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

30. Compliance with Building Code of Australia

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

31. Protection of public places

- If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place
- If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place

- Any such hoarding, fence or awning must be removed when the work has been completed

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid. (See Condition No. 26)

32. Signs to be erected on building and demolition sites

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

33. Acoustic treatments

The following acoustic treatments are to be implemented to the first floor level of the Georges Restaurant building in order to ensure an appropriate level of acoustic amenity for surrounding properties: -

1. The underside of the ceiling structure (an area of the order of 28m²) is to incorporate an acoustical ceiling with an NRC rating of 0.75.
2. The south-western wall, that abuts the adjacent property at 415 New South Head Road, is to incorporate a sound absorptive wall lining to a height of 1.8m. The sound absorptive wall lining is to incorporate an abuse and impact resistant facing and is to be designed to achieve an NRC rating of 0.9.
3. The sections of wall on both sides of the access door on the northern side of the covered area are to incorporate sound absorptive wall linings up to the top of the access doors on the wall. The wall linings are to incorporate abuse and impact resistant facings and are to be designed to achieve an NRC rating of 0.9.
4. The section of the southern wall that separates the unroofed terrace (located immediately to the south-east of the roofed section of terrace) is to incorporate a sound absorptive wall lining to a height of 1.8m.
5. The section of wall at the south-eastern end of the unroofed first floor terrace is to incorporate a sound absorptive wall lining to a height of 1.8m.
6. The lowest 1.8m high section of the 4.8m high eastern end wall of the unroofed first floor terrace is to incorporate a sound absorptively faced section of vertical wall.

Note: Division was called by Councillors Huxley and Petrie

For the Motion

Councillor Dawson
Councillor Shapiro
Councillor Petrie
Councillor Cullen
Councillor Walker
Councillor Comino
Councillor Rundle

Against the Motion

Councillor Gardner
Councillor Huxley
Councillor Shoebridge
Councillor Sinclair King

7/4

Item No: R2 Recommendation to Council

Subject: **112 Wolseley Road, Point Piper – Section 96 Application Proposed Modification including Conditions of consent to allow removal of trees required to be retained & their replacement with new plantings – 30/5/2007**

Author: John Saszczak - Assessment Officer

File No: DA320/2004 Part 2

Reason for Report: In accordance with Council's meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee's recommendation (refusal) to the Officer's recommendation (approval).

Note: Late correspondence was tabled by Jim Osborne of Material.

**Motion moved by Councillor Petrie
Seconded by Councillor Walker**

THAT the staff recommendation to the Development Control Committee of 5 November 2007 be amended to relate to Scheme B as proposed in the late correspondence be approved.

**Amendment moved by Councillor Huxley
Seconded by Councillor Shoebridge**

1. THAT Council refer Development Application No. 320/2004 Part 2 for Section 96 Modification on land at 112 Wolseley Road Point Piper, to the Development Control Committee of 19 November 2007 to determine the application having regard to Scheme B.
2. THAT photo montages be provided identifying the proposed plantings at the time of planting and at mature stage
3. THAT Landscape plans be distributed to all notifiable residents

The Amendment was put and carried

And as the Motion was adopted

10/41 Resolved:

1. THAT Council refer Development Application No. 320/2004 Part 2 for Section 96 Modification on land at 112 Wolseley Road Point Piper, to the Development Control Committee of 19 November 2007 to determine the application having regard to Scheme B.
2. THAT photo montages be provided identifying the proposed plantings at the time of planting and at mature stage
3. THAT Landscape plans be distributed to all notifiable residents

Item No: R3 Recommendation to Council
Subject: **116 Queen Street, Woollahra – Alterations & additions to accommodate new 3rd level for offices – 20/3/2007**
Author: Joseph La Posta – Senior Assessment Officer
File No: DA166/2007
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to a substantive change of the Committee’s recommendation (refusal) to the Officer’s recommendation (approval).

Note: Late correspondence was tabled by Lily Lyn, Rosalind & Peter Winfield, Dr Ron White (2 pieces), S Tonello.

Note: Councillor Sinclair King tabled a petition in support of recommendation for refusal.

Motion moved by Councillor Huxley
Seconded by Councillor Shoebridge

Resolved:

- A. THAT the Council, refuse Development Application No.166/2007 for alterations and additions to accommodate new third level for offices on land at 116 Queen Street, Woollahra, subject to the following reasons:
1. The intensification of use is considered unsatisfactory and unacceptable having regard to the cumulative impact of successive previous consents and the additional floor area proposed.
 2. The Council is satisfied given the history of complaints by residents adjoining the hotel in relation to traffic impacts, parking impacts, noise impacts and anti-social behaviour, that it is not in the public interest to permit any further intensification of use or any increase in occupiable floor area.
 3. The failure of the applicant to demonstrate through the provision of current traffic and parking reports, that the intensification of use would not have an adverse impact upon traffic and parking.
- B. THAT the Manager Compliance carry out an audit for Compliance with development consents already issued. Including, but not limited to, the use of balcony areas, obstruction of fire escapes and doors, noise nuisances and compliance with any Place of Public Entertainment approval (POPE).
- C. THAT Staff by memorandum, supply Councillors with a copy of any Place of Public Entertainment approval (POPE) for the subject premises.

