

Council Meeting

Monday 8 September 2008

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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 1 September 2008

- D1 Confirmation of Minutes of Meeting held on 18 August 2008
- D2 Gurner Lane Footpath Widening

Development Control Committee Meeting held on Monday 1 September 2008

- D1 Confirmation of Minutes of Meeting held on 18 August 2008
- D2 DA296/2008 – 40 Holdsworth Street, Woollahra – Alterations & additions including the extension of basement, landscaping works, new signage, air-conditioning system & new doors & windows to rear elevation to facilitate the use of premises as a homewares shop - 27/5/2008
- D3 DA377/2008 – 106 Glenmore Road, Paddington – Alterations & part 1st floor addition to existing dwelling & new garage – 19/6/2008
- D4 DA294/2008 – 104 Hargrave Street, Paddington – Alterations & additions to existing dwelling including a new rear garage linked to a basement store room & rear extension of the lower ground floor rear balconies & attic – 23/5/2008
- D5 DA190/2008 – 3 Northland Road, Bellevue Hill – Demolition of existing dwelling & pool & construction of new dwelling, including a double garage & swimming pool – 9/4/2008
- D6 DA111/2008 – 779 New South Head Road, Rose Bay – Change of use to pharmacy, internal alterations & fit-out & new signage – 6/3/2008 (See Item R2)
- D7 DA804/2007 – 733 New South Head Road, Rose Bay – Demolition of existing buildings & construction of new four storey mixed use building comprising retail, commercial, residential & car parking for 8 vehicles off Norwich Road – 30/11/2007 (See Item R3)
- D8 DA179/2008 – 1 Arthur Street, Bellevue Hill – Substantial alterations & additions to existing dwelling – 7/4/2008
- D9 DA588/2006 – 3-5 Loftus Road, Darling Point – Residential flat building 4 or more storeys, proposed demolition of existing two dwelling houses & construction of residential flat building containing four dwellings – 12/9/2006
- D10 DA34/2008 – 68 Goodhope Street, Paddington – Replacement application – Adaptive reuse of 'Arcadia' building, demolition of existing cottage & ancillary structures to rear of site & addition of single storey pavilion structure & swimming pool, also included is the remediation of the site – 25/1/2008
- D11 DA687/2006 Part 2 – 41 Glenview Street, Paddington – Section 96 Application – Proposed modification add 2 external windows, delete external columns to loggia, change roof material & add pool fence – 31/3/2008
- D12 DA849/2004 Part 4 – 57 Latimer Road, Bellevue Hill - Section 96 Application – Proposed modification of Condition No. 73 relating to retaining structures to north-western corner of site & other minor external modifications – 20/3/2008
- D13 DA322/2008 – 5 Fullerton Street, Woollahra – Construction of loft above the existing garage – 3/6/2008 (See Item R4)
- D14 Register of Current Land and Environment Court Appeals for Development Applications

Urban Planning Committee Meeting held on Monday 25 August 2008

- D1 Confirmation of Minutes of Meeting held on 11 August 2008

Community & Environment Committee Meeting held on Monday 25 August 2008 - Nil R Items



Council Meeting

**Minutes of the Meeting of Woollahra Municipal Council
held at the Council Chambers, Double Bay, on
Monday 8 September 2008 at 7.00pm.**

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

Staff: A Coker (Director – Planning & Development)
G Clarke (Director – Corporate Services)
G James (General Manager)
K Walshe (Director – Community Services)
L Windle (Manager – Governance)
D Sheils (Manager – Public Open Space)
L Oliver Traffic & Transport Planner

Also in Attendance: Nil

Confirmation of Minutes

(Huxley/Comino)

1/16 THAT the Minutes of the Council Meeting held on 25 August 2008 be taken as read and confirmed.

Adopted

(Huxley/Comino)

2/16 THAT the Minutes of the Strategic & Corporate Committee Meeting held on 2 September 2008 be taken as read and confirmed.

Adopted

(Huxley/Excell)

3/16 THAT the Minutes of the Extraordinary Council Meeting held on 2 September 2008 be taken as read and confirmed.

Adopted

Leave of Absence

Nil

Apologies

(Huxley/Comino)

4/16 That apologies be received and accepted from Councillors Marcus Ehrlich & John Walker and Leave of Absence granted.

Adopted

Note: Development Control Committee item R1 (7-9 Conway Avenue, Rose Bay) was considered after Community and Environment Committee item R3 (Woollahra Bike Plan – Bicycle Working Party Minutes 19 August 2008)

Declarations of Interest

Councillor John Comino declared a conflict of interest in Development Control Committee item R2 (779 New South Head Road, Rose Bay) as his partner in his law firm has acted for the owner of this property. Councillor Comino vacated the Council Chamber for this item and did not participate in the discussion or vote on the matter.

Councillor Chris Dawson declared a pecuniary conflict of interest in Corporate and Works Committee item R4 (Double Bay Public Art Project) as his daughter's submission was one of the projects short listed for consideration by the Public Art Advisory Committee. Councillor Dawson vacated the Council Chamber for this item and did not participate in the discussion or vote on the matter.

Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 1 September 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **279 Edgecliff Road, Woollahra – Road Reserve Encroachment**
Author: Anthony Sheedy, Property Officer
File No: 148.279
Reason for Report: To give consideration to the formalisation of an existing encroachment by granting of an easement to permit existing structure to remain on roadway adjoining the property.

(Petrie/Comino)

5/16 Resolved without debate:

- A. That the building encroachment on Attunga Street, Woollahra from the adjoining property of 279 Edgecliff Road be formalised by granting of an Easement to Permit Existing Structure to Remain, to continue for the life of the building, or the redevelopment of the site, or the redevelopment of the structure, whichever occurs first.
- B. That compensation of \$13,000 (plus any applicable GST), and all Council's costs in this matter, be payable to Council by the owner of 279 Edgecliff Road, Woollahra in return for granting the Easement.

