



MINUTES OF ORDINARY COUNCIL MEETING OF THE COUNCIL OF THE CITY OF RANDWICK HELD ON TUESDAY, 25 AUGUST 2009 AT 6:02PM

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 & C. Matthews
East Ward	- Councillors T. Bowen & M. Matson
West Ward	- Councillors B. Hughes & S. Nash
Central Ward	- Councillors A. Andrews & T. Seng

Officers Present:

General Manager	Mr R Brownlee
Director City Services	Mr J Frangoples
Director Governance & Financial Services	Mr G Banting
Acting Director City Planning	Mr K Kyriacou
Manager Administrative Services	Mr D Kelly
Communications Manager	Ms D Brien
Manager Organisational Performance	Ms K Walshaw
Manager Information Services	Mr G Curley
Coordinator Community Planning	Ms T Mok

Prayer & Acknowledgement of Local Indigenous People

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

Apologies/Granting of Leave of Absences

Apologies were received from Crs Procopiadis, Stevenson and White.

RESOLVED: (Tracey/Nash) that the apologies received from Crs Procopiadis, Stevenson and White 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 28 JULY 2009

229/09

RESOLUTION: (Andrews/Woodsmith) that the Minutes of the Ordinary Council Meeting held on Tuesday 28 July 2009 (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 Andrews declared a non significant non pecuniary interest in item CP44/09 as he has come to know the applicant and objectors during the years he has lived in the Randwick area.
- (b) Cr Andrews declared a non significant non pecuniary interest in item CP47/09 as he has come to know the owner of the building during the years he has lived in the Randwick area.
- (c) Cr Belleli declared a non significant non pecuniary interest in item CP44/09 as he was contacted by an immediate family member of the applicants who happens to be a past client of his.
- (d) Cr Belleli declared a pecuniary interest in item CP48/09 as he was contacted by an immediate family member of the applicants who is an existing client of his. Cr Belleli will not be taking part in the debate or voting on the matter.
- (e) Cr Smith declared a non significant non pecuniary interest in item MM57/09 as he is a member of the Coogee Lions Club.
- (f) Cr Woodsmith declared a non significant non pecuniary interest in item CP44/09 as she has a friend who lives in the subject building.
- (g) The Mayor, Cr B Notley-Smith declared a non significant non pecuniary interest in item CP48/09 as a letter of support has been received by Council from an individual who worked on his election campaign.
- (h) The Mayor, Cr B Notley-Smith declared a non significant non pecuniary interest in item CP53/09 as the applicant was a landlord of his many years ago.
- (i) Cr Smith declared a significant non pecuniary interest in item GM34/09 as one of the licences being approved concerns the licensee of the Maroubra Junction Hotel, who has a business relationship with his employer. Cr Smith will not be taking part in the debate or voting on the matter.
- (j) Cr Matthews declared a non significant non pecuniary interest in item GM34/09 as he knows the licensee of the Maroubra Junction Hotel.

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:

CP44/09 79-81 HANNAN STREET, MAROUBRA

Against Dan Brindle - On behalf of objectors

For Anthony Betros - On behalf of applicant

CP45/09 11 LURLINE STREET, MAROUBRA

For Tony Moody -Planning Consultant for the Applicant

CP46/09 20 BEACH STREET, COOGEE

Against Lyndal Sank - Objector

For Genevieve Slattery - Architect on behalf of applicant

CP47/09 17 CLOVELLY ROAD, RANDWICK

Against Ian McLoughlin - Objector

For Nancy Trindade - Applicant

CP48/09 11 JUDGE STREET, RANDWICK

Against Michael Grimshaw - Objector

CP50/09 165A-167B MAROUBRA ROAD, MAROUBRA

Against David Leung - Objector

For Anthony Betros - On behalf of applicant

CP53/09 13 - 17 BOTANY STREET, RANDWICK NSW 2031

For Genevieve Slattery - Architect on behalf

The meeting was adjourned at 6.57pm and was resumed at 7.24pm.

RESOLVED: (PROCEDURAL MOTION) (Woodsmith/Andrews) that all the planning items be dealt with first for the benefit of the public in attendance. **CARRIED.**

Mayoral Minutes

MM55/09 Mayoral Minute - Parking Controls at Intersections and Line Marking to Delineate Parking Rule (F2004/07232)

230/09

RESOLUTION: (Mayor, Cr B Notley-Smith) that the Mayor write to the Minister of Roads seeking change to the Australian Road rules in relation to:

- a) no stopping regulations at laneways;
- b) line marking in lieu of parking signage; and
- c) a public education campaign to raise awareness of this issue.