Motion moved by Councillor Comino

THAT Council refer Development Application No. 166/2007 on land at 116 Queen Street Woollahra, back the Development Control Committee on the basis of a letter that was distributed by Dr White to Councillor Huxley.

Lapsed for want of a seconder**Motion moved by Councillor Huxley
Seconded by Councillor Shoebridge****11/41 Resolved:**

- A. THAT the Council, refuse Development Application No.166/2007 for alterations and additions to accommodate new third level for offices on land at 116 Queen Street, Woollahra, subject to the following reasons:
1. The intensification of use is considered unsatisfactory and unacceptable having regard to the cumulative impact of successive previous consents and the additional floor area proposed.
 2. The Council is satisfied given the history of complaints by residents adjoining the hotel in relation to traffic impacts, parking impacts, noise impacts and anti-social behaviour, that it is not in the public interest to permit any further intensification of use or any increase in occupiable floor area.
 3. The failure of the applicant to demonstrate through the provision of current traffic and parking reports, that the intensification of use would not have an adverse impact upon traffic and parking.
- B. THAT the Manager Compliance carry out an audit for Compliance with development consents already issued. Including, but not limited to, the use of balcony areas, obstruction of fire escapes and doors, noise nuisances and compliance with any Place of Public Entertainment approval (POPE).
- C. THAT Staff by memorandum, supply Councillors with a copy of any Place of Public Entertainment approval (POPE) for the subject premises.
-

Notice of Motion

Item No: 1
From: Councillor Shoebridge
Date: 29 October 2007
File No: 900.G

(Shoebridge/Cullen)

- 12/41** That a report be brought to Urban Planning Committee considering amendment to all Heritage Conservation Area, DCP's that encourage the installation of solar electricity and solar hot water panels and in particular that do not provide blanket opposition to the installation of solar panels simply because they can be seen from the public domain.

Adopted

Item No: 2
From: Councillors Martin, Huxley and Shoebridge
Date: 8 November 2007
File No: 900.G

(Huxley/Shoebridge)

- 13/41** That a report be brought to the appropriate committee reviewing and advising the appropriate area for notification of development applications regarding hotels in the Municipality. The report should note in particular the recent experience of the Woollahra Hotel DA, where many residents who regarded themselves as affected, were outside the notification zone.

Adopted

Questions Without Notice Tabled Answers

Item No: 11
Subject: Questions Without Notice
Author: Gary James, General Manager
File No: 467.G/Q01
Reason for Report: To provide a response to Questions without Notice from Council Meeting of 29 October 2007 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Motion moved by Councillor Comino
Seconded by Councillor Petrie

14/41 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Comino asking:

Two years ago this Council approved placing of Community Notice Boards in our major shopping centres to notify Council and other relevant information. What progress is being made on implementing this resolution?

Director Community Services In response:

A report went to the Community Environment Community a few months ago for the allocation of one notice board to go in this year at Rose Bay, others are to be considered after consulting with the relevant Chambers of Commerce.

Councillor Huxley asking:

The Unicorn Hotel held a street market over the weekend that extended onto the footpath, was this an approved activity?

Director Planning & Development In response:

On Notice

Councillor Sinclair King asking:

The poisoned tree on the corner of New South Head Road and Victoria Street finally was axed on the weekend to a fresh shining flat stump. When will a mature replacement tree be planted in place of the stump.

Director Technical Services In response:

On Notice - It is not possible to put in a mature tree in the exact location due to the extensive root system of the poisoned tree.

Councillor Shapiro asking:

It has been reported to me that there is a safety rail missing next to Catalina Restaurant and that there are no locks on the men's toilets in Lyne Park. Please can we investigate and repair?

Director Technical Services In response:

On Notice

Councillor Shapiro asking:

The steps to Bellevue Park from Birriga Road, have been blocked off for many months. When will the necessary repairs be undertaken?

Director Technical Services In response:

On Notice

Councillor Shoebridge asking:

I see that in our 30/06/2007 general purpose financial reports that expenditure on materials and contracts for 06/07 was \$1m less than for 05/06. Can we please here an explanation for this reduction given the decision of this Council to increase capital expenditure?

General Manager In response:

On Notice – I'll investigate further I think the expendiutres that Councillor Shoebridge is referring to are materials for contractors under our operating account not Capital Expenditure. Capital Expenditure is identified elsewhere in the statements and is listed as approximately \$11m which would be the consolidation of infrastructure plant, IT equipment and any other capital purchases.

There being no further business the meeting concluded at 9.27 pm.

We certify that the pages numbered 2972 to 2997 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 12 November 2007 and confirmed by Council at the ordinary Meeting of Council on 26 November 2007 as correct.

General Manager

Mayor