

15 August, 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, 22ND AUGUST, 2006 AT 6:00 P.M.

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

CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON TUESDAY, 25TH JULY, 2006.

4 **Declaration of Pecuniary & Non-Pecuniary Interests**

5 **Addresses to the Council by the Public**

6 **Mayoral Minutes**

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GENERAL MANAGER

MAYOR'S MINUTE 56/2006

SUBJECT:	DES RENFORD CHAIR OF HEART RESEARCH SWIM CHALLENGE AND CHARITY DAY - USE OF DES RENFORD AQUATIC CENTRE
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DATE:	10 August, 2006	FILE NO:	F2004/06639
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REPORT BY: MAYOR

INTRODUCTION:

The Des Renford Chair of Heart Research was established in memory of Des Renford who was a famous long distance swimmer and a strong supporter of the Victor Chang Cardiac Research Institute.

On Sunday 19 November 2006, the Des Renford Aquatic Centre at Heffron Park, Maroubra will be hosting the annual Family Day and Swim Challenge to raise money for the Victor Change Cardiac Research Institute.

This is a day for the whole family and there will be many activities including a sausage sizzle, face painting, giant water slide and the opportunity to raise funds by swimming laps (through sponsorship from family, friends and businesses). Entry will be via a \$3.00 donation.

ISSUES:

Randwick Council has supported this event since it began in 2000 and Council support in the past has been similar to that requested this year, by the provision of:

- Tables, chairs, barricades and Sulo garbage bins;
- Undertake the design and printing of the posters and flyers;
- Advertising the event through the 'Regarding Randwick' page in the Southern Courier;
- Pool lifeguards and First Aid officers;
- The collection of pool entry for the day.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 5b: A range of cultural, sporting and leisure activities.

Direction: Recognise and promote opportunities for residents and visitors to engage in sports and other cultural pursuits.

FINANCIAL IMPACT STATEMENT:

Should council adopt the report recommendation, the appropriate cost inclusive of waiving of fees would be in the vicinity of \$5,700.

RECOMMENDATION:

That Council vote \$5,700 to cover the costs associated with Council's contribution towards the organising and staging of the Des Renford Family Day and Swim Challenge to be held on Sunday 19 November 2006 for the purpose of raising money for the Victor Change Cardiac Foundation and that this be funded from the Contingency Fund 2006/2007.

ATTACHMENT/S:

Nil

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TED SENG
MAYOR



MAYOR'S MINUTE 57/2006

SUBJECT:	MAROUBRA CHAMBER OF COMMERCE - WAIVING OF FEES FOR FUN RUN/OKTOBERFEST AND MARKET DAY
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DATE:	31 July, 2006	FILE NO:	F2004/08114
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REPORT BY: MAYOR

INTRODUCTION:

An application has been received from Mr Richard Walsh on behalf of the Maroubra and Districts Chambers of Commerce, Maroubra Lions Club, Rotary Club of Maroubra and the South Maroubra Surf Life Saving Club to hold their annual Fun Run/Oktoberfest and Market Day on Sunday 22nd October, 2006. Mr Walsh has requested that Council's fees regarding all activities and food vendors attending the event be waived.

ISSUES:

An assessment of the applicable fees are as follows:

Hiring of Stage (as per quote from Mr Walsh)	\$1,888.66
Five mobile food vans & food stalls (\$95 each)	\$ 475.00
Park Usage Fee	\$ 315.09
Administration Fee	\$ 430.00
Equipment Hire Fee	\$ 500.00
Bin Hire x 20 (supply and remove)(\$56.65 each)	\$1,133.00
Total:	\$4,741.75

It is considered that the Maroubra Fun Run, Oktoberfest and Market Day is a non-profit community event and that funds be allocated to cover the costs of hiring a stage and other fees associated with the event.

Often in the conducting of large events such as this, Council's property is damaged. It is necessary that the organiser of the event Mr Richard Walsh, on behalf of the Maroubra and Districts Chambers of Commerce, Maroubra Lions Club, Rotary Club of Maroubra and the South Maroubra Surf Lifesaving Club be advised in writing that should Council property be damaged in any way the organisers of the event are liable and that the organisers acknowledge this in writing prior to the event.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 5: Excellence in recreation and lifestyle opportunities.

Direction 5b: A range of cultural, sporting and leisure activities.

Key Action: Recognise and promote opportunities for residents and visitors to engage in sports and other cultural pursuits
Increase public art, performance spaces and opportunities for creative expression across our City.

FINANCIAL IMPACT STATEMENT:

In the event that Council accepts the report recommendation, the direct financial implication to Council will be a contribution of \$4,741.75 from Council's 2006/07 Contingency Fund.

CONCLUSION:

Given that the level of support being offered by Council is substantial, it would be appropriate that Council be treated as a co-operative partner and be included in the event promotion. This will ensure Council is acknowledged for its support of local community events in the eyes of the community.

RECOMMENDATION:

That:

- a) Council vote \$4,741.75 to cover the costs associated with Council's contribution towards the organising of the Maroubra Fun Run, Oktoberfest and Market Day to be held on Sunday 22nd October, 2006, and that these funds be allocated from the 2006/2007 Contingency Fund.
- b) Council advise the organisers of the Maroubra Fun Run, Oktoberfest and Market Day, that Council be given adequate and appropriate acknowledgement for its contribution to the running of this event. Such acknowledgement to include Council's logo for inclusion on promotional literature and Council's banner be displayed at the event.
- c) The organisers be advised that Council requires an acceptance in writing that should Council property be damaged in any way the organisers of the event will compensate Council for the repair or replacement of the damaged item(s).

ATTACHMENT/S:

Nil

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TED SENG
MAYOR

GENERAL MANAGER'S REPORT 26/2006



SUBJECT:	JUNE 2006 QTR REVIEW - MANAGEMENT PLAN 2005/08
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DATE:	7 August, 2006	FILE NO:	F2005/00380
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REPORT BY: GENERAL MANAGER

INTRODUCTION:

The purpose of this Report is to update Councillors and the community on the implementation of the 2005/08 Management Plan and achievement against the key performance indicators.

ISSUES:

This is the June 2006 Quarterly Review of the 2005/08 Management Plan. Under the Local Government Act 1993, there is the requirement that a Report must be provided after the end of each quarter, detailing the extent to which performance indicators and targets set by Council's Management Plan have been achieved during the quarter.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 1: Leadership in Sustainability

Direction 1a : Council has a long term vision based on sustainability

Direction 1d : Continuous improvement based on accountability, transparency and good governance

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

The purpose of June Quarter Report is to inform and update Council and the community on the progress of all outcomes of the programs contained in the adopted Management

Plan 2005-2008. It provides information on the review against the outcomes and performance indicators that are described with a particular focus on the targets that are not being achieved. The comments provide information about the activities that have been undertaken.

The report also includes a summary of progress against the critical 34 corporate key performance indicators.

RECOMMENDATION:

That the information contained in the report of the June 2006 Quarterly Review – 2005/08 Management Plan is received and noted

ATTACHMENT/S:

1. JUNE 2006 QTR REVIEW REPORT - 2005/2008 Management Plan - Under Separate Cover

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GENERAL MANAGER

GENERAL MANAGER'S REPORT 27/2006



SUBJECT:	PROCEDURAL FAIRNESS IN RESPONDING TO AGENCY REQUESTS
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DATE:	4 August, 2006	FILE NO:	F2004/06569
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REPORT BY: GENERAL MANAGER

INTRODUCTION:

At the Council Meeting of 27 June 2006, it was resolved “*that the General Manager bring a report back to Council on ways in which the General Manager can achieve procedural fairness in responding to requests for information from the ICAC concerning councillors and staff.*”

ISSUES:

The principles of procedural fairness apply in administrative decision-making where the administrative decision might affect a person’s rights or interests.

The three (3) principles of procedural fairness (or natural justice) are:

- the right to be heard, which means the right to have a fair hearing, with the opportunity to present one’s case;
- the right to have a decision made by an unbiased decision-maker; and
- the right to have the decision based on evidence.

When the General Manager receives requests from the ICAC, the investigating body is the ICAC (not Council) and it is the ICAC, therefore, who determines whether the party (or parties) affected can be advised of the allegations and the request for information.

The ICAC has indicated that matters are determined on a case-by-case basis and that requests for confidentiality usually relate to investigations/allegations that involve surveillance (i.e. serious allegations) or allegations that the ICAC is attempting to keep out of the media.

When conducting an investigation, the ICAC is compelled to apply the requirements of procedural fairness. This means that before making a finding that a person is engaged in corrupt conduct, that person must be given an opportunity to be heard and responded to.

The ICAC Act defines a person who is "affected" by a Commission investigation as a person against whom in the Commission's opinion "substantial" allegations have been made in the course of or in connection with the investigation concerned. Normally this will involve an allegation of corruption or some other form of corrupt conduct.

There are certain rights that an "affected" person has in relation to an investigation. This includes being made aware of the nature of any allegation against them and the opportunity to respond to that allegation.

Any requests for information received by the General Manager, must be dealt with in accordance with the ICAC's instructions. The General Manager will endeavour, however, to only provide information to the ICAC in relation to the particular person complained about (ie. information in the documents provided that relate to any other party will, where possible, be deleted from the documentation before it is provided to the ICAC). This, of course, does not relate to documents (such as copies of business papers and minutes) that are already in the public domain.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 11: Providing a work environment that respects and maximises the opportunities and potential of all staff and enables them to contribute to the achievement of the outcomes of the organisation.

Direction 11e: Employee behaviour that reflects partnering across internal organisational boundaries, open and constructive communication and corporate values, standards and policies.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

The ICAC is the investigative body for the purpose of complaints made to the ICAC and it is the ICAC, therefore, that determines whether requests for information are to be kept confidential. Council is obliged to comply with the ICAC's decisions in these matters.

The General Manager will, where possible and if approved by the ICAC, inform the party against whom any allegations have been made and of the information requested by the ICAC. The General Manager will also endeavour to only provide information to the ICAC in relation to the particular person complained about (ie. information in the documents provided that relate to any other party will, where possible, be deleted from the documentation before it is provided to the ICAC).

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT/S:

Nil

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GENERAL MANAGER



GENERAL MANAGER'S REPORT 28/2006

SUBJECT:	AFFIXING OF THE COUNCIL SEAL
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DATE:	27 July, 2006	FILE NO:	F2004/07367
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REPORT BY: GENERAL MANAGER

INTRODUCTION:

Clause 400 (part 13) of the Local Government (General) Regulation 2005 requires that the Seal of the Council must not be affixed to a document unless the document relates to business of the Council and the Council has resolved (by resolution referring to the document) that the Seal be so affixed.

ISSUES:

It is necessary for the Council's Seal to be affixed to the signing of agreements between Council and :

1. Mr Sharif Faragalla (T/As Vinnys Woodfire Pizza) in relation to a licence for the purpose of outdoor dining at 1-3 Maroubra Road, Maroubra.
2. Deruli Pty Ltd in relation to a residential lease agreement over a one bedroom unit at 1/32 Belmore Road, Randwick.
3. Tracy McKeown (T/As Salt & Lemon) in relation to a licence for the purpose of outdoor dining at 76 Clovelly Road, Clovelly.
4. Angela & Jim Geras (T/As Cheeky Chook) in relation to a licence for the purpose of outdoor dining at 315 Malabar Road, Maroubra.
5. Paul Rattansay (T/As Coogee Plate Café) in relation to a licence for the purpose of outdoor dining at 209B Coogee Bay Road, Coogee.
6. A residential tenant in relation to a residential lease over Unit 4/32 Belmore Road, Randwick.
7. The Sunnyfield Association in relation to a licence for the use of office space at Suite 1, Office 2, Level 3, HACC Facility, Bowen Library, 669-673 Anzac Parade, Maroubra Junction.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 7: A Liveable City that Balances Growth and Change,

Direction 7f, of the City Plan which states: “Town Centres that meet the needs of our community as places to work, shop, live and socialise.”

FINANCIAL IMPACT STATEMENT:

Council will receive in signing of these agreements the following income –

1. An outdoor dining licence agreement with Sharif Faragalla (T/As Vinnys Woodfire Pizza) will generate an annual income of \$4,661.55 + GST.
2. A residential lease agreement with Deruli Pty Ltd for 1/32 Belmore Road, Randwick will generate an annual income of \$12,514.32.
3. An outdoor dining licence agreement with Tracy McKeown (T/As Salt & Lemon) will generate an annual income of \$1,009.62 + GST.
4. An outdoor dining licence agreement with Angela & Jim Geras (T/As Cheeky Chook) will generate an annual income of \$1,090.60 + GST.
5. An outdoor dining licence agreement with Paul Rattansay (T/As Coogee Plate Café) will generate an annual income of \$2,205.80 + GST
6. A residential lease with the residential tenant will generate an annual income of \$11,700.00.
7. A licence agreement with The Sunnyfield Association will generate an annual income of \$4,671.20 + GST.

CONCLUSION:

As Clause 400 (part 13) of the *Local Government (General) Regulation* requires that the Council pass a resolution authorising the Affixing of the Seal, it is necessary for this action to take place to facilitate legal formalities.

RECOMMENDATION:

That authority be granted for the Council’s Common Seal to be affixed to the agreements between Council and :

1. Mr Sharif Faragalla (T/As Vinnys Woodfire Pizza) in relation to a licence for the purpose of outdoor dining at 1-3 Maroubra Road, Maroubra.
2. Deruli Pty Ltd in relation to a residential lease agreement over a one bedroom unit at 1/32 Belmore Road, Randwick.
3. Tracy McKeown (T/As Salt & Lemon) in relation to a licence for the purpose of outdoor dining at 76 Clovelly Road, Clovelly.
4. Angela & Jim Geras (T/As Cheeky Chook) in relation to a licence for the purpose of outdoor dining at 315 Malabar Road, Maroubra.
5. Paul Rattansay (T/As Coogee Plate Café) in relation to a licence for the purpose of outdoor dining at 209B Coogee Bay Road, Coogee.
6. A residential tenant in relation to a residential lease over Unit 4/32 Belmore Road, Randwick.
7. The Sunnyfield Association in relation to a licence for the use of office space at Suite 1, Office 2, Level 3, HACC Facility, Bowen Library, 669-673 Anzac Parade, Maroubra Junction.

