



**MINUTES OF ORDINARY COUNCIL MEETING OF THE COUNCIL OF
THE CITY OF RANDWICK HELD ON TUESDAY, 16 DECEMBER 2008
AT 6:04 PM.**

Present:

The Mayor, Councillor B. Notley-Smith (Chairperson) (East Ward)

Councillor M. Woodsmith (Deputy Chairperson) (North Ward)

North Ward	- Councillors K. Smith & P. Tracey
South Ward	- Councillors R. Belleli & A. White
East Ward	- Councillors T. Bowen & M. Matson
West Ward	- Councillors B. Hughes, S. Nash & J. Procopiadis
Central Ward	- Councillors A. Andrews, T. Seng & G. Stevenson

Officers Present:

General Manager	Mr R Brownlee
Acting Director City Services	Mr M Shaw
Director City Planning	Ms S Truuvert
Director Governance & Financial Services	Mr G Banting
Manager Administrative Services	Mr D Kelly
Manager Development Assessment	Mr K Kyriacou
Communications Manager	Ms D Brien

Prayer & Acknowledgement of Local Indigenous People

The Council Prayer was read by Cr Seng. The Acknowledgement of Local Indigenous People was read by Cr Woodsmith.

Apologies/Granting of Leave of Absences

An apology was received from Cr Matthews.

RESOLVED: (Andrews/Tracey) that the apology received from Cr Matthews be accepted and leave of absence from the meeting be granted.

Confirmation of the Minutes

**CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY 25 NOVEMBER 2008**

412/08

RESOLUTION: (Matson/Woodsmith) that the Minutes of the Ordinary Council Meeting held on Tuesday 25 November 2008 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- (a) Cr Hughes declared a pecuniary interest in item GM49/08 as one of the licencees is a client of his business. Cr Hughes did not take part in the debate or voting on the matter.
- (b) The Mayor, Cr B Notley-Smith declared a non significant non pecuniary interest in item GF66/08 as his parents are in a retirement village owned by this company.
- (c) Cr Andrews declared a non significant non pecuniary interest in item GM49/08 as he knows one of the licencees.
- (d) Cr Bowen declared a non pecuniary interest in item CS35/08 as he has been mentioned by one of the tenderers in legal proceedings. Cr Bowen raised this interest just prior to the confidential item being discussed in closed session and did not take part in the debate or voting on the matter.
- (e) Cr White declared a significant non pecuniary interest in item MM112/08 as he is good friends with the applicant and particularly her father. Cr White did not take part in the debate or voting on the matter.

Address of Council by Members of the Public

Prior to consideration of the Agenda by the Council, deputations were received in respect of the following matters:

CP86/08 44-46 RAGLAN STREET, MALABAR

Against Jenny Perko

CP87/08 1 HOLMES STREET, MAROUBRA - REVIEW OF COUNCIL REPORT

Against Mr Anthony Betros (ABC Planning)
For Mr Peter Gray

CP91/08 92 ALISON ROAD, RANDWICK

Against Bernard Gallagher (Town Planner for applicant)
For Mr Tony Moody (Town Planner)

NM66/08 MOTION PURSUANT TO NOTICE BY CR BOWEN - CHILDCARE CENTRES - RANDWICK CITY

For Ms Ann Symonds

The meeting was adjourned at 6.39 pm and was resumed at 7.02 pm.

RESOLVED: (PROCEDURAL MOTION) (Matson/Belleli) that the City Planning items for which members of the public addressed the Council be brought forward for immediate consideration for the benefit of the public gallery.

The relevant planning items were then considered as the first items of business.

Mayoral Minutes

MM110/08 Mayoral Minute - Coogee Arts Festival - Waiving of Fees (F2004/07550)

413/08

RESOLUTION: (Mayor, Cr B Notley-Smith) that:

- a) Council vote \$10,596.50 to cover the fees associated with the 2009 Coogee Arts Festival and funds be allocated from the 2008/09 Contingency Fund;
- b) The event organiser undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the events; and
- c) The Mayor's representative shall be given the opportunity to address the events on behalf of Council.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM111/08 Mayoral Minute - Chile Ultra Marathon - Request for Financial Assistance (F2004/07396)

414/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council provide a \$400.00 donation to Mr Erik de Haart in support of his ultra marathon attempt across the Atacama Desert in Chile to raise money for the Sydney Children's Hospital at Randwick.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM112/08 Mayoral Minute - Waiving of Fees - Indigenous Athletics Coaching Clinic and Charity Fun Run/Walk (F2004/07550)

Note: Cr White having declared an interest, took no part in the debate or voting on this item.

415/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) Council advise the organiser of the Indigenous Athletics Coaching Clinic and Charity Fun Run/Walk, that Council gives its "in principle" approval to host the event;
- b) Council waive the fee to the value of \$834.00 for the use of the reserve, waste removal and associated cleaning costs and these funds be allocated from the 2008/09 Contingency Fund; and
- c) the event organiser undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM113/08 Mayoral Minute - Council's Register of Significant Trees (F2004/07359)

416/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Randwick City Council's staff be acknowledged and commended for the receipt of an Australian Institute of Landscape Architects (AILA) Award for Council's Register of Significant Trees.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM114/08 Mayoral Minute - Waiving of Fees - Randwick Rugby Juniors Registration Day (F2004/08145)

This matter was withdrawn with the consent of Council.

MM115/08 Mayoral Minute - Coastal Management Grants Program (F2004/06574)

417/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the report on the Coastal Management Grants Program be received and noted.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM116/08 Mayoral Minute - State Flood Plain Management Program Grant (F2004/07675)

418/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the grant for \$165,000 from the State Flood Plain Management Program be accepted.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM117/08 Mayoral Minute - Parking Changes in Matraville (F2005/00601)

419/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that a letter be written to the Minister for Roads, Mr Michael Daley, to seek approval to change the parking in the Matraville Shopping area on Bunnerong Road between Franklin Street and Beauchamp Road from parallel parking to angle parking.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM118/08 Mayoral Minute - Keep Australia Beautiful NSW - 2009 Clean Beaches Challenge (F2006/00597)

420/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council thank the Keep Australia Beautiful NSW organisation for selecting one of Council's beaches for the prestigious Sydney Region awards and awarding Council with five Highly Commended awards.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM119/08 Mayoral Minute - Coogee Bay Road Upgrade (F2008/00028)

421/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) a working party be set up to improve the streetscape in Coogee Bay Road between Brook and Arden Streets by finalising the concept for the improvements to the dining and the outdoor areas; and
- b) the working party should include; the Mayor, the Ward Councillors, precinct committee members, representatives from the Randwick City Tourism board, a representative from the Eastern Beaches Local Area Command and a member of the chamber of commerce.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM120/08 Mayoral Minute - Endorsement of Key Principles Arising from Local Government Constitutional Summit (F2008/00656)

