



21 March 2006

ORDINARY COUNCIL MEETING

NOTICE IS HEREBY GIVEN THAT AN ORDINARY COUNCIL MEETING OF THE COUNCIL OF THE CITY OF RANDWICK WILL BE HELD IN THE COUNCIL CHAMBER, TOWN HALL, 90 AVOCA STREET, RANDWICK, ON TUESDAY, 28TH MARCH 2006 AT 6:00 PM

- 1 Council Prayer**
- 2 Apologies**
- 3 Minutes**

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- 5 Addresses to the Council by the Public**
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GENERAL MANAGER



GENERAL MANAGER'S REPORT

4/2006

SUBJECT:	HEFFRON PARK DRAFT PLAN OF MANAGEMENT
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DATE:	13 March, 2006	FILE NO:	F2004/08398
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REPORT BY: GENERAL MANAGER

EXECUTIVE SUMMARY:

The draft Heffron Park Plan of Management and draft Landscape Concept Plan have been prepared to guide the long term direction and improvement of this major sporting and recreational park. These Plans recognise the importance of Heffron Park to Randwick City and the need for, and benefits of, a substantial and long-term upgrade of the Park for sporting groups and local residents. This report recommends that Council endorse the draft Plan of Management (including the Landscape Concept Plan) for exhibition for public comment.

One of the key objectives of the draft Plan of Management is to ensure that Heffron Park retains its importance as a sporting park while providing increased opportunities and improvements in passive recreation (eg. walking paths, picnic and BBQ areas and children's playgrounds). This has been achieved in the design of the Landscape Concept Plan, which was prepared with extensive consultation with sporting groups and the community. The Plan includes improvements to all sports fields (including layout and surfacing), an emphasis on multi-use of fields and facilities to address the seasonal nature of sports, a major indoor multi-purpose facility on the Bunnerong Road side of the park, additional and upgraded parking areas, additional and improved pedestrian paths through and around the park, passive recreation areas including an upgraded children's playground and an outdoor amphitheatre, and extensive landscaping improvements.

Given the innovative and quality outcome being proposed in the draft Plan of Management and Landscaped Concept Plan, a range of funding options were investigated including Council's standard approach to funding (ie. rates and s.94 developer contributions), a rates levy and a self-funding option of residential development in the airspace above the proposed multi-use recreation centre. This report recommends that the residential development proposal is pursued as a means of fully funding the entire park upgrade in a short-term timeframe (approximately 6 years, with the majority of works to be completed within the first 4 years) and with no cost to the community as opposed to more than 20 years with other funding mechanisms.

BACKGROUND:

Heffron Park is a large Crown reserve of approximately 44 hectares for the public purpose of “public recreation”. Care control and management is the responsibility of the Heffron Park (R81741) Reserve Trust (managed by Randwick City Council). The Crown Lands Act 1989 applies to the preparation of the draft Plan of Management and the Crown must endorse the draft Plan of Management and Landscape Concept Plan.

The current Plan of Management for Heffron Park was completed in 1997. It outlines a range of recommendations and projected costs. In 2000/2001 a draft landscape plan was prepared based on the strategies in the Plan of Management. This draft landscape plan was not supported by the community or the Council. The main reason for the community objection related to traffic concerns due to the proposed relocation of some of the sporting fields and courts; notably the relocation of the netball courts to the southern side of the Park.

On 19 October 2004 Council resolved to prepare a new draft Plan of Management and Landscape Plan for Heffron Park concurrently. The primary reasons for preparing a new draft Plan of Management are to ensure that developments and improvements in the Park are relevant to both the current and long term sport and recreational needs of the community and are compatible with the purpose, cultural value and features of Heffron Park.

The draft Plan of Management and Landscape Concept Plan were developed in consultation with sporting groups and community representatives during 2005. The Heffron Park Plan of Management Working Committee was established to oversee the preparation of the plans and included Councillors, representatives from sporting groups, community representatives and Council staff. A Community Representative Sub-Committee was also established and included fifteen community representatives who responded to an advertisement early in 2005. Comments from the community were also sought during the preparation of the Plan of Management through the release of an Issues Discussion Paper for public comment during August 2005.

The draft Plan of Management has been prepared under the Crown Lands Act 1989. It provides clear guidelines and designation of areas to enhance the use of the park by all the community and to minimise any conflict between existing and future user groups. One of the key objectives of the draft Plan of Management is to ensure that Heffron Park retains its importance as a sporting park while providing increased opportunities and improvements in passive recreation (eg. walking paths, picnic and BBQ areas and children’s playgrounds) for surrounding residents. This has been achieved in the design of the Landscape Concept Plan which includes suggestions raised during consultation with sporting groups and the community.

A number of options were considered for the Landscape Concept Plan including a minor upgrade (Option 1) and a major upgrade (Option 2). The majority of members of both the Working Committee and Community Representative Sub-Committee preferred the major upgrade (Option 2), which recognised the need and value of upgrading the park to become a centre of excellence for sports groups and a significantly enhanced leisure and recreation destination. However there was one main point of contention: the relocation of

the netball courts to allow improved netball facilities and a reduction in the current dominance of the bitumen netball court area; which enables consolidation of the soccer fields, extension of the cycle track, and an additional car park off Bunnerong Road reducing the parking impact from Fitzgerald Avenue. Two versions (A & B) of the major upgrade option (Option 2) of the Landscape Concept Plan were consequently prepared and are further discussed below.

The draft Plan of Management and Landscape Concept Plan envisage improvements to all sports fields (layout, surfacing, etc) to best practice standards. There is an emphasis on the multi-use of fields and facilities to better utilise the fields and address the seasonal nature of individual sports. The Plan proposes a major indoor multi-purpose facility for a wide range of sports and leisure on the Bunnerong Road side of the park, additional and upgraded parking areas, additional and improved pedestrian paths through and around the park, passive recreation areas including an upgraded children's playground, BBQ areas and an outdoor amphitheatre, and extensive additional landscaping to enhance the biodiversity and attractiveness of this significant park.

ISSUES:

Preparation of the draft Plan of Management and Landscape Concept Plan – Consultation with Key Stakeholders

Two consultative Committees were established as part of the preparation of the draft Plan of Management. The Committee meetings were chaired by an independent facilitator.

Working Committee

The Working Committee is an advisory group which has overseen the preparation of the draft Plan of Management. The Working Committee members comprised Councillors, representatives from Randwick Botany Cycle Club Inc, Bunnerong Gymnastics Association Inc, Randwick Netball Association Inc, South Sydney District Junior Rugby Football League Ltd, Moore Park & South East Cricket Association and Eastern Suburbs Soccer Football Association and two community representatives. A representative from the Department of Tourism, Sport and Recreation was also invited but due to resourcing issues was unable to attend.

The Working Committee met seven times during 2005. Details of the issues considered by the Committee are included in Attachment 1 (Appendix 4). The Working Committee provided input in the key components of the Plan of Management including current use of the park and anticipated changes in demand, identification of issues and suggested improvements, vision statements and objectives, design principles and input to the action plan.

The Working Committee also provided significant input into the preparation of the Landscape Concept Plan, particularly in relation to the needs of the various sporting groups.

Community Representative Sub-Committee

In February 2005, Council advertised for two positions of Community Representatives on the Working Committee. Notices were placed in the local newspaper, on Council's website and residents surrounding the park were letter dropped. Council received strong interest from the community; nominations coming from people with a wide range of interests and knowledge of the Park. Given the quality of all applications, all nominees were invited to be part of a Community Representative Sub-Committee, two members of which represented the views of the Sub-Committee at the Working Committee meetings.

The Sub-Committee met seven times during 2005, with the agenda and issues for discussion the same as the Working Committee (refer Attachment 1 – Appendix 4). The Sub-Committee also provided significant input into the preparation of the Landscape Concept Plan, particularly for example, in identifying the need to improve passive recreation opportunities within the Park (eg. walking pathways, BBQ and picnic facilities, children's playgrounds and off-leash dog walking area).

Consultation with Other Sporting Groups

Consultation was undertaken with over 40 sporting groups that regularly use the Park to ascertain suggested improvements and individual sporting group requirements for the Park. Comments received during this consultation were considered in the preparation of the draft Plan of Management and draft Landscape Concept Plan.

Consultation with the Community

Consultation with members of the Working Committee and Community Representative Sub-Committee identified a number of specific issues relating to the Park, including the need to:

- recognise the importance of the park as a major sporting venue;
- encourage use by all age groups for both passive and active recreation (eg. walking paths, BBQ facilities and children's cycle track);
- improve the appearance of the park (including gateways and boundaries, pathways, landscaping and garbage facilities);
- ensure safe and efficient traffic and pedestrian movement; and
- encourage sustainable design (including landscaping, building materials, and water and energy efficient design).

Based on the comments received from the Working Committee and Community Representative Sub-Committee, demographic analysis, comments on the previous Plan of Management and discussions with sporting groups and schools which use the Park, an "Issues Discussion Paper" was prepared which outlined future demand for open space, design principles, positive features of the Park and suggested improvements and specific improvements identified by sporting groups (refer Attachment 1 – Appendix 3). The Issues Discussion Paper was made publicly available during August 2005, with notification of residents in the vicinity of the Park (approximately 1000 letters), relevant Chambers and Precinct groups, sporting groups and advertisement in the Southern Courier. This additional public consultation was incorporated into the preparation of the

draft Plan of Management to ensure that the draft Plan considers all issues and that this is done prior to public exhibition. A summary of the comments received is included in Attachment 1 (Appendix 3) and primarily related to: safety and security; natural environment; sporting fields and tracks; multi-use recreation centre and residential development; commercial development, parking and traffic; and passive recreation and other wide ranging suggestions such as a golf driving range and commercial proposals.

Consultation with the Department of Lands

Council wrote to the Department of Lands in April 2005 advising, pursuant to s.112 of the Crown Lands Act, that Council had resolved to prepare a new Plan of Management for Heffron Park. The matters raised by the Department have been included in the draft Plan of Management.

Draft Heffron Park Plan of Management

The draft Plan of Management provides: details on the legislative requirements and relationship of the Plan to Council's strategic planning documents; description of the Park including history, land tenure, current uses and existing facilities; background analysis on population change and sporting demand, consultation undertaken in the Plan preparation and development of the Landscape Concept Plan and the proposed management actions.

A vision statement for Heffron Park was also developed in consultation with Working Committee and Community Representative Sub-Committee and included in the draft Plan of Management:

“Heffron Park provides best practice multi-use sporting facilities, playing fields and passive recreation opportunities of the highest quality which meet the current and future needs of the Randwick City community.”

A key feature of the draft Plan of Management is the following design principles developed in consultation with the Committees which guide the future design, use and management of the Park:

- the principal use of Heffron Park is as a sporting facility which also caters for passive recreation such as children's play, picnicking and walking;
- sporting fields are configured so that compatible sports can be co-located during summer and winter seasons;
- the location of playing fields and facilities does not cause conflict between sporting activities;
- any new facilities are multi-use and will encourage and cater for a variety of sporting and associated uses (such as café, child minding and sports medicine) and are readily accessible from outside and within the Park (ie pedestrian links and parking areas);
- there is additional and improved safe pedestrian access through the Park, providing linkages to facilities within the Park and areas outside;
- traffic access within the Park is prohibited except for service and emergency vehicles;
- the design of all features in the Park is best practice and sustainable; and

- landscaping includes local indigenous flora which suits the characteristics of the Park and provides visual buffer areas, wind breaks and an aesthetic feature.

Landscape Concept Plan

The Landscape Concept Plan is a graphic representation of the Plan of Management and incorporates the feedback received during the consultation with sporting groups and the local community and the design principles above. Further feedback received during the public exhibition of the draft Plan of Management and draft Landscape Concept Plans will be incorporated into a final Landscape Concept Plan.

Two draft Landscape Concept Plan options were presented to the Working Committee and Community Representative Sub-Committee during 2005:

- **Option 1** (Tweak & Tidy) which makes minimal changes to the park but improves the efficiency of the spaces, reduces user conflicts and improves the visual amenity. This option does not include a new multi-use recreation centre or additional amenities buildings. This option was generally supported by both the Working Committee and Sub-Committee other than by the Randwick Netball Association which did not support the relocation of the number of netball courts.
- **Option 2** (Major Upgrade) was supported over Option 1 (Tweak and Tidy) as it provides for significant active and passive recreation improvements to the park, incorporating the design principles identified for the park (refer above). This Option groups fields for the same sports into precincts, increases the number of full size fields, a major indoor multi-purpose centre, draws more activity into the centre and creates expanded and higher quality passive recreation opportunities. As noted below, this Option was then developed into Option versions A and B.

Option 2 was generally supported by both the Working Committee and Community Representative Sub-Committee however, it was not supported by Randwick Netball Association. After additional consultation with the Association, another version of the major upgrade which retained the existing location of the netball courts was presented to the Committees for comment (Option 2 (Version B)). The consultations involved in the development of these options is provided in the Landscape Concept Plan report prepared by Clouston Associates (refer Attachment 1 – Appendix 2). The features of both versions of the Landscape Concept Plan are also shown in Attachment 1 (Appendix 2) and a summary of the two versions of Option 2 (Major Upgrade) is provided below:

- **Option 2 (Version A):** provided the following sporting and passive recreation improvements:
 - new multi-use facilities (amenities block, change rooms, kiosks and clubhouses) in suitable locations throughout the Park;
 - a major indoor multi-use recreation centre expanded to accommodate a variety of uses including indoor basketball, netball and soccer, gymnastics, meeting and club rooms, sports related commercial development, underground parking and 8 storey residential development in the airspace above the multi-use recreation centre;
 - upgrade of all sporting fields to best practice standards including:

- retention and upgrading of rugby league, oz tag and touch football fields and new soccer and cricket pitches;
 - relocation, expansion and reorganisation of the netball precinct;
 - new tennis courts and grandstands and handball facility;
 - new synthetic hockey field with associated carparking;
 - lengthening of existing cycling track and separation from new pedestrian paths. Construction of a full perimeter shared pedestrian/bicycle pathway;
 - extensive landscape design and relocation and landscaping of carparks and additional carparks and removal of verge parking along the southern side of Fitzgerald Avenue;
 - additional passive recreation areas including children's playground and cycle track, picnic and BBQ facilities, open kick-about and warm-up areas and grassed amphitheatre; and
 - retention of native vegetation and creation of feature bridge over sand pit area.
- **Option 2 (Version B)** has been developed based on consultation with Randwick Netball Association to investigate the possibility of retaining the existing netball courts and clubhouse in their current location (with no expansion to their current facilities). Many of the proposed improvements are common to both Version A and Version B with the main design differences being contained in the northern portion of the park as shown in Attachment 1 (Appendix 2). The main impacts and differences are:
- the volume and high turnover car parking movements associated with the netball precinct are still concentrated along Fitzgerald Avenue;
 - north western passive recreation precinct is expanded and provides benefits for residents of more passive recreation opportunity;
 - soccer precinct remains split rather than being consolidated into one area. Soccer gains one additional modified field (but not in the optimal north/south orientation); and
 - reduced area to expand the cycling track – loses additional 500m length to track, while still having an additional 300m more than the existing cycle track.

The majority of the Working Committee and Community Representative Sub-Committee members supported Version A, however as some members preferred Version B it was recommended by the Committees that Council exhibit both options for community feedback.

The Deputy Mayor, Councillor Murray Matson, had a further meeting with representatives of the Randwick Netball Association to discuss their views about the Landscape Concept Plan. The key issues raised were the potential loss of exclusive use of the netball control centre building, location of the proposed new building in relation to the courts and parking areas; wind effects; and safety issues in relation to the proximity to Bunnerong Road as outlined in Option 2A.

