



Ordinary Council Meeting

Agenda: *Ordinary Council Meeting*

Date: *Monday 2 November 2009*

Time: *8.00pm*

Woollahra Municipal Council

Notice of Meeting

29 October 2009

To: His Worship The Mayor, Councillor Andrew Petrie
Councillors Anthony Boskovitz
Sean Carmichael
Peter Cavanagh
Lucienne Edelman
Nicola Grieve
Chris Howe
Susan Jarnason
Greg Medcraft
Ian Plater
Isabelle Shapiro
David Shoebridge
Susan Wynne
Malcolm Young
Toni Zeltzer

Dear Councillors

Council Meeting – 2 November 2009

In accordance with the provisions of the Local Government Act 1993, I request your attendance at Council's **Ordinary Council Meeting** to be held in the **Council Chambers, 536 New South Head Road, Double Bay, on Monday 2 November 2009 at 8.00pm.**

Gary James
General Manager

Meeting Agenda

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Leave of Absence

Item No: 1
From: Councillor Isabelle Shapiro
Reason for Report: Seeking leave of absence for all meetings of the Council and its Committees from Wednesday 4 November 2009 to Tuesday 17 November 2009 inclusive.

Recommendation:

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Isabelle Shapiro for the period Wednesday 4 November 2009 to Tuesday 17 November 2009, inclusive.

Item No: 2
From: Councillor Chris Howe
Reason for Report: Seeking leave of absence for all meetings of the Council and its Committees from Sunday 22 November 2009 to Sunday 29 November 2009, inclusive.

Recommendation:

That leave of absence for all meetings of the Council and its Committees be granted to Councillor Chris Howe for the period Sunday 22 November 2009 to Sunday 29 November 2009, inclusive.

9.1 Corporate & Works Committee

Items with Recommendations from the Committee Meeting of Monday 19 October 2009 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Unmade Road Reserve Salisbury Street, Watsons Bay – Easement In Favour of Jemena Gas Networks (NSW) Limited**
Author: Anthony Sheedy, Property Officer
File No: 406.
Reason for Report: To seek Council's endorsement for granting an easement to Jemena Gas Networks over unmade road reserve in Salisbury Street, Watsons Bay.

Recommendation:

- A. That Council grant an easement to Jemena Gas Networks (NSW) Limited in respect of unmade road reserve portion of Salisbury Rd, Watsons Bay.
- B. That the Common Seal of Council be affixed to the Section 88B Conveyancing Act, 1919 instrument, subject to certification from Council's solicitors that the document protects the Council's interests.
- C. That Council agree to pay all costs associated with the easement.

Item No: R2 Recommendation to Council
Subject: **Vaucluse Road, Vaucluse - Nielsen Park to Wentworth Road Civil Infrastructure Works**
Author: David Byatt – Purchasing Coordinator
File No: Tender No. 09/17
Reason for Report: To recommend to Council the acceptance of a Tender

Recommendation:

- A. That Council enter into a Contract with Melhemcorp for Vaucluse Road, Vaucluse Nielsen Park to Wentworth Road Civil Infrastructure Project for the lump sum of \$187,422 (excluding GST), and provisional rates used.
 - B. That successful and unsuccessful tenderers be advised accordingly.
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Item No: R3 Recommendation to Council
Subject: **Sutherland Avenue, Paddington - Acquisition of Roadway for Public Use**
Author: Zubin Marolia - Manager – Property and Projects
File No: 438.9
Reason for Report: To formalise the status of Sutherland Avenue, Paddington as a Public Road

Recommendation:

- A. That Council proceed with the dedication of Sutherland Avenue, Paddington under Section 16 of the Roads Act 1993 as recommended by HWL Ebsworth Lawyers by undertaking the following actions:
- a) Affixing a notice in a conspicuous place in Sutherland Avenue, stating Councils intention under Section 17 of the Roads Act 1993 that upon the expiry of 28 days after the date of the notice, Council intend to dedicate all the land described in the notice as a public road in accordance with Section 16 of the Roads Act.
 - b) Placing an advertisement in a local newspaper advising of Councils intention, upon the expiry of 28 days from the date of the advertisement, to dedicate all of Sutherland Avenue, Paddington as a public road in accordance with Section 16 of the Roads Act 1993.
- B. That Council execute and affix the Council seal on all necessary documentation to complete the acquisition of Sutherland Avenue, Paddington.
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Item No: R4 Recommendation to Council
Subject: **Farnworth Lane, Point Piper - Acquisition of Laneway for Public Use**
Author: Zubin Marolia - Manager – Property and Projects
File No: 506.5
Reason for Report: To formalise the status of Farnworth Lane, Point Piper as a public lane