422/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) Randwick City Council endorse the three principles in the motion arising from the Local Government Constitutional Summit;
- b) Council thank the delegates who represented the people of Randwick at the Summit; and
- c) Council forward this resolution to both the Australian Local Government Association and the Local Government and Shires Associations and request that all bodies keep Council informed of all developments concerning this vital issue.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM121/08 Mayoral Minute - Annual Pere Receveur Historic Mass - Request for Assistance (F2005/00182)

423/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that

- a) Council agree to assist by underwriting the hire charges of the marquee amounting to \$2,675.20 for the Annual Pere Receveur Historic Mass to be held on Sunday 15 February 2009 and the funds be charged to the 2008/09 Contingency Fund;
- b) the organisers undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the celebration; and
- c) the Mayor or his representative be given the opportunity to address the celebration on behalf of Council.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM122/08 Mayoral Minute - The Mayor's Medal for Academic Excellence (F2006/00216)

424/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council agree to provide \$1,500.00 from Councils Contingency Fund for The Mayor's Medal for Academic Excellence and associated reception.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM123/08 Mayoral Minute - Randwick Mayor's Award for Literature (F2007/00057)

425/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) Council endorse the Randwick Mayor's Award for Literature which will be conducted every two years; and
- b) the guidelines for the award and the program details, including costs, be developed and reported to Council.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM124/08 Mayoral Minute - LGSA Excellence in Environment Awards (F2007/00485)

426/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the report be received and noted.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

Urgent Business

UB9/08 Cr Bradley Hughes – Placement of Portable Classrooms at 3 Grosvenor Street Kensington (F2004/06354)

427/08 **RESOLUTION: (Hughes/Andrews)** that the Director City Planning write to the Catholic Education Office in relation to its proposal to erect three portable classrooms at the site of Our Lady of the Sacred Heart Primary School in Grosvenor Street, Kensington advising them that:

- trees on the subject site or adjoining premises may be subject to Councils Tree Preservation Order and any removal or pruning may require consent; and
- all construction related activities (including all loading and unloading operations) should be considered in relation to general site management which may

necessitate site security, barriers, traffic management and signage to be suitably addressed.

MOTION: (Hughes/Andrews) CARRIED - SEE RESOLUTION.

Director City Planning Reports

CP86/08 Director City Planning Report - 44-46 Raglan Street, Malabar (DA/558/2008)

428/08

RESOLUTION: (Belleli/White) that Council as the consent authority approve development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/558/2008 for permission to construct a new concrete part in-ground swimming pool within the rear yard of the existing premises and new boundary fencing along the northern property boundary and a section of the western property boundary for 44-46 Raglan Street, Malabar, subject to the following conditions:

1. The development must be implemented substantially in accordance with the amended plans numbered 083/08 issue C sheets 1-2, dated 31/10/08 and received by Council on the 4th November 2008, 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. Details are to be provided in the Construction Certificate to demonstrate that the proposed works will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the certifying authority.
3. Lighting to the swimming pool and its surrounds shall be designed so as not to cause a nuisance to nearby residents and to ensure that light overspill does not affect the amenity of the area.
4. The fencing to the part of the western and northern property boundaries above the retaining walls is to be constructed of timber and the overall height is to be 1800mm measured above the finished pool level (i.e. RL. 21.25).

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

5. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before**

commencing any works.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

6. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

7. 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.

8. All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

9. **Prior to the commencement of any building works**, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

10. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:

- i) appoint a *Principal Certifying Authority* for the building work; and
- ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing; and
- iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

11. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's "Notice of Critical Stage Inspections"*, are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

12. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable);
 - name, address and telephone number of the *Principal Certifying Authority*; and
 - a statement stating that "unauthorised entry to the work site is prohibited".
13. An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

14. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

15. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA): -

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an *owner-builder*), excavation or building work must not be carried out unless the Principal Certifying Authority: -

- has been informed of the person's name and *owner-builder* permit number; or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

16. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

17. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

18. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:

- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

19. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building /s on the adjoining land from damage; and
- effectively support the excavation and building; and
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention and particulars of the works to the owner of the adjoining land.

Notes

- *This consent and condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the principal contractor or owner-builder must obtain:*
 - a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
 - b) *an access order under the Access to Neighbouring Land Act 2000, or*
 - c) *an easement under section 88K of the Conveyancing Act 1919, or*
 - d) *an easement under section 40 of the Land & Environment Court Act 1979, as appropriate.*
- *Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).*

20. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

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

21. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified person is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

22. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

23. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:

- a. Building materials, sand, soil, waste materials, construction equipment or other activities must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
- b. Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
- c. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.
- d. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

24. Swimming pools are to be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and regulations.

The swimming pool is to be surrounded by a fence having a minimum height of 1.2m, that separates the pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with AS 1926-1986.

Gates to pool area shall be a maximum width of 1 metre, and be self-closing and latching; the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

A sign shall be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the document entitled "Policy Statement No.9.4.1: Guidelines for the Preparation of Posters on Resuscitation", published in 1985 by the Australian Resuscitation Council and the sign must bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council.

25. Swimming pools are to be designed, installed and operated in accordance with the following general requirements:
- a. Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
 - b. All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
 - c. Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2003: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
 - d. Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents; and
 - e. The pool plant and equipment shall not be operated during the following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:
 - i. before 8.00am or after 8.00pm on any Sunday or public holiday; or
 - ii. before 7.00am or after 8.00pm on any other day.
26. Written notification must be provided to Council advising of the installation and completion of the Swimming Pool (or Spa Pool), to satisfy the requirements of the *Swimming Pools Act 1992*, **prior to issuing an Occupation Certificate.**

Council's "Notification & Registration of a Swimming Pool" form must be completed and forwarded to Council prior to any Occupation Certificate being issued for the pool.

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:

27. 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 plant and equipment shall not give rise to an $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Department of Environment & Conservation Noise Control Guidelines.

ADVISORY MATTERS:

- A1 **Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.**

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip (greater than 3m in length) or any container or other article.

MOTION: (Matson/Bowen): that this application be deferred for mediation to explore the potential issues of new plans relating to the swimming pool, boundary fence and the stairs; in particular the swimming pool being at ground level, set back or reduced in length from 9 metres to 6.8 metres to achieve a setback, the addition of a higher fence between the applicant and the neighbour at 60 Victoria Street and either realigning or setting back the stairs to achieve a reduction in the potential loss of privacy of the neighbours. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Bowen	Councillor Andrews
Councillor Hughes	Councillor Belleli
Councillor Matson	Councillor Nash
Councillor Procopiadis	Councillor Notley-Smith
Councillor Stevenson	Councillor Seng
Councillor Tracey	Councillor Smith
Councillor Woodsmith	Councillor White
Total (7)	Total (7)

The motion was lost on the casting vote of the Mayor.