Landscape Concept Plan Option Selected for Exhibition

A briefing session was held with the Councillors to provide an update on the outcomes of the Working Committee and Community Representative Sub-Committee consultation and to discuss the Landscape Concept plan Options 2A and 2B. The positives and negatives of the Landscape Concept Plan Option 2A and 2B were considered as outlined above.

The Councillors requested that the Landscape Concept Plan Option 2B (as shown in Attachment 1 – Appendix 1) was the preferred option for public exhibition given a preference to provide one option for community comment and given that Option 2B provides improved facilities for all sporting groups and retains the existing netball area/facility as requested by Randwick Netball Association Inc.

Management Objectives and Action Plan

Based on the issues raised during consultation and a review of best practice plans of management, the following four elements have been identified and provide a basis for structure of the Action Plan within the draft Plan of Management:

Element 1: Recreation/Open Space/Access and Aesthetics

Element 2: Sport and Events

Element 3: Environment, Heritage and Culture

Element 4: Management and Community Involvement

The objectives relating to these elements are detailed in Attachment 1.

The Action Plan outlines the direction for the management of Heffron Park, structured under the key elements identified above. The Action Plan table outlines the strategies and management actions which will be adopted in order to achieve the objectives of each of the above elements (refer Attachment 1). Priorities have been assigned according to the specific action's relative importance and the draft Staging Plan contained in the Landscape Concept Plan (Attachment 1 – Appendix 2).

Guidelines for multi-use recreation centre and residential development

The draft Plan of Management contains specific guidelines for the multi-use recreation centre to ensure that it is a quality development that is compatible with the recreational and open space character of the park and is at a significantly reduced scale from adjoining high rise residential development (refer Attachment 1).

Crown Lands Act 1989

Heffron Park is a Crown Reserve with care, control and management the responsibility of the Heffron Park (R81741) Reserve Trust¹ and therefore the Plan of Management has been prepared under the Crown Lands Act 1989. The draft Plan of Management

¹ Randwick City Council manages the Reserve Trust.

addresses the principles of Crown Land management and the matters to be addressed in plans of management as identified in the Act (refer Attachment 1).

Section 112 of the Crown Lands Act 1989 sets out the process to authorise the reserve to be used for an “additional purpose” to the “declared purpose” of the Park, which is public recreation. Council will seek the support of the Minister under section 121A of the Crown Lands Act, for the proposed multi-use recreation centre, comprising two buildings and including sports and lifestyle related commercial development and residential development above both buildings, as an ‘additional purpose’ in the Plan of Management. Detailed discussion of the proposal’s satisfaction of the requirements of section 121A of the Act relating to approval of ‘additional purposes’ (compatibility with the public recreation purpose of the park, consistency with the principles of Crown Land management and the public interest) are addressed in the draft Plan of Management (Attachment 1).

Randwick Local Environmental Plan 1998

Heffron Park is zoned 6A (Open Space Zone). The development proposed in the Landscape Concept Plan is generally consistent with the objectives and permissible uses within the zone, while the proposed residential development will support the enhanced recreation use of the park. The proposed multi-use recreation centre and residential development in the airspace above will be considered as “additional purpose” under the Crown Lands Act 1989 as considered above.

Clause 40A Master plans

Randwick Local Environmental Plan 1998 (clause 40A) requires a master plan be prepared for sites more than 4,000 square metres. This requirement can, however, be waived if Council is satisfied that adequate guidelines and controls applying to the land are already in place. Recent amendments to the Environmental Planning and Assessment Act, 1979 (the Act) as part of the NSW planning reforms have altered the status of master plans. Under the Act, master plans required by an environmental planning instrument (such as the Randwick Local Environmental Plan) are to be interpreted as requiring a development control plan for the site.

The relevant heads of consideration (as identified in clause 40A Master plans) have been considered in the draft Plan of Management and draft Landscape Concept Plan. It is considered the draft Plan of Management and Landscape Concept Plan will provide suitable guidelines and controls for the site, which will allow for the waiving of a master plan (now a development control plan) for the site under clause 40A once the Plan of Management is adopted.

Related Issues

Contamination Investigations

Given the Park’s history of varied use, Council will undertake the appropriate contamination investigations prior to any major development within the Park and

according to the State legislative requirements. Council engaged environmental consultants to investigate the mound areas in the centre of the site, and samples throughout the site, to identify any areas that may need special consideration in the preparation of the Landscape Concept Plan. Investigations identified asbestos fragments (not fibres) in a number of locations within the Park. These areas were fenced and the fragments removed. Ongoing monitoring will be undertaken by Council of these areas. Council has also commissioned environmental consultants to review all documentation relating to previous environmental investigations of the Park and prepare an environmental management strategy prior to any major development within the Park to ensure that all future works and development and maintenance within the park complies with State legislative requirements (including State Environmental Planning Policy No.55 – Remediation of Land) and ensures the ongoing safe use of the park. The draft Plan of Management requires compliance with the outcomes of the environmental management strategy.

Youth Facility

The need for a new location for a youth facility (“The Shack”) has been identified during consultations and the proposed multi-use recreation centre was suggested as a preferred location. The draft Plan of Management identifies the possible uses within the proposed multi-use centre and the indicative footprint for the multi-use recreation centre will accommodate a youth facility in association with other indoor sporting uses.

Des Renford Aquatic Centre

Council is reviewing the management of the Des Renford Aquatic Centre (DRAC), and the condition of the pool facilities has also been raised in that process. While there has been no formal review of the centre’s physical structures, there would appear to be substantial need and scope to upgrade the structures including the buildings, pools, ancillary structures and landscaping to enhance its functions and appearance and also its integration with the rest of the park.

Investigations of other multi-use recreation facilities consistently show that these work better with pool facilities. The Working Committee and Community Representative Sub-Committee noted the benefits of a pool in the proposed new multi-use recreation centre, while also recognising that it would not be feasible for Council to have two pool areas within the park. The Landscape Concept Plan has therefore worked towards the long term relocation of the pool to the site of the multi-use recreation centre. Space has been made available in the Landscape Concept Plan, within and adjacent to the proposed multi-use recreation centre, to allow for the relocation of the DRAC.

Council will undertake investigations of the DRAC, in order to clearly determine the pool’s short and long term future. This would confirm the most cost-effective way forward, as well as the relationship to the scope and timing of any major multi-use recreation centre on the western side of the park.

Costs and Funding options

The following is an estimated costing for the Landscape Concept Plan (major upgrade) options described above:

Option 2A (major upgrade) = approx \$46.0M
(including multi-use recreation centre & pool)

Option 2B (major upgrade with netball in same location) = approx \$43.35M
(including multi-use recreation centre & pool)

The differences in the cost estimates for Option 2A and Option 2B arise from the reduced total amount of works to be undertaken in Option 2B as follows:

- netball precinct not being relocated;
- cycle criterion track development has approximately 500m less track;
- reduced landscaped area; and
- reduced pedestrian footpaths.

Given the innovative and quality outcome being proposed for the park, a range of funding options were investigated, taking an innovative approach in addition to standard Council funding sources. These funding options were considered with the Working Committee and Sub-Committee and are shown below.

- **Council recurrent funding** (existing rates and s.94 contributions). Based on spending \$600,000 per year on the park (75% Council / 25% s.94 contributions) and excluding any grant funding – Option 2A would take approximately 76 years to complete and Option 2B would take approximately 72 years;
- **Rate levy** based on a 5% levy and \$600,000 Council recurrent funding and excluding any grant funding – Option 2A would take approximately 20 years to construct and Option 2B would take approximately 19 years and requiring residents to contribute additional rates per year to accelerate the park works. A submission to the Department of Local Government would need to be made to apply and gain approval for any levy;
- **Residential development** (in the airspace above the multi-use recreation centre) which is based on two x 10 storey buildings (2 ½ levels of sports facilities and 8 levels of residential) and underground car parking – Option 2A would take approximately 8 years to complete and Option 2B would take approximately 6 years, both with all or the majority of works undertaken within 4 years and with no additional funding required by residents.

The funding option of a residential development above the proposed multi-use recreation centre was raised in the early Committee discussions, given the opportunity to use the airspace above the multi-use recreation centre, without using the park land and given the potential to better address the Southpoint development opposite the park. This proposal may also provide for additional maintenance funding for the park. It is important to note that the figures shown above are estimates only and are based on the indicative costings of the works contained in the Landscape Concept Plan and estimates of funding available

through section 94 developer contributions, Council rates and profits from any residential development. The figures have been provided to enable discussion on the funding options available.

The Working Committee was generally supportive of the option of residential development in the airspace above the proposed multi-use recreation centre, although raised issues about this funding option. The Community Representative Sub-Committee had differing opinions on this option, with the key issues discussed below.

Proposed residential development in the airspace of the multi-purpose centre

This proposal is a means of fully funding the entire park upgrade in a short-term (approximately 6 years, with the majority of works to be completed within 4 years) with no cost to the community, as opposed to more than 20 years with other funding mechanisms. This would involve two 8 storey residential buildings constructed in the airspace above a proposed multi-use recreation centre (2 ½ storeys), with no reduction to park land, and in the locality where it would relate to the 15 storey Southpoint commercial and residential development on the opposite side of Bunnerong Road, yet at a much-reduced scale. Issues raised included that residential development within open space areas will set a precedent in other parks; that development will take over parkland and the potential conflict between sport activities and residential development.

These issues were discussed at the meeting and it was noted that the scale of the proposed park improvements, and the multi-use recreation centre, would be unique to Heffron Park for a number of reasons, including the size, landscape features and location of the Park and that the proposal will satisfy a need for a range of the high quality indoor and outdoor competition sporting venues. It was also noted that the residential development proposal would require no land within the park, only airspace above the proposed multi-use recreation centre. The suitability of the location of the proposed multi-use recreation centre (on the western side of the Park adjacent to Bunnerong Road and the Southpoint development) was also discussed, including the minimal environmental impact on the Randwick community in terms of issues such as traffic, overshadowing and noise. The potential conflict between residential and sporting uses was also considered and is an issue that has been addressed in the design of the Landscape Concept Plan and will need to be considered when detailed design of both the multi-use recreation centre and residential development is undertaken. It was noted that there are numerous examples of recreation, commercial and residential uses throughout Sydney.

It is also proposed that a Trust Committee would be established to manage the funds. The Committee would include representatives from Randwick City Council, Department of Lands, Department of Local Government, Community Representative and Financial/Legal Professional.

This report recommends that the residential proposal is pursued as a means of fully funding the entire park upgrade in a short-term (6 years), and with no financial cost to the community. The scale of the proposed park improvements, and the inclusion of the multi-use recreation centre, would be unique to Heffron Park for a number of reasons, including the size, landscape features and location of the Park and that the proposal will satisfy the need for a range of high quality indoor and outdoor competition sporting venues. The

Landscape Concept Plan identifies only one location for the multi-use recreation centre and residential development. This would be a unique one-off development in the Park.

Public Exhibition/Next Steps

The next step is for the draft Plan of Management and Landscape Concept Plan to be placed on public exhibition. A consultation strategy has been prepared to ensure that the community and sporting groups are widely consulted and includes:

- a two month exhibition period;
- placing notices in the local paper fortnightly during the exhibition period;
- notifying all surrounding residents by letter of the exhibition;
- preparing a fact sheet for sporting groups and local residents which includes advantages and disadvantages of the proposal;
- placing information on Council's website and at the Bowen, Matraville and Randwick Libraries;
- install information boards at strategic locations throughout the Park;
- community open days on site in the Park, on mornings and afternoons on two weekends during the exhibition period to hand out questionnaires and answer questions;
- staff available one morning and one afternoon each week during the exhibition period for face-to-face enquiries;
- staff available for phone enquiries;
- offer to present the draft Plan of Management and Landscape Concept Plan to the Precinct Committees, Chambers of Commerce, sporting groups, schools and others which use the park.

All submissions will be assessed and reported back to Council for the final decision on the draft Plan of Management and Landscape Concept Plan and on forwarding to the Minister for Lands for endorsement.

FINANCIAL IMPACT STATEMENT:

The preparation of the draft Plan of Management and Landscape Concept Plan is being funded under s.94 Developer Contributions, including the next steps of public consultation and finalising of the plan; being completed at a total project cost of approximately \$160,000.

CONCLUSION:

The draft Plan of Management and Landscape Concept Plan have been prepared with significant consultation with the sporting groups and local community. Two Landscape Concept Plans were recommended for public exhibition by the Working Committee and

Community Representative Sub-Committee. At a briefing of Councillors it was decided that the Landscape Concept Plan Option 2B (as shown in Attachment 1 – Appendix 1) was the preferred option for public exhibition given a preference to provide one option for community comment and given that Option 2B provides improved facilities for all sporting groups and retains the existing netball area/facility as requested by Randwick Netball Association Inc.

Given the innovative and quality outcome being proposed in the Landscape Concept Plan a range of funding options were considered including the recommended funding option of residential development in the airspace above the proposed multi-use recreation centre.

Council acknowledges appreciation of the hard work and efforts of the working committees in their attendance and involvement in the meetings, providing sporting and resident input to the preparation of the draft Plan of Management.

Council should now seek the views of the community with regard to the draft Plan of Management, particularly the proposed significant improvements to the passive and active open space areas within the park; and the funding proposal.

Council has liaised with the Department of Lands to ensure that the draft Plan meets the requirements of the Crown Lands Act.

A meeting has been scheduled with the Minister for Lands, the Department of Lands and the General Manager on the 30th March 2006, to confirm and continue discussions and procedures for the Ministers approval to exhibit and finalise the draft plan.

RECOMMENDATION:

That:

- a) Council endorse the draft Heffron Park Plan of Management and the Landscape Concept Plans (Option 2B) for public exhibition, subject to the approval of the Minister for Lands;
- b) Council agree that the Director, City Planning may make minor modifications to rectify any numerical, typographical, interpretation and formatting errors if required in the preparation for public exhibition of the draft Plan of Management and Landscape Concept Plan; and
- c) The Mayor write to the Working Committee and Community Representative Sub-Committee to thank them for their contribution in the development of the Plan of Management.

ATTACHMENT/S:

1. Draft Heffron Park Plan of Management - under separate cover

.....
GENERAL MANAGER

Director, City Services' Report 16/2006

SUBJECT:	APPOINTMENT OF CHAIR TO THE LOCAL EMERGENCY MANAGEMENT COMMITTEE.
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DATE:	13 March, 2006	FILE NO:	F2004/08335
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REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

Under Section 28 of the *State Emergency and Rescue Management Act 1989*, Council has established a Local Emergency Management Committee, which has responsibility for the preparation of plans in relation to the prevention of, preparation for, response to and recovery from emergencies in the Randwick local government area.

The Local Emergency Management Committee consists of:

- a) a senior representative of the Council of the relevant Local Government area nominated by that Council, who is to be the Chairperson of the Committee, and
- b) a senior representative of each emergency services organisation operating in the relevant Local Government area, and
- c) representatives of such organisations providing services in functional areas in the relevant Local Government area as the Council of that area may from time to time determine, and
- d) the Local Emergency Operations Controller for the relevant Local Government area.

The Chairperson of the Local Emergency Management Committee (LEMC) is to be a person who has the authority of the Council to co-ordinate the use of the Council's resources in the event of an emergency requiring a significant coordinated response. The Chairperson of this Committee is known as the Local Emergency Management Officer and Council is required to nominate an Officer to this position.

ISSUES:

The Local Emergency Management Officer or LEMO also represents Council at District Emergency Management Committee meetings and the equivalent Committee meetings of adjacent agencies such as Sydney Ports Corporation and Sydney Airport Corporations

Limited. The LEMO also participates in preparedness exercises for emergency services organisations, other service provider organisations and adjacent agencies.