Item No: R2 Recommendation to Council
Subject: **June Quarter Budget Review - 2007/2008 Year End Result**
Author: Don Johnston, Manager Finance
File No: 331G 2007/2008
Reason for Report: To present the Committee with the final review of the 2007/2008 Budget and, in doing so, the final result for the 2007/2008 financial year

(Petrie/Comino)

6/16 Resolved without debate:

- A. That the June Quarter Budget Review and the 2007/2008 financial results be received and noted
- B. That \$1,000,000 from the improved working funds position be transferred to a new Reserve as a provision for potential investment losses and a further \$300,000 be transferred to the Computer Reserve to support the future implementation of technological advances

- C. That \$351,000 be transferred to General Reserve from the improved working funds position to fund the withdrawal of the superannuation 'holiday' and Cooper Park Tennis Courts Disabled Toilets as adopted in the 2008/2009 Budget

Item No: R3 Recommendation to Council
Subject: **General Purpose Financial Reports for the year ended 30 June 2008**
Author: Don Johnston, Manager Finance
File No: 331G 2007/2008
Reason for Report: To present the General Purpose Financial Reports for the year ended 30 June 2008 to the Committee and seek the adoption of Council's statement in relation to the Reports

(Petrie/Comino)

7/16 Resolved without debate:

- 1 That Council, having noted the statement by the General Manager and Responsible Accounting Officer, adopt the following statement in relation to its Financial Reports for the year ended 30 June 2008:

That, in relation to the Financial Reports for the Year Ended 30 June 2008, Council is of the opinion that:

The Financial Reports have been drawn up in accordance with:

- i. the Local Government Act 1993 (as amended) and Regulations made thereunder;
- ii. the Local Government Code of Accounting Practice and Financial Reporting and the Asset Accounting Manual; and
- iii. the Australian Accounting Standards and professional pronouncements

and to the best of our knowledge and belief these Reports:

present fairly Council's financial position and operating result for the year; and

accord with Council's accounting and other records;

and further, the signatories to the Reports, to the best of our knowledge and belief, know of nothing that would make the reports false or misleading in any way;

- 2 That Council formally refer the 2007/2008 Financial Reports for audit; and
- 3 In anticipation of receiving the Auditor's Reports, set the Corporate & Works Committee meeting to be held on 20 October 2008 as the meeting at which the Financial Reports will be presented to the public.

Item No: R4 Recommendation to Council
Subject: **Double Bay Public Art Project**
Author: Jo Jansyn – Cultural Development Coordinator
Trent Scrivener – Project Engineer - Streetscapes
File No: 1160 G Public Art (Double Bay)
Reason for Report: To recommend to Council a final concept for the Double Bay Public Art Project

Note: Councillor Chris Dawson declared a pecuniary conflict of interest in this item as his daughter's submission was one of the projects short listed for consideration by the Public Art Advisory Committee. Councillor Dawson vacated the Council Chamber for this item and did not participate in the discussion or vote on the matter.

Note: Late correspondence was tabled by Jo Jansyn, Council's Cultural Development Coordinator.

(Excell/Shapiro)

8/16 Resolved:

- A. That Council enter the commissioning stage of the Double Bay Public Art Project (subject to any Development Application considerations) with artist Bronwyn Berman, with the objective to create and install an eastern gateway artwork by early 2009.
- B. That short-listed artists/teams be advised of the assessment of short-listed concepts.

Item No: R5 Recommendation to Council
Subject: **Supply & Installation of Multi-Function Poles on New South Head Road, Double Bay**
Author: Mark Ramsay – Manager Depot & Waste Services
File No: Tender No 08/12
Reason for Report: To recommend to Council the acceptance of a Tender

(Petrie/Comino)

9/16 Resolved without debate:

- A. That Council enter into a contract with Power Serve for the lump sum price of \$1,311,364.00 to deliver the Double Bay multi-function pole scheme along New South Head Road
- B. That the successful and unsuccessful tenderers be advised accordingly.

Item No: R6 Recommendation to Council
Subject: **Progress Report – Kiaora Lands Development**
Author: Gary James – General Manager
File No: 1209.G Part 2
Reason for Report: To provide a progress report on commercial negotiations with Woolworths in relation to Kiaora Lands Development proposal.

(Petrie/Comino)

10/16 Resolved without debate:

- A. That the Briefing Report be noted and resubmitted to the Council following the September 2008 Elections.
 - B. That in accordance with Section 10A(2)(d) of the Local Government Act the confidential annexures remain confidential.
-

Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 1 September 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council

Subject: **7-9 Conway Avenue, Rose Bay - Demolition of two existing dwelling-houses and ancillary structures, the consolidation of the two (2) allotments & construction of a new residential flat building containing six (6) units incorporating a roof terrace & basement level parking for fifteen (15) vehicles, new swimming pool, landscaping and siteworks – 27/09/2007**

Author: David Waghorn – Acting Team Leader

File No: DA628/2007

Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council to obtain Council’s decision on how to proceed with the Land & Environment Court appeal.

(Martin/Shoebridge)

- 11/16** THAT the Committee resolve to enter into closed session with the press and public excluded to consider the confidential legal advice on this matter in accordance with the provisions of Section 10A(2)(g) of the Local Government Act 1993.

Adopted

In closed session

(Comino/Petrie)

- A. That Council proceed to a Section 34 Conference.
- B. That prior to the Section 34 Conference Council seek further legal and planning advice addressing each of the reasons for refusal for Development Application 628/2007 on land at 7-9 Conway Avenue Rose Bay, recommended by the Development Control Committee on the 4 August 2008 and resolved by Council on the 11 August 2008 including the environmental impacts of the “S” shaped front driveway. Additionally, Council solicitors are to provide firm advice as to whether the SEPP 1 objection is well founded.
- C. THAT upon receipt of the above legal and planning advice, that authority be delegated to the Mayor and General Manager to determine the appropriate course of action on this matter.
- D. THAT in accordance with Council’s policy of confidentiality, the confidential report and legal advice remain confidential for a period of six (6) months or until the conclusion of the appeal, which ever occurs last.

- E. That, without prejudice to the position adopted by Council, that Council seek to have inserted in the driveway, relief from the concrete in the form of mondo grass or other appropriate vegetation with the desire to diminish the impact of the driveway.

Adopted

(Martin/Shoebridge)

- 12/16** That the Committee move into “Open Session”.