Recommendation:

- A. That Council proceed with the dedication of Farnworth Lane, Point Piper under Section 16 of the Roads Act 1993 as recommended by HWL Ebsworth Lawyers by undertaking the following actions:
- a) Affixing a notice in a conspicuous place in Farnworth Lane, stating Councils intention under Section 17 of the Roads Act 1993 that upon the expiry of 28 days after the date of the notice, Council intend to dedicate all the land described in the notice as a public road in accordance with Section 16 of the Roads Act.
 - b) Placing an advertisement in a local newspaper advising of Councils intention, upon the expiry of 28 days from the date of the advertisement, to dedicate all of Farnworth Lane, Point Piper, as a public road in accordance with Section 16 of the Roads Act 1993.
- B. That Council execute and affix the Council seal on all necessary documentation to complete the acquisition of Farnworth Lane, Point Piper.
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9.2 Development Control Committee

Items with Recommendations from the Committee Meeting of Monday 19 October 2009 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: 2 William Street, Double Bay – Use of Steyne Park for a school fete each November between 2009 & 2014 – 24/9/2008
Author: Simon Taylor – Senior Assessment Officer
File No: DA430/2009
Reason for Report: In accordance with Council’s meeting procedures and policy this matter is referred to full Council due to the proposal involves an application relating to community land and there are unresolved objections.

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

THAT the Council, as the consent authority, grant development consent to Development Application No. 430/2009 for the use of Steyne Park for a school fete each November between 2009 and 2014 on land at 2 William Street Double Bay, subject to the following conditions:

A. General Conditions

A.1 Approved Plans and supporting documents

Those with the benefit of this consent must carry out and operate the school fete in Steyne Park in accordance with the plan listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved DA Plans” unless modified by any following condition.

Title	Description	Author/Drawn	Date(s)
Double Bay Public School 2009 fete in Steyne Park	Fete Layout Plan	No author	Undated

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

A.2 Yearly Review

Council reserves the right to review the successful operation of the school fete at yearly intervals and impose any further stipulations on the operation of the following fete.

A.3 Dates of fete

The fete is to be undertaken on the following dates only: 15 November 2009, 14 November 2010, 13 November 2011, 18 November 2012 and 17 November 2013.

B. Conditions which must be satisfied prior to the demolition of any building or construction

Nil.

C. Conditions which must be satisfied prior to the issue of any construction certificate

Nil.

D. Conditions which must be satisfied prior to the commencement of the fete

D.1 Park Hire Approval (in subsequent years)

The applicant is required to apply to Council to seek approval to use Steyne Park prior to 1 August each year prior to the subsequent event. This is to ensure that Council, as Trust Manager of Steyne Park, is satisfied that the park is available and suitable for use for the event and the applicant has fully complied with the conditions of this consent.

Council, as Trust Manager, may also impose further conditions of hire that aim to protect the park environment and other park users.

D.2 Temporary vehicle access

Temporary vehicle access to the park will require the applicant to obtain consent under Section 138 of the Roads Act (which covers any work or activity on Councils roadway/footpath). This includes liaising with Council's Asset Engineer to confirm the requirements of Council's Civil Works department.

D.3 Damage Security Deposit

A security deposit of \$4,000 shall apply for the cost of making good any damage to Council property or park infrastructure caused as a consequence of the event, including any potential damage resulting from vehicular access to the park. The security deposit shall be provided to Council two (2) weeks prior to the event.

D.4 Registration of food stall holders

The food stall holders and/or events organiser must register with Council and notify the NSW Food Authority the food business details of all food stall holders. This can be done by contacting Council (www.records@woollahra.nsw.gov.au) and the NSW Food Authority's website (www.foodauthority.nsw.gov.au).

D.5 Fitout of food stalls

The person(s) with the benefit of this consent must submit to Council details of the typical construction and fitout of the temporary food stalls proposed at the school fete. Such details must demonstrate compliance with the Food Act 2003 and Regulation there under; the Food Standards Code and the Food Handling Guidelines for Temporary Events. The construction and fitout of the temporary food stalls shall be to the approval of Council's Environmental Health Officers'.

Food stall operators and the events organiser must ensure there is a sufficient supply of electricity for food handling operations, particularly for hot and cold food holding and water heating. All electrical work should be undertaken by a licensed electrician and conform to AS 3002-1985 'Electrical Installations-Shows and Carnivals'. Any gas bottles used for appliances should be secured so that it cannot be tipped over and should be pressure checked.

D.6 Access

The applicant is to notify Council the Friday before the event to confirm the vehicle and/or equipment delivery schedule. Temporary structures that are left on site over night will incur further costs and must be removed from the Park between 7.00am and 8.00am the following morning.