The LEMO also provides executive support to the LEMC and arranges budget support for the administrative costs of the State Emergency Service's Local Emergency Operations Centre at the Storey Street Depot.

Council's Manager Infrastructure Services is nominated as the Chair and Local Emergency Management Officer. The combination of Infrastructure and Emergency Management functions is similarly practised in most city Councils, where the Manager has both functions in the position title.

RECOMMENDATION

That Council nominates the Manager Infrastructure Services for the position of Local Emergency Management Officer and Chairperson of the Local Emergency Management Committee.

ATTACHMENT/S:

Nil

.....
 JORDE FRANGOPLES
 DIRECTOR, CITY SERVICES

.....
 PETER STONE
 MANAGER INFRASTRUCTURE
 SERVICES

Director, City Services' Report 17/2006

SUBJECT:	BILGA CRESCENT, MALABAR - NEW FOOTPATH CONSTRUCTION.
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DATE:	13 March, 2006	FILE NO:	F2006/00028
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REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

As part of its commitment to improving facilities and services for residents, Council is continuing its program of providing a footpath in streets that currently do not have one.

Bilga Crescent, Malabar has been selected for footpath construction.

ISSUES:

Mr Frank Brown of 90 Bilga Crescent, Malabar has forwarded a petition signed by himself and his 17 neighbours (and as stated by Mr Brown) -

from properties 84 to 106 Bilga Crescent inclusive (on the inner side of the street) and from 83 to 87 inclusive. The properties 84 to 106 Bilga Crescent start on the north west side of the laneway opposite Prince Edward Street and extend around to one property short of the intersection of Bilga Crescent with Eucla Crescent (eastern end).

Mr Brown also advises:-

I understand that a number of residents on both sides of Bilga Crescent extending east towards Prince Edward Street from Duri Street and Nix Avenue (properties 64 to 82 and 65 to 81) are also opposed to the footpath. I have not approached them as yet as I wanted to get this interim petition to you, as quickly as possible, because of the proximity of the building contractors and the fact that they have already taken measurements in Bilga Crescent. I note that they have already prepared Eucla Crescent almost to the intersection with Bilga Crescent (eastern end of Eucla.)

FINANCIAL IMPACT STATEMENT:

There is no financial impact.

CONCLUSION:

As the petition to halt works in Bilga Crescent has been signed by 17 residents (12% of residents of Bilga Crescent) it would seem reasonable to continue the footpath construction work in Bilga Crescent at this time.

RECOMMENDATION:

That the construction of a footpath in Bilga Crescent, Malabar go ahead as per original program for construction, based on the fact that only 17 residents (i.e.12%) signed the petition objecting to the construction, out of a total of 137 households in Bilga Crescent.

ATTACHMENT/S:

Petition dated 8 March, 2006.
Map


.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
MARK SHAW
MANAGER TECHNICAL
SERVICES

08 Mar 06 02:56p Rob
08/03 2006 08:10 FAX

93447134

P. 1
0001/002

Att: Jorde & Ray Brownlee.
From C Belleli 

90 Bilga Crescent
MALABAR 2036

8 March 2006

Councillor Robert Belleli
Randwick City Council

Randwick City Council

By facsimile: 9344 7134 (2 pages including this page)

- 9 MAR 2006

Dear Councillor Belleli,

Records Received

Re: *Petition against Footpath in Bilga Crescent MALABAR*

You will recall that we spoke on 24 February.

Enclosed please find copy of interim petition from local residents encompassing properties from 84 to 106 Bilga Crescent inclusive (on the inner side of the street) and from 83 to 87 inclusive. I understand that a number of residents on both sides of Bilga Crescent from Duri Street (western side) and Nix Avenue (eastern side), encompassing properties 64 to 82 and 65 to 81 are also opposed to the footpath. I have not approached them as yet as I wanted to get this interim petition to you as quickly as possible because of the proximity of the contractors building the footpath and the fact that they have been taking measurements in Bilga Crescent.

The properties from 84 to 106 start on the Anzac Parade side of the laneway opposite Prince Edward Street (two properties north of the laneway) and extend around to one property short of the intersection of Bilga with Eucla (eastern end).

I note that the contractors have already prepared Eucla Crescent almost to the intersection with Bilga Crescent (eastern end of Eucla).

As a matter of urgency, would you please advise the present situation.

Yours faithfully



Frank Brown
Phone: (02) 9311 2979
Fax: (02) 9311 1851
Mobile: 0419 243301
Email: frankbrown@ozemail.com.au

08 Mar 06 02:56p Rob
08/03 2006 08:10 FAX

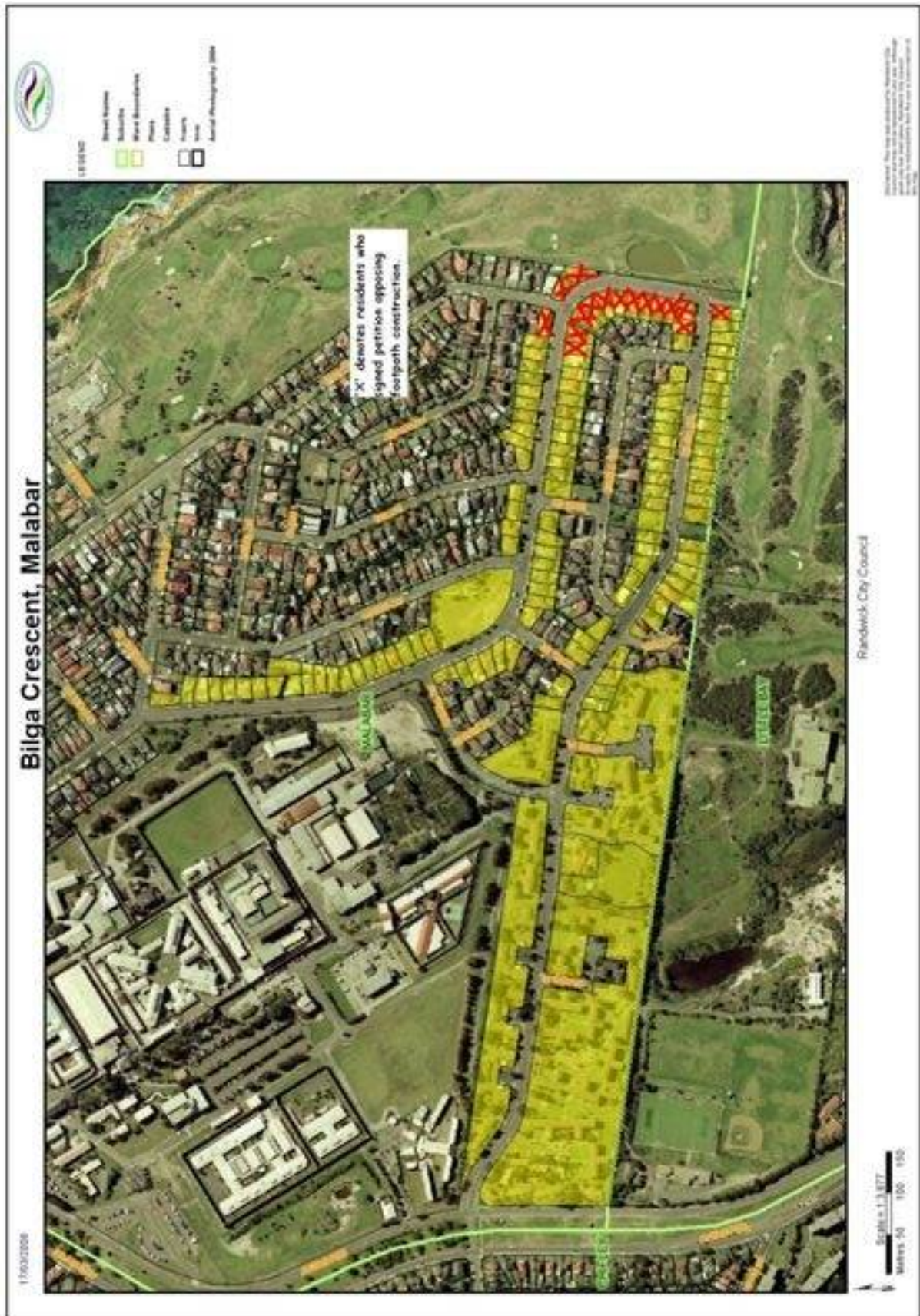
93447134

P.2
002/002

PETITION TO RANDWICK COUNCIL

WE, THE UNDERSIGNED RATEPAYERS OF BILGA CRESCENT MALABAR
HEREBY EXPRESS OUR OPPOSITION TO A PROPOSED FOOTPATH TO BE
CONSTRUCTED IN BILGA CRESCENT. WE PETITION COUNCIL TO STOP
ANY WORK PLANNED PENDING CONSULTATION WITH RESIDENTS.

STREET NUMBER	NAME	SIGNATURE
84	BILGA CR. FIORE	[Signature]
94	Bilga CRES MALING	[Signature] Maling
92	BILGA CRES DUFFY	M. J. Duffy [Signature]
93	Bilga Cres	Michael Metzel [Signature]
100	BILGA CR. ROY WATSON	[Signature]
104	Bilga CRE. KICK ONG	[Signature]
102	Bilga CRES + K. BOUTSWAIN	[Signature] Boutswain
90	BILGA CRES F & M BROWN	[Signature] Brown
85	BILGA CRES BRIAN & HELEN KEMP	[Signature]
85	Bilga Cres	Madelyn Baines
88	Bilga Cres.	Amanda Moore [Signature] Kayly Amista
96	Bilga Crescent	Mary Buckley [Signature]
96	Bilga Crescent	Dennis Callaghan
83	BILGA CRES EDMUND HO	[Signature]
86	Bilga Cres.	Jianxin Wang [Signature]
106	Bilga Cres.	Wendy [Signature]
87	Bilga Cres Malabar	[Signature]



Director, City Services' Report 18/2006

SUBJECT:	NUDE BATHING AT CONGWONG BEACH AND LITTLE CONGWONG BEACH, LA PEROUSE.
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DATE:	13 March, 2006	FILE NO:	F2005/00172 xr F2005/00881
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REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

A petition was tabled at Council Meeting on 28 February, 2006, from Mr Gerald Ganglbauer, Convenor of the Free Beach Action Group regarding nude bathing at Congwong Beach and Little Congwong Beach, La Perouse.

It was resolved that on the Motion of Councillor Belleli and Councillor Notley-Smith that the tabled petition be received and noted.

ISSUES:

Previously, Council at its meeting held on 22 November, 2005, resolved on the Motion of Councillor Belleli and Woodsmith that -

- (a) *Council oppose any plans to turn Little Congwong Beach into a Nudist Reserve by it being declared "a clothing optional beach..."*

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

Council has previously resolved to *oppose any plans to turn Little Congwong Beach into a Nudist Reserve by it being declared "a clothing optional beach..."*

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT/S:

Nil

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
MARK SHAW
MANAGER TECHNICAL
SERVICES

Director, City Planning Report 17/2006

SUBJECT:	21 Nolan Avenue, CLOVELLY
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DATE:	15 March, 2006	FILE NO:	DA/1137/2002/C
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is Development Application Report No. DA 1137/2002/C for Section 96(2) to provide for new upper balconies within the northern and eastern elevations of the existing multi unit housing development.

RECOMMENDATION:

That Council consider and determine the Section 96 Application in accordance with the recommendations contained in the attached report.

ATTACHEMENT/S:

Development Application Report dated 14 March 2005.

.....
SIMA TRUUVERT
DIRECTOR CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE: 14 March, 2006 **FILE NO:** DA/1137/2002/C

PROPOSAL: Section 96(2) to modify Development Consent No 1137/2002 to provide for new upper level balconies within the northern and eastern elevations of the existing multi unit housing development.

PROPERTY: 21 Nolan Ave Clovelly

WARD: North Ward

APPLICANT: M Westerweller

OWNER: Mr D E Westerweller, Ms K L Westerweller, Ms L G Westerweller, Mr M C Westerweller, Mr T M Westerweller

	Subject Site
	Submissions received
	▲ North
	LOCALITY PLAN

1. EXECUTIVE SUMMARY

The application is for a Section 96 modification to development consent to provide for balconies to each level of the building fronting Nolan Avenue and Seaview Street Clovelly.

The application is referred to Council for determination at the request of Councillor's Andrews, Tracey and White.

The main issue is the impact of the proposed balconies on both the amenity of the adjoining and neighbouring residents and the appearance of the building in the local streetscape.

Objections to the proposed modification have been received from the owners of 5, 7 & 9 Seaview Street Clovelly and 14 Nolan Avenue Clovelly which have raised issues detailing loss of privacy, the potential for noise nuisance from the use of the balconies and the impact of the balconies upon streetscape.

The application is recommended for approval subject to conditions reducing the width of the balconies in the Nolan Avenue (north) elevation, and reducing the width of the balcony serving the rear dwelling in the Seaview Street (east) elevation and deleting the second balcony of the corner dwelling which is in the Seaview Street (east) elevation.

2. THE PROPOSAL

The proposal seeks approval to modify the consent to erect timber frame fibre cement balconies to the eastern and northern elevations of the building serving the dwellings in the first floor. The balconies would have dimensions of 1.2m x 11.3m to the eastern Seaview Street elevation and 1.4m x 6m and 1.4m x 6.5m to the northern Nolan Avenue elevation.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is located on the south western corner of Nolan Avenue and Seaview Street. The site has a frontage of 20.57m to Nolan Avenue and 17.68m to Seaview Street and a site area of 360m². The site contains a brick, tile roof two storey residential flat building which is in an elevated position above street level and contains six dwellings and three garages accessed from Seaview Street.

The immediate locality is residential in nature and contains predominantly free standing and semi detached dwellings.

4. SITE HISTORY

There has been a detailed recent history of this site beginning with the commencement of building works without consent which increased the size of the ground floor window openings and the installation of new bi fold doors. Those works were the subject of regulatory action taken by Council's Manager of Environmental Health and Building

Services and as a result a development application was lodged to complete the building works which had been commenced without consent.

This original development application, DA 1137/2002, sought consent to replace the remaining windows and doors with aluminium framed windows and doors, install six balconies on the northern and eastern sides of the building at first floor level, raise the level of the ground floor to create terrace spaces, cement render and paint the building and fill in two small windows to the rear of the building.

The original application was approved on the 27th March 2003 subject to conditions which deleted reference to the proposed ground floor terraces and increased height of retaining walls/fences to the street frontages.

A subsequent Section 96 application (A) was lodged seeking consent to alter the height of the front wall and to provide for new planter boxes to the perimeter of the site, that application was withdrawn at the request of the applicant on the 5th August 2003.

A further Section 96 application (B) was lodged seeking consent to remove the first floor balconies and provide a balustrade to the bi fold doors to the first floor and to create terraces and planter boxes. That application was approved on the 17th September 2003.

5. SECTION 96 ASSESSMENT:

Under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979, as amended, Council may only agree to a modification of an existing Development Consent if the development is substantially the same development. The proposed modifications to the approved plans which include the erection of new pergolas at ground level and balconies to the first floor level will result in substantially the same development as originally approved.

6. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the DCP – Public Notification. The following submissions were received:

6.1 Objections

J Ryan of 5 Seaview Street Clovelly

Issue	Comment
The proposed balconies extend along almost the whole length of the building and will exacerbate the existing impacts with respect to noise and overlooking.	A condition of consent is recommended to reduce the width of each balcony to the Nolan Avenue elevation to a maximum of 3m off each living room, and that there be only one balcony to the Seaview Street elevation serving the living room of the rear dwelling with a maximum width of 3m, with no second balcony to the corner dwelling.