Adopted

In Open Session

(Comino/Petrie)

- 13/16 Resolved:**

- A. That Council proceed to a Section 34 Conference.
- B. That prior to the Section 34 Conference Council seek further legal and planning advice addressing each of the reasons for refusal for Development Application 628/2007 on land at 7-9 Conway Avenue Rose Bay, recommended by the Development Control Committee on the 4 August 2008 and resolved by Council on the 11 August 2008 including the environmental impacts of the “S” shaped front driveway. Additionally, Council solicitors are to provide firm advice as to whether the SEPP 1 objection is well founded.
- C. THAT upon receipt of the above legal and planning advice, that authority be delegated to the Mayor and General Manager to determine the appropriate course of action on this matter.
- D. THAT in accordance with Council’s policy of confidentiality, the confidential report and legal advice remain confidential for a period of six (6) months or until the conclusion of the appeal, which ever occurs last.
- E. That, without prejudice to the position adopted by Council, that Council seek to have inserted in the driveway, relief from the concrete in the form of mondo grass or other appropriate vegetation with the desire to diminish the impact of the driveway.
-

Item No: R2 Recommendation to Council
Subject: **779 New South Head Road, Rose Bay – Change of use to pharmacy, internal alterations & fit-out & new signage – 6/3/2008**
Author: David Booth – Senior Assessment Officer
File No: DA111/2008
Reason for Report: In accordance with Council’s meeting procedures and policy this matter has been called to full Council by Councillor Boskovitz for the reasons of issues regarding the traffic report & issues regarding the delivery of products.

Note: Councillor John Comino declared a conflict of interest in this item as his partner in his law firm has acted for the owner of this property. Councillor Comino vacated the Council Chamber for this item and did not participate in the discussion or vote on the matter.

Note: Late correspondence was tabled by Graeme Newman of Newman Psaltis & Co Lawyers and John Coady Consulting Pty Ltd.

**Motion moved by Councillor Boskovitz
Seconded by Councillor Petrie**

That the application be refused for the following reasons:

1. No off street parking is provided in the proposal,
2. No loading dock is provided in the proposal,
3. The proposal does not fulfil the objectives of the Rose Bay Centre Development Control Plan.

**Amendment moved by Councillor Shapiro
Seconded by Councillor Shoebridge**

- A. That the recommendation from the Development Control Committee for approval of the application be adopted.
- B. That the issue of the consent be deferred pending staff checking the accuracy of the Section 94 payment and if there is to be any variation to that amount the staff have the delegated authority to insert the correct amount into the development consent.

**The Amendment was put and carried.
The Amendment became the Motion.
The Motion was adopted.**

14/16 Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

- A. THAT the Council, as the consent authority, grant development consent to Development Application No. 111/2008 for the change of use of the premises to a pharmacy, internal alterations, internal fit-out and new signage on land at 779 New South Head Road Rose Bay, subject to the following conditions:

1. **Approved Plans**

This consent relates to the work, shown in colour on the plans numbered P02 & SP01 which carry a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions. This approval does not relate to the following works which have been carried out without the approval of Council:

- The lowering of the ground floor level by approximately 400 mm and the removal of internal stairs.
- The installation of air conditioning units at ground floor level.
- The demolition of internal walls at ground floor level.
- The installation of a series of steel beams.

2. **Modifications to signage**

- a) In order to maintain the visual amenity of the streetscape, the following proposed signs are **not** approved and are to be deleted from the plans submitted with the construction certificate application:

- Sign 3 a flush wall sign to the New South Head Rd elevation displaying the words “exclusive rewards” etc plus photograph
- Sign 4 a window sign on the New South Head Rd entry with wording and photo
- Sign 5 a window sign on the corner of New South Head Rd and Newcastle St displaying the words “Priceline Pharmacy...professional advice” plus photo
- Sign 7 a flush wall sign on the parapet corner of New South Head Rd and Newcastle St, displaying the words “Priceline Pharmacy”.

- b) In order to maintain the visual amenity of the streetscape and to ensure adequate clearance between the signage on the footpath, the following signs are not to be illuminated and are to be a maximum size of 2400mm x 300mm and the bottom of the signs are to be at least 2600mm above the footpath:

- Sign 2 an underawning sign to the New South Head Rd elevation displaying the words “Priceline Pharmacy”
- Sign 6 a projecting wall sign on the corner of New South Head Rd and Newcastle St displaying the words “Priceline Pharmacy.”

Such is to be indicated on the plans submitted with the construction certificate application.

3. **Reinstatement of original pedestrian entrance**

In order to improve the presentation of the existing building to the streetscape, the pedestrian entrance to the corner of the building is to be reinstated. Such is to be indicated on the plans submitted with the construction certificate application.

4. **Payment of Long Service Levy, Security, Contributions and Fees**

The person(s) with the benefit of this consent must pay the following long service levy, security, contributions, and fees prior to the issue of any *construction certificate, subdivision certificate or occupation certificate*, as will apply.

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. Specifically:

- a) prior to the issue of a *construction certificate*, where a construction certificate is required; or
- b) prior to the issue of a *subdivision certificate*, where only a subdivision certificate is required; or
- c) prior to the issue of an *occupation certificate* in any other instance.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - Making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates.	\$9300	No	T600
CONTRIBUTIONS under Woollahra Section 94 Contributions Plan 2002 (March 2005 update) This plan may inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au			
Contribution towards the provision of public car parking in the Rose Bay Commercial Centre/	\$80,668 + Index Amount	Yes, yearly	T94
Administration of the Woollahra Section 94 Contributions Plan 2002	\$1210 + Index Amount	Yes, yearly	T94
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$168	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$91,346 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 section 94 contributions be indexed?

To ensure that the monetary value of the contributions are not eroded over time by increases in costs the contributions will be increased annually. Clause 3.13 of Woollahra Section 94 Contributions Plan 2002 sets out the formula and index to be used in adjusting the contributions.

Do you need HELP indexing the contributions?

Please contact our customer service officers on 9391-7000. Failure to correctly calculate the indexed contributions 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 94 contributions under Woollahra Section 94 Contributions Plan 2002

Where the applicant makes a written request supported by reasons for payment of the contribution other than as required by clause 3.7 of the plan, 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 required by the proposed development;
- 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.

Where Council accepts periodic payment by way of instalments, it will be on the basis that each instalment is paid before work commences on the corresponding stage of the development and the amount of each instalment will be calculated on a pro-rata basis in proportion to the cost of the overall development.

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 contribution will be indexed in accordance with clause 3.13 of the plan. Under the indexation provisions, if a deferred or periodic payment is made before the next anniversary of the Plan, there will be no increase in the amount payable. 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.