ATTACHMENT/S:

Nil

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GENERAL MANAGER



GENERAL MANAGER'S REPORT 29/2006

SUBJECT:	CRIME PREVENTION PARTNERSHIP
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DATE:	14 August, 2006	FILE NO:	F2004/07501
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REPORT BY: GENERAL MANAGER

INTRODUCTION:

On the 31 July 2006 the New South Wales Premier, The Honourable Morris Iemma, launched the Crime Prevention Partnership. Randwick City Council has been invited and is participating in this programme.

ISSUES:

The Crime Prevention Partnership has been established in four pilot locations across the state to address non domestic violence assaults. The New South Wales Eastern Beaches Local Area Command has been selected to participate in this pilot project.

The New South Wales Government has established a Premiers Delivery Unit (PDU) to support the Crime Prevention Partnership. The objective of the Crime Prevention Partnership is to engage local cross agency teams to identify issues that drive assault rates in problem areas and develop local strategies and action plans to reduce them.

Council's General Manager, Mr Ray Brownlee, attended the first meeting of the Crime Prevention Partnership on 12 July 2006 and subsequent meetings. Other agencies participating in this project are the Eastern Beaches Local Area Command, Department of Housing, Department of Community Justice, Attorney General's Department, State Transit Authority, Department of Gaming and Racing, Department of Community Services and the Premiers Department.

Weekly meetings have been held at Randwick City Council to identify strategies and actions to resolve the incident of non domestic violence assaults. Based on the discussions with the Committee, two locations of Coogee and Maroubra have been identified as areas to implement these strategies and actions. Each agency has been tasked with certain actions which they are reasonable for. A number of proposals have been suggested for Council which I will outline shortly.

On 31 July 2006 the New South Wales Premier, The Honourable Morris Iemma launched the Crime Prevention Partnership. The pilot programmes will run for some 12 months with monthly updates to a select committee chaired by the Premier. From attending these meetings, there appears to be a real commitment to achieving the outcomes and this may be an opportunity for Council to address some of the concerns we have been discussing over the past two years.

For the Coogee Basin the issues revolve around alcohol, transportation, late night trading and security. For Maroubra the issues are security, transportation and social disadvantage. The following are proposals that have been raised at the Crime Prevention Partnership meetings that are the responsibility of Randwick City Council.

1. Re-establish the Pumpkin Bus

It has been agreed with the Liquor Accord, Council and the State Transit Authority (STA) to re-commence this free service in October 2006 for the summer period.

Further discussions are to be held with the STA to extend the drop-off facility to Duffy's corner.

2. Introduce a second secure taxi rank

Transportation out of the Coogee Basin after 12.00 midnight has been identified as an issue to be addressed. It is proposed to introduce a second secure taxi rank in Dolphin Street adjacent to the Beach Place Hotel. A secure taxi rank already exists outside the Coogee Bay Hotel.

The secured taxi rank would assist in mitigating the migration of patrons from the Beach Palace Hotel towards the Coogee Bay Hotel and transportation.

Councillors should be aware that some residents are opposed to locating the second secured taxi rank at this location. Attached is a memorandum from Council Manager Integrated Transportation, in the form of a Council report.

A decision from Council on this item is required.

3. Re-open public toilets

It has been requested that Council re-open the public toilets in Goldstein Reserve, in order to minimise the incidence of urinating in public.

Councillors should be aware that by re-opening the public toilets, other possibly more serious incidents could occur in and around the public toilets.

A decision from Council on this item is required.

4. Closed Circuit Television (CCTV)

Council is currently reviewing the feasibility and logistics of installing CCTV at the Coogee Basin. The Mayor by way of a Mayoral Minute is addressing this issue.

5. Alcohol Free Zones changed to Alcohol Prohibited Zones.

An AFZ established under Part 4 of Chapter 16 of the *Local Government Act 1993* (LG Act) prohibit the consumption of alcohol within the *Zone*. Importantly, AFZ's only operate over roads and road related areas such as car parks, but do not operate to prohibit alcohol consumption in public reserves.

Police have raised issues in respect to the existing enforcement provisions for AFZ's. Under the current provisions (see S. 642 (1) of the LG Act) a police officer (or enforcement officer) who finds a person consuming alcohol in an AFZ **must** warn that person that the drinking of alcohol in the Zone is prohibited. It is a requirement of the LG Act that a person consuming alcohol is warned prior to bringing about an offence for consuming alcohol in the Zone pursuant to S. 641 (2) of the Act. The maximum penalty for this offence is 0.2 of a Penalty Unit (\$22.00)

In this regard, police concerns are two-fold. Firstly, a person must be warned before action can be taken. Secondly, the existing penalty amount of \$22.00 is no deterrent.

As such, Police have requested that the relevant provisions of LG Act in respect to AFZ's be amended:

1. To omit the existing requirement contained within S. 642 (1) of the LG Act, for a warning to be issued to a person consuming alcohol in a AFZ prior to action being taken for the offence contained within S. 642 (2) of the LG Act, and
2. That the penalty amount contained within S.642 (2) be increased to act as a sufficient deterrent for such offences.

In regard to penalty amounts, a person acting contrary to a sign erected by Council pursuant to S. 632 of the LG Act (which may, *inter alia*, prohibit the consumption of alcohol in a public reserve) is liable to a maximum penalty amount of 10 penalty units (\$1,100.00).

6. User Pay Policing

Council at it meeting on 22 November 2005 resolved to apply to the New South Wales Police Force to request the provision of "User Pay Supplementary Policy" for the Coogee Basin. It appears that this request was not successful.

With the Crime Prevention Partnership an opportunity exists to reapply for the User Pay Supplementary Policing for October 2006 to March 2007. It is proposed to utilise the Police with Council's Rangers and security from the local hotels to have a co-ordinated approach to deal with anti-social behaviour. Attached is the Mayor's Minute from the Council meeting on 22 November 2006.

This initiative will be funded by Council.

A decision from Council on this item is required.

Other strategies and actions identified, that will be subsequently reported on, are;

- Review taxi change over times
- Additional bus services
- Taxi subsidy program
- Taxi voucher system
- Community safety audits
- Lock out policy to reduce movement of patrons between licenses premises
- Levy on operating hours after 12.00 midnight
- High visibility policing
- Joint operations to enforce Responsible Serving of Alcohol
- Education strategy

The department of Gaming and Racing have raised with Council an initiative that Manly Council and the Manly Liquor Accord have established. The initiative involves the establishment of a *Code of Respect* that is agreed with the Council, Police, Liquor Accord and residents, that deals with how we want visitors and patrons to respect our community.

Attached is the *Manly Code of Respect*. It is proposed to establish a working party of Council, Police, Liquor Accord and residents to discuss this proposal and report back to Council.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 6: A Liveable City.

Direction 6c: The safety of our community is paramount and is acknowledged and supported through proactive policies, programmes and strategies.

Key Actions: Prepare and implement a crime prevention/community safety plan.

Develop and implement a range of programmes to foster a safer City

Develop and implement effective regulatory environmental, public health and safety services and programmes to maximise public safety and anti-social behaviour of buildings and spaces.

FINANCIAL IMPACT STATEMENT:

Depending on the extent of implementation of these actions will determine the funding required by Council. It is proposed to fund these works from the 2006/07 Budget or provide a report to Council when this is not feasible.

CONCLUSION:

With the establishment of Crime Prevention Partnership, an opportunity exists for Council to work with a range of agency's to address a number of issues that council is currently dealing with.

For the partnership to address local issues, Council needs to play an active role and undertake certain actions as outlined in this report.

RECOMMENDATION:

That:

- a) the report be received and noted.
- b) Council resolve a position on the following;
 - a. Introduction of a secured services taxi rank.
 - b. Re-open the public toilets in Goldstein Reserve
 - c. User Pay policing
 - d. Change the alcohol free zones to alcohol prohibited zones.
- c) Council establish a working party with Police, Liquor Accord and residents to formulate a Policy for the Code of Respect.

ATTACHMENT/S:

1. Manly City Council's Code of Respect
2. Mayoral Minute No. 156/2005 - User-pay Policing of the Coogee's Public Reserves in conjunction with Council's Rangers
3. Memorandum from Manager Integrated Transportation dated 14 August 2006.

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GENERAL MANAGER

03/1432 --6

WELCOME TO MANLY

Our Code of Respect

Our Streets, Beaches & Reserves are Alcohol Free Zones

- **No Fighting**
- **No Drunkenness**
- **No Drugs**
- **No Drink Spiking**
- **No Urinating in Public**
- **No Harassment**
- **No Threatening Behaviour**
- **No Offensive Language**
- **No Vandalism**
- **No Under Age Drinking**

Respect our Police, Council & Community

Offences carry Fines, Penalties or a Criminal Record

Go Home Quietly

We Respect You - You Respect Us

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

MEMORANDUM



TO: Ray Brownlee, General Manager

FROM: Tony Lehmann, Manager Integrated Transportation

DATE: 14 August 2006 FILE: F2004/08304

SUBJECT: Taxi Rank on Dolphin Street, Coogee

INTRODUCTION:

Following patron surveys undertaken at Coogee nightspots in 2005, and in view of other supporting research, a late night transport strategy was developed for Coogee in order to increase patrons' transport options and consequently reduce the reported incidences of antisocial behaviour and related crime; as well as to improve road safety.

The strategy, developed by the Coogee Safety Committee (a sub-committee of the Eastern Beaches Liquor Accord), involved two key initiatives:

- 1 The Pumpkin Bus (to safely assist patrons to leave the Coogee area after midnight).
- 2 Secure Taxi Ranks (to provide a high level of security for taxi drivers whilst safely managing the option of patrons catching a taxi out of the Coogee area).

The Pumpkin Bus has been successful and has the full support of many night time venues in Coogee, Randwick, Kingsford and Maroubra Junction. It has delivered many patrons out of the Coogee area during its trial period and, with a proposed Marketing and Awareness Campaign being recently agreed to by the venues, its success is likely to increase when the service is re-introduced from October, 2006.

The Secure Taxi Rank (STR) outside the Coogee Bay Hotel, in Coogee Bay Road, has been very successful. The other option for an STR has not, at this stage, been pursued due to difficulties with regard to its positioning.

ISSUES:

Taxis have been recognised as being integral to the safe and quiet dispersal of patrons from the Coogee area. An increased supply of taxis was identified in the survey of patrons as a way of improving transport options after midnight. The difficulties of increasing taxi supply have been accepted in Coogee for some time. And, anecdotal information from taxi drivers is that

many of them avoid travelling to Coogee at night due to concerns about their own personal security.

A Secure Taxi Rank is one where a Taxi Rank has a dedicated Security Guard to monitor the rank. An option to improve further the safety of an STR is to require that patrons wanting a taxi at the STR be required to have their identification recorded prior to them getting in the taxi. The experience at other Sydney night spot locations is that an STR works well because:

- It ensures taxis go to a particular location; rather than picking up all over the suburb and then having to "select" their fares;
- The incidence of antisocial behaviour at the STR and in the immediate surrounds is reduced;
- Security guards have a direct phone line and immediate assistance to the Police and other Security personnel at local venues in the event of a disturbance;
- It enables patrons to arrange the sharing of cabs when destinations are close;
- It has good lighting;
- It can be made available to all taxi companies.

Additionally, the recording of patrons' ID is successful because it identifies the patron to the taxi driver. In the event of something going wrong, (ie. the patron "does a runner", damages the cab, injures the driver etc) the taxi driver is able to identify the patron and follow up in some way. STRs are endorsed by the Taxi Council of NSW because they:

- Increase taxi driver safety;
- Improve patron behaviour because identification has been required;
- Increase drivers' familiarity with an area and the safer rank;
- Increase perception by drivers that they are being looked after;
- Develop good relationships between police, venues and taxi companies;
- Increases the numbers of taxis; because even if something untoward were to happen to a driver, she/he may still favour going to the venue because of the outcome of the event, i.e. an arrest was made.

Discussion at the Coogee Safety Committee promoted the idea of two STRs. One in Coogee Bay Road (at the Coogee Bay Hotel) and one near to the cul-de-sac end of Dolphin Street (near the Beach Palace Hotel). The Coogee Bay Road STR is active and working well.

The proposal for an STR in Dolphin Street was taken to the December, 2005, meeting of the Traffic Committee and it was suggested that a site meeting be organised with interested residents, from the adjacent premises, to discuss the proposal.

The site meeting resulted in residents requesting that the rank not be located on Dolphin Street, but that it be located on Arden Street, just north of the Dolphin Street roundabout; using the "tail end" of the existing bus stop.

This was supported by the Traffic Committee members however, due to the distance from the venue, The Beach Palace Hotel, did not subsequently support the proposed new location. Providing their own security staff at such a distant location (110 metres) from their venue was not considered appropriate, nor safe for their staff, and it would make it much harder to manage as an STR. Concerns were also raised about the possibility of taxis queuing across the roundabout and blocking access for buses.

As a result of this divided opinion no STR has been installed to assist with the orderly removal of patrons from the Beach Palace Hotel. However, a representative on the Coogee Safety Committee recently asked that the proposed Dolphin Street STR be re-examined. This was supported by the Committee.

The Mayor has now received correspondence from the Eastern Beaches Liquor Accord requesting, inter alia, that the matter be re-assessed by Council.

Following is a list of positives and negatives about the proposal:

Positives of a Secure Taxi Rank in the Cul-de-sac end of Dolphin Street:

- Close to the hotel – venue can supply security staff to manage the rank;
- Close to the hotel, reduces migration of “taxi seeking” patrons into other residential streets, Goldstein Reserve;
- Taxi drivers are already familiar with the location and the venue and the STR would formalise an existing pick up arrangement, whilst providing formal security.

Negatives of a Secure Taxi Rank in the Cul-de-sac end of Dolphin Street:

- Residents concerned about the increase in noise at the location.
- Would remove some night time parking at the site to make the taxi rank fit within guidelines.