The pergola structures will be located above street level and will have a major impact upon the streetscape, particularly as viewed from Seaview Street, and the pergolas will increase the use of the terrace areas particularly during inclement weather.	The pergolas are actually formed by the support columns of the balconies and any impact upon the streetscape of the overall structures will be reduced by the conditions of consent to reduce the extent of the balconies, and deleting the balcony off the bedroom of the corner dwelling.
The subject property is within a 2A zone and residents should expect the amenity of that zone.	The multi unit housing development is an existing non conforming use within the 2A zone and any development to the building must be assessed on merit. It is considered that the conditions of consent which restrict the area of the balconies will minimise any amenity impacts.
There have been a number of previous Section 96 applications and each one has sought more concessions from Council.	This is the third application to modify the original consent and each application is assessed on it's own merits, however the cumulative impact of each application is also assessed.

G Lofthouse of 7 Seaview Street Clovelly

Issue	Comment
The original application detailed julliette style balconies which extended only the length of the windows and the proposed balconies are much wider and extend the length of the building. If the original julliette balconies were to remain there would also be no need for columns or pergolas to support them.	Conditions of consent are included to reduce the dimensions of the balconies which will reduce the overall impact upon the amenity of the adjoining owners and the impact upon the streetscape.
The proposal if approved would substantially increase the built form of the existing building which will dominate the streetscape.	Conditions of consent are included to reduce the dimensions of the balconies which will reduce the overall impact upon the amenity of the adjoining owners and the impact upon the streetscape.
There are already problems with noise when the existing ground floor terraces are used and this may increase with the use of the balconies.	It is considered that the use of proposed balconies in a responsible manner in conjunction with the reduction in size of the balconies will reduce potential noise impacts by restricting the number of persons who may occupy the balconies at any one time.
The proposal does not comply with the statutory controls in that the objectives of clause 12 of the Randwick LEP are not complied with.	The multi unit housing development is an existing non conforming use within the 2A zone and any development to the building must be assessed on merit.
There is a history of this property with unauthorised building works and	This is third application to modify the original consent and each application is

continuing section 96 applications which gradually increase the adverse impacts upon the neighbours.	assessed on it's own merits, however the cumulative impact of each application is also assessed.
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P Lyness & M Batt of 9 Seaview Street Clovelly

Issue	Comment
The major objection to the proposal is the potential for the use of the balconies and terraces generating additional noise.	A condition of consent is recommended to reduce the width of each balcony to the Nolan Avenue elevation to a maximum of 3m off each living room, and that there be only one balcony to the Seaview Street elevation serving the living room of the rear dwelling with a maximum width of 3m, with no second balcony to the corner dwelling.
If the upper level balconies are approved there will be an opportunity for overlooking of their property.	There will be some overlooking of the properties opposite however again, the impacts will be reduced by the condition to reduce the dimensions of the balconies, and principal private outdoor living areas to the rear of the objectors premises will remain unaffected.
The balconies will negate the purposes of setbacks requirements which protect the streetscape and minimise impacts upon adjoining neighbours.	Whilst the proposed balconies will project forward of the existing façade of the building it is considered that the balconies will soften the appearance of the building which at present is somewhat boxy in appearance, and the recommended conditions of consent to reduce the extent of the balconies will reduce their impact upon the adjoining properties and streetscape.
The subject property is within a 2A zone and there is already an impact upon the residents in this area because of the intensive use of this property and any further development will downgrade their amenity further.	The multi unit housing development is an existing non conforming use within the 2A zone and any development to the building must be assessed on merit.
This is the third variation to the original application and each application increases the negative impacts to the adjoining properties and no further applications for more changes should be accepted.	This is third application to modify the original consent and each application is assessed on it's own merits, however the cumulative impact of each application is also assessed.

L Page of 14 Nolan Avenue Clovelly

Issue	Comment
The proposed balconies and pergolas will exacerbate the existing visual and auditory impacts currently experienced by the use of the terraces.	Conditions of consent are included to reduce the dimensions of the balconies which will reduce the overall impact upon the amenity of the adjoining owners and the impact of the building within the local streetscape.
The proposal will allow the balconies to be used for open living spaces which will amplify the existing noise problems emanating from this building.	Conditions of consent are included to reduce the dimensions of the balconies which will reduce the overall impact upon the amenity of the adjoining owners and the impact of the building within the local streetscape.
There will be an increased loss of privacy if the balconies are approved in that it will be possible to look directly into the private living areas of the buildings opposite.	There will be some overlooking of the properties opposite however again, the impacts will be reduced by the condition to reduce the dimensions of the balconies, and the principal private outdoor living areas within the rear of the objectors premises will remain unaffected.

7. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Development application has been assessed in accordance with the provisions of the following relevant planning documents:

Randwick Local Environmental Plan 1998

The site is zoned 2A under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council's consent, subject to the existing use rights provisions of the Environmental Planning & Assessment Act, 1979.

8. ENVIRONMENTAL ASSESSMENT

The site has been inspected and the application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act, 1979, as amended.

8.1 Acoustic & Visual Privacy

Although the existing building constitutes a non-conforming use, Council's DCP - Multi Unit Housing has been used as a guide in the context of a merit assessment. The DCP objectives seek to ensure that new development is designed to ensure both the visual and acoustic privacy of the residents and the existing level of privacy to adjoining and nearby properties is respected. Whilst it is acknowledged that the provision of balconies to older style multi-unit buildings would enhance the amenity and lifestyle choices of residents of the building, in this instance the extent of the proposed balconies is considered excessive

and in conjunction with the use of the ground floor terraces and their proximity to the adjoining properties are likely to significantly impact on the acoustic privacy of surrounding dwellings.

The recommended conditions of consent which restrict the area of the proposed balconies will minimise any loss of privacy to the adjoining and neighbouring properties and satisfy this objective of the DCP.

8.2 Streetscape

The existing streetscape is diverse containing semi detached, terrace style dwellings and free standing dwellings some of which have been modified, and also includes the subject property which is the only example of multi unit housing development in the immediate locality.

Any impact upon the streetscape as a result of development to this property is more pronounced due to the very close boundary setbacks of 2m to Seaview Street and 3m to Nolan Avenue and also by the elevated nature of the allotment.

The recommended conditions of consent which restrict the area of the upper level balconies will reduce the prominence of the balconies as viewed in the local streetscape whilst still contributing to the overall form and articulation of the existing building.

9. CONCLUSION

The modification to the approved plans complies with the relevant assessment criteria and subject to conditions to reduce the size of the balconies will not result in any significant adverse impacts upon either the amenity of the adjoining premises or the character of the locality.

The application is therefore recommended for approval.

RECOMMENDATION:

THAT Council as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No DA1137/02/C for permission to carryout alterations and additions to the existing multi unit building at 21 Nolan Avenue Clovelly in the following manner:-

Amend Condition 1 to read:

The development must be implemented substantially in accordance with the plans numbered DWG:4:2, dated October 2002 and received by Council on the 2nd December 2002, the application form and on any supporting information received with the application, as amended by the *Section 96 plans received by Council on the 4th October 2005, only in so far as they relate to the modifications highlighted on the Section 96 plans and detailed in the Section 96 application*, except as may be amended by the following conditions and as may be shown in red on the attached plans:

Include the following conditions:

- 41 The two proposed balconies and any supporting structures within the Nolan Avenue (north) elevation shall be reduced in width to a maximum of 3m and situated adjacent to the existing living/dining rooms to reduce any potential adverse impact upon the amenity of the adjoining and neighbouring properties.
- 42 The second proposed balcony and supporting structure to the corner dwelling off the bedroom shall be deleted to reduce any potential adverse impact upon the amenity of the adjoining and neighbouring properties.
- 43 The proposed balcony within the Seaview Street (east) elevation serving the dwelling to the southeast of the building shall be restricted in width to a maximum of 3m and situated adjacent to the living/dining room to reduce any potential adverse impact upon the amenity of the adjoining and neighbouring properties.

ATTACHMENT/S:

Nil.

.....
SIMA TRUUVERT
DIRECTOR CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

Director, City Planning Report 18/2006

SUBJECT:	STANDARD CONDITION OF CONSENT FOR CONSTRUCTION HOURS.
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DATE:	17 March, 2006	FILE NO:	F2004/08232 XR F2005/00171
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Council at its Ordinary Council Meeting, 27 September, 2005 resolved:

“(Matson/Belleli) that this matter be deferred to the next Health, Building and Planning Committee meeting for a report detailing legal advice to be obtained by Council and the position of the union and its legal advice.”

The above resolution was in response to the motion pursuant to notice by Cr Tracey which reads as follows:

“That Council in the public interest amends the hours allowed for construction work to control and mitigate the impacts of development on the amenity of the surrounding areas and neighbourhood.

In particular, Council will make a standard condition of development consent that a prohibition will apply for all construction works on:

- *Saturdays & Sundays adjacent to Public Holidays and*
- *Public Holidays and*
- *The adjacent Construction Industry Awarded Rostered Days Off*

This condition of development consent will not apply to:

- *Minor renovations or refurbishments to single dwelling construction*
- *Owner occupier renovations or refurbishment to single dwelling construction*
- *Owner Builder construction of single dwelling construction and or*
- *Housing Estates consisting of predominantly unoccupied single dwellings.”*

ISSUES:**Legal Advice**

Bowen & Gerathy Solicitors have provided Council with written advice as to the validity of imposing a standard condition of consent prohibiting all construction works on public holidays and Saturday and Sundays adjacent to public holidays. Advice has also been provided on the validity of restricting construction activity on “adjacent Construction industry Awarded rostered days off.”

Council’s solicitors have reviewed the advice provided to the CFMEU by David Patch, Barrister, and conclude that the part of the proposed condition prohibiting the carrying out of construction works on Saturdays and Sundays adjacent to public holidays could be demonstrated to be in the public interest and therefore a valid condition.

In relation to that part of the proposed condition restricting construction activity on “*adjacent Construction industry Awarded rostered days off.*” Council’s solicitors have advised that the public interest aspect of this prohibition is not clear as the particular days upon which rostered days would occur may be what would otherwise be normal working days and as such the protection the proposed restriction would provide for the amenity of the public is questionable. Further, this part of the proposed condition would also be difficult for Council to enforce given its complexity and ambiguity as to the particular days referred to by the condition.

It is noted that the legal advice provided by the CFMEU also deems such a prohibition to be “*not for a planning purpose rather the purpose would only be to benefit employees on building sites by giving them Construction Industry days off.*”

Current Standard Conditions

The current standard conditions in relation to construction hours read as follows:

All building, demolition and associated site works must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive, between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and public holidays, except with the specific written authorisation of Council’s Manager of Environmental Health and Building Services.

The use of any rock excavation machinery or any mechanical pile drivers is restricted to the hours of 8.00am to 5.00pm (maximum), Monday to Friday inclusive and from 8.00am to 1.00pm on Saturday, to minimise the noise levels during construction and loss of amenity to nearby residents.

These conditions are simply understood and strike a balance between achieving a reasonable level of residential amenity and the necessary activities of the construction industry. Approximately 70% of construction works undertaken in Randwick relate to either new dwelling houses, or alterations and additions to existing dwelling houses, of which a significant proportion are owner builders. Any further restrictions would therefore inconvenience home owners more so than the developers of multi-unit buildings.

In order to address this issue, the proposed condition would not apply to;

- *Minor renovations or refurbishments to single dwelling construction*
- *Owner occupier renovations or refurbishment to single dwelling construction*
- *Owner Builder construction of single dwelling construction and or*
- *Housing Estates consisting of predominantly unoccupied single dwellings.*

This raises some difficulties in that such circumstances and details are not (and can not realistically be) provided at DA stage. In addition, the legislation permits such information (such as licensed contractor or owner builder details) to be furnished to the Council at a latter stage (ie prior to commencing works) and it is an offence to fail to do so. Therefore, to require such information at DA stage would be quite onerous for the person to provide with certainty and, in effect, it would be inconsistent with the legislation.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

Council's Solicitors have advised that the part of the proposed condition prohibiting the carrying out of construction works on Saturdays and Sundays adjacent to public holidays could be demonstrated to be in the public interest and therefore a valid condition.

However, that part of the proposed condition restricting construction activity on "*adjacent Construction industry Awarded rostered days off*" could not validly be imposed as it neither in the public interest nor for a planning purpose.

Whilst the proposed condition is altruistic in its intentions, and should be commended, it is considered that the current standard conditions are easily understood by the community and are effective in achieving a reasonable balance between the social amenity of residential neighbourhoods and the economic imperatives of the construction industry.

RECOMMENDATION:

That this report be received and noted.

ATTACHMENT/S:

Advice from Bowen & Gerathy dated 23 November 2005 & 14 February 2006 - under separate cover.

Advice from David Patach Barrister to the CFMEU - under separate cover

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

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KERRY KYRIACOU
MANAGER DEVELOPMENT ASSESSMENT

Director, City Planning Report 19/2006

SUBJECT:	Licensed Trading Hours - Coogee Bay Hotel & Coogee Beach Palace Hotel
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DATE:	16 March, 2006	FILE NO:	F2004/07767
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

At the Ordinary Council meeting held on 22 November 2005, it was resolved (Matson/Belleli) that:

1. *a Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982) be undertaken by a suitably qualified and experienced consultant nominated by the General Manager.*
2. *any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council.*

However, the resolution was subject to a recision motion at the Ordinary Council meeting held on 13 December 2005, which was carried and it was resolved (Matson/Notley-Smith) that:

the recommendation contained in Mayor's Minute 144/2005 (Options for reducing the trading hours of the Coogee Bay Hotel and Beach Palace Hotel) be considered at the next Council meeting. CARRIED

ISSUES:

As reported to Council in the Mayors Minute No. 144/2005 (a copy of which is attached), a complaint was made to the Liquor Administration Board (LAB), by a number of residents, in relation to the Coogee Beach Palace Hotel, Coogee Bay Hotel and Randwick Rugby Club.

The grounds of the complaint is that the quiet and good order of the neighbourhood has been unduly disturbed as a result of the manner in which the Club and Hotel premises conduct their business and the behaviour of persons after they have left the premises.

The complainant seeks the following outcome:

1. Reduction in the number of patron permitted to be served at any one time in the larger premises.
2. Midnight closing for the Beach Palace and Coogee Bay Hotels.
3. Enforcement of licence conditions and responsible service of alcohol.
4. Revoking of the licence to serve alcohol in the public area outside the Beach Palace Hotel.
5. Enforcement of the Alcohol Free Zones, the Sunset to Sunrise notices and the Summary Offences Act.

This matter was initially subject to a Conference at the LAB on 21 November 2005, presided over by Mrs Kok, Licensing Magistrate, which was attended by all parties and their representatives, a number of residents and Council officers.

At the Conference, the parties were instructed to provide further information to the LAB for consideration by the Board and the Conference was reconvened on 27 February 2006.

The Board has recently advised Council that the matter has been adjourned and is subject to the following comments and resolutions:

- It was noted that the issue of disturbance from music appeared to have been resolved and will not be pursued at this stage.
- The club is to consider increasing security patrols (to 6:30pm) on games nights, and will report to the Board.
- The Rugby Club will attempt to hold discussions with the Football Club Board and discuss the possibility of extending security patrols to the side of the oval.
- Mr Sayle, licensee of the football club function licence (and a Director of the Randwick Rugby Club) is to ensure that an application is lodged with the Court for approval of all dates that the oval is proposed to be used for functions.
- The 3 premises will be attempt to provide a common phone number for the residents to call at the time that a disturbance is occurring. Particulars of the arrangements, including the provision of the actual phone number, proper recording of calls received, recording of action taken and results of actions taken are to be provided to the Board within 1 week.
- The residents are to provide details of all incidents which have caused disturbance to them, and which they consider to be result of the operation of any of the 3 premises.
- Council will look into:
 - the possibility of additional port-a-loos being installed at the Oval;
 - the provision of safe and secure toilet

facilities in the vicinity of the hotels after dusk;

- it's policy in regards to the service of alcohol at the oval and the need for and adequacy of toilet facilities within licensed premises when a POPE or DA is granted or amended;
- A report is to be provided to the Board after the next Safety Committee meeting.
- Any further initiatives proposed by the premises are to be discussed with the police and the council.