5. Compliance with Disability Discrimination Act

The development must be designed to comply with the requirements of the *Disability Discrimination Act* and AS 1428 – “*Design for Access and Mobility*”, Parts 1, 2, 3 and 4.

6. Requirement for a Construction Certificate

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

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

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. Wet areas

All floors of wet areas are to be constructed and finished so as to be impervious to water and graded to a sufficient number of floor drains.

13. Standard for demolition

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

14. 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.

15. 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.

16. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of Council's document "Standard Specifications for Roadworks, Drainage and Miscellaneous Works dated Jan 2003.

Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Australian Standard AS1742-3 2002 "*Traffic Control Devices for Work on Roads*". Should the applicant propose to direct pedestrians onto the road pavement of a State road then an application is to be made to the RTA for a Road Occupancy Licence. Licence approval is to be submitted to Council.

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

17. Stockpiles

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

18. 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.

19. 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.

20. Light & 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](#).

21. 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*.

Reason: 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/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

22. 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.

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

23. Public Health Act 1991-Skin Penetration Procedures

The Local Authority (Woollahra Council) must be notified of premises where any skin penetration procedures are carried in order to keep a register of such premises. Skin penetration procedure is defined in Section 51 of the Public Health Act 1991 and includes ear piercing or any other procedure that involves skin penetration.

24. Hours of operation

The hours of operation are limited to 8 a.m. to 10 p.m. seven days a week.

25. 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.

26. Fire safety upgraded – Change of building use (cl. 93 of the Regulation)

The Principal Certifying Authority shall submit to Woollahra Municipal Council a fire safety schedule indicating existing and proposed fire safety measures to be installed within the building. The fire safety schedule shall be submitted with the notice of proposed commencement required by (s) 81A of the Environmental Planning and Assessment Act 1979 no later than 2 days prior the beginning of any work.

A copy of the final fire safety certificate shall be submitted to the Council with the occupation certificate and then also to the Commissioner of the New South Wales Fire Brigades and displayed within the building as soon as practical after the completion of the works.

Within 12 months after the final fire safety certificate is issued an annual fire safety statement dealing with each essential fire safety measure in the building shall be submitted to Woollahra Municipal Council, the Commissioner of the New South Wales Fire Brigades and displayed in the building in accordance with the requirements of Clause 177 of the Environmental Planning and Assessment Regulation 2000.

27. Removal of existing advertisement

In order to remove the visually obtrusive advertisement and to mitigate the existing adverse visual impact upon the Newcastle and New South Head Road streetscapes, the existing black, blue and white paint is to be removed from the western wall and from all of the building parapets. The face brickwork to the entire building is not to be painted and is to be restored so that it presents a uniform condition to the streetscapes.

- B. THAT, as the unauthorised works are considered to be satisfactory in terms of environmental impact, Council take no action to require these works to be removed subject to the owners making an application for, and Council issuing, a building certificate under Section 149A-149G of Environmental Planning and Assessment Act 1979 for the works. The required building certificate application is to be submitted to Council within twenty (28) days of this determination and is to be accompanied by the following;
- i) Full works as executed plans, duly coloured showing all works that have been undertaken without prior Council consent.
 - ii) A certificate from a practising structural engineer certifying the structural adequacy of the works that have been undertaken without prior Council consent. Such certificate should also certify the impact of the works that have been undertaken on the structural adequacy of the existing building.
- C. THAT this matter be referred to the Manager – Compliance to take appropriate action under Part 6 of the Environmental Planning and Assessment Act 1979 in accordance with Council's Policy on Unauthorised Uses, Buildings and Works for failure to obtain Council's consent prior to carrying out the unauthorised works.
- D. That the issue of the consent be deferred pending staff checking the accuracy of the Section 94 payment calculation and if there is to be any variation to the amount that the staff have the delegated authority to insert the correct amount into the development consent.

Advisings

1. Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr David Booth. However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing. This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed assessor having the full authority to completely determine the matter at the conference.

2. Modifications to the consent

Changes to the external configuration of the building, changes to the site layout or any changes to the proposed operation or use *will* require the submission and approval of an application under Section 96 of the *Environmental Planning & Assessment Act 1979* before the issue of a Construction Certificate.

3. Hazardous waste removal

Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover and the EPA, and in accordance with the provisions of:

- New South Wales *Occupational Health and Safety Act, 1983*;
- New South Wales *Construction Safety Act, 1912; Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983*;
- The *Occupational Health and Safety (Hazardous Substances) Regulation 1996*;
- The *Occupational Health and Safety (Asbestos Removal Work) Regulation 1996*; and
- The *Waste Minimisation and Management Act and Regulations*.

4. Hazardous Material Management (to be included in all Development Consents)

"Builders are advised to obtain a copy of the EPA publication *Solutions to Pollution for Builders* which provides environmental information including hazardous material management. The EPA can be contacted by phone on 131 555 or at www.epa.nsw.gov.au "

- Item No:** R3 Recommendation to Council
- Subject:** **733 New South Head Road, Rose Bay – Demolition of existing buildings & construction of new four storey mixed use building comprising retail, commercial, residential & car parking for 8 vehicles off Norwich Road – 30/11/2007**
- Author:** David Waghorn – Acting Team Leader
- File No:** DA804/2007
- 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 Lewis Adey of Adey Planning and David Waghorn, Council’s Team Leader.

**Motion moved by Councillor Comino
Seconded by Councillor Petrie**

THAT the Mayor and General Manager be delegated authority to consider entering into consent orders subject to compliance with the below listed matters:

1. To ensure full compliance with the FSR requirements.
2. To aim to comply with the parking requirements by providing additional on site parking.
3. To provide a reduction in the height of the building to protect the amenity of No. 735 New South Head Road, Rose Bay.

**Amendment moved by Councillor Shoebridge
Seconded by Councillor Martin**

That the recommendation from the Development Control Committee be adopted.