MOTION: (Belleli/White) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Bowen
Councillor Belleli	Councillor Matson
Councillor Hughes	Councillor Woodsmith
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Smith	
Councillor Stevenson	
Councillor Tracey	
Councillor White	
Total (11)	Total (3)

AMENDMENT: (Matson/Woodsmith): that a 1.8 metre high wall or fence be constructed between the Raglan Street and Victoria Street boundary. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Bowen	Councillor Andrews
Councillor Matson	Councillor Belleli
Councillor Smith	Councillor Hughes
Councillor Stevenson	Councillor Nash
Councillor Tracey	Councillor Notley-Smith
Councillor Woodsmith	Councillor Procopiadis
	Councillor Seng
	Councillor White
Total (6)	Total (8)

CP87/08 Director City Planning Report - 1 Holmes Street, Maroubra - Review of Council Report (DA/726/2008)

429/08

RESOLUTION: (Seng/Andrews)

- A. 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. DA/726/2008 1 Holmes Street, Maroubra, for construction of a new garage to the front of the existing dwelling subject to the following conditions: -

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:

1. The development must be implemented substantially in accordance with the plans numbered 1 of 2 & 2 of 2, dated 4 December 2008 and received by Council on 4 December 2008, 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:

2. The external materials, colours and finishes of the building are required to match, as closely as possible, the existing building.
3. The design, materials and colour of the roofing to the proposed building/s are required to match, as closely as possible, the existing roof.
4. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
5. Details are to be provided in the Construction Certificate to demonstrate that the proposed works will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the certifying authority.

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

6. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works.**

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

7. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

8. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

Regulations:

9. 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.

10. All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

11. **Prior to the commencement of any building works**, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

12. **Prior to the commencement of any building works**, the person having the benefit of the development consent must: -

- i) appoint a *Principal Certifying Authority* for the building work; and
- ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing; and
- iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- iv) give at least two days notice to the Council, in writing, of the persons intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

13. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the

Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's "Notice of Critical Stage Inspections"*, are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

14. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
 - name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable);
 - name, address and telephone number of the *Principal Certifying Authority*; and
 - a statement stating that "unauthorised entry to the work site is prohibited".
15. An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

16. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

17. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA): -

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the *Home Building Act 1989*, or

Where the work to be done by any other person (i.e. an *owner-builder*), excavation or building work must not be carried out unless the Principal Certifying Authority: -

- has been informed of the person's name and *owner-builder* permit number; or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the *Home Building Act 1989* (i.e. *Details of the principal licensed building contractor and a copy of the Certificate of Insurance*) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

18. The proposed works and the removal, storage, handling and disposal of building materials must be carried out in accordance with the following regulations:
 - The requirements and Guidelines of WorkCover NSW
 - Occupational Health and Safety Act 2000
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997
 - Protection of the Environment Operations (Waste) Regulation 1996.

19. Any work involving the demolition, storage and disposal of asbestos products and materials must be carried out in accordance with the following requirements:
 - a. Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
 - a. Randwick City Council's Asbestos Policy (adopted 13 September 2005)
 - b. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
 - c. On sites involving the removal of asbestos, a sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor.
 - d. Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996.

- e. A Clearance Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council and the principal certifying authority upon completion of the asbestos related works prior to an Occupation Certificate being issued, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

20. All excavations and backfilling associated with the proposed works must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

21. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located on an adjoining allotment of land, the person causing the excavation must:

- preserve and protect the building /s on the adjoining land from damage; and
- effectively support the excavation and building; and
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention and particulars of the works to the owner of the adjoining land.

Notes

- *This consent and condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the principal contractor or owner-builder must obtain:*
 - a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
 - b) *an access order under the Access to Neighbouring Land Act 2000, or*
 - c) *an easement under section 88K of the Conveyancing Act 1919, or*
 - d) *an easement under section 40 of the Land & Environment Court Act 1979, as appropriate.*

- *Section 177 of the Conveyancing Act 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).*

22. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

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

23. Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the *Protection of the Environment Operations Act 1997* must be satisfied at all times.

Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified person is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

24. Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

25. A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority **prior to the commencement** of demolition, excavation or building works. The site management plan must include the following measures, **as applicable** to the type of development:

- location and construction of protective fencing / hoardings to the perimeter of the site;
- location of site storage areas/sheds/equipment;
- location of building materials for construction;
- provisions for public safety;
- dust control measures;
- site access location and construction
- details of methods of disposal of demolition materials;
- protective measures for tree preservation;
- provisions for temporary sanitary facilities;
- location and size of waste containers/bulk bins;
- details of proposed sediment and erosion control measures;
- construction noise and vibration management;
- construction traffic management provisions.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

26. During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.

Details of the proposed sediment control measures are to be detailed in the Construction Site Management Plan which must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works.**

27. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a. Building materials, sand, soil, waste materials, construction equipment or other activities must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
 - b. Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
 - c. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.
 - d. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following conditions have been applied to ensure that adequate security provisions are made for vehicular access, parking and public infrastructure:

28. The applicant must meet the full cost for Council or a Council approved contractor to install vehicular crossings and to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
29. The gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

30. A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

ADVISORY MATTERS:

- A1 **Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.**

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place:-

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip (greater than 3m in length) or any container or other article.

- A3 **The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.**

MOTION: (Seng/Andrews) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Matson
Councillor Bellei	Councillor Woodsmith
Councillor Bowen	
Councillor Hughes	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Smith	
Councillor Stevenson	
Councillor Tracey	
Councillor White	

Total (12)**Total (2)**

Note: The reasons provided for overturning the staff's recommendation are as follows: -

- (a) the proposed garage is well integrated with the existing dwelling; and
- (b) the proposal is unlikely to have a negative impact on the established character of the locality.

**CP88/08 Director City Planning Report - 10 Mitchell Street, Chifley
(DA/744/2008)**

430/08

RESOLUTION: (Nash/Belleli)

- A. That the Council support the objections under State Environmental Planning Policy No.1 (SEPP No.1) in respect to non-compliance with Clause 32 of the Randwick Local Environmental Plan 1998, relating to floor space ratio, on the grounds that the proposed use complies with the objective of the clause and will not adversely affect the amenity of the surrounding locality and that the Department of Planning be advised accordingly, and
- B. 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. DA/744/2008 for the enclosure of front balconies to the existing dual occupancy at 10 Mitchell Street, Chifley subject to the schedule of conditions outlined in this report:

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:

- 1. The development must be implemented substantially in accordance with the plans numbered WD1 to WD6, inclusive, dated August 2008 and received by Council on the 15th October 2008, 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:
- 2. The external materials, colours and finishes of the building are required to match, as closely as possible, the existing building.

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

- 3. 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.