D.7 Promotional material

All promotional material associated with the fete, including flyers, advertising material and signs is to include reference to parking being available within the grounds of Double Bay Public School, Cross Street parking station, the Cosmopolitan parking station and public transport to the site (Edgecliff train station, Double Bay ferry wharf and Sydney Buses).

Promotional material is also to include the name and contact phone number of the organiser's representative who will be present on the day so as to respond to complaints.

E. Conditions which must be satisfied during the preparation of the fete

E.1 Fire upgrade

The following work is to be implemented as part of the fete to bring it into compliance with the following provisions of the *BCA*:

- a) That the fabrics used in the construction of the stalls shall comply with the flammability index requirements of NSW H102.8 of the *BCA*;
- b) That all electrical services serving the event shall comply with the requirements of NSW H102.14 of the *BCA*;
- c) That the stage seating shall be provided in accordance with the requirements of NSW H102.10 of the *BCA*;

Note: AS 4655 *Guidelines for fire safety audits for buildings* (or any succeeding AS) should form the basis of any fire upgrade report.

E.2 Fire Point

A fire point is to be suitably located within the site with suitable portable fire extinguishers as per Australian Standard AS2444, being a mobile fire point.

E.3 Building Code of Australia Requirements

All structures are to comply with Part H102 (Temporary Structures) of the Building Code of Australia.

E.4 Park Management and Maintenance

To avoid damage as a result of the Double Bay School Fete and ensure preservation of the parklands, the following must be complied with:

- No parking of vehicles is permitted on Council parklands
- No marquees or structures are permitted other than those specified in the development consent
- Erection of temporary structures made permissible by this application must not interfere with the existing underground irrigation system or quality of the playing field turf surface
- No advertising signage can be hung between park trees or from park furniture including light poles.
- No tables or chairs are permitted in Steyne Park other than those specified in this application
- No existing park signage is to be obstructed or interfered with in the conduct of the event.

E.5 Protection of vegetation

- No equipment is to be stored or set-up within 2m of any tree trunk, shrub or garden bed.
- No vehicle is to drive or stand within 2m of any tree trunk, shrub or garden bed.
- No speakers, lights or the like are to be attached to or placed within any tree, shrub or garden bed
- No shrubs, trees or other vegetation are to be moved, lopped or damaged.
- Any chairs to be used must have feet designed to minimise damage to the grassed surface. eg. Triangle shaped feet

E.6 Wet weather

In the event of excessive rain either before or during the event, the Director of Technical Services, or the Director's nominated representative, is authorised to direct that all or part of the park not be used, if in the opinion of the Director of Technical Services or his authorised representative, excessive damage to the park will result.

E.7 Public Liability

The applicant must provide a copy of a Certificate of Currency prior to each event showing Public Liability Insurance to the value of \$10,000,000 for each Double Bay Public School Fete and nominating Double Bay Public School and Woollahra Council as interested parties.

Copies of Certificates of Currency for Public Liability Insurance are also to be supplied by each of the service or entertainment providers operating at each of the events.

E.8 Toilets

Council toilet facilities at the event are insufficient to cope with the number of participants as expected over the six (6) hour period of the event. It is the responsibility of the event organisers to arrange adequate port-a-loos for the period of the event. In the event of wet weather, port-a-floor must be used in front of the port-a-loos to prevent excessive wear and tear of turf. These facilities are to be located near to the existing toilet facilities and are to be removed at the end of the event.

The organisers must leave Steyne Park toilet facilities with the same level of cleanliness as at the commencement of the event. Any cleaning costs incurred by Council's Open Space and Trees Department following the event will be deducted from the damage security deposit.

E.9 Waste Services and Cleaning

Recycling and general rubbish bins are to be provided and the applicant shall ensure that all waste is disposed of in an appropriate manner.

Additional waste services required for the event are the responsibility of the organisers. Waste Services can be arranged through private contractors or by hiring receptacles from Council's Waste Section.

The event organisers must undertake to leave Steyne Park and surrounds with the same level of cleanliness as at the start of the event. Any cleaning costs incurred by the Council's Parks Department for cleaning of the park including the removal of litter and the removal of any grease stains from roads, footpaths and paving after the event will be deducted from the damage security deposit.

E.10 Power, Generators and Cabling

The applicant is required to meet their own power needs for the event.

The applicant is responsible for ensuring all power cables do not affect pedestrian movement or present risks to the safety of pedestrians

E.11 Security

The applicant is to provide adequate security measures at the event from set up to completion.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

Nil.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil.