RELATIONSHIP TO CITY PLAN:

This relationship to the City Plan particular to outcome 6, a liveable city, in particular direction No. 6B (out town centre, beaches, public places and streets are safe, inviting, clean and support a recognisable image of our City. Also, direction 6C (the safety of our community is paramount and is acknowledged and supported though proactive policies, programmes and strategies).

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact arising from this matter.

CONCLUSION:

The current situation in this part of Dolphin Street is that, on the popular evenings, a number of taxis are double parking and selectively picking up Beach Palace Hotel patrons. There is no security allocated to this task and, it is understood, that arguments between prospective patrons and taxi drivers sometimes occur.

Notwithstanding that some taxis currently use Dolphin Street, it is believed that large numbers of patrons traipse across Goldstein Reserve in order to catch taxis at Coogee Bay Road. According to the Police Goldstein Reserve has been the location of numerous late night altercations. The likelihood of these altercations would be increased by the flow of Beach Palace Hotel patrons through the park.

Late night observations have also shown that night spot patrons searching for taxis regularly wander up into the quieter, residential parts of Dolphin Street (west of Arden Street) and Arden Street. These patrons have been known to exhibit antisocial behaviour whilst traversing these 'quieter' residential areas.

Given all the positives and the negatives it is considered that Council should support, for a trial period, the introduction of a Secure Taxi Rank in the cul-de-sac end of Dolphin Street, Coogee. It is considered that this trial should coincide with the proposed re-introduction of the Randwick Pumpkin Bus. The Pumpkin Bus is, at this stage, proposed to operate again from 29 September, 2006 through to 6 April, 2007 (being Good Friday).

RECOMMENDATION:

That Council support, for a trial period, the introduction of a Secure Taxi Rank in the cul-de-sac end of Dolphin Street, Coogee; noting that the trial period be from 29 September, 2006 through to 6 April, 2007 (being Good Friday), in order to coincide with the proposed re-introduction of the Randwick Pumpkin Bus.

Tony Lehmann
Manager Integrated Transportation

Director, City Services' Report 60/2006



SUBJECT:	TENDER FOR DRY WASTE RECOVERY AND DISPOSAL
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DATE:	2 August, 2006	FILE NO:	F2005/00435
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REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

Through the provision of the on-call clean-up, scheduled clean-up and illegal dumping collection services, Randwick City Council generates over 4,000 tonnes of dry (or hard) waste per year. This waste is classed as inert waste and can be disposed of at a Class Two Landfill. Some of the material collected, such as metal, is recovered for recycling, reducing the amount of material ending up in landfills.

To secure the disposal of dry waste, to increase resource recovery and to ensure price stability, Council has sought to establish a longer-term contract for this service. As part of the Regional Waste Initiative, the Southern Sydney Regional Organisation of Councils (SSROC) proposed a regional or group tender for the disposal of dry waste and Council agreed to participate in this process.

This report outlines the regional tender process and discusses the options now available to Council.

ISSUES:

Background

Historically, Council's dry waste has been disposed of at the Port Botany Resource Recovery Centre operated by Veolia Environmental Services (formally known as Collex), as this was the only such facility within a reasonable distance of the Local Government Area. However, at the beginning of 2005 WSN opened a facility at Burrows Road, Alexandria. As Veolia was proposing to increase the gate price charged to Council for disposal of dry waste, Council considered it appropriate to tender for this service, to determine the best gate price available given that two operators were now in the market.

However, at this time, SSROC proposed a regional or group tender for the disposal of dry waste as part of the Regional Waste Initiative. Council saw merit in participating in this process of group tendering as, compared to tendering individually, it may provide a stronger tendering position through economies of scale, and encourage the potential

service providers to invest in greater resource recovery. It was anticipated this process would take up to six months and Council sought a short term agreement for disposal of dry waste to cover the interim period. WSN offered Council a competitive price for disposal of dry waste, including a rebate for any metal recovered from the material delivered. As this price was significantly better than the price currently charged by Veolia, Council entered into an agreement with WSN to provide this service for a period of six months or until Council had entered into a long term contract. Council and WSN are currently operating under this agreement.

Regional Tender Process

In September 2005, on behalf of the participating Councils (City of Botany Bay, Kogarah, Marrickville, Randwick City, Rockdale City, Sutherland Shire, Waverley and Woollahra), SSROC applied to the ACCC for a determination, under sub-section 88(1) of the *Trade Practices Act (1974)* to approve the proposed group procurement approach. SSROC also applied for, and was subsequently granted, an interim approval to proceed with Expressions of Interest (EoI) whilst the Commission deliberated on the main application. The final determination was granted on 30 March 2006.

The EoI was advertised in early October 2005 and held open for a four-week period. Proposals were received from the following service providers:

- Alexandria Landfill
- Veolia Environmental Services
- Sell and Parker
- Pioneer Waste Management
- WSN Environmental Services

The participating councils assessed the proposals and determined to use a selective tender approach and include all the EoI respondents on a selective tender list. The contract term was to be four years with a two year option to extend. Tender documents were issued to each of the selected tenderers on 19 April 2006.

Tenders were received from:

- Alexandria Landfill
- Veolia Environmental Services
- Pioneer Waste Management
- WSN Environmental Services

A tender assessment committee comprising members of each of the participating councils was formed. In assessing the price of each tender, in terms of value for money, each council allocated a weighting to their score to include the operational transport costs for delivering material to each of the facilities tendered by the tenderers.

In the tender assessment process it was unclear whether or not each tenderer had submitted a fixed price which covered all costs, excluding GST, but including the known increases over the next five years in the cost of Section 88 waste levy for waste disposed

to landfill, for the term of the contract. As a result of this pricing uncertainty, the tender assessment committee issued a request for all tenderers to resubmit their tender prices based on a 'Price per tonne paid by Council to the Tenderer,' a fixed price for the term of the contract.

When the resubmitted prices were evaluated, it was still unclear as to whether or not each tenderer had submitted a fixed price which included all costs.

However, following an interview with Veolia to clarify their pricing it became evident that the prices were non-conforming as they were only for 2006/07 and did not include increases in Section 88 levy. It was also apparent from the tender assessment process particular tenders were more attractive to geographical groupings of councils. City of Botany Bay, Marrickville, Randwick City, Waverley and Woollahra Councils found that there were two competitive tenderers offering suitably located resource recovery centres, WSN and Veolia. The third suitably located tenderer, Alexandria Landfill, offered an uncompetitive gate price.

As Veolia's tender was deemed to be non-conforming, the tender assessment panel was unable to make a fair and reasonable comparison between the tenders. The tender panel concluded that, given the circumstances, each council should consider the options available and how best to proceed with this matter.

Options

Given the outcome of the Regional Tender Process there are several options available to Council.

- Participate in group tender negotiations with the preferred service providers,
- Re-tender as an individual council for the provision of dry waste resource recovery and disposal services.

Continuing with Group Negotiations

Over the last year Council has committed significant resources to participate in the group tendering process. Due to the nature of this process and other factors, such as applying to the ACCC for authorisation to tender as a group, have meant the tendering timeframe has been extended. In addition, the participating councils have had to reach a common position in relation to the tender and each council had to negotiate to achieve its desired outcomes. The resultant ambiguity in the tender pricing schedules has partly contributed to the submission of a non-conforming tender.

Furthermore, three southern councils, Rockdale City, Kogarah and Sutherland Shire propose to negotiate with a preferred tenderer that offers a disposal facility close to their areas of operation. For the remainder of the SSROC Councils, a preferred tenderer could not be selected due the non-conformity of one of the tender submissions.

Re-Tendering as an Individual Council

Council has the option to invite fresh tenders. This will allow Council to remove the ambiguity of the tender schedules and give potential tenderers the opportunity to prepare comparable tender submissions that can be assessed in a fair and equitable manner. A fresh tender process will provide a mechanism by which Council can determine the most environmentally and economically beneficial service provider. The regional tender process has demonstrated that tendering as a group did not encourage service providers to commit to greater levels of resource recovery, and the tendered prices were similar to the price Randwick City Council currently receives.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 10: A Healthy Environment

Direction 10d: Sustainable alternative waste technologies and environmentally sound collection systems are identified and implemented.

FINANCIAL IMPACT STATEMENT:

Funds have been allocated in the 2006/07 budget for the disposal of dry waste.

CONCLUSION:

Council has participated in a regional tender process to secure a long term contract for the recovery and disposal of dry waste. The regional tender process has been unable to establish a preferred tenderer and the tender assessment panel has concluded each council should consider how they wish to proceed.

There is little benefit in Council continuing with the group negotiations. Calling for fresh tenders will provide an opportunity for Council to address the issues relating to the tender schedules, and allow a fair and equitable comparison between tender submissions.

RECOMMENDATION:

That Council:

- a) Under Regulation 178(1)(b) of the *Local Government (General) Regulation 2005* decline to accept any of the tenders; and
- b) Under Regulation 178(3)(b) of the *Local Government (General) Regulation 2005* Council authorise the General Manager to call for fresh tenders for the disposal of dry waste.

ATTACHMENT/S:

Nil

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JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
WARRICK HAY
COMPLIANCE OFFICER,
WASTE SERVICES

Director, City Services' Report 61/2006

SUBJECT:	FEASIBILITY OF THE INSTALLATION OF CCTV CAMERAS AT COOGEE
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DATE:	10 August, 2006	FILE NO:	F2004/08007
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REPORT BY: DIRECTOR, CITY SERVICES

INTRODUCTION:

Council, at its meeting held on the 28th March, 2006, adopted a Mayoral Minute recommending that “a report be prepared and forwarded to Council in relation to the feasibility and suitability of installing CCTV cameras at Coogee”.

CCTV is common name for a type of surveillance system using a camera or cameras linked to a recording device or monitoring station and used primarily for surveillance/security matters.

ISSUES:

Council’s resolution has asked that the report address two specific matters in relation to this issue – feasibility and suitability. These are two very different matters which need considerable investigation and consultation.

Firstly, in terms of suitability, one of the primary matters that need to be addressed is whether a CCTV monitoring system is acceptable to the community. In a Sydney Morning Herald report in July last year, Fairfield City Council, North Sydney Council and the City of Sydney Council were identified as having CCTV systems in operation. At that time, City of Sydney Council operated 50 cameras. City of Sydney Council has now augmented its system with currently 60 cameras in operation. These cameras are monitored in real-time 24 hours a day and can transfer live footage to police command centres when required.

Similarly, the SMH article reported that City Rail has a network of 6,224 cameras across 306 stations, monitored live, 24 hours a day. Sixteen mini control rooms are scattered across their network with information being transmitted to a central security control centre at Central Station, again with direct contact to Police and to Transit Officers.

Likewise, the RTA has cameras monitoring traffic across its network. Cameras and security systems adorn many an entry foyer to city buildings. Service stations, retail

stores and an ever growing list of businesses, government agencies, banks etc install monitoring and recording systems for both security and as a crime prevention/reduction measure. Randwick Council itself has a security monitoring system installed in its Customer Service area and at its Storey Street Depot.

Other matters that need to be further addressed in terms of suitability include partnering with the Local Area Command and identification of 'crime hot spots' in the identified area of Coogee. It is anticipated that the Local Area Command will support the installation of CCTV's in the area generally adjacent the beachfront including Goldstein Reserve, Arden Street, Coogee Bay Road and possibly Beach Street adjacent Dunningham Reserve. The Local Area Command will need to be further consulted in relation to this matter.

There are a number of issues associated with the installation and continued operation of security cameras for Randwick City Council. These can be divided into three broad categories - purpose, infrastructure and legal.

Purpose

If Council wishes to have a broad coverage over a large area then a number of cameras that have a wide-angle coverage will be required. With suitable advisory notices, these may be suitable as a deterrent against antisocial behaviour, personal violence and crime generally. Council in association with the Local Area Command may be able to identify specific trouble areas where narrow angle but high resolution cameras focused on these areas would be better suited.

Council will need to determine if these surveillance cameras will be fully monitored or if the images will be recorded and viewed post recording. This is a key decision that has major ramifications on the technology used as well as financial and legal issues.

For the purpose of this report, some assumptions have been made to illustrate the type of technology available and some of the decisions that Council will need to make. All discussions from here on are based on a non-monitored, recorded system utilising approximately five (5) cameras of various combinations of wide and narrow angles. It should be cautioned that this number would only allow a limited area of surveillance in Goldstein Reserve from the Council Car Park in the north to approximately 250 metres south.

Infrastructure

Depending on the decision that council reaches on the purpose of these cameras there are a number of different methods to establish a CCTV system. The two types of technology are hard wired or wireless. There are obviously issues associated with both of these technologies.

Wired

A wired system could consist of five cameras in total with a combination of three wide-angle cameras and two high-resolution narrow angle cameras for use in targeted areas. A wired system allows the use of lower cost cameras and reduced peripheral costs, but it does have larger infrastructure costs in laying cables and there may be some temporary disruption of public amenity. Each camera would need to be wired both to power and

through high-speed data cable back to a recording system. The hosting of the recording system would need to be determined, as the distance from the cameras will determine the cost of the entire system. A likely suitable Council owned facility might be the Beach Inspector's office on the lower promenade at Coojee Beach. This is secure and is a reasonable distance from the potential camera locations.

Wireless

A wireless system would employ a similar number of cameras and in a similar ratio. The infrastructure costs of a wireless system are significantly more but there are costs savings in reduced cable laying and public disruptions. Each of the cameras will need to have a power source so some cable installation will be necessary. The lifeguard station again may provide the best location of the housing of the recording system.

Legal

There are a number of issues regarding the legality and ethical use of surveillance cameras. However, a number of local governments in NSW and other states are currently using surveillance cameras in their public places. There is a strong body of information that Randwick Council will be able to draw from in regards to legal requirements of both monitored and recorded surveillance.

Randwick may face additional concerns owing to the use of video recording in such close proximity to a public bathing area. One option to minimise opposition to such a proposal would be to face the cameras away from the beach, however, this may reduce the effectiveness of the application.

Safeguards will need to be put in place that prevent recorded images from being used illegally and un-ethically. The City of Sydney Council has recently implemented a 'Code of Practice' associated with its Street Safety Camera Program. The Code of Practice is based upon 15 key principles related to operation, privacy, civil liberties, security, access, use, purpose, compliance, accountability, partnering and performance review. With the consent of the City of Sydney, the Code may be modified and used for Council's purposes.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Direction 6b: Our town centres, beaches, public places and streets are safe, inviting, clean and support a recognisable image of our City.