- 4. All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.
- 5. **Prior to the commencement of any building works**, a construction

certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

6. **Prior to the commencement of any building works**, the person having the benefit of the development consent must:
- i) appoint a *Principal Certifying Authority* for the building work; and
 - ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the Home Building Act 1989, and notify the *Principal Certifying Authority* and Council accordingly in writing; and
 - iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
 - iv) give at least two days notice to the Council, in writing, of the person's intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

7. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's "Notice of Critical Stage Inspections"*, are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

8. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable);
 - name, address and telephone number of the *Principal Certifying Authority*; and
 - a statement stating that "unauthorised entry to the work site is prohibited".
9. An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

10. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

11. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.
12. A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority **prior to the commencement** of demolition, excavation or building works. The site management plan must include the following measures, **as applicable** to the type of development:
- location and construction of protective fencing/hoardings to the perimeter of the site;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction;
 - provisions for public safety;
 - dust control measures;
 - site access location and construction
 - details of methods of disposal of demolition materials;
 - protective measures for tree preservation;
 - provisions for temporary sanitary facilities;
 - location and size of waste containers/bulk bins;
 - details of proposed sediment and erosion control measures;

- construction noise and vibration management;
- construction traffic management provisions.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

13. Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:
- a. Building materials, sand, soil, waste materials, construction equipment or other activities must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
 - b. Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.
 - c. Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.
 - d. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

ADVISORY MATTERS:

- A1 **Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.**

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road

Placement of a waste skip (greater than 3m in length) or any container or other article.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**CP89/08 Director City Planning Report - 98-100 Garden Street, Maroubra
(DA/673/2008)**

431/08

RESOLUTION: (Nash/Belleli)

- A.** That Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clause 32 of the Randwick Local Environmental Plan 1988, relating to maximum floor space ratio, on the grounds that the proposed development is consistent with the objective of the clause and will not adversely affect the amenity of the surrounding locality and that the Department of Planning be advised accordingly, and
- B.** 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. DA/673/2008 for permission to enclose the existing terrace areas above the garages of town houses 2, 3 & 4 subject to the following conditions: -

REFERENCED PLANS:

1. The development must be implemented substantially in accordance with the plans numbered 08/028-1 to 08/028-10 inclusive, dated July 2008 and received by Council on the 23rd September 2008, 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 colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the *Environmental Planning and Assessment Act 1979* prior to a construction certificate being issued for the relevant building works.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

3. In accordance with Section 80A (11) of the *Environmental Planning & Assessment Act 1979* and Clause 97A of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.
4. In accordance with the provisions of the *Environmental Planning & Assessment Regulation 2000*, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the **Construction Certificate** application for this development.

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development

consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

5. The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:

- Stormwater management (i.e. rainwater tanks)
- Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)
- Landscaping provisions
- Thermal comfort (i.e. construction materials, glazing and insulation)
- Energy efficiency (i.e. cooling & heating provisions and hot water systems)

6. In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing the final Occupation Certificate.

The following group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

7. Surface water/stormwater must be drained and discharged to the street gutter to the satisfaction of the certifying authority and details of the proposed stormwater drainage system are to be included in the construction certificate details for the development.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

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

8. 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.

9. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

10. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000*.

A copy of the construction certificate, the approved plans and development

consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment

11. Prior to the commencement of any building works, the person having the benefit of the development consent must: -
- i) appoint a Principal Certifying Authority for the building work, and
 - ii) appoint a *principal contractor* for the building work, or in relation to residential building work, obtain an *owner-builder* permit in accordance with the requirements of the *Home Building Act 1989*, and notify the *Principal Certifying Authority* and Council accordingly in writing, and
 - iii) unless the person having the benefit of the consent is the *principal contractor* (i.e. *owner-builder*), notify the *principal contractor* of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*, and
 - iv) give at least two days notice to the Council, in writing, of the person's intention to commence building works.

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

12. In accordance with provisions of the *Environmental Planning & Assessment Act 1979*, prior to commencement of the change in building use, the following requirements must be complied with:
- a) A *Principal Certifying Authority* (PCA) must be appointed, to determine the suitability of the building for the new use, which involves a change of building classification under the Building Code of Australia.
 - b) An *Occupation Certificate* must be obtained from the appointed *Principal Certifying Authority* (PCA) in accordance with section 109N of the *Environmental Planning & Assessment Act 1979*.
 - c) The building or part may require fire safety upgrading works to be carried out (including the provision of *category 1* fire safety measures), to enable an occupation certificate to be obtained for the new use, to the satisfaction of the PCA.
 - d) A single and complete *Fire Safety Certificate*, certifying the installation and operation of all of the fire safety measures within the building must be submitted to Council with the occupation certificate.
 - e) A *Construction Certificate* must be obtained from either Council or an Accredited Certifier prior to the carrying out of any building works forming part of this consent or that are required to be carried out to satisfy relevant building and fire safety requirements.
13. The building works must be inspected by the *Principal Certifying Authority* (or another *certifying authority* if the *Principal Certifying Authority* agrees), in accordance with sections 109 E (3) of the *Environmental Planning & Assessment Act 1979* and clause 162A of the *Environmental Planning & Assessment Regulation 2000*, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The *Principal Certifying Authority* must specify the relevant stages of

construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the *Principal Certifying Authority*, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the *Principal Certifying Authority*. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

The *principal contractor* or *owner-builder* (as applicable) must ensure that the required critical stage and other inspections, as specified in the *Principal Certifying Authority's* "Notice of Critical Stage Inspections", are carried out to the satisfaction of the *Principal Certifying Authority* and at least 48 hours notice (excluding weekends and public holidays) is to be given to the *Principal Certifying Authority*, to carry out the required inspection, before carrying out any further works.

14. A sign must be erected and maintained in a prominent position on the site, which contains the following details:

- name, address, contractor licence number and telephone number of the *principal contractor*, including a telephone number at which the person may be contacted outside working hours, or *owner-builder* permit details (as applicable)
- name, address and telephone number of the *Principal Certifying Authority*,
- a statement stating that "unauthorised entry to the work site is prohibited".

15. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the *Environmental Planning & Assessment Act 1979*.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the *Environmental Planning & Assessment Act 1979* and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

16. 16 Prior to the issuing of an interim or final occupation certificate, a statement is required to be obtained from the Principal Certifying Authority (or other suitably qualified person), which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of *critical stage* inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

17. In accordance with clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the requirements of the *Home Building Act 1989* must be complied with, to the satisfaction of the Principal Certifying Authority.

Details of the Licensed Building Contractor or Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council,

in writing, prior to commencement of works.

18. The required Long Service Levy payment, under the *Building and Construction Industry Long Service Payments Act 1986*, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the *Environmental Planning & Assessment Act 1979*.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

19. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.