This matter will be further reviewed by the LAB at a future date after the abovementioned details are provided to the Board.

Although the complaint currently before the LAB is separate to Council's resolutions in this matter, consideration may be given to the status and subsequent determination of the complaint before the LAB when considering this matter.

In addition, reference is also made to Mayors Minute 156/2005, regarding Users Pays Policing, in which it was resolved;

459 RESOLUTION: (*His Worship the Mayor, Cr Seng*):

1. *That Council write to the Local Area Commander/NSW Police expressing its support and seeking approval of the provision of a 'User-pays' or 'Supplementary' Policing program in the Coogee area, on weekends, for a trial period of 12 weeks, as detailed in this Mayoral Minute;*
2. *That Council Rangers assist the Police with patrols in the Coogee area, as required, on weekends, up until 10.00pm;*
3. *That a report be provided to Council upon or before the conclusion of the trial period, which provides an evaluation of the outcomes of the program, for consideration; and*
4. *That Council write to the State Member for Coogee and the NSW Police Minister informing them of this resolution and seeking a guarantee that, under no circumstances, will the current Coogee Police numbers be reduced as a result of this trial.*

Council's request is still under consideration by the NSW Police. Although, as a result of recent operations, an increased Police presence has been provided to the Coogee and Maroubra areas, following the incidents at Cronulla and other areas.

RECOMMENDATION:

That the recommendation contained in Mayors Minute 144/2005 (options for reduction the trading hours of the Coogee Bay Hotel and Coogee Bay Palace Hotel) be considered by Council, in accordance with Council's resolution No. 552/2005.

ATTACHMENT/S:

- Council Resolution-Ordinary Council Meeting-13 December, 2005 - Options for reducing trading hours of Coogee Bay Hotel & Coogee Beach Palace Hotel;
- Council Resolution & Mayors Minute 144/2005 - Options for reducing trading hours of Coogee Bay Hotel & Coogee Beach Palace Hotel - Ordinary Council Meeting-22nd November, 2005; and
- Council Resolution & Mayors Minute 156/2005 - Users Pays - Supplementary Policing at Coogee - Ordinary Council Meeting-22 November, 2005.

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SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
ROMAN WERESZCZYNSKI
MANAGER, HEALTH BUILDING
& REGULATORY SERVICES

**ORDINARY COUNCIL MEETING
TUESDAY, 13TH DECEMBER, 2005**

12. MOTIONS PURSUANT TO NOTICE.

12.1 NOTICE OF RESCISSION MOTION BY COUNCILLORS BELLELI, MATSON AND NOTLEY-SMITH –ORDINARY COUNCIL MEETING, TUESDAY, 22ND NOVEMBER, 2005 – ITEM 6.5, MAYOR'S MINUTE 144/2005 - OPTIONS FOR REDUCING THE TRADING HOURS OF THE COOGEE BAY HOTEL AND BEACH PALACE HOTEL. (F2004/07767)

551 **RESOLUTION: (Matson/Belleli) that:**

That the resolution passed at the Ordinary Council Meeting held on Tuesday, 22nd November, 2005, reading as follows:

that:

1. *a Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982) be undertaken by a suitably qualified and experienced consultant nominated by the General Manager.*
2. *any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council.*

BE AND IS HEREBY RESCINDED.

MOTION: (Matson/Belleli) CARRIED – SEE RESOLUTION.

552 **RESOLUTION: (Matson/Notley-Smith) That the recommendation contained in Mayor's Minute 144/2005 (Options for reducing the trading hours of the Coogee Bay Hotel and Beach Palace Hotel) be considered at the next Council meeting. CARRIED**

MOTION: (Matson/Notley-Smith) CARRIED – SEE RESOLUTION.

**ORDINARY COUNCIL MEETING
TUESDAY, 22ND NOVEMBER, 2005**

6.5 MAYOR'S MINUTE 144/2005 - OPTIONS FOR REDUCING THE TRADING HOURS OF THE COOGEE BAY HOTEL AND BEACH PALACE HOTEL. (F2004/07767)

At this point in the meeting, Councillor Daley declared a Conflict of Interest in Item 6.5 as the President of the Randwick Rugby Club and indicated that he would not take part in the debate or the vote on the matter. Councillor Daley left the Council Chamber during the debate and the vote on the matter.

458 RESOLUTION: (Tracey/Bastic):

1. *That a Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982) be undertaken by a suitably qualified and experienced consultant nominated by the General Manager.*
2. *That any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council.*

MOTION: (His Worship the Mayor, Cr Seng) that:

1. Council request the proprietors of the Coogee Bay Hotel and Beach Palace Hotel to carry out a comprehensive Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982), by a suitably qualified and experienced consultant nominated by the General Manager, at the expense of the subject premises, and
2. Any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council.

AMENDMENT: (Matson/Woodsmith) that in noting the requirements listed under Section 104 of the Liquor Act 1982, as the grounds for a complaint to the Liquor Administration Board, Council authorises the General Manager to recruit an independent external consultant to:

1. carry out surveillance of the Beach Palace, Coogee Bay Hotel and Randwick Rugby Club in reference to:
 - a. the manner in which the business of the licensed premises is conducted;
 - b. the behaviour of persons after they have left the licensed premises; and
 - c. the manner in which the business of the licensed premises is conducted and the behaviour of persons after they have left the licensed premises.
2. carry out the documentation and collation of these observations into a report that shall contain an assessment of whether grounds exist for Council to make a complaint under Section 104 of the Liquor Act 1982. **LOST.**

Crs Matson and Woodsmith rose and demanded a DIVISION. The division was taken and the voting was as follows:

FOR	AGAINST
Cr Andrews	Cr Belleli
Cr Bastic	Cr Matson
Cr Kenny	Cr Notley-Smith
Cr Nash	Cr Woodsmith
Cr Procopiadis	-
His Worship the Mayor, Cr Seng	-
Cr Sullivan	-
Cr Tracey	-
Cr White	-

(Note: Councillor Daley, having declared a conflict of interest in the above matter, was not present in Chamber for the above division).

**AMENDMENT: (Tracey/Bastic) CARRIED & BECAME THE MOTION.
MOTION CARRIED – SEE RESOLUTION.**

Councillor Daley returned to the meeting at this point (8.50pm).

MAYOR'S MINUTE 144/2005

SUBJECT:	Options for Reducing the Trading Hours of the Coogee Bay Hotel and Beach Palace Hotel
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DATE:	15 November 2005	FILE NO:	F2004/07767
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REPORT BY: MAYOR

INTRODUCTION

Reference is made to the resolution of Randwick City Council at its Ordinary meeting held on the 27 September 2005. The resolution, the result of the Director, Planning Report 59/2005 was made in the following terms:

“403 **RESOLUTION:** (*Matson/Woodsmith*) that:

- a) *this Director, City Planning Report 59/2005 be noted;*
- b) *this matter be the subject of a further report to Council at the conclusion of the implementation and analysis of the strategies proposed in the Coogee Safety Committee's "Action Plan";*
- c) *Randwick City Council continues to support and participate in the Coogee Safety Committee and the Eastern Beaches Local Area Command Liquor Accord to reduce alcohol related harm and anti-social behaviour throughout the City of Randwick; and*
- d) *that a report be brought before the next Ordinary Council meeting or appropriate Committee meeting addressing the following matters;*
 - i. *Council place on public exhibition a range of possible options to be put to the Liquor Administration Board for both winding back liquor licensing hours and implementing more stringent liquor licensing conditions for the Coogee Bay Hotel and Beach Palace Hotel;*
 - ii. *options including strategies for avoiding the flow-on of patrons to the Royal Hotel and Coach and Horse Hotel that might arise from the proposal;*
 - iii. *following the invited input of Councillors, the adoption of suitable options prior to the exhibition process;*
 - iv. *submissions be collected from residents living within 400 metres of the Coogee Bay Hotel, Beach Palace, Royal Hotel and Coach and Horses Hotel; and*
 - v. *options for the establishment of an "incident register database" to allow residents to phone in and report anti-social incidents."*

It is the purpose of this Mayor's Minute to outline the options available to Council which may be put before the Liquor Administration Board (LAB) and the Licensing Court of

New South Wales to “wind-back” the trading hours of the Coogee Bay Hotel and Beach Palace Hotel, including the implementation of “more stringent” Licensing conditions, as required by Council’s resolution. The Mayoral Minute also details other options available to Council, for consideration as an alternative or precursor to the possible lodgement of a complaint or application to the LAB or Court.

BACKGROUND

In this particular instance, Council is concerned with the trading hours of the Coogee Bay Hotel and the Beach Palace Hotel and the impact that the current extended trading hours has upon the local community. However, the legal provisions set out in this Minute in respect to the conduct of premises and the varying or revoking of extended hotel trading hours apply equally to all hotels in New South Wales.

The *Liquor Act 1982* is the relevant legislation which provides for, and administers the supply and sale of alcohol in New South Wales. This legislation has authorised the Licensing Court of New South Wales to approve, subject to the legislative requirements, the extended trading hours of hotel premises since 1989.

Relevantly it is under the *Liquor Act 1982* in which issues relating to the conduct of a licensed premise, including the trading hours of a hotel premises may be addressed. The exercise of this power lies with the Liquor Administration Board and the Licensing Court of New South Wales. Council does not have any legislative powers to issue liquor licences or impose any limitations or conditions upon a liquor licence.

The Liquor Administration Board (LAB) has a discretionary power to impose or vary the existing conditions of a Liquor Licence to resolve a complaint brought before it. Separate to the powers of the LAB, the Licensing Court of New South Wales also determines matters in respect to licensed premises. These matters include the hearing of Applications that provide for the sale of alcohol at premises, which may include an Application by a *local consent authority* in relation to the trading hours of a particular hotel. The Licensing Court also has a broad range of disciplinary powers in respect to offences against NSW licensing laws, including the power to punish and/or impose conditions to a Liquor Licence when hearing a Complaint Summons brought before the Court.

As outlined above it is the *Liquor Act 1982* which allows a Council to lodge a Complaint with the LAB in respect to the conduct of a licences premises, make application to the Licensing Court to reduce the trading hours of a premises and to bring a Complaint before the Court, by way of Summons, against a licensed premises.

Prudently, prior to embarking on a course of legal action, consideration should also be given to other “non-legal” options which could be implemented voluntarily at the hotel premises that may also lead to a reduction of anti-social behaviour in the Coogee Area.

LIQUOR ACT PROVISIONS

I have been advised by Council officers that should Randwick City Council wish to pursue a legal remedy to bring about the reduction of trading hours or the imposition of more stringent licensing conditions at the Coogee Bay and Beach Palace Hotels, the following provisions of the *Liquor Act 1982*, apply:

Section 104 Quiet and good order of neighbourhood

Section 104 of the *Liquor Act 1982* (the Act) allows Council to make a Complaint to the LAB to resolve issues regarding the conduct of a licensed premises and the behaviour of its patrons which result in a neighbourhood disturbance.

A Section 104 complaint conference is presided over by a member of the Liquor Administration Board (who is also a Magistrate for the purposes of the Licensing Court). The complaint conference process brings together the parties to the complaint, including the Licensee, the complainant, the Council (where the Council is not the complainant) and the Police.

Section 104 complaint conferences are relatively informal proceedings and it is a matter for each party to the Complaint as to whether or not they wish to be legally represented.

The process, possible outcomes and implications to Council in respect to a Section 104 Complaint are described in greater detail at the "Part 1. Discussion of Legal Options" of this Mayor's Minute.

Section 25 Hotelier's licence – variation of trading hours

Section 25 (7) of the Act provides for an Application to be made by Council to the Licensing Court of New South Wales to seek a variation of trading hours for hotel premises.

This is a formal Licensing Court application process whereby the determination of the Application is the subject of judicial review. This process would require separate Applications being made for each of the licensed premises.

This Application process is described in greater detail at the "Part 1. Discussion of Legal Options" of this Mayor's Minute.

Section 67 Summons to show cause against taking of disciplinary action

Section 67 of the Act, provides for the making of a Complaint to the Licensing Court against a licensee or manager of a licensed premises by Council. Upon making the Complaint, the Court may summons the person to appear, to answer the Complaint and show cause why disciplinary action should not be taken.

The Act, prescribes the grounds upon which the Complaint must be taken. The prescribed grounds for the making of a Complaint include, *inter alia*, that intoxicated persons have frequently been on, or seen leaving the premises, damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises and that the licence is considered not to have been exercised in the public interest.

The above Complaint process is described in the following "Discussion of Legal Options" section of this Mayor's Minute.

1. DISCUSSION OF LEGAL OPTIONS

Section 104 Quiet and good order of neighbourhood

I am advised that for a Section 104 Complaint to be brought against the Beach Palace and Coogee Bay Hotels, Council would be required to assemble evidence of particular incidents which demonstrates to the LAB that the behaviour of patrons leaving the licensed premises are causing frequent disturbances to the quiet and good order of the neighbourhood.

To assemble such evidence, Council would need to undertake further research, conduct surveillance and may require expert advice on issues such as noise and the social impacts of the hotel premises.

In addition to Council's evidence, I am also advised that essential to proceeding with this type of complaint, would be the willingness for residents within the vicinity of the premises to give an accurate account (in person before the LAB) of disturbances suffered which are directly attributed to the premises complained against.

After giving each party the opportunity to be heard in relation to the complaint, the presiding Board Member will determine the appropriate course of action to resolve the complaint. The resolution of the complaint may result in the imposition of additional appropriate conditions to the liquor licence and/or the variation of existing licence conditions. Alternatively, the LAB may consider undertakings from the licensee which resolve the complaint without affect to the Licence.

Although an effective method of addressing issues relating to the conduct of a licensed premises, I have been advised by Council officers that even after establishing the complaint; it is unlikely that the LAB would reduce the existing trading hours without first applying other available options to mitigate the circumstances in which the complaint has been brought.

The power to bring a Section 104 Complaint before the Liquor Administration Board is also available to the Police and to any residents who reside within the vicinity of the licensed premises.

Section 25 Hotelier's licence – variation of trading hours

Available to Council is the power to make an Application to the Licensing Court to reduce the trading hours of the Coogee Bay hotel and/or the Beach Palace Hotel. Such an application would be the subject of formal Court proceedings in which Council would be required to present properly admitted evidence to prove one or more of the following elements:

- Reasonable steps have not been taken in respect to the responsible service of alcohol at the premises.
- Reasonable steps have not been taken to prevent intoxication on the premises.
- The extended trading hours of the premises has resulted in the frequent undue disturbance to the quiet and good order of the neighbourhood.

Of the available legal options which may result in a reduction of trading hours at the Coogee Bay and Beach Palace Hotels, it appears that it is only by way of an application made pursuant to Section 25 (7) of the Act that the trading hours of the hotel premises can be reduced, but only if the Court finds in Council's favour.

However, I am advised by Council officers that at this point in time Council is not in a position to proceed with such an application. A substantial quantity of evidence to support an application would need to be obtained by Council over a reasonable period of time. There would also be a requirement to adduce expert evidence across a number of disciplines, which may include acoustics and urban/social planning which demonstrates the adverse impacts of the hotel premises.

In this regard, the evidence needs to clearly demonstrate that it is the conduct of the hotel and its patrons, the subject of the application, which is the cause of the impact to the quiet and good order of the neighbourhood and not other licensed premises within the area. Most importantly, there would also need to be a reasonable number of residents who would be prepared to give evidence in formal Court proceedings to support Council's application.