Direction 6c: The safety of our community is paramount and is acknowledged and supported through proactive policies, programmes and strategies.

Key Action: Develop and implement a range of programmes to foster a safer City.

FINANCIAL IMPACT STATEMENT:

A full scope for this project has not been identified making cost assessments difficult to prepare. There is a difference in the hardware costs between a wired and a wireless CCTV system but the overall costs are anticipated to be relatively close given the differences associated with the installation. Given a mixed resolution camera system consisting of only five cameras, broad costs can be determined as below:

1. Wireless hardware costs are approximately \$75,000 and installation costs of between \$5,000 and \$15,000 dependent upon how much cable installation is necessary.
2. Wired hardware costs are expected to be around \$55,000 but significant cable laying and other installation costs are estimated to be over \$25,000.
3. Allowance needs to be made for the recording device and monitor. A suitable recording device would be a digital video recorder (DVR) with appropriate hard drive capacity. An estimate of \$15,000 would be an indicative cost associated with the supply and installation for the DVR.

These indicative costs would only provide surveillance for about 250 metres of Goldstein Reserve adjacent the beachfront and facing west onto Arden Street. It would not provide coverage of Coogee Bay Road or other nearby streets.

These indicative costs are only for a static real time digital recording system. Expansion of the system to cover additional areas would add proportionally to the above costs. Costs for a monitored system would be very significantly higher given that staff costs would then need to be considered.

CONCLUSION:

This report has given a brief background on the technology and cost implications of providing CCTV surveillance for approximately a 250 metre frontage of Goldstein Reserve adjacent the beachfront and facing west onto Arden Street. A number of assumptions have been made to provide indicative costs of providing a non-monitored recorded surveillance system.

It is considered that a partnership needs to be established with the Local Area Command to determine the full scope of such a project before more accurate costs can be prepared.

A larger review of the issues identified in this report may also need to be conducted, principally in the cost implications of monitored versus recorded and the legal and ethical concerns of surveillance adjacent a public bathing area.

Should Council resolve to proceed with the project, a community consultation exercise would need to be undertaken to ascertain the community's acceptance or otherwise for the proposal prior to implementation. The consultation phase would also need to examine the preparation of a Code of Practice associated with the system.

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT/S:

City of Sydney Council, Code of Practice - Street Safety Camera Program - Under Separate Cover

.....
JORDE FRANGOPLES
DIRECTOR, CITY SERVICES

.....
JOHN CALVANI
PARKS AND RECREATION CO-
ORDINATOR

Director, Governance & Financial Services' Report 51/2006



SUBJECT:	AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993
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DATE:	1 August, 2006	FILE NO:	F2004/07403
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REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

Council has recently been advised that there have been two (2) Acts assented to by the Governor to amend the *Local Government Act 1993*. The first is the *Local Government Amendment (Miscellaneous) Act 2006* and the second is the *Local Government Amendment (Waste Removal Orders) Act 2006*.

ISSUES:

The Department of Local Government has issued a circular detailing the amendments.

A copy of the circular is attached to this report. Relevant sections of the circular have been highlighted for Councillors' attention.

RELATIONSHIP TO CITY PLAN:

There is no relationship to the City Plan.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

This information is presented for Councillors' information. Any matters requiring attention at staff level, have been referred to the relevant Council officer for actioning/establishing amended processes etc.

RECOMMENDATION:

That the report be received and noted.

ATTACHMENT/S:

Department of Local Government Circular No. 06-39 (dated 3 July 2006).

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR



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AMENDMENTS TO THE LOCAL GOVERNMENT ACT 1993

There have been two Acts recently passed by Parliament and assented to by the Governor to amend the Local Government Act 1993. The first is the Local Government Amendment (Miscellaneous) Act 2006 and the second is the Local Government Amendment (Waste Removal Orders) Act 2006.

Local Government Amendment (Miscellaneous) Act 2006

The amendments under this Act commenced by proclamation of the Governor on 30 June 2006 and are as follows:

Counting Votes at Council Polls and Constitutional Referendums

The amendments make it plain that only formal votes are to be taken into account for the purposes of determining whether a question at a council poll or constitutional referendum has been carried.

Attendance by Councillor at Council Meetings when Councillor is on Leave of Absence

The Act previously allowed for a councillor to be absent from three or more consecutive meetings with the prior leave of the council. Where a councillor was absent at short notice from one or more consecutive meetings the leave may be granted by the council at any one of its meetings.

If the council did not grant the leave of absence, the civic office held by that councillor would become vacant.

The amendments to the Act provide that when a councillor applies for the leave of absence, that leave may only be granted by a council resolution.

If a councillor to whom the leave of absence has been granted attends a council meeting, the leave of absence is taken to have been rescinded as regards any future council meeting. This means that for any further leave of absence to be given the council will have to make another resolution.

There is nothing to prevent a councillor from seeking the leave of the council for a further period of absence.

Good management would require that a councillor, whenever possible, provide to the council a proposed date of return when seeking leave for an extended period of time.

To assist with the good management of the council, the amended Act requires a councillor who wishes to attend a council meeting while on leave, to provide the general manager with a minimum of two days notice of the intention to attend and participate in a meeting of council.

However, failure to give such a notice does not prevent a councillor from attending the meeting or voting at it and any business conducted at the meeting would not be invalidated because of that failure to give notice.

Dispensing with By-Elections

Under section 294 of the Act councils could apply to the Minister for Local Government to dispense with a by-election where a casual vacancy occurs in the civic office of a council six months before a scheduled local government ordinary election.

For example, if the ordinary elections were scheduled for 23 September 2006 and the vacancy occurred after 1 April 2006 then a council could request that the Minister dispense with the need for the Council to hold a by-election. The casual vacancy would then be filled at the ordinary election.

The amendments to the Act extend that period from six to twelve months. The Act will allow a council to resolve to apply to the Minister to dispense with a by-election on or after 1 October last preceding the end of a term of a council.

For example, if the ordinary elections are on 21 September 2008 and the vacancy occurred after 1 October 2007 then the council could apply to the Minister to dispense with the need for the council to hold a by-election. The casual vacancy would then be filled at the ordinary election.

General Manager's Responsibility Regarding Information to be Made Available to Councillors

The Local Government (General) Regulation 2005 is amended by inserting new clause 413A to make it the duty of a general manager to give timely information to councillors about any fines or penalty notices from agencies such as the Australian Taxation Office, the Roads and Traffic Authority or the Environment Protection Authority, or where a court or tribunal makes a costs order against a council.

The amendment will ensure that a council is kept informed of its financial exposure to penalties or the like for a failure to comply with legal and financial obligations.

Electronic Service of Rates and Charges Notices

The Act allows a council to serve rates and charges notices electronically as an alternative to the post if a ratepayer elects that mode of service. To make that choice clear the ratepayer's consent will need to be in writing.

Councils that wish to offer this service to their ratepayers will need to ensure that they have a workable system in place that will enable them to maintain and update a database of email addresses being used for the service of rate notices.

Councils will need to ensure that:

- a ratepayer has elected in writing to receive his/her rate notice electronically (s710(2A))
- all ratepayers electing to receive their rate notices electronically have agreed to advise the council of any changes to email addresses within an appropriate timeframe determined by the council

- it can provide evidence that rate notices have been served by the dates required in accordance with section 562.

It is suggested that councils test the email addresses nominated by ratepayers prior to issuing any rate notices to ensure they are valid and working.

Local Government Amendment (Waste Removal Orders) Act 2006

This Act commenced on 20 June 2006. The amendments under this Act are as follows.

Section 124 has been amended to include a new order 22A. That order allows a council to issue an order to remove or dispose of waste that is on any residential premises or to refrain from keeping waste on those premises.

The waste must be, in the opinion of an environmental health officer, causing or likely to cause a threat to public health or the health of an individual. The order is issued to an owner or occupier of the premises.

The order is not to be used where premises are considered merely unsightly. There must be waste kept that is causing or is likely to cause a threat to public health or the health of an individual.

An order cannot be issued before a qualified environmental health officer has attended the premises and carried out an assessment.

No notice of the intention to issue an order will be required, although before a council actually enters the premises, reasonable notice will be required to be given setting out when the entry is to occur, unless there is an emergency situation.

The order has to set out the reasons why it is being made and provide a reasonable period of time for compliance with its terms.

The order can remain in force for up to 5 years so that if after the premises have been cleaned up the waste again accumulates within the period, the council can take additional steps for it to be cleaned up without having to issue another order.

The person to whom the order is issued is given the opportunity to do the work themselves, unless the risk is so acute that immediate action is required.

Assuming there is no compliance with the order as required, a council may then proceed to carry out the work at the person's cost as authorised by section 678.

By necessary implication a council may enter the residential premises the subject of a 22A order and carry out the necessary work. A council would be expected to provide reasonable notice of its intention to do so.

Prior to a council gaining entry to residential premises for the purpose of ascertaining whether there is waste causing or likely to cause a threat to public health or the health of an individual, the council officer would be required to comply with section 200. Once a 22A order is issued, a council may again use section 200, and section 201 where necessary, to gain entry to ascertain whether or not the order has been complied with.

Non-compliance then triggers the provisions of section 678 and the council is then able to do all such things as are necessary or convenient to give effect to the terms

of an order, including carrying out any work required by the order. Order 22A refers specifically to residences.

While the recent amendments to the Act were drafted with residences with curtilage in mind, there appears to be no reason why a 22A order could not be issued in relation to a home unit.

Garry Payne
Director General



Director, Governance & Financial Services' Report 52/2006

SUBJECT:	AUTHORITY TO ENTER INTO A LICENCE AGREEMENT AND AFFIXING OF THE COUNCIL SEAL
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DATE:	27 July, 2006	FILE NO:	F2004/07367
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REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

Councils Property Section are proposing to enter into two five (5) year licence agreement over the property at 84R Moverly Road, South Coogee, more particularly known at the Jeff Sayle Pavilion and the Old Changeroom Buildings at Latham Park and is seeking Council's authority to enter into the agreements.

Clause 400 (part 13) of the Local Government (General) Regulation 2005 requires that the Seal for the Council must not be affixed to a document unless the document relates to business of the Council and the Council has resolved (by resolution referring to the document) that the Seal be so affixed.

ISSUES:

Randwick Rugby Club has been using Latham Park playing fields for many years for training and game playing purposes. The Jeff Sayle Pavilion was constructed in the 1990's and was purpose built as a sports ground amenity facility. The two storey building consists of two change rooms with storeroom area, public amenities, kiosk and large meeting room area.

Council Property Section has sought and received approval in principle from the Department of Lands to enter into a licence agreement with the Randwick Rugby Club for use of the Jeff Sayle Pavilion. Approval is yet to be received for the licence agreement of the old changerroom premises, which has been converted by the Club for use as a gymnasium.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 4: Excellence in recreation and lifestyle opportunities

Direction 5b: A range of cultural, sporting and leisure activities

Key Action: Recognise and promote opportunities for residents and visitors to engage in sports and other cultural pursuits and Acknowledge our cultural and sporting heritage.

FINANCIAL IMPACT STATEMENT:

It is proposed that Council will receive a rental income of \$5,200.00 + GST for each property by entering into the licence agreements with the Randwick Rugby Club. A 15% levy will be payable to the Department of Lands.

CONCLUSION:

As Clause 400 (part 13) of the Local Government (General) Regulation requires that the Council pass a resolution authorising the Affixing of the Seal, it is necessary for this action to take place to facilitate legal formalities.

RECOMMENDATION:

That authority is granted to enter into two licence agreements with the Randwick Rugby Club for the Jeff Sayle Pavilion and the old Changeroom building located within Latham Park and Council's Common Seal to be affixed to the agreements.

ATTACHMENT/S:

Nil

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GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
SHARON PLUNKETT
PROPERTY COORDINATOR



Director, Governance & Financial Services' Report 53/2006

SUBJECT:	LOCAL GOVERNMENT ASSOCIATION OF NSW - 2006 ANNUAL CONFERENCE
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DATE:	3 August, 2006	FILE NO:	F2005/00646
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

The 2006 Annual Conference of the Local Government Association of NSW will be held in Leura (Blue Mountains) from Saturday 28 October to Wednesday 1 November 2006 with the theme of this year's conference being "*Community: A sense of Place.*"

ISSUES:

Nominations of Delegates and Observers to attend the 2006 LGA Conference

Under the formula applied by the Local Government Association, Randwick City Council is eligible to nominate five (5) voting delegates and an unlimited number of non-voting observers.

Council's Policy 1.03.10 (Part 2 (iii)) permits all members of the Council to attend this conference.

Accommodation, travel arrangements and registration

Accommodation has been pre-booked and, given that the conference is in the Blue Mountains, it is assumed that interested Councillors will travel by either car or train.

Conference information (including registration details and the conference program) have been made available to all Councillors, with the closing date for registrations being Friday 8 September 2006.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 11: Providing a work environment that respects and maximises the opportunities and potential and enables staff/Councillors to contribute to the achievement of the outcomes of the organisation.

Direction 11d: Structured learning and development ensures that staff/Councillors have the skills, knowledge and competencies to meet the organisation's demands and the demands of a challenging workplace.

FINANCIAL IMPACT STATEMENT:

The costs associated with Councillors' attendance at the 2006 LGA Conference have been allowed for in the 2006/07 Budget.

CONCLUSION:

Delegates and observers need to be nominated if Council is to be represented at the 2006 LGA Conference.

RECOMMENDATION:

That:

- a) Council elect five (5) delegates to attend the Local Government Association's Conference in Leura in October 2006;
- b) Council nominate up to five (5) alternate delegates to attend the conference; and
- c) Other interested Councillors attend the conference in the capacity of observers.

ATTACHMENT/S:

Nil

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GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR



Director, Governance & Financial Services' Report 54/2006

SUBJECT:	CONFLICT OF INTEREST GUIDELINES
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DATE:	11 May, 2006	FILE NO:	F2004/07864
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REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

At the 28 February 2006 Council Meeting, the Department of Local Government's "Guidelines for the Model Code of Conduct for Local Councils in NSW" were adopted. The Guidelines contain a number of optional best practice suggestions. One suggestion is that Councils' provide examples and/or case studies to illustrate the ethical problems that Council officials might encounter and strategies for dealing with them.