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

20. Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.
21. Bulk bins, waste containers or other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container or other articles in a public place can be made to Council's Building Certification Services section.
22. A Construction Site Management Plan is to be developed and implemented prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to the type of development:
- location and construction of protective fencing / hoardings to the perimeter of the site;
 - location of site storage areas/sheds/equipment;
 - location of building materials for construction;
 - provisions for public safety;
 - dust control measures;
 - site access location and construction
 - details of methods of disposal of demolition materials;
 - protective measures for tree preservation;
 - provisions for temporary sanitary facilities;
 - location and size of waste containers/bulk bins;
 - details of proposed sediment and erosion control measures;
 - construction noise and vibration management;
 - construction traffic management details.

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

ADVISORY MATTERS:

- A1 The Construction Certificate plans and associated specifications must comply with the relevant provisions of the Building Code of Australia (BCA) and the building work must be carried out in accordance with development consent and Construction Certificate.

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans, specifications and documentation for the Construction Certificate.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP90/08 Director City Planning Report - 44-46 Borrodale Road, Kingsford (DA/370/2002/B)

432/08

RESOLUTION: (Nash/Belleli)

That Council, as the consent authority, grants its consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Consent No. 370/2002 for deletion of the external temporary garbage storage areas, deletion of car wash bays, reconfiguration of the internal floor layouts, amalgamation of the ground floor suites into 2 retail units and amendments to external colour scheme, at No. 44-46 Borrodale Road, Kingsford, in the following manner:

- **Amendment of Condition 1 to make reference to the Section 96 Modification plans as follows:**

1. The development must be implemented substantially in accordance with the plans numbered DA 02 to DA 06 – Issue C and A07 – Issue C stamped received by Council on 16 October 2002, the application form, and on any supporting information received with the application, as amended by the following Section 96 plans:

Plan Number	Dated	Received	Prepared by
DA02(F)	23.10.08	20 November 2008	The Architecture Company
DA03(D)	04.09.08	12 September 2008	
DA04(E)	04.09.08	12 September 2008	
DA05(D)	04.09.08	12 September 2008	
DA06(E)	04.09.08	12 September 2008	
DA07(E)	04.09.08	12 September 2008	

, only in so far as they relate to the modifications highlighted on the Section 96 plans and detailed in the Section 96 application; except as may be amended by the following conditions and as may be shown in red on the attached plans:

- **Imposition of Condition 1A to read as follows:**

- 1A. The colours of the external surfaces to the building are to be consistent

with the submitted Proposed Colour Scheme – 44/46 Borrodale Road, Kingsford NSW, which was stamp-received by Council on 12 September 2008.

- **Amendment of Condition 65 to read as follows:**

65. Prior to the issuing of a final occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to:

- a. Construct new concrete heavy duty vehicular crossings and laybacks at kerb opposite the vehicular entrances to the site in Houston Lane.
- b. Remove the existing concrete vehicular crossing and layback and to reinstate the area with integral kerb and gutter, where required, to Council's specification.
- c. Reconstruct the Council's footpath/nature strip along the Borrodale Road site frontage in accordance with Council's Urban Design Guidelines.
- d. Extend Council's kerb return from Houston Lane into Borrodale Road by 1.10m to the east including associated works.
- e. Linemark the 2 on-street parking spaces in Borrodale Road immediately to the south of the subject site, to the satisfaction of Council, with lengths of 6.20m (western space) and 5.40m (eastern space).
- f. Concrete pave the area adjacent to the kerb return in Borrodale Road in accordance with the requirements of Council's Landscape Architect.

Note: Prior to the issuing of the construction certificate for the proposed development the applicant is to have approved by Council's Landscape Architect a Landscape Design that is in accordance with Council's Urban Design Guidelines. Council's Landscape Architect can be contacted on 9399 0786.

Enquiries regarding compliance with Conditions d., e. & f. can be made to Council's Development Engineer Mr. P O'Sullivan on 9399 0923.

- **Amendment of Condition 93 to read as follows:**

93. **Only one (1)** covered car washing bay shall be provided for this development:

- a) The car washing bay must be drained to sewer to the requirements of Sydney Water and proof of compliance is to be submitted to the certifying authority, prior to an occupation certificate being issued for the proposed development.
- b) The car washing bay must be located outside any required/approved stormwater detention system.
- c) The car washing bay may be used for visitor parking purposes provided it is signposted with 'Exclusive Carwash Bay Use Sat 2:00pm – 5:00pm and Sunday 10:00am – 2:00pm, Visitor parking at other times'.
- d) The car washing bay must be constructed with a minimum 20mm bund around the perimeter of the car washing bay (or equivalent).
- e) A water tap shall be located adjacent to the car washing bay.

Note: The 2nd carwash bay which has been deleted from the original consent shall be maintained as a visitor car space and be clearly signposted.

- **Amendment of Condition 97 to read as follows:**

97. The residential garbage room areas will have to be designed so as to be able to contain a total of 12 x 240 litre recycle bins and 4 x 660 litre garbage bins whilst providing satisfactory access to these bins. Details showing compliance with this requirement are to be shown on the plans submitted to the certifying authority for the construction certificate.

Dimensions for garbage bins can be obtained from the booklet – Better Practice Guide for Waste Management in Multi-Unit Dwellings.

- **Imposition of Condition 115 to read as follows:**

115. A minimum of eight (8) bicycle parking spaces and associated storage facilities are to be provided within the development. The design and construction of the above facilities are to be generally consistent with Australian Standard 2890.3 *Bicycle parking facilities*.

Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation to the satisfaction of the Principal Certifying Authority.

- **Imposition of Condition 116 to read as follows:**

116. Prior to issuing an occupation certificate for the development the applicant is to contact Council's Manager of Waste (Mr. T Islam – 9399 0969) to arrange a site meeting to determine residential waste and recycling bins presentation to the Borrodale Road frontage for collection, and after the site meeting the applicant shall submit for approval, and have approved, by Council's Manager of Waste a Waste Management Plan in relation to presentation of the residential waste and recycling bins.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**CP91/08 Director City Planning Report - 92 Alison Road, Randwick
(DA/393/2008)**

433/08

RESOLUTION: (Tracey/Smith)

- A. That Council as the responsible authority refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. D/392/2008 for demolition of existing dwelling and construction of 5 storey multi unit housing building containing 17 units and part basement level car parking for 24 vehicles and retention of heritage stone wall on boundary at 92 Alison Road, Randwick, for the following reasons:-
 1. The proposed development does not comply with Clause 32 of the Randwick Local Environmental Plan 1998 which prescribes the maximum floor space ratio standard, and the SEPP No.1 Objection submitted in relation to this standard is not well founded as the proposed development will have an excessive bulk and scale that detracts from existing predominant character of the development in the local area; adversely affects the visual amenity of the streetscape due to the non-compliant and excessive wall height; detracts from the heritage significance