**The Amendment was put and carried.
The Amendment became the Motion.
The Motion was adopted.**

15/16 Resolved:

- A. THAT the Council, as the consent authority, refuse Development Application No. 804/2007 for the demolition of existing buildings and construction of a new four storey mixed use building comprising retail, commercial, residential and parking for 8 vehicles off Norwich Road on land at 733 New South Head Road Rose Bay, for the following reasons:
1. The development fails to comply with Council's 12.0m height control and height objectives stipulated under Clauses 12 & 12AA of WLEP 1995. Additionally the SEPP 1 objections is not well founded.
 2. The development does not comply with Council's FSR control and FSR objectives stipulated under Clauses 11 & 11AA of WLEP 1995. Additionally, the SEPP 1 objection is not well founded.
 3. The development does not comply with the front articulation/depth control and setback controls stipulated under the Rose bay Centre DCP.

4. The front setback of the development from New South Head Road does not respect the dominant front setback pattern of No 735 New South Head Road.
5. The development does not comply with Council's off-street car parking requirements and will result in a significant increase and impact on the demand for on-street car parking.
6. The development will have any adverse impacts on the amenity of No 735 New South Head Road in terms of solar access and visual bulk (sense of enclosure).
7. The development is not in the public interest.
8. The loss of district views.

B. THAT Council consider entering into consent orders subject to compliance with the below listed matters as resolved by full Council on the 14 July 2008:

1. To provide a setback at all levels at the front of the building that is consistent with No. 735 New South Head Road, Rose Bay.
 2. To ensure full compliance with the FSR requirements.
 3. To aim to comply with the parking requirements by providing additional on site parking.
 4. To provide a reduction in the height of the building to protect the amenity of No. 735 New South Head Road, Rose Bay.
-

Item No: R4 Recommendation to Council
Subject: **5 Fullerton Street, Woollahra – Construction of loft above the existing garage – 3/6/2008**
Author: Eleanor Smith - Assessment Officer
File No: DA322/2008
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).

(Huxley/Cullen)

16/16 Resolved without debate:

- A. THAT the Council, as the consent authority, refuse Development Application No. 322/2008 for the construction of a loft above the existing garage on land at 5 Fullerton Street Woollahra, for the following reasons:
- The inappropriate location of the loft garage.
 - Visual bulk and scale.
 - Unreasonable overshadowing impact of adjoining properties.
- B. THAT it be noted in the minutes, that the applicant Mr Mendel sought to bully the Councillors into accepting the staff recommendation (in relation to the Development Application No. 322/2008 for 5 Fullerton Street, Woollahra) on the basis that he would personally sue two councillors if the recommendation for approval was not adopted.
-

Item No: R5 Recommendation to Council

Subject: **3 Northland Road, Bellevue Hill – Demolition of existing dwelling & pool & construction of new dwelling, including a double garage & swimming pool – 9/4/2008**

Author: Caroline Owen - Assessment Officer

File No: DA190/2008

Reason for Report: In accordance with Council's meeting procedures and policy this matter is referred to full Council due the recommendation from Site Inspection as resolved by the DCC Committee.

Note: Late correspondence was tabled by Caroline Owen Council's Assessment Officer, Stuart Harding of Willana Associates, Emanuel & Antonette Cassimaty and Dominika Gruia.

(Huxley/Dawson)

17/16 Resolved:

- A. THAT consideration of Development Application No. 190/2008 for demolition of existing dwelling and pool and the construction of a new dwelling, including a double garage and swimming pool be deferred and the applicant confer with Council staff to address the following:
- The rejection of the pool in its proposed location and the proposed pool is to remain on the basement level (present location).
 - There is to be no terracing above RL 35.54 on the south-western boundary to prevent overlooking and not to incorporate any trafficable terracing.
 - A flat roof in lieu of the proposed pitch roof was to address the breach of height compliance.
 - The balcony off bedroom 3 is to be redesigned to be in the form of a Juliet balcony and made non trafficable.
 - The submission of a survey from a registered surveyor, indicating the RL's of the subject site along the boundaries adjacent to No. 22 Suttie Road and No. 5 Northland Road.
 - The proposed ground floor ensuite, laundry, and kitchen windows and the proposed first floor study, dressing room and ensuite windows along the south-eastern elevation are to be provided with fixed and translucent glazing to a height of 1.7metres above floor level.
 - That any future recommendation is to incorporate a condition requiring a Dilapidation Report in relation to the paint grey wall (boundary wall) which is at the rear wall of No. 22 Suttie Road.
 - That the development does not comply with Council's FSR and height controls. The above measures are required to ensure the objectives of Council's FSR and height controls are met and to address the amenity impacts on No. 5 Northland Road and No. 22 Suttie Road, Bellevue Hill.
- B. THAT the next Council be advised that we recommend that the new Development Control Committee should undertake a site inspection with height poles to be erected.

Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 25 August 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Car Volume Pressures - Cross-City Tunnel**
Author: Lorna Oliver, Traffic and Transport Planner
File No: 583.G
Reason for Report: To report on the traffic impacts of the Cross-City Tunnel

(Comino/Petrie)

18/16 Resolved without debate:

- A. That the information be noted.
- B. That the Mayor write to the Department of Planning requesting the immediate release of the report prepared by the Roads and Traffic Authority on the impacts of the Cross City Tunnel for the eighteen month review of the consent conditions.

Item No: R2 Recommendation to Council
Subject: **William Street Paddington - Expansion of Permissible Land Uses**
Author: Chris Bluett - Manager Strategic Planning
File No: 1064.G
Reason for Report: To obtain clarification about a decision of the Council made on 10 June 2008

Motion moved by Councillor Boskovitz
Seconded by Councillor Petrie

That the Local Environmental Plan not be changed.

Amendment moved by Councillor Martin
Seconded by Councillor Huxley

That the recommendation from the Urban Planning Committee be adopted.

The Amendment was put and carried.
The Amendment became the Motion.
The Motion was adopted.

19/16 Resolved:

- A. That draft local environmental plans be prepared for two options incorporating the matters deferred from Draft Woollahra LEP 1995 (Amendment 60) as follows:
- Option 1 - the draft local environmental plan attached as annexure 3 to the report to the Urban Planning Committee on 26 May 2008, including the words, "the upper floor may only be used for residential purposes" and the list of permissible additional uses being extended to include florists and artists' studios.
- Option 2 - the draft local environmental plan attached as annexure 3 to the report to the Urban Planning Committee on 26 May 2008, excluding the words, "the upper floor may only be used for residential purposes" and subject to:
- (i) the list of permissible additional uses being extended to include florists and artists' studios, and
 - (ii) the plan applying only to Nos.32, 34, 36, 40, 50, 52, 64, 70, 76, 78, 80, 84 and Nos. 3, 5, 9, 11, 15, 17, 19, 21, 23, 53, and 59 William Street. This list of properties being those identified by survey on 15 August 2008 as being occupied by a proposed additional permissible use nominated in the draft LEP attached as annexure 3 to the report to the Urban Planning Committee on 26 May 2008 and as extended by uses set out in this resolution.
- B. That a draft development control plan be prepared to amend the Paddington Heritage Conservation Area DCP based on the proposed provisions contained in annexure 5 of the report to the Urban Planning Committee meeting on 26 May 2008 and additionally preventing amalgamation of lots and uses in William Street, Paddington.