The attached "Conflict of Interest Guidelines" should function as an active guide to decision making in relation to both pecuniary and non-pecuniary interests.

ISSUES:

The possibility of conflict between public duty and private interest is an ever-present risk for Council officials. Sometimes, by virtue of their official status, position, functions or duties, Council officials have the power to make decisions or act in ways that can further their own private interests. This may cause a real or perceived conflict between the private interests of Council officials' and their public duty. It is of no relevance whether a conflict of interest is actual or merely a conflict that could be reasonably perceived to exist by a third party. Both situations negatively impact on public confidence in the integrity of Local Government.

The attached Conflict of Interest Guidelines have been developed to assist Councillors to understand and manage the more difficult situations that may arise with respect to conflict of interests and also perceived conflict of interests. The Guidelines contain a number of questions that Council officials can ask themselves to help in deciding whether or not they have a conflict of interest or whether their behaviour could create the impression of a conflict.

Other useful reading for Councillors (and designated staff) includes:

- Council's Code of Conduct and the Department of Local Government's Code of Conduct Guidelines.
- Under Careful Consideration: Key Issues for Local Government, 1997, ICAC/Department of Local Government (www.dlg.nsw.gov.au).
- Options to avoid or deal with a conflict of interests, Fact Sheet No 3, Conflict of Interests, 2003, NSW Ombudsman. (www.nswombudsman.nsw.gov.au).
- Pre-requisites to avoid or manage conflict of interests, 2004, NSW Ombudsman (www.nswombudsman.nsw.gov.au).

Ultimately, the onus is on the individual to determine what action to take, particularly in relation to a non-pecuniary conflict of interest.

A number of questions have arisen recently about the impact of a Councillor being the patron for community organisations in the area when matters come before Council in relation to the organisation for which the Councillor is a patron. Like most conflict of interest questions, there is no 'black and white' answer, but the attached Conflict of Interest Guidelines will assist Councillors to work through the issues involved.

To assist Councillors, and in the interest of accountability, the following is a list of organisations for which Councillors have been appointed as 'patrons.' [This information is available on Council's website].

Mayor Councillor Ted Seng

- Maroubra Swimming Club
- Australian Red Cross of Randwick
- Randwick & District Historical Society
- Surf Life Saving Sydney (Honorary Vice Patron – 2005/2006 Season).
- Botany Harriers Inc.

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

The attached Conflict of Interest Guidelines should assist Councillors in answering the, sometimes difficult, questions that arise with respect to their role as Councillors and also as active members of the community.

RECOMMENDATION:

That the Conflict of Interest Guidelines (as distributed) be adopted.

ATTACHMENT/S:

Draft Conflict of Interest Guidelines.

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR



CONFLICT OF INTEREST GUIDELINES

What is a conflict of interest & what is required of you in assessing possible interests?

A conflict of interest can be of two (2) types – pecuniary and non-pecuniary.

A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced, by a personal interest when carrying out your public duty.

You must appropriately resolve any conflict or incompatibility between your private or personal interests and the impartial performance of your public or professional duties.

Any conflict between your interests and those of Council must be resolved to the satisfaction of the Council. When considering whether or not you have a conflict of interest, it is always important to think about how others would view your situation.

It is essential that you properly address conflict of interest issues that may arise. You must:

- Try to understand the concept and practical implications of conflict of interest issues;
- Accept that failure to resolve an actual or reasonably perceived conflict of interest is unacceptable in local government;
- Take timely and appropriate action to avoid, or if not, to disclose any actual, potential or reasonably perceived conflict of interest.

Perceptions of conflict of interest are as important as actual conflict of interest. The onus is on you to identify a conflict of interest, whether perceived or real, and take the appropriate action to resolve the conflict in favour of your public duty.

Where necessary, you must disclose an interest promptly, fully and in writing. If a disclosure is made at a Council or Committee Meeting, both the disclosure and nature of an interest must be recorded in the minutes.

Pecuniary

What is a “pecuniary interest”?

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Section 443 of the *Local Government Act*.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any

decision the person might make in relation to the matter or if the interest is a kind specified in Section 448 of the *Local Government Act*.

Non-pecuniary

A non-pecuniary interest is a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the *Local Government Act* (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

A Councillor should note that matters before Council involving campaign donors may give rise to a non-pecuniary conflict of interest.

Remoteness

A person does not have an interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision that person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the *Local Government Act*.

Who has a pecuniary interest?

(1) A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- a. The person; or
- b. Another person with whom the person is associated as provided below.

(2) A person is taken to have a pecuniary interest in a matter if:

- a. The person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
- b. the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

(Note: relative, in relation to a person, means any of the following:

- (i) The parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the persons' spouse;
- (ii) The spouse, de facto partners of the person or of a person referred to in (i) above).

(3) However, a person is not taken to have a pecuniary interest in a matter as referred to in (2) above:

- a. if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body;
- b. just because the person is a member of, or employed by, a Council or a statutory body or is employed by the Crown; or
- c. just because the person is a member of, or a delegate of a Council, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What disclosures must be made by a Councillor?

A Councillor:

- must prepare and submit written returns of interests in accordance

- with Section 449 of the Local Government Act; and
- must disclose pecuniary interests in accordance with Section 451 (see below).

Disclosure and participation in meetings (Section 451)

A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.

The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:

- at any time during which the matter is being considered or discussed by the Council or Committee, or
- at any time during which the Council or Committee is voting on any question in relation to the matter.

No knowledge – A person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

What interests do not have to be disclosed (Section 448)?

The following interests do not have to be disclosed for the purposes of the *Local Government Act*:

- an interest as an elector;
- an interest as a ratepayer or person liable to pay a charge;
- an interest in any matter relating to the terms of which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part;
- an interest in any matter relating to the terms on which the provisions of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part;
- an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not) [*for further information in relation to club membership and options for managing conflicts, see the case studies under the sub-heading "Disclosure and management of non-pecuniary interest"*];
- an interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee;
- an interest in a proposal relating to the making, amending, altering or

repeal of an environmental planning instrument, other than an instrument that effects a change of the permissible uses of:

- (a) land in which the person or another person with whom the person is associated as provided in Section 443 has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
 - (b) land adjoining, or adjacent to, or in proximity to land referred to in paragraph (a) if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal;
- an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company;
 - an interest of a person arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) or the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership;
 - an interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreement as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
 - (a) the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation;
 - (b) security for damage to footpaths or roads;
 - (c) any other service to be rendered, or act to be done, by the Council or under any Act conferring functions on the Council or by or under any contract;
 - an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor);
 - an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under Section 252;
 - an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor;
 - an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person;

- an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee;
- an interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

Disclosure and management of non-pecuniary interest

Non-pecuniary interests **must** be disclosed in meetings.

There are a broad range of options available for managing conflicts and the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with.

Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- it may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquish or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451 of the *Local Government Act* apply (particularly if you have a significant non-pecuniary interest).

Case Study...

A Councillor is a member of a large metropolitan club. However, he/she is not active in the club or involved with the management of the club. In this situation, the Councillor merely enjoys the facilities of the club as a privilege of membership.

Should a matter relating to the club arise at Council, it is appropriate that the Councillor informs the Council of his/her membership. However, it is unlikely that his/her interest as a club member would overshadow his/her role as a Councillor representing the view of residents and ratepayers generally. Therefore, he/she could participate in the decision making process.

Case Study....

A Councillor is a member of a club in a small community. The Councillor is very active in the running of the club and while not an office holder, he/she is well known to all club members. The Councillor often discusses Council business with other members, represents their personal interests as residents and ratepayers to the Council and facilitates communication between them and Council.

The club has recently submitted a development application to the Council for a major extension of its facilities.

In this situation, the Councillor has two distinctly different interests in the matter. The first is his interest as a Councillor representing residents and ratepayers generally; the second is as a club member who is keen to see the club prosper and provide better facilities for its members.

There may be a public perception that the Councillor's activities with the club would make it difficult for the Councillor to view the matter as representative of residents and ratepayers generally. Therefore, the Councillor should disclose his/her conflict of interest in the matter when it comes up for consideration. The Councillor should then consider whether he/she will refrain from participating in Council's discussion and voting on the matter. If the Councillor decides not to vote then he/she should leave the room during the discussion and vote on the matter.

Case study.....

A Councillor is the patron of a club in the local area by virtue of the fact that Councillor is a well-known and respected person in the community. The Councillor does not participate in club activities on a regular basis, but is involved in promoting the club, raising awareness of the clubs events and championing the clubs cause.

The club has recently submitted an application to the Council for the renewal of its lease of a Council facility at a discounted rate.

In this situation, the Councillor has an interest as a patron of the club and as one who is keen to see the club prosper and provide better facilities for its members.

There may be a public perception that the Councillor's activities with the club would make it difficult for the Councillor to view the matter as representative of residents and ratepayers generally. Therefore, the Councillor should disclose his/her conflict of interest in the matter when it comes up for consideration. The Councillor should then consider whether he/she will refrain from participating in Council's discussion and voting on the matter based on the level of involvement he/she has with the club. If the Councillor decides not to vote then he/she should leave the room during the discussion and vote on the matter.

If the mayor or a councillor is the patron of a local club/organisation they should declare a non pecuniary interest in any relevant matter as there is likely to be a community perception that a personal interest exists. Even though the Mayor often automatically becomes the patron of a club/organisation (because of his position), possibly even without his/her knowledge, he/she should declare a non pecuniary interest in the matter when/if a related matter comes before the Council and/or a Council Committee. It will be up to each individual Councillor to determine whether he or she should vote on any matter they have declared a non pecuniary interest in.

Disclosure to be recorded (Section 453)

A disclosure (and the reason(s) for the disclosure) made at a meeting of the Council or Council Committee or sub-Committee must be recorded in the minutes of the meeting.

Some examples of conflict of interests

The following information is taken from the ICAC "*Under Careful Consideration: Key Issues for Local Government*" publication¹ and provides some examples of where conflict of interests may occur within Councils.

"Tendering and purchasing

A Council has advertised for a firm to supply and fit office equipment. A Councillor who is representative on the Council's panel assessing the tender bids, has a close friend who is a senior executive in a firm submitting a bid. The may affect, or may be suspected to affect, the Council's ability to make an unbiased decision."

"Elected officials – business interests

Many Councillors have business and professional interests in the local government area that they represent. Conflicts can arise if their public positions allow them access to information and opportunities that could be used to advance their personal and business interests.

For example, a Councillor may be tempted to influence an application to set up a new business in the town (area) if his (her) own business could lose custom as a result."

"Election support

A conflict can arise for a Councillor when a campaign donor who contributed financially to the Councillor's election campaign, or a campaign supporter who worked on the election of the Councillors by handing out how-to-vote cards or erecting election posters, has a matter before the Council for determination. This could have potential to place the Councillor in a position of having a conflict of interest.

Extreme care should be taken if the nature of the relationship may constitute a pecuniary interest (for example, where it could be perceived that an election donation has been given on the understanding that the Councillor will provide support on a particular matter should he or she be elected)."

Conflict of interest checklist

The following checklist should be considered by any person who considers that they may have an interest in a matter with which Council is concerned. This checklist should be used as a **guide only**.

¹ ICAC. *Under Careful Consideration: Key Issues for Local Government*. Guidelines to Reduce Conflicts of Interest in Councils. March 1997

If after considering the checklist you are still unsure of your obligation, please immediately contact the General Manager who may, if appropriate, seek advice to clarify whether an interest exists.

Note that this checklist does not affect your obligation to disclose all interests in accordance with sections 444 and 445 of the *Local Government Act*.

1. Do I, a relative, friend or associate stand to gain or lose financially from Council's decision or action on this matter?

Yes: a pecuniary interest exists – you must declare the interest and leave the meeting when the matter is being discussed and voted on.

No: no statutory *pecuniary* interest exists, continue consideration of non-pecuniary (conflict of) interest.

2. Non-pecuniary (conflict of) interest considerations:

- o Do I, a relative, friend or associate stand to gain or lose my/our reputation because of Council's decision or action?
- o Have I made any promises or commitments in relation to the matter?
- o Have I received a benefit or hospitality from someone who stands to gain or lose from Council's decision or action?
- o Am I a member of an association, club or professional organisation, or do I have particular ties and affiliations with organisations or individuals, who stand to gain or lose from Council's consideration of the matter?
- o Is the person an election campaign donor or someone who helped during my election campaign?
- o If I do participate in assessment or decision making, would I be unhappy if my colleagues and the public became aware of my association or connection?
- o Would a fair and reasonable person perceive that I was influenced by a personal interest in performing my public duty?

Yes: If the answer to *any* of the above questions is yes, then the Councillor should declare a non-pecuniary interest in the matter in question and consider how to manage the interest based on the considerations listed under the sub-heading "Disclosure and management of non-pecuniary interest".

3. Is the matter so remote or insignificant that it could not reasonably or objectively be regarded as likely to influence any decision which you might make in relation to the matter?

Yes: no conflict of interest exists

4. Will the Relevant Matter affect you or an associate more than any other member of the community?

Yes: disclose the interest and decide how to manage the interest based on the considerations listed under the sub-heading "Disclosure and management of non-pecuniary interest".

5. Am I confident of my ability to act impartially and in the public interest?

No: disclose the interest – you need to exclude yourself from consideration and voting on the Relevant Matter.

FILE REFERENCE: F2004/07864
August 2006.

Director, Governance & Financial Services' Report 55/2006



SUBJECT:	GENERAL PURPOSE FINANCIAL REPORTS 2005/2006
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DATE:	7 August, 2006	FILE NO:	F2004/08339
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REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

As per Section 416 (1) of the Local Government Act 1993, a council's financial reports for a year must be prepared and audited within 4 months after the end of the year concerned.