- of Randwick Racecourse Heritage Conservation Area; and results in a development that will adversely affect the amenity of adjoining and surrounding residential uses including loss of views and privacy.
2. The proposed development does not comply with Clause 33 of the Randwick Local Environmental Plan 1998 which prescribes the maximum building height standard, and the SEPP No.1 Objection submitted in relation to this standard is not well founded as the proposed development will have an excessive height, bulk and scale that detracts from existing predominant character of the development in the local area; adversely affects the visual amenity of the streetscape due to the non-compliant and excessive wall height; detracts from the heritage significance of Randwick Racecourse Heritage Conservation Area; and results in a development that will adversely affect the amenity of adjoining and surrounding residential uses including loss of views and privacy.
 3. The proposed development is inconsistent with Clause 12 of the Randwick Local Environmental Plan 1998 in that the apartment mix of the proposed development represents a lack of variety in the type and size of dwellings proposed contrary to the objective 1 (a) of the Residential C zoning under Clause 12.
 4. The proposed development does not meet the objectives, and performance criteria/controls contained in the Development Control Plan – Multi-unit Housing as the proposal fails to comply with the requirements of the DCP in relation to: Site Planning (Part 3.1), Height (Part 3.2), Building Setbacks (Part 3.3), Density (Part 3.4), Privacy (Part 4.2), View Sharing (Part 4.3), Solar Access (Part 4.4), Safety and Security (Part 4.5), and Parking (Part 5.1).
 5. The proposed development is unacceptable and unreasonable in that the proposed height, bulk, scale, built form and design will have an adverse impact on the amenity of neighbouring residents in terms of loss of iconic and valuable views contrary to the Planning Principles established in the case of *Tenacity Consulting v Warringah* [2004] NSWLEC 140 in relation to the assessment of view loss.
 6. The proposed development is unacceptable and unreasonable in that the proposed height, bulk, scale, built form and design will have an adverse impact on the amenity of neighbouring residents in terms loss of visual and acoustic privacy, and overbearing height, bulk and scale, and in that regard is not compatible with the scale of residential development in the locality.
 7. The proposed height, bulk and scale of the proposed development is unsuitable for the subject site; detracts from the existing predominant character of the local area and is inconsistent with the impacts that may be reasonably expected under the planning controls applicable to the site as provided for in the Planning Principles established in the case of *Veloshin v Randwick Council* [2007] NSWLEC 428 in relation to the assessment of height, bulk and scale.
 8. The shadow diagrams submitted with the development application are deficient as it is not possible to verify the accuracy of the details shown in the diagram, including, but not limited to, the position and level of buildings relative to the proposed building and level of adjoining lands relative to the subject site. The shadow diagrams also fail to show the impact of existing shadows which are critical in determining, amongst other things whether or not adjoining properties will be overshadowed to less than the minimum 3 hours winter solar access required under the DCP – Multi-unit Housing.
 9. The heritage impact assessment contained in the Statement of Environmental Effects submitted with the development application is deficient as it fails to assess the proposed development and its impact on the heritage significance of

the adjoining heritage item comprising the existing and its setting, and the adjoining Royal Randwick Racecourse heritage conservation area as required under Clause 46 of the Randwick LEP 1998. In this regard, no specific Heritage Impact Statement has been provided to adequately assess the impact of the proposed excavation and construction on the adjoining heritage listed wall along the northern boundary of the subject site, and the impact of the non-compliant and excessive height, bulk, density and scale of the proposed building on the Royal Randwick Racecourse heritage conservation area. Therefore, the heritage impact assessment contained in the Statement of Environmental Effects is not a final, complete and comprehensive assessment of the heritage impact of the proposed development as required under Clauses 46 of the Randwick LEP.

10. The landscape works and treatment for the proposed development is deficient as it fails to provide any substantial landscaping/screen planting along the southern boundary; fails to provide alternative tree species within the front garden area which is more in keeping with the scale of the proposal; provides a poor landscaping treatment to the rear yard for screening and privacy between this rear landscaped area and adjoining high rise unit blocks; provides poor planting plan and plant schedule for all proposed landscaped areas; and provides for an excessive number of retaining walls in the northeast corner of the subject site which will reduce the amount of useable private open space available to future occupants.
11. The proposed development is unacceptable and unreasonable in that the proposed height, bulk, scale, built form and design will detract from the heritage significance of adjoining heritage items comprising the heritage stone-capped wall along the northern boundary and the Randwick Racecourse Heritage Conservation Area.
12. The proposed development does not meet the carparking requirements for multi-unit housing contained in Clause 2.3 – Requirements for Various Land Uses of the DCP – Parking, in that the proposed development will have a numerical deficiency of 1 carspace which is unacceptable and unreasonable having regard to the proposal's overdevelopment of the subject site.
13. The proposed development is unacceptable and should be refused in so far as it will set an undesirable precedent for similar inappropriate development in the area and in that regard is not in the public interest.

MOTION: (Tracey/Smith) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP92/08 Director City Planning Report - Update on Draft Administrative LEP 2008 and the Comprehensive LEP (F2004/08093)

434/08

RESOLUTION: (Hughes/Nash) that Council note this update report and resolve that the Exempt and Complying DCP should not, as earlier resolved, be repealed upon gazettal of the draft Administrative Local Environmental Plan for Randwick City.

MOTION: (Hughes/Nash) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP93/08 Director City Planning Report - Draft Crime Prevention and Community Safety Plan: A Safer Randwick City 2008-2018 (F2004/08007)

435/08

RESOLUTION: (Woodsmith/Belleli) that:

- a) Council endorse the crime prevention and community safety strategy entitled 'A Safer Randwick City 2008-2018' subject to the inclusion of Council's policy of closing late night food premises in Coogee at midnight; and
- b) the Director City Planning be given the authority to make minor editorial

amendments to the document in preparing it for publication.

MOTION: (Woodsmith/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP94/08 Director City Planning Report - Sydney Airport Draft Preliminary Master Plan 2009 (F2004/07972)

436/08 **RESOLUTION: (Nash/Belleli)** that Council endorse the attached submission and forward it to Sydney Airport Corporation Limited.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP95/08 Director City Planning Report - Australia Day Activities (F2008/00462)

437/08 **RESOLUTION: (Nash/Belleli)** that the report be received and noted.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP96/08 Director City Planning Report - Let's Celebrate - 150th Year Launch Event (F2008/00398)

438/08 **RESOLUTION: (Andrews/Nash)** that the report be received and noted.

MOTION: (Andrews/Nash) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP97/08 Director City Planning Report - Coogee Carols - 21 December 2008, Goldstein Reserve (F2008/00011)

439/08 **RESOLUTION: (Nash/Belleli)** that Council acknowledge and support the 2008 program for Coogee Carols.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP98/08 Director City Planning Report - New Years Eve Fireworks Display - Coogee Sparkles (F2008/00014)

440/08 **RESOLUTION: (Nash/Belleli)** hat Council receive and note this report.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP99/08 Director City Planning Report - The Spot Food & Film Festival 2009 (F2008/00350)

441/08 **RESOLUTION: (Nash/Belleli)** that the report be received and noted.