H. Conditions which must be satisfied during the ongoing operation of the fete

H.1 Operation of food stalls

- a) Food stall operators are required to handle food for sale for human consumption in accordance with the Food Standards 3.1.1, 3.2.2 and 3.2.3.
- b) Food stall operators and the events organiser must ensure there are adequately sized, enclosed rubbish bins at each food stall and adequate arrangements made to dispose of garbage contents at the end of the day.
- c) Only potable water must be used for preparing food and for washing. Ice used for keeping food cool or adding to food or drink must also be potable.
- d) A fire extinguisher and fire blanket should be supplied in each stall where cooking or heating processes are undertaken. Such equipment should be easily accessible in the event of a fire.

- e) A sealed container of potable water with a tap should be provided at each stall, together with suitable bowls or containers for cleaning, sanitising and hand washing. Clean towels and detergent must be provided.
- f) A suitable sanitising agent must be available for sanitising food handling implements and food contact surfaces.
- g) Foods that are required to be stored under temperature control, or kept frozen shall be kept under strict temperature control. Cold foods should be stored at or below 5 degrees celcius and hot food appliances such as bain maries and display cases should enable hot foods to be kept at or above 60 degrees celcius at all times. Refrigeration facilities should be large enough to hold potentially hazardous foods under temperature control at all times.
- h) Potentially hazardous foods like poultry, meat, dairy products, seafood and egg-based products must be stored under temperature control. If the food is intended to be stored frozen, the food must remain frozen during storage and display.
- i) All food stall operators that handle potentially hazardous foods are required to have a readily accessible, accurate, probe-type thermometer. The thermometer must be cleaned and sanitised before it is used.
- j) Adequate measures must be taken by all food stall operators to prevent cross-contamination from raw foods to cooked foods by ensuring that there are separate utensils for cooked and raw meats, poultry and seafood; covering all food; keeping cooked meat and salads separate and washing hands after handling raw meats, raw poultry, raw seafood and raw vegetables.
- k) All food displayed by food stall operators shall be protected from likely contamination by customers, dust, fumes or insects by using plastic food wraps, sealed containers, sneeze barriers or food covers.
- l) Only single-use disposable eating and drinking utensils are permitted for use by food stall operators and must be protected from contamination until used.
- m) All packaging material must be suitable for food packaging and unlikely to cause food contamination. Only clean unprinted paper, food wraps or packaging must be used for wrapping or storing foodstuffs.
- n) The food stalls must be maintained to a standard of cleanliness where there is no accumulation of garbage or recycled matter, food waste, dirt, grease or other visible matter.
- o) Bench tops and surfaces of equipment in contact with food and storage appliances must be kept in a clean and sanitary condition to ensure food is unlikely to be contaminated.
- p) All pre-packaged products must be clearly labelled with a description of the food, the name and address of the supplier, product lot identification, a list of ingredients, date marking, storage conditions, nutrition information panel and characterising ingredient. The above requirements are outlined in more detail in the Food Standards Code available on the NSW Food Authority's website (www.foodauthority.nsw.gov.au).

H.2 Hours of Operation

The hours of operation of the fete are limited to between 10am and 4pm, on 15 November 2009, 14 November 2010, 13 November 2011, 18 November 2012 and 17 November 2013. The setting up of stalls and other activities are not to commence prior to 7.30am and the area is to be cleared no later than 6.00pm on the day.

H.3 Public Access

Public access along the foreshore pathway and adjacent public playground is to be maintained at all times.

Public seating in Steyne Park shall remain freely available to the public and is not to be utilised in conjunction with the approved use.

H.4 Emergency Access

Access for all emergency vehicles from roads surrounding the event must be made available and monitored by security staff in the event of a emergency.

H.5 Noise

The applicant must not give rise to the production of offensive noise as determined by the Protection of the Environment Operations Act 1997 and regulations thereunder.

The PA system and musical equipment must not be used prior to 10am or after 4pm on the days of the school fete on 15 November 2009, 14 November 2010, 13 November 2011, 18 November 2012 and 17 November 2013.

H.6 Residential Amenity

All activities are to be carried out and conducted in such a manner so as to not interfere with the amenity of surrounding residents or those within the locality having regard to noise emission, rubbish, waste products and the like.

H.7 Protection of the Environment Operations Act

The operation of the fete at Steyne Park shall not cause harm to the environment or give rise to 'pollution incidents' as described in the Protection of the Environment Operations Act 1997.

The applicant is to ensure that no pollutants, including litter, enter Double Bay.

H.8 Aisle widths

If it is intended that the audience during speeches or performances are to be seated on the ground, aisles and cross overs are to be clearly defined on the ground, without causing damage to turf coverage.