It must be further recognised that litigation of this nature exposes Council to the awarding of costs against it, should Council fail in its application. In this regard, it is Council officers' opinion that prior to any determination to make such an application, Council's solicitors should be instructed to engage Counsel to provide formal legal advice on all the aspects of making such an application.

The Commissioner of Police, the Director of Gaming & Racing and the Licensee also have the power to make an application pursuant to Section 25 (7) of the Act.

Section 67 Summons to show cause against taking of disciplinary action

Section 67 of the Act allows a local consent authority to bring a Complaint against a licensee or manager of a licensed premises on specific grounds. The complaint is heard by the Licensing Court with the Council who brings the complaint acting as the Prosecutor.

Unlike Section 104 complaints these types of complaint proceedings are civil prosecutions determined by evidence that can be properly adduced which establishes by way of fact that the grounds of Council's complaint have been made out. Penalties or Orders in regard to complaint hearings are at the discretion of the Court.

In finding a complaint has been made out, the Court may take a broad range of disciplinary action. The penalties and orders the Court may make, including monetary penalties and the disqualification of a person from holding a liquor licence. Where "public interest" grounds of a complaint are made out, the Court may make orders in respect to the exercise of the licence, as it thinks fit.

A Complaint pursuant to Section 67 of the Act may also be brought by the owner of the licensed premises, the Commissioner of Police, the Director of Gaming & Racing and resident/s in the vicinity of the licensed premises

2. ALTERNATIVE OPTIONS

Notwithstanding the legal options available to Council to address the trading hours of the Coogee Bay and Beach Palace Hotel and anti-social behaviour in the locality, it is always prudent to resolve issues of concern, if possible, without first resorting to legal action. Particularly, considering the extent of evidence which would be necessary to proceed with relevant legal action and the potential costs associated with such action.

I note that there are approximately 24 licensed premises within the Coogee Commercial district. It may be possible that not all of the incidents of alcohol related anti-social behaviour could be attributed solely to the 2 hotel premises. Some of the incidents of anti-social behaviour may be the result of other factors such as, under aged drinking, the loitering of youths in public places and patrons of other licensed premises. This is not to suggest that the Coogee Bay and Beach Palace Hotels do not contribute to these types of incidents. The assumption can also be made that given their size and hours of trade that they do contribute to these problems. However, beyond the anecdotal, there is no documentary evidence that quantifies the social impact that the Coogee Bay and Beach Palace hotels are having on the Coogee area.

Although the subject of discussions through the Liquor Accord's Coogee Safety Committee, Council has not previously explored the concerns and any possible solutions directly with the proprietors of the subject premises. Therefore, Council is not aware of the options and solutions which may be pursued on a voluntary basis by the subject hotels.

I have recently held preliminary discussions with the owners of the Coogee Bay Hotel, Beach Palace Hotel and Council's General Manager, with a view to conducting further research into the nature and extent of anti-social behaviour in the locality and to explore possible solutions to any identified problems associated with these premises.

In this regard, to properly identify the social impacts that the Coogee Bay and Beach Palace hotels are having on the Coogee area, it is considered that a comprehensive Social Impact Assessment (SIA) should be carried out for the respective hotel premises. This would provide an assessment of the social impacts the hotel premises are having upon the area, carried out in accordance with a prescribed method (which already exists within the *Liquor Act 1982*). At the same time, Council can further discuss possible voluntary measures the premises may be amenable to implementing to address Council's concerns., such as:

- Voluntary reduction of trading hours.
- Patron lock-out and/or progressive exit policy.
- Improved security arrangements.
- Development and implementation of operational and security management plan.
- Complaints management and incident register system.

These discussions and actions will be followed up by Council's officers and should a Social Impact Assessment be carried out, a further report can be provided to Council upon finalisation of the assessment and report.

RECENT DEVELOPMENTS

Eastern Beaches Liquor Accord

The Coogee Safety Committee established by the Eastern Beaches Liquor Accord, recently discussed the matters arising from Council's resolution 403, regarding alcohol related anti-social behaviour in the Coogee area and the operation of the Coogee Bay Hotel and Beach Palace Hotel. Whilst the Committee shares the general concerns regarding anti-social behaviour in the Coogee area, it is considered that there is little evidence available, other than anecdotal, which clearly identifies the extent and cause of the anti-social behaviour and also the extent to which can be directly attributed to the operation of the Coogee Bay Hotel and Beach Palace Hotel.

It was subsequently resolved by the Coogee Safety Committee to request Council to undertake research to identify and assess the contributing factors to anti-social behaviour in the area and to devise suitable strategies to address the issues.

Having discussed this matter with Council officers, rather than Council carrying out such an investigation and research, it is considered that it would be more suitable to have a comprehensive Social Impact Assessment carried out for the subject premises, in accordance with the methodology prescribed in the Liquor Act 1982.

The Social Impact Assessment would be carried out by a qualified and experienced consultant and it would provide Council and all other stakeholders with recognised research and analysis of the extent and nature of the social impacts associated with the subject premises.

To maintain independence and transparency, any Social Impact Assessment should be carried out by a consultant nominated by Council's General Manager, however funding for the Social Impact Assessment should be provided by the Coogee Bay Hotel and Beach Palace Hotel.

Section 104 Complaint

I am advised that a number of residents have recently lodged a complaint with the Liquor Administration Board, under section 104 of the Liquor Act 1982 and section 17AA of the Registered Clubs Act 1976, in relation to the operation of the Coogee Beach Palace Hotel, the Coogee Bay Hotel and the Randwick Rugby Club.

The grounds of the complaint is that the quiet and good order of the neighbourhood has been unduly disturbed as a result of the manner in which the Club and Hotel premises conduct their business and the behaviour of persons after they have left the premises.

The complainant seeks the following outcome:

1. Reduction in the number of patron permitted to be served at any one time in the larger premises.
2. Midnight closing for the Beach Palace and Coogee Bay Hotels.
3. Enforcement of licence conditions and responsible service of alcohol.

4. Revoking of the licence to serve alcohol in the public area outside the Beach Palace Hotel.
5. Enforcement of the Alcohol Free Zones, the Sunset to Sunrise notices and the Summary Offences Act.

The complaint will initially be subject to a conference at the LAB on 21 November 2005, to be presided over by Mrs Kok, Licensing Magistrate and the determination of this matter will not be known until the conclusion of the conference.

The Board has requested Council representation at the conference, with a request for the submission of information in respect to consents, public entertainment approvals, comments in respect to the current application by the Beach Palace to vary Liquor Licence conditions and other relevant matters prior to the conference.

Whilst, this complaint is independent of Council's previous resolution and the recommendation contained in this report, any Council resolutions arising from this report may be incorporated into Council's future representations at the conference. Also, should Council determine to make a complaint to the LAB under section 104 of the Liquor Act, the matter may be determined by the Board in conjunction with the current residents complaint.

The Director of City Planning will provide Council with an update of this conference at the Council meeting.

Proposed legislative reforms

Following an article titled "*Clubs and Pubs Cheer Liquor Law Shake-up*" published in the *Sun Herald*, 6 November 2005, Council officers made enquiries with the Department of Gaming & Racing who advise that as a result of the National Competition Policy Review of NSW Liquor Laws, it is proposed that the State government will undertake a complete rewrite of the existing liquor licensing legislation. The consultation process will be in the form of a Consultation Draft Bill, likely to be released in 2006.

This re-write may result in a complete new framework in which the sale and supply of liquor is administered in NSW, possibly moving the current judicial review conducted by the Licensing Court and Liquor Administration Board in respect to the grant of liquor licenses, to an administrative process. There are no details available at this stage as to the precise reforms or who will be responsible for this process, with the exception that it will not be Local Government.

I can further advise that as a result of the above reforms, the Draft Liquor Amendment Legislation which proposed to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* (in which Council also prepared a submission to the Director Gaming & Racing in April this year) will not proceed at this stage, however, the proposed provisions will be included in the new legislative drafts.

I am advised that there will be a formal announcement in regard to the proposed reforms in the foreseeable future.

FINANCIAL IMPACT STATEMENT

The financial impact in regard to this matter depends largely on what course of action is proceeded with by Council. The costs to Council would range from Council officers' time in the normal course of their duties, increasing for the purpose of evidence gathering, the specific dedication of staff resources over a significant period of time and professional and legal costs, should the proceedings outlined in this Minute be commenced against the hotel premises.

Based on previous Licensing Court matters, it is estimated that to run an application in the Licensing Court of New South Wales to reduce the trading hours of the licensed premises, each application would cost in the order of \$60,000 to \$80,000. Council would also be exposed to costs orders should Council be unsuccessful in the formal legal proceedings outlined in this Minute.

CONCLUSION

As identified in this report, Council is able to make a complaint to the Liquor Administration Board or to take legal action in the Licensing Court of New South Wales against particular licensed premises. However, I am advised that these legal options should be approached with caution.

At this point in time, it is considered that Council does not possess sufficient documentary evidence which would be required to support the commencement of legal proceedings in the Licensing Court to reduce the hotel premises trading hours.

The Coogee Safety Committee shares Council's concerns regarding anti-social behaviour in the Coogee area and they also consider that there is insufficient evidence available which identifies the extent and cause of the anti-social behaviour and the extent to which can be attributed to the operation of the Coogee Bay Hotel and Beach Palace Hotel.

To fully identify the extent and cause of the anti-social behaviour and to develop appropriate solutions, a comprehensive Social Impact Assessment should be carried out for the subject premises, in accordance with the methodology prescribed in the Liquor Act 1982.

The Social Impact Assessment would be carried out by a qualified and experienced consultant and it would provide Council and all other stakeholders with recognised research and analysis of the extent and nature of the social impacts associated with the Coogee Bay Hotel and Beach Palace Hotel.

To maintain independence and transparency, any Social Impact Assessment should be carried out by a consultant nominated by Council's General Manager, however funding for the Social Impact Assessment should be provided by the Coogee Bay Hotel and Beach Palace Hotel.

Should the outcomes and strategies arising from the Social Impact Assessment prove unsuccessful in addressing the identified problems, it would still remain open to Council to take the appropriate legal action, at any future date,

It is considered that the following options should be considered by Council:

Option 1.

Council request the proprietors of the Coogee Bay Hotel and Beach Palace Hotel to carry out a comprehensive Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982), by a suitably qualified and experienced consultant nominated by the General Manager, at the expense of the subject premises, and any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council, or

Option 2.

Council proceed with a Complaint against the Coogee Bay Hotel and Beach Palace Hotel pursuant to Section 104 of the *Liquor Act 1982*, or the making of an application to the Licensing Court of New South Wales pursuant to Section 25 (7) of the *Liquor Act 1982* seeking the reduction in licensed trading hours for the Coogee Bay Hotel and Beach Palace Hotel.

RECOMMENDATION:

It is recommended that:

1. Council request the proprietors of the Coogee Bay Hotel and Beach Palace Hotel to carry out a comprehensive Social Impact Assessment (in accordance with the methodology prescribed in the Liquor Act 1982), by a suitably qualified and experienced consultant nominated by the General Manager, at the expense of the subject premises, and
2. Any further actions contained within Council's resolution Number 403, be held in abeyance pending the completion of the Social Impact Assessment and consideration of a subsequent report to Council.

ATTACHMENT/S:

Nil

.....
TED SENG
MAYOR

ORDINARY COUNCIL MEETING
22ND NOVEMBER, 2005

6.17 MAYOR'S MINUTE 156/2005 – USER PAYS – SUPPLEMENTARY POLICING AT COOGEE AND PATROLS BY COUNCIL'S RANGERS. (F2004/07767)

459 RESOLUTION: (*His Worship the Mayor, Cr Seng*):

1. *That Council write to the Local Area Commander/NSW Police expressing its support and seeking approval of the provision of a 'User-pays' or 'Supplementary' Policing program in the Coogee area, on weekends, for a trial period of 12 weeks, as detailed in this Mayoral Minute;*
2. *That Council Rangers assist the Police with patrols in the Coogee area, as required, on weekends, up until 10.00pm;*
3. *That a report be provided to Council upon or before the conclusion of the trial period, which provides an evaluation of the outcomes of the program, for consideration; and*
4. *That Council write to the State Member for Coogee and the NSW Police Minister informing them of this resolution and seeking a guarantee that, under no circumstances, will the current Coogee Police numbers be reduced as a result of this trial.*

MOTION: (*His Worship the Mayor, Cr Seng*) CARRIED – SEE RESOLUTION.

MAYOR'S MINUTE 156/2005

SUBJECT:	User-pay Policing of the Coogee's Public Reserves in conjunction with Council's Rangers.
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DATE:	22 November, 2005	FILE NO:	F2004/07767
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REPORT BY: MAYOR

INTRODUCTION:

There have been a number of reports and resolutions of Council relating to alcohol related anti-social behaviour in the Coogee area, including my Mayoral Minute No 144/2005 included in the business paper for tonight's Council meeting.

The purpose of this Mayoral Minute is to seek Council's support of the provision of 'User-pays or Supplementary Policing' and increased Council Ranger patrols at Coogee, as a major initiative in addressing anti-social behaviour late in the evenings at Coogee.

ISSUES:

A number of residents in the Coogee area have raised concerns regarding anti-social behaviour in the Coogee area, late in the evenings and early hours of the morning, particularly on weekends.

Many of the incidents take place in the public areas, in the parks and on the streets in the immediate locality, often as patrons make their way home after their night out at Coogee. In addition, it is apparent that groups of youths often gather in the local parks, drink alcohol and cause a disturbance to nearby residents.

The provision of adequate Police resources is an essential component in addressing anti-social behaviour in the public domain, as the security personnel from the Licensed Premises have a limited ability to effectively deal with such issues and behaviour.

Whilst it is acknowledged that there has been an increase in Police presence in the locality, particularly with the recent Viking squad patrols, the allocation of specific Police to the area at the time of these incidents would make a significant dent in the extent of anti-social behaviour at these times.

The provision of 'User-pays' or 'Supplementary' Policing can only be provided where it is demonstrated that there is a community benefit to do so and in this particular case, it is

considered that there are significant potential community benefits by providing a dedicated police presence at Coogee on weekends.

The establishment of 'User-pays' or 'Supplementary' Policing was recently discussed and supported by the Eastern Beaches Liquor Accord's Coogee Safety Committee, as an initiative in addressing the local residents concerns and the owners of the Coogee Bay Hotel and Beach Palace Hotel have agreed to fund this initiative, at least for a trial period of 12 weeks.

In addition, Council's Rangers could also assist in addressing this issue, by working closely with the Police, to carry out joint patrols and issue penalty infringements for Local Government offences, where necessary.

Council's Rangers can be made available up until 10.00pm to assist with the Coogee patrols. Although, it should be noted that their powers and ability to act upon anti-social behaviour are limited and they would need to rely upon the Police to take effective enforcement action.

FINANCIAL IMPACT STATEMENT:

The funding for the allocation of Council Ranger patrols for a 12 week trial period can be accommodated within Council's existing budget for 2005/06.

CONCLUSION:

Many of the incidents and concerns raised by the local residents relate to the behaviour of patrons departing or travelling between nearby licensed premises and the gathering of youths within the public domain.

The implementation of a 'User-pays' or 'Supplementary' Policing program as a pilot project would provide a basis to determine whether such an initiative would deliver a benefit to residents, businesses and tourists alike.

RECOMMENDATION:

It is recommended that:

1. Council write to the Local Area Commander / NSW Police expressing its support and seeking approval of the provision of a 'User-pays' or 'Supplementary' Policing program in the Coogee area, on weekends, for a trial period of 12 weeks, as detailed in this Mayoral Minute.
2. Council Rangers assist the Police with patrols in the Coogee area, as required, on weekends, up until 10.00pm.
3. A report be provided to Council upon or before the conclusion of the trial period, which provides an evaluation of the outcomes of the program, for consideration.