Note: A Division was called by Councillors Martin and Huxley

For the Motion

Councillor Comino
Councillor Gardner
Councillor Huxley
Councillor Martin
Councillor Sinclair King
Councillor Dawson
Councillor Excell
Councillor Shapiro
Councillor Cullen
Councillor Shoebridge
Councillor Petrie
Councillor Rundle

Against the Motion

Councillor Boskovitz

12/1

Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 25 August 2008 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Public Tree Management and Views**
Author: David Sheils - Manager Public Open Space
Bruce Rann - Manager Parks and Street Trees
File No: 262.G
Reason for Report: To respond to a Council Notice of Motion

Note: Late correspondence was tabled by Noel Ruting of LandArc Pty Ltd, Eva Grundy, Marcelle Lawrence and Catriona Gillies.

**Motion moved by Councillor Petrie
Seconded by Councillor Comino**

- A. That a Public Tree Management Policy for the whole of the Woollahra Municipality be prepared within 9 months with timely reviews being reported to the Community and Environment Committee.
- B. That prior to the Policy being submitted to the Community and Environment Committee, that the draft policy be reviewed by appropriate consultants and that there be public consultation and working parties involving the public to enable them to have an input into the draft policy.
- C. That staff undertake a detailed assessment of each individual tree with the assistance of external consultants, along New Beach Road to determine options (if any), which may be able to be implemented which can retain the uniformity of the avenue, the health and integrity of the Figs, whilst considering the views of adjoining residents.
- D. That following preparation of the report required by Part A, a report be brought to the appropriate committee with a view to reviewing the Rushcutters Bay Park Plan of Management and in particular considering the Tree Policy, including selective view pruning and selective tree replacement and the report identify any changes required to the Rushcutters Bay Park Plan of Management arising from the review of the Tree Policy.
- E. That a review of the Rushcutters Bay Park Plan of Management be carried out that brings forward a new landscape plan which includes individual garden beds, edging and or alternative and identified tree plantings in the park and that a working party with community representatives be established and that a sunset clause be placed on that working party and that a report be brought to the appropriate committee.

**Amendment moved by Councillor Shoebridge
Seconded by Councillor Excell**

- A. That a public tree management policy be prepared which incorporates the principles outlined in the report.
- B. That the draft policy be submitted to the Community and Environment Committee for endorsement prior to being placed on public exhibition.
- C. That staff undertake a detailed assessment of each individual tree along New Beach Road to determine options (if any), which may be able to be implemented which can retain the uniformity of the avenue, the health and integrity of the Figs, whilst considering the views of adjoining residents.

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

20/16 Resolved:

- A. That a Public Tree Management Policy for the whole of the Woollahra Municipality be prepared within 9 months with timely reviews being reported to the Community and Environment Committee.
- B. That prior to the Policy being submitted to the Community and Environment Committee, that the draft policy be reviewed by appropriate consultants and that there be public consultation and working parties involving the public to enable them to have an input into the draft policy.
- C. That staff undertake a detailed assessment of each individual tree with the assistance of external consultants, along New Beach Road to determine options (if any), which may be able to be implemented which can retain the uniformity of the avenue, the health and integrity of the Figs, whilst considering the views of adjoining residents.
- D. That following preparation of the report required by Part A, a report be brought to the appropriate committee with a view to reviewing the Rushcutters Bay Park Plan of Management and in particular considering the Tree Policy, including selective view pruning and selective tree replacement and the report identify any changes required to the Rushcutters Bay Park Plan of Management arising from the review of the Tree Policy.
- E. That a review of the Rushcutters Bay Park Plan of Management be carried out that brings forward a new landscape plan which includes individual garden beds, edging and or alternative and identified tree plantings in the park and that a working party with community representatives be established and that a sunset clause be placed on that working party and that a report be brought to the appropriate committee.

Note: A Division was called by Councillors Shoebridge and Petrie

For the Motion

Councillor Boskovitz
Councillor Comino
Councillor Gardner
Councillor Huxley
Councillor Martin
Councillor Sinclair King
Councillor Dawson
Councillor Shapiro
Councillor Cullen
Councillor Petrie
Councillor Rundle

Against the Motion

Councillor Excell
Councillor Shoebridge

11/2

Item No: R2 Recommendation to Council
Subject: **Minutes of the Floodplain Risk Management Committee (FPRMC) Meeting held on Wednesday 30th July 2008 and Recommendations**
Author: Michael Casteleyn - Design & Investigations Engineer – Stormwater & Environment
File No: 626.G Committee
Reason for Report: To report on the outcomes of the Floodplain Risk Management Committee meeting, held on Wednesday 30th July 2008, and recommend further actions.

(Excell/Shapiro)

21/16 Resolved without debate:

- A. That the minutes of the FPRMC meeting, 30th July 2008, be noted.
 - B. Re Item 3.2 of the report.
 - 1. That Council engage Bewsher Consulting to commence the Double Bay Catchment Floodplain Risk Management Study and Plan with the available funds
 - 2. That Council seek further funds from the DECC to complete the Double Bay Catchment Floodplain Risk Management Study and Plan.
 - C. Re Item 3.5 of the report
 - 1. That in regards to the Rose Bay Catchment Flood Study, Council seek further clarification from the consultant to address the issues raised, and that the draft study be amended to incorporated any changes required.
 - 2. That Council invite Waverley Council to participate in the flood plain risk management process.
 - D. Re Item 3.9 of the report
 - 1. That Council write to the Commonwealth Government and State Government stating that given the likelihood of floods occurring more frequently due to climate change it is imperative that Council takes a proactive approach to flood prevention and mitigation and that therefore, the current levels of funding need to be increased or a least maintained.
-

Item No: R3 Recommendation to Council
Subject: **Woollahra Bike Plan - Bicycle Working Party Minutes - 19 August 2008**
Author: Warwick Hatton – Director, Technical Services
File No: 256.G Working Party
Reason for Report: For the Committee to consider the recommendations of the Bicycle Working Party.