H.9 Traffic management

A traffic marshal is to be stationed at the William Street pedestrian crossing to assist with pedestrian movement across William Street and to direct traffic to parking in Cross Street parking station, the Cosmopolitan parking station and the grounds of Double Bay public school (if available).

I. Conditions which must be satisfied following completion of the fete

I.1 Making good damage to park and infrastructure

The applicant must repair or meet the cost of making good any damage to Steyne Park and Council's infrastructure, as a consequence of the activities associated with this consent.

The Park will be inspected at the completion of the event to assess any damage caused, such as damage to trees, the turf surface, amenities block and presence of litter. Any damage must be restored to the satisfaction of Council's Manager Open Space and Trees at the cost to the applicant and within a timeframe as agreed between the applicant and Manager of Public Open Space. In assessing any damage, consideration will be given to normal wear and tear as a consequence of the event. Payment of cost for damage repairs undertaken by Council must be paid within 30 days from issue of Council's invoice.

J. Miscellaneous Conditions

Nil.

K. Advisings

Nil.

Item No: R2 Recommendation to Council
Subject: **6 Buckhurst Avenue, Point Piper – Section 96 Application – Proposed Modification deletion of basement level & retention of existing swimming pool – 30/7/2009**
Author: Simon Taylor – Senior Assessment Officer
File No: DA103/2008 Part 3
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 to the Officer’s recommendation.

Note: The Committee deleted original Condition Nos. C.1 (m), (n), (o), & (p) (Modification of details of the development (s80A(1)(g) of the Act) relating to the swimming pool and added new Condition No. C.1 (m) (Modification of details of the development (s80A(1)(g) of the Act) & new Condition No. E.23 (Traffic Management).

Recommendation: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT Council, as the consent authority, modify development consent to Development Application No. 103/2008 Part 3 for substantial alterations and additions to the existing residential flat building including demolition works, new basement level with swimming pool, infilling part of the void between the existing residential flat building and car park, new boat store, new balconies, internal reconfigurations and landscape works on land at 6 Buckhurst Avenue, Point Piper, in the following manner:

The addition of Condition A.1(b):

A.1b) Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp “Approved Section 96 Plans” unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date(s)
2006594.4/1501A/R1/GW	Acoustic Report	Acoustic Logic Consultancy	23 Jan 08
0315-DA.101, 0315-DA.310, 0315-DA.311	Architectural Plans	Alex Poppv and Associates PL	8 Jul 08
0315-CC.201 (Basement Plan & Basement Plan)		George El Khouri Architects	6 Jun 09 (Red number 3)
0315-CC.201 (Roof Plan)			6 Jun 09 (Red number 4)
0315-CC.201 (Ground Floor Plan, First Floor Plan, Second Floor Plan, Third Floor Plan, Fourth Floor Plan)			6 Jun 09 (Red number 5)
0315-CC.201 (Fifth Floor Plan, East Elevation, North Elevation, South Elevation, West Elevation, Fifth Floor Plan)			6 Jun 09 (Red number 6)
A67774, A67773, A67772, A67771, A67769, A67768	BASIX Certificates	Department of Planning	27 Sept 09
071621	Construction Management Plan	George El Khouri Architects	16 Jan 08
08002	Flooding Study	AKY Civil Engineering	Feb 08
S07130-A	Geotechnical Report	Brink and Associates	30 Nov 07
S07130-A	Hydrogeological Report	Brink and Associates	30 Nov 07
L-01	Landscape Plan	Anton James Design	25 Feb 08
	Arboricultural Assessment Report	Urban Tree Management	11 Jan 08
0315	Sample Boards	Alex Poppv and Assoc	Undated
07162	Statement of Heritage Impact	GSA Planning	Feb 08
H-DA-01, H-DA-02	Stormwater Management Plan	ITM Design	26 Feb 08
07162	Traffic Report	GSA Planning	Feb 08
071882	Waste Management Plan	George El Khouri Architects	16 Jan 08

Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

Note: These plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5

The modification of Condition C.1:

C.1 Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to Clause 139 of the *Regulation*, must detail:

- a) (deleted)
- b) The height of the main or upper vehicular entrance gate as limited to a maximum height of 2.1m