ATTACHMENT/S:

Nil

.....
TED SENG
MAYOR

Director, City Planning Report 20/2006

SUBJECT:	DRAFT RANDWICK CITY AFFORDABLE HOUSING PROGRAM.
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DATE:	28 March, 2006	FILE NO:	F2004/07952
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REPORT BY: DIRECTOR, CITY PLANNING

EXECUTIVE SUMMARY:

Randwick City Council has been an active advocate and supporter of affordable housing issues. In 1995, a housing study commissioned by Council identified a number of affordable housing issues in the LGA. In response, Council has progressively introduced a range of affordable housing initiatives. One such initiative invites consideration by applicants to provide some affordable housing units on large scale sites requiring master plans. Strictly voluntary and undertaken as part of the master plan negotiation process, it may result in applicants agreeing to the transfer of dwellings to Council's ownership for affordable housing purposes. To date, Council has negotiated a total of fifteen residential units. Three dwelling units in Maroubra Junction and one from the King Street development are ready for transfer.

There is now a need to decide on and put in place a suitable framework for the management (and allocation) of these affordable housing dwellings. The development of a management framework is consistent with the City Plan's identified key directions to strengthen and support our diverse community.

This report introduces three management framework options that may be suitable for Council's affordable housing rental program. It recommends the option of Council retaining ownership of the dwellings and employing a Housing Association (HA) to carry out the day to day and cyclical rental /property management functions as the preferred framework because:

- Council will have a higher degree of control over the financial and policy aspects of the affordable housing rental program. This consideration is important particularly at the early stages of a new program, and
- Council staff will have the opportunity to acquire a better understanding of the operational aspects of the rental housing program, the knowledge of which is important to ensure the overall success of the Council's affordable housing initiatives.

Should this option be endorsed, council officers will prepare a draft Affordable Housing Rental Policy, to be reported back in May/June 2006. This report will contain details, such as the process for selecting and appointing a Housing Association to manage the program, how rents will be set, who will be eligible to apply, and how tenants are allocated dwellings.

BACKGROUND

Why the Need for Affordable Housing?

A recent housing study of the Inner East Sydney Region reported that a growing number of low to moderate income residents in the Eastern Suburbs including Randwick LGA are estimated to be in housing stress. Many households, particularly those with young families, have no option but to live further a field in search of affordable housing. The issue of service or basic wage workers travelling long distances into the inner city and the eastern suburbs for employment is a growing concern, particularly as Sydney continues to experience rising transportation costs. The time and costs spent by workers on commuting long distances, if not compensated for, is likely to lead to a search for new employment closer to home. The lack of affordable housing opportunities will result in the inner east region being predominantly populated by wealthy households.

In the longer term, this condition will not be sustainable because viable town centres and cities need a diversity of work force, including shift workers who are able to provide much needed services around the clock. The City of Randwick in particular has many facilities such as major hospitals, security, hospitality and accommodation sectors which rely on a multitude of shift and service workers, to provide essential services at all times. Such diversity does not come from a homogenous and affluent population profile. The worst possible repercussion for employers is their inability to retain a reliable pool of staff, particularly those working night shifts, weekends or other non-standard hours. Already there is some evidence of a withdrawal of workers from areas with limited supply of affordable housing.

CURRENT SITUATION

Since 1995, Randwick Council has been an active advocate of affordable housing. It has introduced a range of housing strategies aimed at encouraging the development of affordable housing in the City. By far the most significant of all strategies is the provision of housing stock via its master plan negotiation process.

Master plan negotiation process – affordable housing

Council currently requires the consideration of affordable housing on large sites over 4,000 square metres that require a master plan under clause 40A (5) (k) of Randwick Local Environmental Plan. Any dedication of affordable housing units, to address this clause, is a voluntary process between Council and applicants, and typically involves the dedication to Council of up to 1% of the total number of proposed dwellings on master planned sites; each party bearing its own costs.

The dedication, by transfer of the fee simple of the properties to Council, is reflected in a condition of development consent. It is effected by a Deed of Agreement; the transfer of the unit(s) taking place upon registration of the strata scheme.

Council has to date negotiated a total of fifteen units, all in various stages of construction or development. A total of four affordable dwelling units are now ready for transfer to Council's ownership. Three of these are located in Pacific Square, Maroubra Junction and one from King Street, Randwick. A further twelve affordable housing units, to be transferred at some point in the future, will need to be tenanted for affordable housing purposes, in accordance with the negotiated agreements.

To meet this obligation, it is necessary for Council to establish an affordable housing management framework.

Management Framework Options

Three possibilities were examined:

1. Ownership of negotiated affordable housing units is transferred by developer to a housing association nominated by Randwick Council. Council no longer retains any further financial interest or responsibility for managing these properties.
2. Council retains ownership of the affordable housing units and employs a Housing Association to carry out the day to day and cyclical rental and property management functions. Council retains some responsibility as property owner and will oversee the policy development and management of its affordable rental housing program.
3. Council retains ownership of affordable housing units and head leases its entire rental portfolio, including the management of the rental program to a selected HA on a long term basis (e.g. 5 years plus option to extend further 5 years) at a peppercorn rent. Whilst Council has the opportunity to specify the initial program requirements to be undertaken by the housing association, its involvement for the duration of the head lease will be limited.

MANEX considered the above options and resolved to seek Council's endorsement for Option 2 because:

- Council will have a higher degree of control over the policy and financial aspects of the affordable rental housing program, and
- Council staff will have the opportunity to acquire a better understanding of the operational aspects of the rental housing program, the knowledge of which is important to ensure the overall success of the Council's affordable housing initiatives.

Main Characteristics of Option 2 – Preferred Management Framework

- Using this option, a Housing Association (HA) will be selected via a competitive Expression of Interest (EOI) process. The property portfolio in its entirety will be head-leased to the selected HA. This action is essential as it means all the day to

day responsibility of running the rental operation will be transferred away from Council. However Council retains full control of the policy direction of its affordable rental housing program, and operates in partnership with the selected HA.

- With the head-lease arrangement, the HA, in effect, assumes the role of tenancy and property manager on Council's behalf. It will be responsible for advertising for, selecting and interviewing tenants, as well as rent collection and payment of strata fees and levies out of the rental income accounts.
- However, Council as owner will be required to pay and/or have available sufficient funds to finance its share of major expenditure identified in a building maintenance plan prepared by the strata owners' corporation. This is a requirement of the Strata Schemes Management Act 2004, which came into force in February 2005, whereby an owner's corporation (formerly body corporate) is required to prepare a plan of anticipated major expenditure for an identified 10 year period.
- In this regard, an agreed sum of rent income will be returned to the Council by the HA to be accumulated in a trust account (sinking fund) held by Council to fund this category of work.
- A Deed of Management Agreement (DOMA) will be entered into between Council and the HA. This document sets out the responsibilities of both parties e.g. who does what, when, and how.
- Only HA registered with the Office of Community Housing (a Division of NSW Department of Housing) will be eligible to apply. This is essential because the OCH funds and monitors the HAs' performance on a yearly basis. HAs are also specialist property and tenancy managers and provide a level of expertise that is rarely available in a commercial operation.
- Because this management model was designed to ensure that the rental program pays its own way, the rent will be based on a discounted market rent of no greater than 74.9% of current market rent for the dwelling type. The HA will be paid a management fee in the vicinity of between 6 – 10% of weekly market rent per property per week, depending on the level of competition between HAs at the EOI stage. Any rent surplus will be returned to the Council's affordable housing program to maintain existing, as well as fund additional properties (provided sufficient surplus funds are accrued).
- This option targets employees and residents of Randwick LGA, earning low to moderate wages and who are not eligible for public housing. A maximum tenancy period of 5 years is offered to selected applicants.
- It requires a greater level of staff involvement in overseeing the Council's affordable rental housing program. Council staff will need to ensure that its housing program is appropriately targeted. They will also have the responsibility of overseeing the expenditure of any upgrading works required to be undertaken to the building and common property by the owners' corporation, in accordance with the 10 year expenditure plan. Since the Council will retain all surplus funds (less rental

outgoings and HA management fees), the financial risk can be reduced by ensuring that an amount is set aside to deal with this contingency.

A comparison of the advantages and disadvantages between the three options is provided as an Attachment to this report.

RELATED ISSUES

Potential GST Liability

Four affordable housing units are now available for transfer. Three of these units are from the Maroubra Junction development, and the fourth from the King Street development. Council's solicitor has formally advised that GST is payable by Council on the three units in Maroubra Junction.

In relation to the King Street unit, GST is not required because the developer has agreed to bear this cost. It would appear that whether Council pays GST or not on the units (scheduled for transfer at various points in the future), is dependent on how the contracts with the developers and their taxation regime were structured.

The intent of Council's affordable housing program is to benefit the local community (not for profit) and any income received will be used to sustain its rental operation. As this GST payment is considered to be onerous and undeserving, council officers are investigating ways to minimise this liability. The Centre for Affordable Housing (the Centre)², has offered to assist Council in its application to the Australian Tax Office to seek a private tax ruling exempting Council from paying GST on receipt of affordable housing units. Officers will be meeting shortly to progress this action. In the intervening period, Council's solicitor is examining alternative approaches, via the new planning agreement provisions, for restructuring existing contracts and consents to overcome the potential GST liability.

In the mean time, the developer from the Maroubra Junction development has agreed to await the transfer of these units to Council, until the GST issue is resolved. In the event that Council is unsuccessful in its quest to overcome the GST liability, it has sufficient Section 94 funds to meet this potential cost. In the longer term however, it may be necessary for Council to fund the taxes by disposing one or two of its affordable housing properties.

FINANCIAL IMPACT STATEMENT:

In general, the Affordable Rental Housing Program is intended to be cost neutral, with expenses to be financed from rental income. The Program does incur some upfront establishment costs, an example of which is the preparation of legal documents to engage the successful HA. These costs will be paid from the Council's Section 94 affordable housing funds.

² a Division of the NSW Department of Housing

The Program will require staff resources to put in place the management framework, and in the longer term, ensure that it continues to running efficiently and in accordance with the terms of the Deed of Management Agreement between Council and the selected HA. It is estimated that a Senior Planner will spend on average one day per week of his/her time until after a HA is appointed and its staff briefed of Council's Program requirements. Following on from this, it is envisaged that the equivalent of one day per month of staff time will be required to oversee the administration/financial status of the Program.

From time to time, the involvement of staff from Council's Property and Finance Units may be sought in relation to property upgrading and financial reporting matters.

CONCLUSION:

There is a need to establish an appropriate affordable housing rental management framework. Option 2 is considered to be the most appropriate option and involves Council retaining ownership of the properties, employing a HA to undertake the daily rental functions, and accepting a reasonable and manageable level of responsibility. It also provides Council with a greater degree of control over the policy and financial aspects of its affordable rental housing program, which is important particularly at the early stage of a new program. Should this option be endorsed, council officers will prepare a draft Affordable Housing Policy, to be reported back to Council in May/June. The GST questions are expected to be resolved by then.

RECOMMENDATION:

That Council:

1. Endorse Option 2 as the management framework for its Affordable Housing Rental Program, which involves Council retaining ownership of the dwellings and employing a Housing Association (HA) to carry out the day to day and cyclical rental /property management functions;
2. Note the current status of the GST issue. A further report will be prepared once Council's position is clarified by the Australian Taxation Office.

ATTACHMENT/S:

Options for Affordable Rental Housing Management Framework

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
TERESA MOK
SENIOR PLANNING OFFICER

ATTACHMENT 1**OPTIONS FOR AFFORDABLE RENTAL HOUSING MANAGEMENT FRAMEWORK****1. Ownership of negotiated affordable housing units is transferred by developer to a housing association nominated by Randwick Council, and is not responsible for the administration of the affordable rental housing program**

- Council negotiates with a developer for dedication of the units,
- Details of the transfer and nominated housing association will be reflected in a planning agreement signed between the developer and Council. Development consents will contain a condition requiring a restrictive covenant to be placed on title, that the dwelling(s) will be used for affordable housing purposes.
- The housing association retains ownership in perpetuity and leases the units to tenants in accordance with any signed agreement or its own eligibility criteria.
- The Council's preferred housing association (HA) is City West Housing Pty Ltd, but it has not been formally approached regarding this proposal.

2. Council ownership of affordable housing units and employs a housing association to carry out the day to day and cyclical rental and property management functions. Council retains some responsibility as property owner and will be involved in the policy development and management of its affordable rental housing program.

Refer to summary provided in pages 3 & 4 of this report.

3. Council retains ownership of affordable housing units and head leases its entire rental portfolio to a selected HA on a long term basis (e.g. 5 years plus option to extend further 5 years) at a peppercorn rent.

- In this option, the HA will assume the role of the landlord, property and tenancy manager. Council will select a HA through an EOI process. A head-lease will be entered into for a longer term period, minimum 5 years, and at a nominal annual rent. The HA will be paid a management fee at a similar rate described for option 2.
- A Deed of Agreement will also be entered into between Council and the HA. It will specify the eligibility criteria and if necessary, other appropriate program requirements specified by Council. It will also require the HA to, on expiration of the head-lease, to return the property to a condition that is commensurate with the age and likely life-span of the building.
- The HA will be responsible for advertising, selecting and interviewing tenants, as well as rent collection and payment of strata fees and levies out of the rental income accounts. It will also be responsible for the cost of administering Council's rental housing program and property maintenance, including its share of the cost of any works identified in the owners' corporation 10 year anticipated expenditure plan.
- The HA will pay for all the rental outgoings from an identified bank account and will be allowed to accrue any rent income surplus in a separate bank account (it will be disclosed as part of its general financial reports submitted to the OCH on a regular basis).
- If the HA wishes to utilize the accrued surplus funds, it will be required to seek Council's agreement on the appropriate use of the surplus funds.

A comparison of the pros and cons of each of the options is set out in the table below:

Option	Pros	Cons
1	<ul style="list-style-type: none"> - Council negotiates with developer. - Council chooses HA. - Council fulfills its obligation that the dedicated properties will be used for affordable housing purposes. - All program risks transferred to HA. - Council is not liable for payment of GST on transfer of properties from developer to it. 	<ul style="list-style-type: none"> - Council does not gain capital asset. - Council has no ongoing involvement in performance of asset or eligibility criteria. - HA selects tenants off its housing applicants register. Council does not have a say in HA's allocation practices. - The limitation of this option is that only one HA is considered appropriate at this stage to receive the dwellings.
2	<ul style="list-style-type: none"> - Council retains capital asset. - Ability to trade/realise capital gain. - Continuing policy influence & involvement in rental program. - Has full control of the use of any accrued rental income surplus. - HA responsible for tenancy & property management & dispute resolution, and pays daily and cyclical maintenance expenditure from rental account. - Transfer of housing management skills/expertise to council officers. 	<ul style="list-style-type: none"> - Council responsible for the costs of major infrastructure expenditure identified in the strata owners' corporation 10 year plan. - Ongoing responsibility for review of management agreement and HA's yearly reporting, including any housing policy work arising from it rental housing program. - Council adopts some risk of making good any unexpected monetary shortfalls in rental operation. Risks can be managed by requiring the HA to prepare cash flow plans before deciding on weekly rentals for each unit. - Council may need to pay GST on transfer of properties. (see sub-heading GST Liability Issues).
3	<ul style="list-style-type: none"> - Council retains capital asset - Ability to trade/realise capital gain. - Continuing influence & involvement in rental program. - HA is responsible for tenancy & property management & dispute resolution, daily and cyclical maintenance expenditure - HA is responsible for the costs of major infrastructure expenditure identified in the strata owners' corporation 10 year plan. - Option to renegotiate with HA at end of 5 year period. - Properties upgraded/life cycle maintenance by HA at the end of 	<ul style="list-style-type: none"> - Council does not have full discretion to decide on use of accrued rental surplus. - Ongoing responsibility for review of management agreement and HA's yearly financial reporting. - Council adopts some risk of making good any unexpected monetary shortfalls in rental operation. Risks can be managed by requiring HA to prepare cash flow plans before deciding on weekly rentals for each unit. - Limited contact between HA and council staff. Changes to housing policies can only be reviewed every 5 years. - Council may need to pay GST on

	head-lease arrangement.	transfer of properties.
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Discussion of Options

From the above table, there is not much difference between options 2 and 3, except for the following highlights:

Option 2 requires a greater level of staff involvement in overseeing the Council's affordable rental housing program. Council staff will need to ensure that its housing program is appropriately targeted. They will also have the responsibility of overseeing the expenditure of any upgrading works required to be undertaken to the building and common property by the owners' corporation, in accordance with the 10 year expenditure plan. Since the Council will retain all surplus funds (less rental outgoings and HA management fees), the financial risk can be reduced by ensuring that an amount is set aside to deal with this contingency.