MOTION: (Nash/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

General Manager's Reports

GM49/08 General Manager's Report - Affixing of the Council Seal (F2004/07593)

Note: Cr Hughes having declared an interest, took no part in the debate or voting on this item.

442/08 **RESOLUTION: (Belleli/Tracey)**

That the Council's Seal be affixed to the signing of agreements between Council and:

1. George Koulouris (T/As Deep Blue Bistro) in relation to a licence for the purpose of outdoor dining at 56 Carr Street, Coogee.
2. Scott Keir (T/As Crowne Plaza Coogee Beach) in relation to a licence for the purpose of outdoor dining at 242 Arden Street, Coogee.
3. Shirley Struk (T/As Maroubra Beach Pavilion Café) in relation to a licence for the display of goods (bbq) at 3R Marine Parade, Maroubra.
4. Peter Papoythis (T/As Teascapes Café) in relation to a licence for the purpose of outdoor dining at 69-71 Perouse Road, Randwick.
5. Qenos Pty Ltd in relation to a licence agreement for conduits containing two (2) 33kv cables and associated pilot cables located below the surface of Botany Road, Matraville.
6. Oleksandr Diamandi & Eduard Diamandi (T/As Vino Vino) in relation to a licence for the purpose of outdoor dining at 30 St Pauls Street, Randwick.
7. David I Deston (T/As Mister Bean Café) in relation to a licence for the purpose of outdoor dining at 832 Anzac Parade, Maroubra.
8. A residential tenant in relation to a residential lease at Flat 3/20 Silver Street, Randwick.
9. Bakhtivor Mirzaev (T/As Leah Patisserie) in relation to a licence for the purpose of outdoor dining at 205 Avoca Street, Randwick.
10. Dominique McAdam (T/As Provincial Kitchens NSW Pty Ltd) in relation to a licence for the purpose of outdoor dining at 207 Clovelly Rd, Clovelly.
11. Leah Kathleen Anderson (T/As El Bulli del Punto) in relation to a licence for the purpose of outdoor dining at 40 St Pauls Street, Randwick.

MOTION: (Belleli/Tracey) CARRIED - SEE RESOLUTION.

**GM50/08 General Manager's Report - Councillors Workshop November 2008
- Summary of Outcomes (F2008/00632)**

443/08 **RESOLUTION: (Belleli/Tracey) that:**

- (a) the report be noted; and
- (b) the Councillors have ongoing opportunities to be involved in discussions and workshops on key relevant issues.

MOTION: (Belleli/Tracey) CARRIED - SEE RESOLUTION.

**GM51/08 General Manager's Report - Community Satisfaction Survey 2008
(f2008/00450)**

444/08 **RESOLUTION: (Nash/Belleli) that the report on the 2008 Community Satisfaction Survey be received and noted.**

MOTION: (Nash/Belleli) CARRIED - SEE RESOLUTION.

Director City Services Reports

**CS32/08 Director City Services Report - Seeking Council approval for
Randwick's Updated Bicycle Plan (F2005/00230)**

445/08 **RESOLUTION: (Belleli/Tracey) that Council endorse the updated Bicycle Plan.**

MOTION: (Belleli/Tracey) CARRIED - SEE RESOLUTION.

CS33/08 Director City Services Report - Coogee Beach Volleyball Association

(F2004/08286)

446/08 **RESOLUTION: (Woodsmith/Matson)** that:

- a) Council permit Coogee Beach Volleyball to conduct their volleyball classes on Coogee Beach over the summer months as a trial period as per the approval conditions stipulated in the original letter and the following timetable being strictly adhered to:-

Weekdays: 7.30 am – 12.00 pm – 1 net
4.00 pm – 8.00 pm – 2 nets

Weekends:

Saturdays 7.30 am – 12.00 pm – 1 net
4.00 pm – 8.00 pm – 2 nets

Sunday 4.00 pm – 8.00 pm – 2 nets

- b) at the conclusion of the trial period a further report be submitted to Council outlining the benefits and impacts associated with this activity; and
- c) the further report recommends whether expressions of interest should be called for the establishment of a seasonal presence on Coogee Beach.

MOTION: (Woodsmith/Matson) CARRIED - SEE RESOLUTION.

**CS34/08 Director City Services Report - 150th Anniversary Celebrations
2009 (F2008/00114)**

447/08 **RESOLUTION: (Andrews/Nash)** that the report be received and noted.

MOTION: (Andrews/Nash) CARRIED - SEE RESOLUTION.

Director Governance & Financial Services Reports

**GF65/08 Director Governance & Financial Services Report - Draft Randwick
Economic Development Strategy (F2005/00588)**

448/08 **RESOLUTION: (Nash/Andrews)** that the draft Randwick Economic Development Strategy be placed on public exhibition for public comment.

MOTION: (Nash/Andrews) CARRIED - SEE RESOLUTION.

**GF66/08 Director Governance & Financial Services Report - Lease
Agreement with Anglicare for Property at 23 Adina Avenue, Phillip
Bay (F2004/07367)**

449/08 **RESOLUTION: (Belleli/Tracey)** that Council provides in principle support to an eighteen (18) month lease to Anglicare prepared in accordance with the adopted Community Facilities Management Policy & Community Grants and Donations Policy and that the Council's Seal be affixed to the signing of agreements between Council and Anglicare.

MOTION: (Belleli/Tracey) CARRIED - SEE RESOLUTION.

Petitions

P15/08 Cr Bradley Hughes - Petition Received from Local Residents Objecting to Erection of Three Demountable Classrooms at Our Lady of Rosary School Kensington (F2004/06354)

450/08 **RESOLUTION: (Hughes/Nash)** that the petition tabled be received and noted.

MOTION: (Hughes/Nash) CARRIED - SEE RESOLUTION.

P16/08 Cr Bruce Notley-Smith - Petition Received Requesting Little Congwong Beach at La Perouse be Gazetted a legal Free Beach (F2005/00881)

451/08 **RESOLUTION: (Nash/Seng)** that the petition tabled be received and noted.

MOTION: (Nash/Seng) CARRIED - SEE RESOLUTION.

P17/08 Cr Bruce Notley-Smith - Petition from Local Residents Objecting to Signage in Grant Reserve Coogee (F2004/08077)

452/08 **RESOLUTION: (Nash/Seng)** that the petition tabled be received and noted.

MOTION: (Nash/Seng) CARRIED - SEE RESOLUTION.