- c) The continuation of the raised planter bed/retaining wall in front of the basement level to the northern boundary
- d) (deleted)
- e) (deleted)
- f) No other structures on the roof such as antennas, exhaust, aerials or any other structure other than those structures indicated on the approved plans
- g) The colours and materials of the roof being of a dull, non-reflective nature
- h) (deleted)
- i) The deletion of the garage and any car parking on the fifth floor level.
- j) In addition to Condition No. E.2, the removal of *Celtis.sp* (Hackberry) trees in the north eastern corner of the property and which are under a height of 10.0m
- k) The removal of the cypress hedge on the northern boundary of 6 Buckhurst Avenue and its replacement with a new hedge of non-invasive bamboo (*Bambusia Tevtilis Gravilis*)
- l) No part of the proposed cladding on the eastern wall of bedroom 4 to unit 7 on the fifth level extending beyond the northern face of bedroom 4
- m) Reference to the retention of the existing swimming pool being deleted and the area being landscaped in accordance with the original consent.
- n) An increase in the length of the garages in the north eastern corner of the car park on the first, third and fourth levels to a minimum of 10.8m
- o) A minimum sill height of 1.0m to the north facing window from bedroom 4 on the first, second, third and fourth levels
- p) No windows within the north eastern (side) elevation of bedroom 4 in the north eastern corner of each level
- q) The retention of the fin walls in the south eastern corner of each level between the dining room and bedroom 3
- r) The establishment of landscaping to the area north of the lobby entrance doors on the fifth floor level. The landscaping is to comprise at least 75% low shrubbery, turf and other similar plants to a maximum height of 1.5m at maturity (measured above the RL of the slab level for level 5) and a maximum of 25% paving
- s) With respect to parts (i) and (q) of Condition C1, the parking arrangement within the four levels of the car park is to be is to be rearranged so that there is a maximum of 22 spaces. A minimum of two spaces are to be provided for each of the six units (including Unit 6) and a minimum of two visitor spaces.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

Standard Condition: C4

The modification of Condition C.3:

C.3 BASIX commitments

The *applicant* must submit the following *Certifying Authority BASIX Certificates* with any application for a *Construction Certificate*; -

- Certificate No. A28197 for Unit 1 on the ground floor level
- Certificate No. A28198 for Unit 2 on the ground floor level
- Certificate No. A28211 for Unit 3 on the first floor level
- Certificate No. A28212 for Unit 4 on the second floor level

- Certificate No. A28213 for Unit 5 on the third floor level
- Certificate No. A28278 for Unit 6 on the fourth floor level
- Certificate No. A28214 for Unit 7 on the fifth floor level

Note: Where there is any proposed change in the BASIX commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the BASIX commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

Note: Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation 2000* provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"
Standard Condition: C7

An addition E.23 Condition

E.23 Traffic Management

The applicant is to strictly comply with the relevant conditions for traffic management. Furthermore, RTA accredited traffic management personnel are to be on site at all times.

The modification of Condition H.1:

H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the following *BASIX Certificates*: -

- Certificate No. A28197 for Unit 1 on the ground floor level
- Certificate No. A28198 for Unit 2 on the ground floor level
- Certificate No. A28211 for Unit 3 on the first floor level
- Certificate No. A28212 for Unit 4 on the second floor level
- Certificate No. A28213 for Unit 5 on the third floor level
- Certificate No. A28278 for Unit 6 on the fourth floor level
- Certificate No. A28214 for Unit 7 on the fifth floor level

Note: Clause 154B(2) of the *Environmental Planning & Assessment Regulation 2000* provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
Standard Condition: H7

The modification of Condition I.1:

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the following *BASIX Certificates*: -

- Certificate No. A28197 for Unit 1 on the ground floor level
- Certificate No. A28198 for Unit 2 on the ground floor level

- Certificate No. A28211 for Unit 3 on the first floor level
- Certificate No. A28212 for Unit 4 on the second floor level
- Certificate No. A28213 for Unit 5 on the third floor level
- Certificate No. A28278 for Unit 6 on the fourth floor level
- Certificate No. A28214 for Unit 7 on the fifth floor level

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

Standard Condition: 17

- B.** The matter be referred to Council's Manager of Compliance to take appropriate action to ensure the ongoing compliance with the conditions of development consent.
-

9.3 Urban Planning Committee

Items with Recommendations from the Committee Meeting of Monday 12 October 2009 Submitted to the Council for Determination

Item No: R1 Recommendation to Council
Subject: **Woollahra Section 94A Development Contributions Plan 2005**
Author: Anne White – Senior Strategic Planner
File No: 1180.G
Reason for Report: To obtain Council's decision to prepare a Section 94A Development Contribution Plan and to exhibit the Draft Woollahra Section 94A Development Contributions Plan 2009, which will repeal Woollahra Section 94A Development Contributions Plan 2005.