(Excell/Shapiro)

22/16 Resolved without debate:

- A. THAT the Recommendations contained in the minutes of the Woollahra Bike Plan – Bicycle Working Party meeting held on Tuesday 19 August 2008, be adopted:.
2. Item 4.1: Celebration of Cycling Event
 - a. That the information be noted.
 3. Item 4.2: Woollahra Bicycle Strategy Review
 - a. That, in carrying out the review, the consultant take into account, and include investigations and recommendations on the issues raised in the Notice of Motion adopted 29 January 2008, namely:
 - i. Use and cost of bike lanes elsewhere
 - ii. Cost of construction and implementation of bicycle infrastructure in the Woollahra Municipality
 - iii. Estimates of stages yet to be constructed
 - iv. Estimates of number of users
 - v. Visual impacts of signage and linemarking
 - b. That the consultant also focus on key gaps on strategic routes in the existing network, which should be completed as a priority, and rationalising the extent and number of lower priority routes.
 - c. That the review also investigate and report on potential sources of funding for implementation of the revised Bike Strategy
 4. Item 4.3: Design of Bicycle Routes
 - a. That the information be noted.
-

Notice of Motion

Item No: 1
From: Councillor Sinclair King
Date: 21 August 2008
File No: 900.G

(Sinclair King/Shapiro)

- 23/16** That a report be brought with input from a landscape or urban designer on the lighting of significant trees in public spaces in the municipality (by flood lighting, fairy lighting or otherwise) especially in the commercial centres. That such report consider the use of Light Emitting Diode (LED) lighting and the use of alternative power such as solar or wind generator powered lighting.

Adopted

Item No: 2
From: Councillor Sinclair King
Date: 21 August 2008
File No: 900.G

(Sinclair King/Excell)

- 24/16** That a report be brought on improving the public open space in Jamberoo Lane, Double Bay.

Adopted

Item No: 3
From: Councillor Sinclair King
Date: 21 August 2008
File No: 900.G

Note: This Notice of Motion was not considered by the Council as the Mayor advised that the letter referred to in the Notice of Motion has already been sent.

Item No: 4
From: Councillors Shoebridge and Huxley
Date: 28 August 2008
File No: 900.G

(Shoebridge/Huxley)

That a report be brought to the Urban Planning Committee considering controls prohibiting site amalgamation in Paddington and Woollahra Heritage Conservation Areas considering:

1. Heritage issues
2. Affordability and diversity of dwellings

Lost

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

For the Motion

Councillor Gardner
Councillor Huxley
Councillor Sinclair King
Councillor Shapiro
Councillor Shoebridge

Against the Motion

Councillor Boskovitz
Councillor Comino
Councillor Martin
Councillor Dawson
Councillor Excell
Councillor Cullen
Councillor Rundle

5/7

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 25 August 2008 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 Martin

25/16 That the responses to previous Questions without Notice be noted.

Adopted

The following questions were asked:-

Councillor Boskovitz asking:

I was recently walking in the park behind Pacific Street, Watsons Bay and found there was a huge amount of dog waste but no bags or bins available.

Could we look into the possibility of providing a small disposal unit in the Park?

Mayor in response:

On notice

Councillor Boskovitz asking:

Could you please let me know when we are going to remove the skip bin in Black Street which is causing a traffic hazard for the surrounding residents?

Mayor in response:

On notice

Councillor Boskovitz asking:

One issue that has come up recently is the lack of bins along the Rose Bay Promenade. Could we investigate the possibility of installing one or more bins along there for the benefit of residents?

Could we also investigate a way in which residents can also dispose of their dog waste?

Mayor in response:

That would have to be a Notice of Motion.

Councillor Boskovitz asking:

Can the Acting Director outline if there are any immediate plans to go ahead and bunch all the cabling in Wilberforce Avenue, Rose Bay?

Mayor in response:

On notice

Councillor Comino asking:

Is it true that new application for the Rose Bay/Point Piper Marina has been lodged with Council?

If so, when can preliminary details be circulated to Councillors considering the public interest issues involved?

Director Planning and Development in response:

We have had discussions with the proponent of that project. We have been informed that 2 new development applications will be submitted. One development application will seek consent for the reconstruction of the Point Piper Marina exactly as previously proposed with the original application. The second development application will involve a completely redesigned Rose Bay Marina. To my knowledge neither of those applications have been submitted.

Mayor further in response:

I can add that on Saturday, I did not attend but there was an exhibition down at the Rose Bay Marina showing it.

Councillor Comino asking:

Can you advise in relation to the direction of the Land and Environment Court, the one I referred to earlier tonight, that Council send a staff member to S34 Conferences with delegations to enter meaningful discussions and conciliation, upon penalty of costs orders being imposed. This with a view to whether Council should make formal representations to the Land and Environment Court Chief Judge?

Director Planning and Development in response:

On notice

Councillor Comino asking:

What is the current status of initiatives between Woollahra, Waverley and Randwick Councils to implement joint depot and waste services operations, having regard to the closure of the Waterloo joint site and possible closure of the O'Dea site?

Mayor in response:

On notice

Councillor Huxley asking:

There was a Notice of Motion adopted by Council that Council staff engage with the members of the local Jewish communities and properties in relation to the installation of bollards at particular sites. Could this Council get some feedback as to how those discussions have progressed and what is the likely outcome?

Mayor in response:

That question will be taken On notice but I can advise that it is being prepared by Mr Hatton.

Councillor Huxley asking:

Does the General Manager propose to respond to allegations made by an applicant recently now that we have resolved that matter?

General Manager in response:

The answer to that is yes. I assume you are talking about an episode and correspondence that went to the DCC last week. Now that that matter has gone through Council tonight I will be contacting that person.

Councillor Huxley asking:

Could the Councillors involved receive copies of the letter that you draft please?

General Manager in response:

The first instance will probably be by way of e-mail, but yes I will copy you in, in relation to that. The e-mail that was circulated was circulated to all Councillors and as the staff were only copied in, it is my intention to contact that person to ask them how they intend to proceed with it. I don't believe the matter has any substance at all.