P18/08 Cr Bruce Notley-Smith - Petition from Local Residents Objecting to Construction of Footpath in McNair Avenue Kingsford (F2004/08176)

453/08 **RESOLUTION: (Nash/Seng)** that the petition tabled be received and noted.

MOTION: (Nash/Seng) CARRIED - SEE RESOLUTION.

P19/08 Cr Bruce Notley-Smith - Petition Received from Residents of West Kensington Objecting to Meriton Development in Zetland (F2004/06574)

454/08 **RESOLUTION: (Procopiadis/Nash)** that the petition tabled be received and noted.

MOTION: (Procopiadis/Nash) CARRIED - SEE RESOLUTION.

Motion Pursuant to Notice

NM59/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Andrews - Convenience Store at 250 Coogee Bay Road, Coogee (F2007/00686)

MOTION: (Andrews/Nil) that Council investigate why the convenience store recently approved by Council under delegation at 250 Coogee Bay Road, Coogee is allowed to trade and operate beyond its approved hours of operation. That Councillors be advised what action, if any, has been taken noting Councils recent decision to close Garlo's Pies at midnight. **LAPSED FOR WANT OF A SECONDER.**

NM60/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Andrews - Alcohol Free Zones - Coogee Basin Area (F2005/00873)

455/08 **RESOLUTION: (Andrews/Mayor, Cr B Notley-Smith)** that a report come to Council setting out the number of infringement notices issued by Council Rangers in the Coogee Basin for drinking alcohol in our declared alcohol free zones.

MOTION: (Andrews/Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

NM61/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Andrews - Fencing Around Swimming Pools in Randwick City (F2006/00466)

456/08 **RESOLUTION: (Andrews/Belleli)** as a result of recent drownings in backyard pools, Council bring back a report detailing options for Council to ensure compliance with the Swimming Pool Act.

MOTION: (Andrews/Belleli) CARRIED - SEE RESOLUTION.

NM62/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Andrews - Anti Social Behaviour - Coogee Basin Area (F2005/00873)

This matter was withdrawn with the consent of Council.

NM63/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Matson - Signage Around Defence Force Land at Bundock Street (F2004/08424)

This matter was withdrawn with the consent of Council.

NM64/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Matson - Murray River Red Gums (PROJ/10353/2007)

457/08 **RESOLUTION: (Matson/Woodsmith)** that Council:

- a) acknowledges the well recognised importance of the River Red Gum Forests and the link between the healthy of the forests and the Murray River;
- b) urges the NSW Government to commit to the creation of new national parks in consultation with indigenous traditional owners, across all of the River Red Gum State Forests, to protect these values;
- c) write to the NSW Minister for Environment and Climate Change, Carmel Tebbutt, urging her to commit to the creation of, in consultation with indigenous traditional owners, new national parks across all of the River Red Gum State Forests; and
- d) publicise passing this motion in the Mayoral column in the Southern Courier and on the Council website.

MOTION: (Matson/Woodsmith) CARRIED - SEE RESOLUTION.

NM65/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Bowen - Anti Social Behaviour - Coogee (F2005/00515)

458/08 **RESOLUTION: (Bowen/Smith)** that this matter be deferred until the next Council meeting for further information and consideration by councillors.

MOTION: (Bowen/Smith) CARRIED - SEE RESOLUTION.

NM66/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Bowen - Childcare Centres - Randwick City (F2004/06276)

459/08 **RESOLUTION: (Bowen/Smith)** that a report be brought back to Council detailing the options available for Council to assist childcare centres located in Randwick City to maintain their current level of child care services, such report to bear in mind the

guiding principle that there be no net external cost to Council.

MOTION: (Bowen/Smith) CARRIED - SEE RESOLUTION.

NM67/08 Motion Pursuant to Notice - Growers Market - Matraville or South Ward (F2004/07082)

460/08 **RESOLUTION: (Belleli/Andrews)** that Council brings back a report on a Growers Market (fresh fruit and produce) at Matraville or another suitable location in South Ward or Central Ward.

MOTION: (Belleli/Andrews) CARRIED - SEE RESOLUTION.

Confidential Reports

GF67/08 Confidential - Tender for Building Cleaning Services (T09/08) (F2007/00629)

This matter is considered to be confidential under Section 10A(2) (c) Of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

461/08 **RESOLUTION: (White/Belleli)** that Council:

- a) accepts the tender submitted by Statewide Quality Services for Building Cleaning Services at the rates tendered;
- b) authorises the General Manager to sign and affix Council's Common Seal on the contract documents on behalf of Council for a three year term with an option to extend for a further two terms of twelve months; and
- c) notify the unsuccessful tenderers.

MOTION: (White/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CS35/08 Confidential - Processing of Organics (F2008/00328)

This matter is considered to be confidential under Section 10A(2) (c) Of the Local Government Act, as it deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Note: Cr Bowen having declared an interest, took no part in the debate or voting on this item.

462/08 **RESOLUTION: (White/Belleli)** that Council:

- a) accepts Dial A Dump Industries Pty Ltd's tender for the processing of both collected organics and shredded tree material generated through Council's tree management activities at a base price of \$83 (excluding GST) per tonne; and
- b) authorises the General Manager to sign and affix the Council's Common Seal to the contract documents on behalf of Council for a 1.5 year contract term with provision for two one year optional extensions.

MOTION: (White/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CS36/08 Confidential - Remediation of Frenchman's Bay Landfill - Tender Number T16/08 (F2008/00494)

This matter is considered to be confidential under Section 10A(2) (d) Of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

463/08 **RESOLUTION: (White/Belleli)** that Council:

- a) accepts the tender offered by Statewide Civil Pty Ltd at a lump sum price of \$1,695,637.00 to carry out the Remediation of Frenchman's Bay Landfill: and
- b) authorises the General Manager to sign and affix Council's Common Seal to the contract documents on behalf of Council.

MOTION: (White/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP100/08 Confidential - Mirvac Projects Pty Ltd - Land & Environment Court Proceedings 1071 of 2008 Staged Development Application 88 - 102 Moverly Road, South Coogee (DA/77/2008)

This matter is considered to be confidential under Section 10A(2) (g) Of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

464/08 **RESOLUTION: (White/Belleli)** that Council proceed with a submission to the effect that the Applicant will need to demonstrate that it has obtained legal access for the purpose of providing and constructing the relevant pathways together with any development consent required for the construction of those pathways before the Court can proceed to make a final determination in respect of this development application and if the required legal access and consents cannot be obtained within a reasonable time that the application should be refused.

MOTION: (White/Belleli) CARRIED - SEE RESOLUTION.

Notices of Rescission Motions

Nil.

There being no further business, His Worship the Mayor, Cr B Notley-Smith, declared the meeting closed at 8.38 pm.

The minutes of this meeting were confirmed at the Ordinary Meeting of the Council of the City of Randwick held on Tuesday, 24 February 2009.

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CHAIRPERSON