Option 3 allows the HA to put forward proposals for the use of surplus funds accrued by the rental portfolio. Unlike Option 2, these surplus funds are not returned to Council's affordable housing account. The HA has a joint role in deciding on the use of surplus fund. This situation is not entirely detrimental because it allows Council to trade-away its major upgrading responsibilities associated with Option 2.

Option 1 is straight forward in that the Council's involvement will be limited to negotiating with developers for the dedication of affordable housing stock in the development approval process, and ensuring that the completed dwellings are transferred to the nominated HA. All rental operations and asset management responsibilities rest with the affordable housing owner. It should be said that the concept is not new in that the City of Sydney Council currently requires developers to pay either a monetary contribution or equivalent value in dwelling units to the City West Housing Company in Green Square and Ultimo-Pyrmont.

The question is whether or not City West Housing Company will accept ownership of Council's affordable housing stock, a decision required to be made by its Board of Directors. Although there has been some pressure place on it to broaden its affordable rental housing operations beyond its current boundaries, it is understood that the Company has not been formally approached to address this issue.

It should be noted that most of the paperwork required for implementing Options 2 or 3 are available as they were developed as part of the Inner East Sydney LGHIP project.

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**Director, City Planning Report 21/2006**

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| <b>SUBJECT:</b> | FRENCH FESTIVAL. |
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|--------------|----------------|-----------------|-------------------------------|
| <b>DATE:</b> | 16 March, 2006 | <b>FILE NO:</b> | F2005/00531 xr<br>F2005/00171 |
|--------------|----------------|-----------------|-------------------------------|

**REPORT BY:** DIRECTOR, CITY PLANNING

**INTRODUCTION:**

Following Council's resolutions of November 2005, Mr Digby Wren, Executive Officer, Friends of the La Perouse Museum was invited to provide a presentation of the French Festival to the Randwick City Council Aboriginal and Torres Strait Islander People's Reference Group and Council's Multicultural Advisory Committee.

This report outlines the resolutions of the Committee Meetings held in June 2005 and November 2005.

Further, it is noted that Mr Digby Wren has not yet provided Council with details of activities proposed. Therefore, it is recommended that Council write to Mr Digby and ask him to provide details venues and activities proposed. This will enable Council Officers to determine the total cost and resources required and provide a report to Council.

**BACKGROUND:**

At the June 2005 Council Meeting, Council received and considered a Mayoral Minute by the then Mayor, Cr Murray Matson on the French Festival proposal submitted by Mr Digby Wren, Executive Officer of the La Perouse Museum. Council resolved:

1. *Council indicate in principle support for the inaugural French Festival project and in 2006 commits to redirecting to it the 2005/06 allocation for the present Bastille Day celebrations;*
2. *Council seek a more detailed brief on the specific nature of the activities and costs to be incurred by Council as a potential partner in this project prior to considering the allocation of any further funding; and*
3. *Council be advised of the commitment made by other partners, including the NSW Government, before proceeding with further negotiations about the project.*

At Councils Ordinary Meeting held on 22 November 2005, Council resolved:  
(Cr Matson/Cr Woodsmith).

Council informs the Executive Office of the Friends of the La Perouse Museum of its decision to:

- a. *Seek guidance from Council's Aboriginal and Torres Strait Islander People's Consultative Committee, before committing either financial or non financial support for the Aboriginal First Encounter Re-enactment.*

#### **ISSUES:**

- a) Presentation to Aboriginal and Torres Strait Islander People's Reference Group

On 8 February, 2006 the Executive Officer of the Friends of the La Perouse Museum, Mr Digby Wren, attended the meeting of the Randwick City Council Aboriginal and Torres Strait Islander People's Reference Group and provided a presentation of the French Festival.

The Committee noted that Randwick City Council has had a long standing relationship with the French community. Bastille Day has been celebrated as a community event at the monument at La Perouse in the past years. In 2006, Mr Wren proposes a two week long festival with one full week from 2 to 9 July which coincides with NAIDOC Week.

Randwick City Council's Aboriginal and Torres Strait Islander People's Reference Group was not supportive of holding the event during NAIDOC Week. The Group recommended that:

1. The Chairperson of the Randwick City Council Aboriginal and Torres Strait Islander People's Reference Group write to Mr Wren advising that the Randwick City Council Aboriginal and Torres Strait Islander People's Reference Group does not support the French Festival as it clashes with celebrations during NAIDOC Week being held from 2 to 9 July 2006. The Reference Group however, raises no objection to Bastille Day (14 July) being celebrated at La Perouse.

- b) Presentation to Council's Multicultural Advisory Committee

On 20 February 2006, Mr Wren made a presentation to Council's Multicultural Advisory Committee. The Committee was aware that Mr Wren's proposal had also been referred to Council Aboriginal and Torres Strait Islander People's Reference Group for consideration.

The Multicultural Advisory Committee supported the French Festival in principle. Mr Wren discussed the various activities planned for the period 1 to 14 July 2006 which will have a strong Randwick City area focus. Mr Wren stressed the historical, economic and social aspects and benefits of this project. The events planned for the Festival included a Fun Bike Run in Centennial Park, films at the Bowen Library or the University of NSW, screening of the Tour De France Bike Ride on large screens and the Bastille Day celebrations.



Mr Wren informed the Committee that Council had agreed to provide \$10,000 for Bastille Day Celebrations. Mr Wren advised that the City of Sydney and French Government have also indicated support of the Festival. Mr Wren stated that his group would need an additional \$3,000 for the Fun Bike Ride to be held in Centennial Park, a Council Officer to provide a facilitation role. He also indicated that he would like Council to consider waiving fees for hanging banners and traffic management issues, as well as assistance with publicity.

Mr Wren highlighted the historical French connection to Randwick and the significant number of Francophiles that reside in the Randwick City area.

The Committee made the following recommendation to Council:

1. The Committee supports in principle the French Festival proposal and associated activities.
2. The request for \$3,000 for the Fun Bike Day is referred back to Council for consideration, in view of the budgetary implications and the \$10,000 already allocated by Council for the Bastille Day event.
3. Mr Wren to be requested to provide clarification of planned events and locations and nature of support from Council before committing any further resources.
4. Council officers should not provide a facilitation role but could provide the necessary contact details of local organisations/groups and to assist with publicity of the Festival.

### **CONCLUSION:**

In the past, Council has celebrated Bastille Day as a community event at La Perouse in partnership with the French Consulate General, National Parks and Friends of La Perouse. Council in past years had allocated around \$7,000 - \$10,000 towards this event.

The draft Budget for 2006/2007 is currently under preparation. Given the scope and variety of other multicultural community events proposed for the next financial year, the draft Budget proposes that \$7,000 be allocated towards a community event for Bastille Day. As for other such events, Council aims to work in strong partnership with community groups. Council is yet to consider the 2006/2007 Budget. The statement made by Mr Wren that Council has agreed to provide \$10,000 towards this celebration is perhaps based on assumptions from the last year's allocation. At this stage, Council has not allocated any specific budget to this event.

Council has previously written to Mr Wren and asked for detailed activities and programs including the contribution of other parties. However, no detailed program of events, activities and venues as well as details of other partners and their contributions has been provided.

Mr Wren, in his presentation to Council's Randwick City Council Aboriginal and Torres Strait Islander People's Reference Group and Council's Multicultural Advisory Committee appears to suggest the possible use of Council venues and an in kind

contribution towards the event. Given the lack of details provided to Council officers, Council is not in a position to determine the total cost of the event.

Should Mr Digby provide Council with these details, the total budgetary implications of this event will be able to be reported to Council.

**FINANCIAL IMPACT STATEMENT:**

Council requires a detailed program of events, activities and venues to determine the full cost of the event to Council.

**RECOMMENDATION:**

That Council write to Mr Digby:

1. Advising that Council has not yet allocated any resources to this event in the 2006-2007 budget.
2. Requesting details of planned events, venues and nature of requirements from Council as well as details of other partners and their contributions in writing prior to committing any resources to this event.
3. Advising that Council does not support staging of the events during NAIDOC Week at La Perouse, however, it raises no objection to Bastille Day Celebrations on 14 July 2006 at La Perouse.

**ATTACHMENT/S:**

Nil

.....  
SIMA TRUUVERT  
DIRECTOR, CITY PLANNING

.....  
COLIN ROSENFELD  
COMMUNITY DEVELOPMENT  
OFFICER  
MULTICULTURAL SERVICES  
AND SPECIAL PROJECTS

## MOTIONS PURSUANT TO NOTICE

### **11.1 Notice of Rescission Motion by Councillors Daley, Bastic and White – Ordinary Council Meeting, Tuesday, 28<sup>th</sup> February, 2006 – Item 9.1 - Director, Governance & Financial Services' Report 5/2006 - Code of Conduct and Related Policies.**

That the resolution passed at the Ordinary Council Meeting held on Tuesday, 28<sup>th</sup> February, 2006, reading as follows:

“That:

- a) the Department of Local Government’s Guidelines for the Model Code of Conduct for Local Councils in NSW be adopted.
- b) it be noted that Council’s adoption of the Department of Local Government’s Model Code of Conduct and the associated Guidelines, has resulted in the following Codes and Guidelines being superseded:
  - Staff Code of Conduct – Policy No. 3.04.27 – 28 May 2002
  - Code of Conduct – Councillors - Policy No. 1.03.11 – 25 February 1997
  - Code of Conduct Guidelines – Policy No. 1.04.01 – 18 October 1994
  - Code of Councillor Practice – Policy No. 1.04.03 - 21 March 1995.
- c) the Declaration of Conflict of Interests Form be adopted for use outside the Council/Committee Meeting process.
- d) the Guidelines for the Operation of Randwick Council’s Conduct Committee (as attached to the staff report) be adopted, subject to the Conduct Committee being made up of the Mayor, General Manager and the Partner in Charge of Local Government at Deacons Lawyers”.

BE AND IS HEREBY RESCINDED.

### **11.2 Motion by Councillor Belleli – Safety Issues in Baird Lane.**

That the General Manager be delegated authority to find appropriate funds to undertake works to rectify the safety issues associated with Baird Lane as a matter of urgency given that this matter has been referred to the Traffic Committee and considered a safety issue.

### **11.3 Motion by Councillor Belleli – Nude Bathing at Little Congwong Beach.**

That Council, in responding to the tabled petition from the Free Beach Action Group, reaffirms its commitment to the prohibition of nude bathing at Little Congwong Beach.

**11.4 Motion by Councillor Procopiadis – Membership of the Floodplain Management Authorities of NSW.**

That Randwick City Council becomes a member of the Floodplain Management Authorities of New South Wales.

**11.5 Motion by Councillor Procopiadis – Floodplain Study – Doncaster Avenue.**

That all negotiations with the developers of the racecourse land ceases until such time as the Floodplain Study of Doncaster Avenue (between Alison Road & Anzac Parade) has been concluded and presented to Council.

**11.6 Motion by Councillor Tracey – Dunningham Reserve Toilet Block.**

That a report be prepared for the next meeting as to what would be involved in providing hand washing facilities in the toilet block in Dunningham Reserve, Coogee.

**11.7 Motion by Councillor Nash – Writtle Park Upgrade.**

That, notwithstanding previous Council resolutions concerning the prioritisation of park upgrades in Randwick City, Council consider funding the upgrade of Writtle Park, Randwick, in its 2006/2007 Budget.

**11.8 Motion by Councillor Nash – The Avenue, Randwick.**

That:

- (a) the Randwick Traffic Committee consider and report on the feasibility of making The Avenue, Randwick, a one way street, to permit traffic to flow from Frances Street to Alison Road only; and
- (b) community consultation with the residents of The Avenue take place prior to any decision being made.

**11.9 Motion by Councillor Matson – Participation in SSROC Trial of Organic Waste Processing.**

That Council notify SSROC that it is willing to participate in that organisation's Organic Waste Collection and Processing Trial.

**11.10 Motion by Councillor Matson – Failure of Private Certification Process to Produce Implementation of Conditions of Consent for 9 The Causeway, Maroubra.**

That a report be brought forward to the next Health, Building and Planning Committee meeting outlining options open to Council in seeking the enforcement of all conditions of consent outstanding from works undertaken at 9 The Causeway, Maroubra.

**11.11 Motion by Councillor Belleli – Barwon Park, Matraville.**

That Council investigates and brings back a report to the Works Committee, with costings and a time frame, on providing lights to the playground and parkland at Barwon Park, Matraville, to increase safety for the community.

**11.12 Motion by Councillor Belleli – Speeding in streets surrounding Barwon Park, Matraville.**

That the Traffic Committee conduct a street meeting with residents of the streets around Barwon Park and a report be brought back to the Works Committee with possible solutions to prevent the speeding of vehicles in this locality.

**11.13 Motion by Councillor Belleli – Proposed Dirt Track for Remote Control Racing Cars – La Perouse.**

That Council investigates and reports back to the Works Committee on the construction of a dirt track in La Perouse for remote control racing cars with a possible site being alongside the proposed skate park which Council is currently investigating.

**11.14 Motion by Councillor Matson – Removal of Conflict of Interests between Conduct Committee and General Manager's Performance Review Committee.**

That Councillors referred to the Council's Conduct Committee will be automatically removed from the General Manager's Performance Review Committee and replaced by a member of the same political party or grouping.

**11.15 Motion by Councillor Matson – Internal RTA Correspondence concerning F6 Motorway Corridor.**

That Council initiates discussions with the City of Sydney Council to:

- (a) investigate the removal of roadway zonings on residential properties along Gardeners Road and the removal of the Bourke Street road corridor zoning connecting the northern end of the F6 Motorway corridor with Bourke Street and Gardeners Road; and
- (b) develop, promote and implement a comprehensive public transport plan for the region seeking greater mass transit capacity and higher service frequencies within the two Council areas.

**11.16 Motion by Councillor Matson – Wylies Baths Trust – Legal Actions.**

That Wylies Baths Trust Inc. be instructed to provide Council with a breakdown of any legal costs incurred by the trust going back from the present to the beginning of the previous financial year specifying:

- (a) the number of legal actions confronted by the Trust;

- (b) the other party in each legal action and its nature and outcome; and
- (c) all legal costs incurred by the Trust in each action.

**11.17 Motion by Councillor Matson – Clarification of function revenue raised by Wylies Baths Trust Inc.**

That Wylie's Baths Trust Inc. be instructed to provide Council with a breakdown of every private function held at Wylies Baths going back from the present to the beginning of the previous financial year specifying:

- (a) the fee charged by the Trust for the staging of each function;
- (b) the revenue raised by each function against the expense incurred by the Trust in staging it; and
- (c) who held each function.