The statutory process that must be followed is: -

1. These reports must include statements made by resolution of the Council and signed by the Mayor and at least one other Councillor as well as the General Manager and the Responsible Accounting Officer.
2. These financial reports must then be referred to the Council's Auditors, and once audited the reports must be included in the Council's Annual Report.
3. Copies of the audited financial reports must be forwarded to the Department of Local Government by 7 November 2006.
4. As soon as practicable after Council receives a copy of the Auditor's report. The reports must be placed on public exhibition and notice given of a meeting at which Council proposes to present its audited financial reports together with the Auditor's report. (Sec. 418 LGA).

ISSUES:

This report provides the Financial Result and Financial Position of Council as at 30 June 2006.

The unaudited General Purpose Financial Reports are attached in Attachment 1. On completion of the audit further copies of the reports including the audit report will be circulated to Councillors.

It is proposed that the audited financial reports be presented at the Council meeting to be held on 26 September 2006.

It is also proposed to carry over funds to the New Financial Year 06/07, due to the following reasons.

- Projects had already commenced, and expenditure was committed,
- Projects that were incomplete as at 30 June,
- The funds were voted towards the latter part of 05/06 Financial Year, and the Project had not commenced.

A list of all recurrent and capital carryovers is listed in Attachment 2.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome: Outcome 1: Leadership in Sustainability

Direction: Long term financial viability is achieved

FINANCIAL IMPACT STATEMENT:

There is no direct financial impact for this matter.

CONCLUSION:

Council is in a strong and stable financial position. Director Governance & Financial Services as the responsible accounting officer, advises that the projected financial position is satisfactory.

RECOMMENDATION:

1. That the General Purpose Financial Reports for the year ended 30 June 2006 be adopted as per Attachment 1.
2. That the Recurrent and Capital Carryovers be adopted as per Attachment 2.
3. That in relation to the statements required in accordance with Section 413(2)(c) of the Local Government Act 1993: -
 - (a) Council resolve that in its opinion the general purpose financial reports and the special purpose financial reports for the year ended 30 June 2006 and special schedules are properly drawn up in accordance with the provisions of the Local Government Act 1993 and the Regulations there under.
 - (b) That the statements be approved and signed by the Mayor, another Councillor, the General Manager and the Responsible Accounting Officer.

4. That the financial reports be referred to Council's Auditors for audit.
5. That arrangements be made to place copies of the audited financial reports on public exhibition and the necessary advertisements be published.
6. That copies of the audited financial reports be forwarded to the Department of Local Government.
7. That the audited financial reports be presented at a meeting of council to be held on 26 September 2006 in accordance with Section 418 of the Local Government Act, 1993.

ATTACHMENT/S:

1. SCHEDULE OF CARRYOVERS – Under Separate Cover
2. GENERAL PURPOSE FINANCIAL STATEMENTS (UNAUDITED) - Under Separate Cover.

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

Director, Governance & Financial Services' Report 56/2006



SUBJECT:	EARTHWATCH FELLOWSHIPS
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DATE:	4 August, 2006	FILE NO:	F2004/08357
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REPORT BY: DIRECTOR, GOVERNANCE & FINANCIAL SERVICES

INTRODUCTION:

At the Council Meeting of 25 July 2006 it was resolved on a Motion Pursuant to Notice from Councillor Bruce Notley-Smith:

“That a report be brought back to Council on options and financial implications for Council to sponsor two Earthwatch Scholarships on an ongoing yearly basis.”

ISSUES:

The Earthwatch Institute engages people in scientific field research and education to promote the understanding and action necessary for a sustainable environment. This is accomplished through three primary objectives:

- Research - Supporting the field work of research scientists worldwide collecting the base line data essential for sustainable management decisions.
- Education - Educating and inspiring the next generation of leaders in education, business and the general public.
- Conservation - Solving problems by collaborations with conservation and preservation partners

Earthwatch have a “fellowship” program for sponsoring organisations. The fellowships would involve participants acting as research assistants on one of Earthwatch’s current research projects. Fellowships are generally 1-2 week assignments.

If Council were to sponsor two Earthwatch Fellowships, the process would be as follows:

- Earthwatch would work with Council to develop an information brochure, selection criteria and application form for the Fellowship(s).
- Council can choose whether to make applications only available to staff members or only to residents (or, if it were to sponsor two fellowships, an option would be one staff member and one community member per annum).

- Earthwatch shortlist and interview applicants in consultation with Council.
- The successful applicant(s) are provided with information about the project and are prepared for the field.

All of the Earthwatch research projects involve one of the following areas:

- Climate change;
- Natural Resource Management;
- Sustainable Communities; or
- Sustainable Oceans.

The attached “Randwick City Council and Earthwatch – Partnership Proposal” prepared by Earthwatch provides detailed information about what the Fellowships/Partnership would involve.

In addition, a copy of Earthwatch’s 2005 Annual Report and “*Earthwatch News*” for Winter 2005 have been distributed separately to Councillors. These documents give an indication of the type of projects that Earthwatch is involved in.

RELATIONSHIP TO CITY PLAN:

The relationship with the City Plan is as follows:

Outcome 10: Our natural environment will be protected, enhanced and promoted for future generations.

Direction 10a: Council is a leader in fostering environmentally sustainable practices.

Key Actions: - Provide education, information and opportunities to participate in sustainability and permaculture initiatives
 - Partnerships with local businesses, key organisations and community groups are expanded to deliver sustainability solutions

FINANCIAL IMPACT STATEMENT:

The cost of sponsoring two (2) Earthwatch fellowships is as follows:

▪ Membership of Corporate Sustainability Group (this membership entitles Council to invitation to events, access to scientists etc)	\$6,000
▪ Fellowships \$4,800 x 2	\$9,600
▪ Community engagement (see attached comments from Earthwatch)	\$1,000
▪ Travel costs for 2 fellowships	\$1,400
Total cost per annum	\$18,000

- Plus one-off setup fee (for application forms, selection criteria etc) \$2,000.

The five year Environment Levy granted to Council in 2004 by the Minister, put forward specific projects together with cost estimates for the five years covering the areas of biodiversity, caring for our coastline, sustainability education, sustainable waste management, climate protection, water conservation, local history and program management.

All services, facilities or activities provided or undertaken by the levy funds, are to be provided or undertaken, by the council within the whole or any part of the Council's area. The degree of benefit afforded to the ratepayer by providing or undertaking the work, service, facility or activity was also a determining factor.

Fellowship funding is not currently identified as an Environment Levy project. Should Council wish to proceed with the scholarships then the above factors would be a consideration for Council in determining an appropriate funding source.

CONCLUSION:

The matter of sponsoring Earthwatch Fellowships is entirely at Council's discretion, subject to the allocation of appropriate funding.

The information in this report is provided to assist Council in arriving at a decision on this matter.

RECOMMENDATION:

That Council determine whether to sponsor ongoing yearly Earthwatch Fellowships and, if so, where the funding will come from.

ATTACHMENT/S:

Randwick City Council & Earthwatch Partnership Proposal - prepared by Earthwatch.

.....
GEOFF BANTING
DIRECTOR, GOVERNANCE &
FINANCIAL SERVICES

.....
JULIE HARTSHORN
SENIOR ADMINISTRATIVE
COORDINATOR

Randwick City Council and Earthwatch Partnership Proposal

Rationale

Local governments play a critical role in addressing the issues of environmental and social sustainability. They are at the forefront of the challenge to change environmental and sustainability behaviours and are well placed to provide effective leadership for the sustainable future of our communities. There is now an increasing realisation that all sectors of society need to engage collaboratively in order to achieve a sustainable future.

Public opinion regarding the environment has shifted from a recreational focus to a more holistic picture that includes the role of the environment for biodiversity conservation, community health and sense of place and heritage value. Randwick City Council has developed goals in light of this that encompass similar objectives to those of Earthwatch, such as public education through innovative partnerships to promote a sustainable future, leadership in sustainability and the enhancement of environmental and social health. We propose that Randwick City Council and Earthwatch partner to provide council employees and community members with innovative learning and development opportunities to inform and engage both the council and its constituents.

Partnership Objectives

- Enhance the Randwick City Council's capacity to provide leadership in sustainability
- Reinforce the Council's commitment to responsible environmental management and contribute to increased understanding within the community and its employees of the importance of these issues
- Help build a shared commitment across the Council and community to environmental and social sustainability
- Provide professional and personal development opportunities for employees and community members through participation in an environmental research project
- Support Earthwatch mission to engage people worldwide in scientific research and education to promote the action and understanding necessary for a sustainable environment.

Earthwatch Institute

Earthwatch Institute is an international non-profit organisation, which engages people in scientific field research and education to promote the action and understanding necessary for a sustainable environment. Each year Earthwatch enables approximately 4,000 volunteers to assist in 120 field research projects around the world. At least 30% of these people are sponsored by their employers who recognise the educational and motivational outcomes of this experience. Earthwatch supports field research that addresses critical environmental issues including climate change, biodiversity conservation and natural resource management.

By placing volunteers in the field to work with scientists, Earthwatch provides an opportunity for volunteers to gain a greater understanding of the issues that are shaping our natural world and to spend two weeks of their life making a difference to the goal to achieve environmental and social sustainability.

The Program

The *Ambassadors for the Environment* program will be part of a personal and professional development program. It will include an opportunity for Randwick City Council staff and community members to participate in a one to two week environmental field research project. The participants will be chosen through a competitive application process that meets the selection criteria of both Earthwatch and the Council. The research projects will be selected from the portfolio of projects that Earthwatch is supporting in Australia and will be selected based on their relevance to the Council's values and environmental policies.

Within three weeks of their return from the field, participants will complete an evaluation and write a detailed report of their experiences as well as give presentations to their networks to ensure that the benefits of the program go far beyond the individual.

Community Conservation Project

To reinforce the learning outcomes participants gain on their research project and ensure local communities and environments benefit from these outcomes, Earthwatch suggests the partnership include a Community Conservation Project component.

A Community Conservation Project (CCP) entails the participants to work together to either create and implement an environmental project, or contribute to an existing project. These projects should be relevant to issues affecting the local environment and be able to include work colleagues and the wider community. We suggest that a small amount of money (e.g. \$500) be made available to the project to help with the implementation.

The activities initiated by returned participants have the potential to mobilise a wide network of employees and community members. Furthermore, the involvement of the employees in their local community will provide a powerful tool for wider communication of the partnership within the Council and can act as a key vehicle for the individual participant to drive and shape their own learning motivated by their field research experience.

Projects

These projects are an example of Earthwatch supported research in Australia that may be of interest to the Council. A full selection of local and international research projects is available in the Earthwatch Expedition Guide 2006.

Waterbirds of the Coorong

Principal Scientist: Dr David Paton, University of Adelaide

Location: The Coorong, South Australia

Team Dates: January

The Coorong is a unique coastal environment in South Australia, rich in wildlife and internationally important as a wetland for migrating waterbirds. Several hundred thousand shorebirds visit this RAMSAR listed wetland each summer, many having migrated from their breeding grounds in the Northern Hemisphere. The northern lagoon of the Coorong is under pressure from reduced flow of freshwater from the Murray River. Additionally, efforts to transfer substantial amounts of saline ground water into the southern lagoon, to relieve dryland salinisation, are changing the hydrology of the Coorong. There are growing concerns that the number of migratory waders and other waterbirds have been declining over recent years. Baseline data are needed on the distribution and abundance of aquatic birds and their food supplies so that scientists and

conservationists can understand the changes in the water regime and minimise their negative impacts.

Climate Change in the Rainforest

Principal Scientist: Dr Stephen Williams, James Cook University

Location: Atherton Tablelands, Wet Tropics World Heritage Area, Queensland

Team Dates: March

This project is motivated by recognition that global warming is already underway and the clear evidence that global warming will have a profound impact on the integrity of the highly biodiverse Australian Wet Tropics. To protect these rich natural resources, it is imperative to understand current patterns of biodiversity and the factors that determine the distribution of species.

This project aims to establish long-term monitoring sites in key areas where initial climate change impacts are expected to occur to enable the production of accurate models explaining animal distribution patterns in the Wet Tropics area. It also aims to predict the extent and severity of global warming on individual species and produce conservation recommendations for regional fauna.



Australia's Vanishing Frogs

Principal Scientist: Dr Michael Mahony, University of Newcastle

Location: Woolemi and Barrington National Parks, NSW

Team Dates: January and February



Frogs are an important species as presence indicates an ecosystem is functioning properly. In the last 20 years nine species of frog have become extinct in eastern Australia, signalling that their habitats are changing. Strong evidence implicates an infectious pathogen as the cause of frog population decline, but why are frogs more susceptible to disease now?

This project aims to answer this important question by examining the link between global

climate change, increased ultraviolet-B radiation and frog death. The baseline information collected during this research will help scientists and managers understand the role that disease, climate change, habitat destruction and pollutants may have on the fate of frog species in Australia and globally.

Return of the Dawn Chorus

Principal Scientist: Dr David Freudenberger, CSIRO

Location: Holbrook, NSW

Team Dates: May and November

Today less than 20% of the original woodland of the Upper Billabong Catchment near Holbrook remains, and the region is seriously affected by soil erosion, rising watertables,

acid soils and loss of biodiversity. Research demonstrates that there is an inextricable link between tree health and birds. Habitat fragmentation and loss causes bird numbers to decline which in turn has links to the spread of eucalyptus dieback across farming landscapes. It is now widely acknowledged that declining woodland birds is a major conservation issue in agricultural landscapes.

This project is part of a long-term monitoring study which aims to establish how birds recolonise sites where trees have been planted, whether they breed successfully, and how they use the surrounding farmland. It also aims to monitor changes to ecosystem services such as tree and soil health, surface water movement and water quality. This project will assist farmers to understand the relationship between increased biodiversity through tree planting, and farm productivity, and help them to improve the design and management of their revegetation areas.

Benefits

Experiential learning provides an unusual and powerful mechanism to engage and build awareness to environmental and long term sustainability issues. Participants return from the field re-energised and enthusiastic to make a difference in their lives. This can foster a keen interest in becoming an ambassador for the environment and by meeting and working with a Council employee open and honest dialogue can occur about the environmental issues and challenges facing both parties.