Recommendation:

- A. That the Council resolve to prepare a contributions plan to authorise the imposition of conditions under Section 94A of the *Environmental Planning and Assessment Act 1979*.
- B. That the draft Woollahra Section 94A Development Contributions Plan as contained in **Annexure 1** of the report to the Urban Planning Committee meeting on 12 October 2009 be placed on public exhibition subject to clause 3.10 (Application of levy) being amended to read as follows:
- “Money paid to the Council under a condition authorised by this Plan is to be applied by the Council towards the cost of such of the public facilities listed in the works schedule in this Plan as the Council in its discretion may from time to time determine.”*
- C. That a report on the submissions to the draft contributions plan be prepared and presented to the Urban Planning Committee following the public exhibition process.

Item No: R2 Recommendation to Council
Subject: **Consultation Model for The Woollahra Principal Local Environmental Plan**
Author: Jacquelyne Jeffery—Team Leader Strategic Planning
File No: 1064.G Principal LEP Draft Woollahra Plan
Reason for Report: To seek Council's endorsement of a consultation model for the preparation of Woollahra's new Principal Local Environmental Plan

Recommendation:

Noting the proposed gazettal date is no earlier than March 2011, that Council endorse the *Consultation model for the draft Woollahra Principal LEP* provided at Annexure 1 of the report to the Urban Planning Committee meeting on 12 October 2009 subject to the section 62 consultation also include consultation with residents of any other targeted sites.

9.4 Community & Environment Committee

Items with Recommendations from the Committee Meeting of Monday 12 October 2009 Submitted to the Council for Determination

- Item No:** R1 Recommendation to Council
- Subject:** **Confirmation of Minutes of Meeting held on 28 September 2009**
- Author:** Les Windle – Manager Governance
- File No:** See Council Minutes
- Reason for Report:** The Minutes of the Meeting of 28 SEPTEMBER 2009 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.
- Note:** This item is submitted to Council as there was not a quorum present at the Committee meeting and all items became R items. Items R2, R3 and R4 were submitted to the Council Meeting on 12 October 2009 as a matter of urgency.

Recommendation:

That the Minutes of the Community and Environment Committee Meeting of 28 September 2009 be taken as read and confirmed.

Notices of Motion

Item No: 1
From: Councillor Boskovitz
Date: 21 October 2009
File No: 900.G

Hopetoun Avenue, Vaucluse

- a) That Woollahra Council accord priority to the restoration of Hopetoun Avenue, Vaucluse and immediately begin the process (i.e. planning and tendering the job out) of repairing the road surface along its whole length.
- b) That Woollahra Council make available funds in whatever way necessary to re-sheet and repair the road to ensure it is restored to a top quality roadway.

Item No: 2
From: Councillors Shoebridge and Grieve
Date: 23 October 2009
File No: 900.G

There be a clear information pack(s) for residents, staff and councillors identifying:

1. How development conditions are enforced once a private certifier has been appointed;
2. The limited powers of council in such circumstances;
3. When certifiers must act; and
4. Circumstances in which certifiers can be removed and council reinstated as the certifying authority

Item No: 3
From: Councillor Shoebridge
Date: 29 October 2009
File No: 900.G

That an urgent report be brought to council on methods for regulating trans fats usage in the municipality including through conditions of consent on development applications. That the report also consider the health impacts of trans fats on residents.

Item No: 12
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 12 October 2009 and for Councillors to ask Questions without Notice in accordance with Council's Code of Meeting Practice.

Recommendation:

That the responses to previous Questions without Notice be noted.

Background:

The provision for Councillors to ask Questions Without Notice is contained in Section 3 of Council's Code of Meeting Practice which states:

- (1) *As a standard practice, "Questions Without Notice" shall be listed in all agendas of Ordinary Meetings of Council*
- (2) *Questions shall be in writing.*
- (3) *The Mayor shall direct the question to the General Manager or responsible Division Head; or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.*
- (4) *If the answer to a question can be given immediately then such shall be done and a record made in the Minutes of the Meeting. If an answer can be given, but not immediately, then the Mayor shall indicate to whom the question is to be directed and the basis upon which the answer is to be provided (whether in writing and direct to the Enquirer, or by means of a report to an appropriate Committee, or otherwise.)*
- (5) *In the spirit of achieving the expeditious discharge of Council business the agenda item "Questions Without Notice" shall generally be limited to not more than 30 minutes duration unless the Council determines otherwise, on the evening in question and by way of specific resolution.*

Questions Without Notice should be asked in accordance with the Code of Meeting Practice.

Responses to Councillors Questions Without Notice on 12 October 2009 are as follows:

Councillor Boskovitz asking:

Councillor Boskovitz asked the Mayor whether he would write a letter to Kincoppal School, the Prime Minister and any other relevant authority as to the appropriateness of the location of signage associated with the Government's economic stimulus package.

Mayor in response:

No, he would not.