Councillor Sinclair King asking:

Could you please maintain Greenoaks Road, Darling Point by sweeping leaves, removing rubbish (including the double mattress on the verge) and mowing the grass? At the top of the hill in Darling Point Road near St Marks Church a gutter floods every time it rains and needs to be investigated.

Mayor In response:

If you had driven up Greenoaks Road at about twenty to eight this morning you would have observed workmen mowing the grass outside the Bishopscourt.

Councillor Sinclair King asking:

I am proud of my stand on this Council in protecting and saving heritage properties wherever possible. I recall a Notice of Motion I moved years ago that resulted in the formal listing of properties on Howard Tanner's drive by list. Months ago, when there were serious concerns about the detriments related to heritage listing private properties I asked you a Question Without Notice to arrange for Howard Tanner, Heritage Architect, to address Council on the benefits of heritage listing. Why has this meeting not taken place?

Director Planning and Development in response:

We did make approaches to Mr Tanner. That proved to be difficult because of his commitments elsewhere but I will follow that up and I will let you know when he will be available to do that briefing.

Councillor Dawson asking:

Should we know the identity of the 38 faceless shareholders of the Double Bay Marina?

Mayor in response:

On notice

Councillor Dawson asking:

There is an unfortunate lady who lives in Bunyula Road who feels she has been disadvantaged by development of a neighbouring swimming pool. Could our regulatory staff look into her issues?

Director Planning and Development in response:

On notice

Councillor Excell asking:

It has been brought to my attention that at 12.05am this morning a young man was seen outside Reddam College cutting down Greens corflutes. He was driving a white tray back ute registration number VOV-695. When he was approached and asked to return the 20 or so corflutes he had in his ute he fled driving in a speedy and dangerous manner. Is this a matter for Council rangers or police?

General Manager in response:

It is a matter for the police.

Councillor Cullen asking:

A boat is parked across the footpath on Old South Head Road near the lighthouse at Watsons Bay. It is totally blocking the footpath. Could you please have it moved onto the road?

Director Planning and Development in response:

On notice

Councillor Shoebridge asking:

How and where can the current Plan of Management for Christison Park at Vaucluse be accessed by residents?

Manager Public Open Space in response:

In 1996 council adopted a Plan of Management for Christison Park. That plan was not adopted under the Crown Lands Act, the site is Crown Land. While this Council has adopted a Plan of Management it has not been adopted in accordance with the Regulations. We can make the Plan of Management available.

Councillor Shoebridge asking:

Can the Plan of Management be made available on the website, given the interest in the matter?

Manager Public Open Space in response:

Yes

Councillor Shoebridge asking:

Why has there been a substantial proposed change in lighting for the Park producing a potential significant change in use, especially at night, from an area of principally passive recreation for all residents to a more structured and limited environment for a few sporting teams?

Manager Public Open Space in response:

On notice

Councillor Shoebridge asking:

Assuming there is a change in use proposed, when did Council authorise such a change in use?

Mayor in response:

That is making an assumption that has not been established.

Councillor Shoebridge asking:

Wouldn't the progression of a DA for major lighting facilities be a matter that should first be progressed through a Plan of Management for the Park so that all options can be considered together, including passive recreation?

Manager Public Open Space in response:

On notice

Councillor Shoebridge asking:

Can staff please ensure that any separate DA's for the Point Piper and Rose Bay Marinas be considered, so far as possible, together in order to properly assess the cumulative impacts of the developments on the Bay?

Director Planning and Development in response:

It is certainly our intention to present the reports on both of those proposals to the same committee meeting of the Council.

The Mayor advised that before he called the meeting to a close he would like to say a few words.

First of all I would like to thank all of the Councillors who have contributed to this Council over the last four and a half years. I have enjoyed working with you all. Although we have had our disagreements, I believe this Council has worked very effectively and has progressed through the varied obligations and trials and tribulations which a Council goes through and I congratulate you for that.

I also would like to pay special thanks to the Deputy Mayors who I have served with, namely Councillors Shoebridge, Huxley and Shapiro. I would also like to thank all those who have spent their time being chairs of the committees. Further, I know that a lot of you have attended on working parties and other extraneous things representing Council. I also thank you for the time you have done that.

I also should recall the contribution that Councillor Dawson has made to the life of this Council over 17 years. Apart from his immense pride in the community and work he has given to the community he has also given to this Council a sense of some British regality to the situation. I thank you Chris on behalf of the community and this Council for the effort and time you have put into it and particularly your time as Mayor.

I'd like to also pay tribute to the staff of the Council. When I joined Council 9 years ago I didn't realise how good our staff were. I think there has been over the years a change in attitude, I think they have changed their attitude to the better by looking at the residents as being the team they work for and not the enemy. I believe that with all my heart, as I have said on a number of occasions when I first became Mayor in 2004, I was seeing lots of letters of complaints, nowadays I am getting lots of letters of thank you identifying staff members. I think that is a nature of how the culture has changed in this Council, obviously to the better and I congratulate the staff and pass my best wishes to them and thanks for their assistance.

I have worked very well, I believe, with the General Manager and the Directors and I thank them for their assistance and guidance in the course of my role as a Councillor and my role as a Mayor.

There are three people who are special members of the staff to me. Justine Henderson, as a Communications Manager I think she is second to none. She has great ability to identify issues which may affect Council, have one fully briefed on them and being able to put Council in the best light. Pat Vella, who I have always said when the General Manager is not here the real general manager is acting. She does a fantastic job, she is known to all the staff members, she is really a person who puts her heart and soul into ensuring that this Council runs effectively. I also thank John Gaitero, described as my personal assistant. I think he is more than a personal assistant, I think he is a person who has a great ability to keep confidences, to work well for the community and work well for the Mayors. I thank him for his service.

It would be remiss in me in passing, not to thank my family. They have been a great help to me, they have worked hard for me and they have supported me in everything I have done on this Council, so I thank them.

I now call this Council to an end and thank you for your attendance.

There being no further business the meeting concluded at 9.32pm.

We certify that the pages numbered 3105 to 3146 inclusive are the Minutes of the Ordinary Meeting of Woollahra Municipal Council held on 8 September 2008 and confirmed by Council at the ordinary Meeting of Council on 13 October 2008 as correct.

General Manager

Mayor