More specifically benefits include the following:

- Expanding employees' horizons and perspectives, and building a shared commitment to environmental and corporate social responsibility throughout the organisation
- Empowering employees and community members to make a difference within their local community
- Personal growth through working in conditions outside the participant's comfort zone
- Building leadership skills through participation in diverse research teams
- Creating a culture of environmental volunteering within the City of Randwick

Program Evaluation

The *Ambassadors for the Environment* program will be evaluated through the following processes:

- Evaluation forms and reports completed by the participants
- Field reports from the research scientists
- Periodic review meetings with appropriate staff
- Annual program reports compiled by Earthwatch using the above sources

Proposed Budget

***Ambassadors for the Environment* Program**

2 Fellowships on selected Earthwatch project @ \$4,800 pp \$9,600

This includes:

- Pre and post program briefing materials
- Contribution towards the use and hire of research equipment such as radio tracking devices, sampling equipment, binoculars, fuel and vehicle hire
- All transport whilst in the field

- Food and accommodation whilst in the field
- Research permits that are obtained from the relevant authorities to undertake research at the site
- Safety plans, equipment and briefings
- 1-year individual participant subscription to Earthwatch (including Earthwatch tee-shirt)
- Participant enrolment in the Earthwatch Alumni program

Please note this does not include travel to and from the research site, travel insurance and design and printing of any materials.

Program Management	\$2,000
Initial development of employee and community engaging program	
<ul style="list-style-type: none"> • Development of participant selection criteria, briefing booklet, report and evaluation guidelines and all communication with participants prior to and post their field experience • Program evaluation and reporting 	
Community Engagement	
2 Community Conservation Project grants @ \$500 pp	\$1,000
<i>Please note each grant will be paid directly to a community or environmental group of which the participant is collaborating with to implement their project.</i>	
Earthwatch Corporate Sustainability Group	\$6,000
Provides access to Earthwatch's program of activities and publications, access to Earthwatch staff, science advisors and research scientists for advice and private consultations or as speakers for events and in support for the evolution of the organisation's environmental policies and their integration within the organisation.	
Sub total	\$18,600
GST	\$1,860
Total	\$20,460

Director, City Planning Report 71/2006

SUBJECT:	7 CANBERRA STREET, RANDWICK
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DATE:	8 August, 2006	FILE NO:	DA/457/2006 & PROP 049699
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is a Development Assessment report for Development Application No. DA/457/2006 for use of existing premises for Naturopathy and Remedial Massage Therapy.

RECOMMENDATION:

That Council consider and determine the development application in accordance with the recommendations contained in the attached report.

ATTACHMENT/S:

Development Application Report dated 26 July 2006

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	26 July 2006	FILE NO:	DA/457/2006 & PROP049699
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PROPOSAL:	Use of existing premises for Naturopathy and Remedial Massage Therapy.
PROPERTY:	7 Canberra Street, RANDWICK
WARD:	North Ward
APPLICANT:	A HARRIS
OWNER:	Mr C Giokaris

	Subject Site
	Submissions received
	▲ North
	LOCALITY PLAN

1. EXECUTIVE SUMMARY

The application is referred to Council for determination as the proposed use of the premises includes massage therapy.

The proposal details the use of the existing business premises for a health clinic, involving naturopathy and remedial massage therapy.

The main issue is the impact of the proposed use upon the amenity of the surrounding residents.

The application is recommended for approval subject to conditions.

2. THE PROPOSAL

The proposal details the use of the existing business premises as a health clinic offering Naturopathy, Herbal Medicine, Nutrition and Massage Therapy services. The hours of operation are proposed to be 7.30am to 9.00pm Monday to Friday, 8.30am to 7.00pm on Saturday and 11.00am to 2.30pm on Sunday, with 3 employees. The floor plan of the premises is to be divided into three massage rooms, a waiting area, reception and dispensary. The subject premises has most recently been used as a hair dressing salon and is currently vacant.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The subject site is on the eastern side of Canberra Street adjacent to the round about of Perouse Road and Howard Street and is within a group of four local business uses which have dwellings above. The surrounding areas is predominantly residential in nature and contains a mixture of semi detached and free standing dwellings, two and three storey multi unit housing development and other groups of similar local business uses.

4. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the DCP - Notification and no response has been received.

5. ENVIRONMENTAL HEALTH COMMENTS

The proposal

Proposed naturopathy (including nutrition) and remedial massage business.

Key Issues

It is advised that discussions have been undertaken with the applicant regarding the proposed use of the premises and the applicant has advised that no skin penetration or sex on premises is proposed. A facsimile dated 28th June 2006 confirmed the proposed uses.

As such no conditions have been proposed with respect to compliance with the Local Government Act or Public Health Act in relation to construction or operation.

Standard conditions have been included in relation to noise and hours of operation.

6. 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 under Clause 35 of LEP.

Clause 35 of the LEP states that Council may grant consent to development of land within a residential zone for the purpose of a business use when the use is to situated in a building that was originally designed or constructed for use as business premises and that the total floor area to be used for a business premises does not exceed 50m². The purpose of this clause is to provide for the establishment and continued operation of small scale business development in residential areas.

The proposed use is within a building which is within a row of buildings which were clearly constructed for business uses having a shopfront and dwelling above, the subject premises is vacant and the adjoining premises are used for a hairdressing salon and real estate agency. The total floor area of the building which is to be used for the business premises is 35m². Therefore development consent may be granted to this use as the controls of this clause of the LEP are complied with.

7. 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.

Suitability of the Site:-

The proposed use of the premises as a health clinic is consistent with the nearby and adjacent business uses which contains a hair dressing salon and real estate agent and further along Canberra Street other local business including a convenience store and take away food premises.

Nature of Use:-

Council has recently raised concerns that Development Applications involving remedial massage may not be used for that purpose and instead used to provide sexual services to clients.

The proposed hours of operation are similar to the other local business operations in the area and the applicant has demonstrated their bona fides with copies of natural therapy

qualifications, and the proposed signage to the shopfront displaying the business name as "Home to Health Natural Medicine". The signage indicates that the premises is being marketed to legitimate clientele of a natural therapy business. It should also be noted there are no shower areas indicated on the plan.

Therefore, it is considered that the proposed use will not have any potential adverse impacts upon the amenity of the adjoining properties.

8. RELATIONSHIP TO CITY PLAN

Outcome 8: A strong local economy.

Direction 8a: The proposal will contribute positively to the diversity of business opportunities and the survival of small businesses in the City of Randwick.

9. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

10. CONCLUSION

The proposal complies with the relevant assessment criteria and subject to conditions relating to the use and hours of operation will not result in any significant impact upon the amenity of nearby and adjoining residential development.

RECOMMENDATION:

THAT Council as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No.4579/06 for permission to use the premises for remedial massage, naturopathy, herbal medicine and nutrition advice at 7 Canberra Street Randwick subject to the following conditions: -

1. The development must be implemented substantially in accordance with the plans and statement received by Council on the 19th June 2006, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans.

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. The hours of operation are restricted to:-

Monday to Friday:	7.30am to 9.00pm
Saturday	8.30am to 7.00pm
Sunday	11.00am to 2.30pm

3. The massage services are restricted to remedial massage. The premises must not be used for the purpose of a brothel and in this regard, no sexual services are to be offered in association with the massage service.
4. The maximum number of employees operating from the subject premises must be restricted to 3 and their relevant remedial and therapeutic massage qualifications are to be provided to Council. Council will keep a record of the employee and their relevant qualifications, and at no time are the employees to vary without first notifying Council.

The following conditions are applied to ensure that the development satisfies the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations:

5. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

6. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an `offensive noise` as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as a $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

7. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

ATTACHMENT/S:

Nil.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

Director, City Planning Report 72/2006

SUBJECT:	28 Marcel Avenue, RANDWICK
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DATE:	8 August, 2006	FILE NO:	DA/25/2006 & PROP 051763
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REPORT BY: DIRECTOR, CITY PLANNING

INTRODUCTION:

Attached is a Development Assessment report for Development Application No. DA/25/2006 alterations to existing roof terrace above the existing garage to reposition timber balustrade 600mm from the front of the garage and provide for a planter box across the front of the garage.

RECOMMENDATION:

That Council consider and determine the development application in accordance with the recommendations contained in the attached report.

ATTACHMENT/S:

Development application Report dated 23 May 2006.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

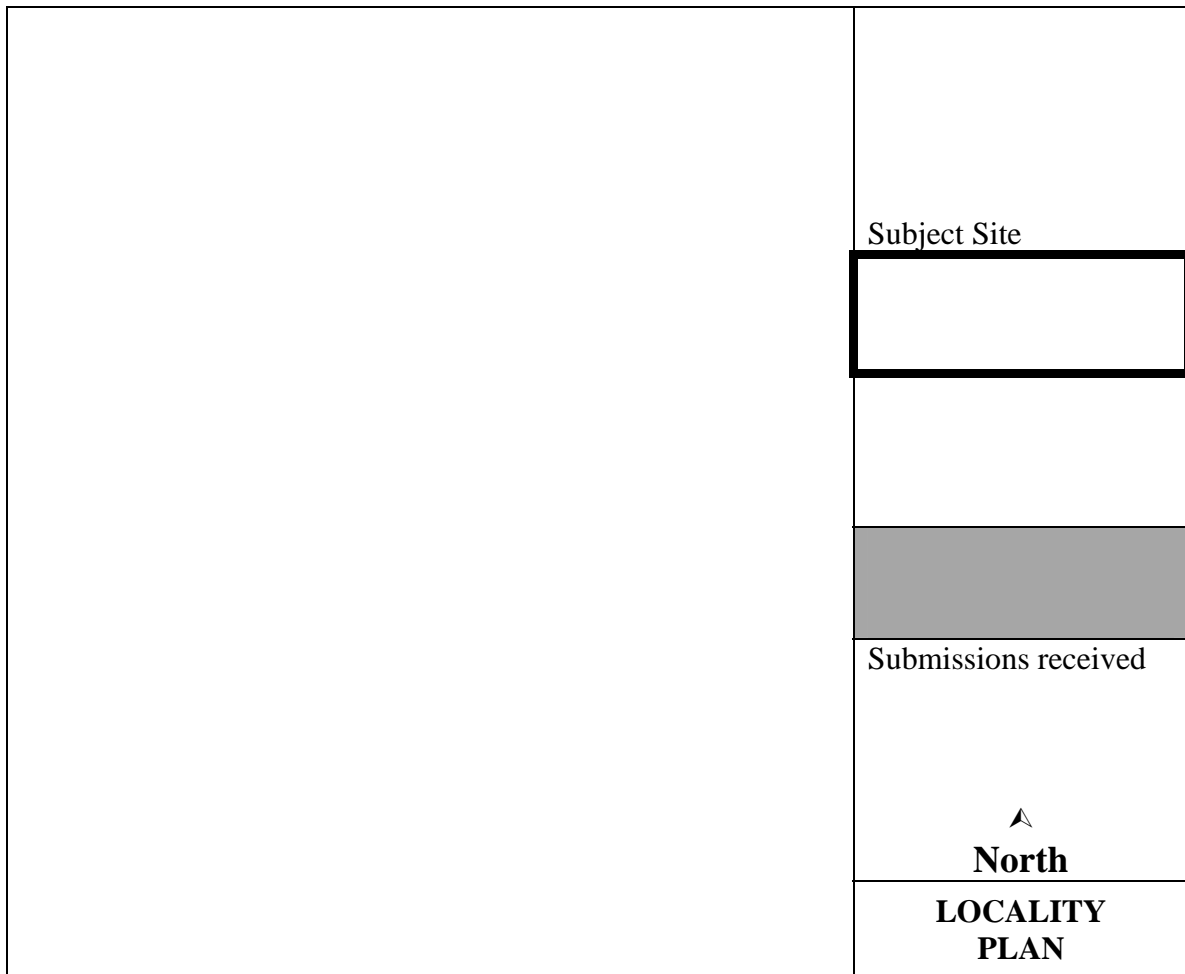
Development Application Report



REPORT BY: DIRECTOR, CITY PLANNING

DATE:	23 May 2006	FILE NO:	DA/25/2006 & PROP051763
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PROPOSAL:	Alterations to existing roof terrace above the existing garage to reposition timber balustrade 600mm from the front of the garage and provide for a planter box across the front of the garage.
PROPERTY:	28 Marcel Avenue, RANDWICK
WARD:	North Ward
APPLICANT:	L Ricketson
OWNER:	Mr L A Ricketson



1. EXECUTIVE SUMMARY

The application is referred to Council for determination at the request of Councillors' Tracey, Procopiadis and Andrews.

The application details alterations to an existing unauthorised terrace to the roof of the existing garage at the front of the property. The proposal seeks to authorise the use of the terrace and amend its design by repositioning the timber balustrade and install a planter box to the front of the garage roof.

The main issue is the potential for noise nuisance and loss of visual and acoustic privacy to adjoining residents by the use of the roof terrace and the impact of the roof terrace and balustrade upon the streetscape which is adjacent to the Moira Crescent Conservation Area.

The application is recommended for refusal.

2. THE PROPOSAL

There is an existing garage sited to the front of the property and up to the western side boundary and the roof has been converted into a useable terrace which includes a 1300mm high timber balustrade surrounding and fixed timber seating within. These works have been carried out without consent.

This application seeks approval to use this terrace and to reposition the timber balustrade 600mm from the front of the garage and install a planter box with a hedge across the garage roof in front of the timber balustrade.

The resulting trafficable roof of the garage will provide for a terrace 17m² in area.

3. THE SUBJECT SITE AND SURROUNDING AREA:

The locality is residential in nature and contains a mixture of free standing dwellings and two and three storeys inter war residential flat buildings. The Moira Crescent Conservation Area is adjacent to this property. The subject site is on the northern side of Marcel Avenue and contains a part one and part two storey free standing dwelling which is elevated above footpath level and a garage to the front of the dwelling sited up to the front and western side boundary.

4. SITE HISTORY

The property was the subject of a complaint to Council on the 12th July 2005 from the owners of the adjoining property at 26 Marcel Avenue Randwick with respect to unauthorised building works relating to the construction of a roof terrace above the existing garage roof. The site was subsequently inspected by Council's Regulatory Officer and the owner was advised to cease any further work. The applicant subsequently lodged the subject application to alter the position of the existing balustrade across the front of this terrace and install a planting box in front of the balustrade.