Councillor Boskovitz asking:

Greater Union cinema has recently changed their name to Event Cinemas. This could simply be a rebranding exercise but could also be much more, such as a sale.

In the event of a sale this may well allow the owner of the Double Bay cinema to actually conduct some sort of business in their neglected Double Bay premises. This would obviously be subject to the contract as well as any restraint of trade clause that is included in said contract.

Could the Mayor please write to the owner of the premises asking whether there is any possibility of the re-opening of the Double Bay Cinema in the near future taking into account the change of name to the cinema chain at the Westfield's in Bondi Junction?

As part of this letter could the Mayor also plead with the owner to allow some sort of cultural use back into the premises?

Mayor in response:

Councillor Cavanagh and I have told you it is just a change in name and nothing more. In answer to a Question Without Notice from Councillor Carmichael only 6 weeks ago I wrote a letter, only signed 2 or 3 days ago, asking them to spruce it up and to paint it and do all the things we have requested by a Notice of Motion. I have done as much as I can at this stage.

Councillor Medcraft asking:

Could we look at cleaning or refurbishing the benches in Cook's Paddock Park, which are in a poor state of repair at present?

Manager Open Space & Trees in response:

Re-painting for the benches in Cook's Paddock has been arranged.

Councillor Medcraft asking:

When will we receive a report on the relocation of Five Ways lamp posts back to Five Ways, as per the Notice of Motion by Councillors Cavanagh and Medcraft some time ago?

Director Technical Services in response:

A report is being prepared by Susan O'Neill, Strategic Heritage Officer and will be presented to a meeting of the Urban Planning Committee during November.

Councillor Medcraft asking:

Where do we stand on organising a meeting with Paddington Ward Councillors on White City issues?

Director Planning and Development in response:

I had tentatively arranged a meeting with the Paddington Ward Councillors with a date, I think, last week. After a discussion with Councillor Medcraft we agreed that there would not be a lot of point meeting until the ownerships of the site were clear. I subsequently carried out some research last week and that indicated that the ownership of the southern part of that site is the subject of litigation. That litigation may well go to the High Court. The parties have sort leave to appeal a decision of the Court of Appeal to the High Court and the controlling parties have indicated to me very clearly that they are not prepared to talk to Council about a right of way over that land at the moment. In fact, they are not in a position to talk to Council about a right of way over that land until the litigation between the parties has been resolved.

Councillor Young asking:

Some time ago Pine Hill Avenue, Double Bay residents were given warning notices in respect of cars parked partially on the footpaths, and one lady resident of my acquaintance was fined. Unless cars park thus on the footpath (as they have done for 20+ years), facilitated by the specially constructed rolled kerbs, the rubbish truck or a fire engine could not get up the street.

We were then told by Council that there was an application for this to become a "shared use zone" or similar words to legalise the practice. What has happened to that application?

Manager Engineering Services in response:

I have discussed this again with the RTA and have received advice that the RTA's review of the Shared Zone guidelines has stalled and it is likely that progress will be slowed. I have raised the subject of a shared zone again, specifically in relation to Pine Hill Avenue which is a short, low-speed, low-volume street and I am now preparing a proposal to be considered by the Woollahra Traffic Committee in November. Although the RTA has virtually put a freeze on new Shared Zones we may just be able to get approval given Pine Hill's characteristics.

Councillor Plater asking:

Could the Director of Technical Services confirm what investigations are being made to extend parking on New South Head Road in front of 148, to replace the Bus Stop no longer being used?

Director Technical Services in response:

Sydney Buses and the RTA will be contacted to clarify current status of this Bus Zone.

Councillor Shoebridge asking:

To the Mayor:

Have you had a response from Waverley Council about their eyesore of a depot on Newland and Vernon Streets?

Director Planning & Development in response:

On 16 October 2009 the Director of Planning sent a letter to Waverley Council requesting the Council to improve the appearance of the temporary depot.

Councillor Shoebridge asking:

Has there been any progress on having a pedestrian crossing on New South Head Road at Ruschutters Bay Park? On an almost weekly basis I observe old and young residents playing chicken on the road there and it is clearly dangerous.

Manager Engineering Services in response:

The RTA has advised that works are imminent. The RTA is in the last stage of consultation and is planning to complete installation before Christmas 2009.

Councillor Petrie, Mayor asking:

Can the Director Community Services on behalf of Council thank all the staff for organising the Mental Health Youth Forum which was held last Thursday? There were over 70 people who attended and the staff did extremely well and are to be congratulated.

Director Community Services in response:

Thank you letters have been written and forwarded to appropriate staff.

**POLITICAL DONATIONS DECISION MAKING FLOWCHART
 FOR THE INFORMATION OF COUNCILLORS**