5. TECHNICAL OFFICERS COMMENT

The application has been referred to Council's Heritage Planner for comment who has provided the following advice;

"The subject site is occupied by a single storey cottage, originally in the Californian Bungalow style but somewhat altered including rendering and painting of face brickwork. The site is adjacent to the Moira Crescent Conservation Area, including properties to the east on Marcel Avenue and properties to the south on Marcel Avenue and Moira Crescent. The dwelling is somewhat elevated above the street with a retaining wall to the front boundary and a single garage in front of the dwelling, partly excavated into the site. There are a number of examples of similar garages in the vicinity.

The application proposes to replace the handrail to the existing garage with a timber handrail/fence to the front and both sides. The handrail is to consist of horizontal timber slats to a height of 1.3m. It is also proposed to provide a 500mm high planter behind the front section of the fence to provide screening to it. The handrail/fence has already been installed.

Clause 46 of Randwick LEP 1998 requires Council to consider the likely effect of a development on the heritage significance of a heritage conservation area.

It is noted that the other garages in the vicinity of the site which are located within the front setback area have non-trafficable roofs only and do not provide an enclosed trafficable area. There are some concerns that the height of handrail/fence which has been installed considerably adds to the apparent scale of the garage. The height and solidity of the handrail obscures views of the dwelling itself and increases the dominance of the garage in the streetscape of Marcel Avenue. These impacts could be minimised by deletion of the trafficable area on the roof of the garage, or by lowering the height or reducing the solidity of the handrail."

6. COMMUNITY CONSULTATION:

The proposal has been notified in accordance with the DCP – Public Notification.

The following submissions were received:

6.1 Objections

M Potter owner of 3/26 Marcel Avenue Randwick

ISSUE	COMMENT
The structure is inappropriate and out of keeping with the art deco style of all other structures in this part of Marcel Avenue.	The overall height of the structure and position to the front boundary will result in the structure being very prominent in the local streetscape and will detract from the appearance of the dwelling and the adjoining buildings as viewed in the context of the local streetscape.
The structure is on the boundary and very close to the building at 26 Marcel Avenue and the close position will result in noise nuisance when the area is used for entertaining.	The use of this terrace has the potential to result in noise nuisance to the adjoining properties given that it is sited up to the side boundary and elevated and the proximity of front and side windows of the objector's premises.
The use of this space for entertaining when being only 90cm from the eastern wall of the adjoining block of flats will result in noise nuisance.	The use of this terrace has the potential to result in noise nuisance to the adjoining properties given that it is sited up to the side boundary and elevated and the proximity of front and side windows of the objector's premises.
It is not possible for privacy to be maintained between the two properties by the use of this terrace because of the close proximity between the two properties.	Privacy to and from the terrace area could not be maintained other than by the erection of a high privacy screen which is not favoured because such a screen will add to the bulk of the front of the building and further detract from the streetscape.
The description of the application is inaccurate in that the application states that the existing handrail to the top of the garage is to be repaired and replaced when the previous low post and wire fence has already been replaced by the timber fence.	The description of the building works accurately reflects the nature of the existing building and proposed alterations to the terrace.
Any planter boxes should be secured to the roof of the garage with no overhang onto	If the application is approved a condition could be recommended that the planter be fixed to the garage roof and not encroach

public space.	over the footpath.
The owner's corporation should be given notice when building works would be commencing and any mess cleaned up by the workers or applicant.	If the application is approved a condition could be imposed to require that the owners of adjoining properties be notified prior to commencement of building work and that the area be kept in a clean and tidy state during building works.
Noise levels should be kept to a minimum during building works and be restricted to normal working hours.	A standard condition of consent relating to noise levels and hours of building works could be included with any consent granted.

<p>E RINK OWNER OF 5/26 MARCEL AVENUE RANDWICK</p> <p>Issue</p>	<p>Comment</p>
<p>The top of the garage has not been approved as a deck/entertaining area which it has become.</p>	<p>The garage roof has never been the subject of an application to use it for any trafficable purpose.</p>
<p>The illegal balustrade encroaches upon the property at No.26.</p>	<p>If the application was approved a condition of consent could be included to require that any encroachment be removed.</p>
<p>This application does not address any concerns of the neighbours.</p>	<p>The application does not include any means to address concerns of adjoining owners with respect to noise, privacy and the overall appearance of the structure.</p>
<p>The patio can be directly overlooked by the two adjoining units and therefore it cannot be considered private usable space.</p>	<p>It is possible to look directly from the two units in the adjoining building onto the terrace and it is not possible to provide for any measures to prevent this direct overlooking.</p>
<p>There is no mention of the application of the seating arrangements which have never been approved.</p>	<p>The application details alterations to the balustrade only and does not note the existing seating.</p>
<p>It is not clear how the planter boxes will be attached to the current structure of it they will hang over the public space.</p>	<p>If the application is approved a condition could be recommended that the planter be fixed to the garage roof and not encroach over the footpath.</p>
<p>There are issues relating to noise nuisance because of the closeness of the deck.</p>	<p>The use of this terrace has the potential to result in noise nuisance to the adjoining properties given that it is sited up to the side boundary and elevated and the proximity of front and side windows of the objector's premises.</p>
<p>This application for a handrail and planter box demonstrates a total disregard or lack</p>	<p>The application has been lodged to alter the unauthorised structure which is appropriate and offers an opportunity for Council to</p>

of understanding of Council's procedures.	consider both the use of the terrace and these alterations.
An entertaining area on the garage roof is inappropriate within the local streetscape and there is alternate private living areas at the rear of this property.	An elevated entertaining area to the front of the property is considered inappropriate given the proximity to habitable rooms of the adjoining residential flat building and the adverse impact upon the character of the existing streetscape.
There are other similarly sited garages in this street and surrounds and approval of this entertainment area on top would set a precedent which is not in keeping with the streetscape.	There are a number of similarly sited garages in this street and it is not an unreasonable argument that the approval of this use and structure would set a precedent for other garage roof to be similarly converted into a trafficable roof terrace.

6.2 Support

M J Daly of 2/1 Moira Crescent Coogee

Issue	Comment
The fence and planter box over the garage should be allowed to be kept because it is a stylish structure and compliments the house.	The height and solidity of the balustrade results in a visually intrusive structure in the streetscape.
It will enable the usable space in on the property to be maximised and improve privacy in the front yard.	Front yard areas are only of secondary importance in terms of their use as an outdoor recreation area.

7. RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The site is zoned 2B under Randwick Local Environmental Plan 1998 and the proposed activity is permissible with Council's consent. The proposal is not consistent with the general aims and objectives of the RLEP in that the development will compromise the amenity of the surrounding residents and will not be compatible with the dominant character of the area.

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.

Randwick LEP Clause 46

Clause 46 of the LEP requires that when determining an application for consent to carryout development in the vicinity of a heritage conservation area that consideration must be given to the likely effect of the development on the conservation area. The purpose of this clause is to widen the consideration of heritage issues in the vicinity of heritage conservation areas.

The enclosed terrace on the roof of the garage increases the overall height and dominance of the garage within the local streetscape which contains no other examples of structures of this height sited directly up to the front boundary. It is considered that the roof terrace and balustrade will detract from the appearance of the dwelling and adjoining buildings and as a consequence the adjoining heritage conservation area.

Development Control Plan - Dwelling Houses and Attached Dual Occupancies

Visual & Acoustic Privacy

The Objective of the DCP is to ensure that new buildings and additions meet the occupant and neighbours requirements for visual and acoustic privacy.

The Performance Requirements include that overlooking of internal private living areas is minimised through appropriate building layout, location and design of windows and balconies; and separation, screening devices and landscaping be used to assist in minimising privacy impacts.

The roof terrace to the garage is sited up to the western side and the front boundary and directly to the side and front of the living areas of two dwellings in the adjoining flat building. There is an existing balustrade surrounding the roof terrace which serves as a safety barrier for users of the terrace and does not act as a visual or acoustic screen.

Given the proximity to the living areas of the adjoining dwellings, for any noise attenuation to the terrace area to be effective it would require the enclosure of the whole of the terrace, which cannot be supported because of the significant negative impacts upon the streetscape. Therefore, it is not possible to alter the terrace to satisfy the objectives and performance requirements of the DCP to ensure that visual and acoustic privacy is maintained to the subject and adjoining properties.

9. RELATIONSHIP TO CITY PLAN

Direction 5a and associated key action – Improved design and sustainability

The proposal is not well designed and will not contribute to good architectural design in the Randwick City Area.

10. FINANCIAL IMPACT STATEMENT

There is no direct financial impact for this matter.

11. CONCLUSION

The proposal does not comply with the relevant assessment criteria and the aims, objectives and performance requirements of the DCP for Dwellings and Attached Dual Occupancies in that the balustrade, planter box and balustrade to the garage roof does not enhance and respect the character of the existing neighbourhood and the development does not meet the neighbours requirements for visual and acoustic privacy.

RECOMMENDATION:

THAT Council as the consent authority, refuse development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No.25/06 for permission to replace the balustrade and install a planter box to the roof of the garage at 28 Marcel Avenue Randwick for the following reasons;

1. The proposed development does not satisfy the objectives of the Randwick Local Environmental Plan 1998 in that the proposal will compromise the amenity of the surrounding residents and is not compatible with the dominant character of the existing development.
2. The proposal does not comply with the objectives and performance requirements of the Visual and Acoustic Privacy section of the DCP - Dwellings Houses and Attached Dual Occupancies.
3. The proposal will be visually obtrusive in the local streetscape and will detract from the character of the existing streetscape.
4. The proposal does not comply with Clause 46 of Randwick LEP 1988 in that the proposal will increase the dominance of the existing garage structure in the streetscape of Marcel Avenue and will detract from the significance of the adjoining Moira Crescent Conservation Area.

ATTACHMENT/S:

Nil.

.....
SIMA TRUUVERT
DIRECTOR, CITY PLANNING

.....
PERRY HEAD
SENIOR ASSESSMENT OFFICER

MOTIONS PURSUANT TO NOTICE

12.1 Notice of Rescission Motion by Councillors Andrews, Bastic, Tracey - Works Committee Meeting, 8th August, 2006 - Item 5.1, Director, City Services' Report 57/2006 - Feasibility of Construction of a Skate Park at or near La Perouse or Yarra Bay and Investigation of the Construction of a Remote Control Racing Car Dirt Track in La Perouse. (F2004/07601)

That the resolution passed at the Works Committee Meeting held on Tuesday, 8th August, 2006 reading as follows:-

that:

- (a) *Council bring a report back to council on the engagement of consultants to develop design concepts for a skate park and a remote control racing car dirt track in the La Perouse area and that council consider allocating funds from the 2007/08 budget if feasible; and*
- (b) *at the appropriate time council consult with the local police, the La Perouse Precinct Committee, Council's Safety Committee and Youth Advisory Committee on the need for, and possible location of these facilities.*

BE AND IS HEREBY RESCINDED.

Upon the abovementioned Rescission Motion being carried, it is intended to move the following motion:-

That Council seek community comment on the general proposal to build a skate park and an international remote control racing track and report back to Council on all aspects of the proposal prior to undertaking any design and feasibility work.

12.2 Motion By Councillor Woodsmith – Eligibility To Stand For Election To Council. F2005/00518 xr F2005/00171)

That:

- a) as public confidence is important and it is inappropriate for a financial link to exist between developers and decision makers in local government, the State Government be urged to enact legislation to prohibit real estate agents and developers from standing for election to councils; and
- b) this motion be sent to the Local Government & Shires Associations for inclusion on the agenda at the annual conference.

12.3 Motion By Councillor Woodsmith – Declaration Of Interests By Councillors. (F2004/06573 Xr F2005/00171)

That:

- a) Councillors who accept donations from developers for their election campaigns, be required to declare an interest in all issues that come before council that involve these developers; and
- b) this motion be sent to the Local Government & Shires Associations for inclusion on the agenda at the annual conference.

12.4 Motion By Councillor Andrews – Pedestrian & Cycleway along Bunnerong Road (Shirley Crescent Matraville to Anzac Parade Little Bay). (F2004/00880 xr F2005/00171)

That Council consider in the 2007/08 budget funding for a combined pedestrian and cycleway along Bunnerong Road, between the intersections of Shirley Crescent, Matraville to Anzac Parade, Little Bay, including but not limited kerb and guttering and landscaping.

12.5 Motion By Councillor Andrews – Resurfacing of Moverly Road (between Loch Marie & Byrne Crescents, Maroubra). (F2004/00755 xr F2005/00171)

That Council consider in the 2007/08 budget funding for the road re-surfacing of the entire surface of Moverly Road between the intersections of Loch Marie & Byrne Crescents, Maroubra.

12.6 Motion By Councillor Andrews – Installation of a further slip lane at the Intersection of Anzac Parade & Avoca Street. (F2004/07377 xr F2004/06108 xr F2005/00171)

That Council request the Traffic Committee to consider the installation of a further slip lane at the intersection of Anzac Parade and Avoca Street for vehicles turning right into Avoca Street from Anzac Parade heading northbound, noting the present situation where one lane becomes two lanes.

12.7 Motion By Councillor Andrews – Kerb & Guttering (Glanfield Street, Maroubra). (F2004/06115 xr F2005/00171)

That the Council consider in the 2007/08 Budget, kerb and guttering for Glandfield Street, Maroubra between the intersections of Hannon and Royal Streets.

12.8 Motion By Councillor Matson – Maroubra By-Election - Referral of Misuse of Council Resources to the ICAC. (F2004/06569 xr F2005/00171)

That Council views the production by Council staff of a how-to-vote card for Councillor Bastic's personal use in the Labor Party's pre-selection process for the Maroubra by-election to be an unacceptable misuse of Council resources and resolves to refer the matter and all documentation held on it to the ICAC.

12.9 Motion By Councillor Matson – Council Sponsorship for Annual SBAR fund raising event. (F2004/07079 xr F2005/00171)

That Council:

- a) allocate \$3,000 from this year's contingency fund to sponsor the next SBAR event;
and
- b) write letters of support on SBAR's behalf to key stakeholders such as local Members of Parliament, South Maroubra Surf Club and the Traffic Committee to ensure that the event is another great success.