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

MM56/09 Mayoral Minute - Sister City Program - Request to Enter into Sister City Relationships with Randwick, England and Hangzhou, China (F2005/00294)

231/09

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

- (a) Council enter into and formalise a Sister City arrangement with both the village of Randwick, England and the City of Hangzhou, China; and
- (b) Council endorse Ms Yvonne Langley-Walsh as Council's Honorary Liaison Officer during her visit to Timor-Leste in September in order to canvass local East Timorese schools to establish a program for them to exchange correspondence with schools in the Randwick local government area.

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

MM57/09 Mayoral Minute - Strengthening of Working Relationship Between Council and our Local Rotary, Probus, Soroptimist International and Lions Club (F2004/08214)

232/09

RESOLUTION: (Mayor, Cr B Notley-Smith) that a Committee consisting of Council

and our local Rotary, Probus, Soroptimist International and Lions Clubs be formed and meet on a biannual basis.

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

MM58/09 Mayoral Minute - CCTV In Randwick City - Draft Code of Practice (F2008/00547)

233/09 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the "CCTV in Randwick City" draft Code of Practice be adopted as policy.

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

MM59/09 Mayoral Minute - Advising Council of our Success at the World Environment Day Awards in Melbourne. (F2007/00485)

234/09 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the report be received and noted.

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

Urgent Business

Nil

Director City Planning Reports

CP44/09 Director City Planning Report - 79-81 Hannan Street, Maroubra (DA/113/2009)

235/09 **RESOLUTION: (Matson/Hughes)** that the application be deferred for mediation to clarify the technical requirements for the operation of the stackers and to improve amenity by looking at other design options to increase setbacks, particularly on the south west corner of the site.

MOTION: (Nash/Andrews) that Council, as the consent authority, grant development consent by "Deferred Commencement" under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 113/2009 for the demolition of two existing single storey dwelling houses and the construction of a new five storey residential flat building containing fifteen two bedroom dwellings, five one bedroom dwellings, car parking for twenty two vehicles and strata subdivision, at No. 79-81 Hannan Street, Maroubra, subject to the conditions outlined in the Director, City Planning's report.

AMENDMENT: (Matson/Hughes) CARRIED AND BECAME THE MOTION.

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

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Nash
Councillor Hughes	
Councillor Matson	
Councillor Matthews	
Councillor Notley-Smith	
Councillor Seng	
Councillor Smith	
Councillor Tracey	
Councillor Woodsmith	
Total (10)	Total (2)

MOTION (Matson/Hughes) CARRIED UNANIMOUSLY – SEE RESOLUTION.**CP45/09 Director City Planning Report - 11 Lurline Street, Maroubra
(DA/161/2009)**

236/09

RESOLUTION: (Matson/Tracey) that Council as the consent authority grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 to Development Application No. DA/161/2009 for alterations and additions to existing dwelling including: changes to the lower ground and first floor levels, new roof top terrace; reconfiguration of the street and rear facades; reconstruction of street boundary fencing and associated landscaping works at 11 Lurline Street, Maroubra, subject to the following conditions.

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

1. The development must be implemented substantially in accordance with the plans numbered DA01, DA06, DA07 dated 22 July 2009 and DA03, DA04, DA05 dated 5 June 2009, 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 colours, materials and finishes of the external surfaces to the building must be in accordance with the colour scheme (undated) prepared by Architectural Projects and received by Council 9 June 2009.
3. The aluminium slats in the front fence must be spaced evenly and so that the slated portion of the fence is at least 50% open. Design details must be shown on the Construction Certificate plans.
4. Landscaping must be carried out in accordance with the landscaping plan DA 08 prepared by Architectural Projects 5 June 2009 and received by Council 9 June 2009 except that the *Eucalyptus* 'Summer Red' and *Gordonia Axillaris* 'Fried-Egg Plant' must not be planted.
5. There must be no encroachment of the structure/s or associated articles onto Council's road reserve, footway, nature strip or public place.

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 condition/s are applied to meet additional demands for public facilities;**

7. In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, based on the development cost of \$825,000.00 the following applicable monetary levy must be paid to Council: \$8,250.00

The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

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

8. In accordance with Section 80A (11) of the *Environmental Planning and Assessment Act 1979* and Clause 97A of the *Environmental Planning and 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.

9. 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.

10. 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)

11. In accordance with Clause 154B of the *Environmental Planning & Assessment Regulation 2000*, a Certifying Authority must not issue an 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 an 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:

12. 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.

13. 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:

14. 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.

15. **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.

16. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (Building Code of Australia).

17. **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 license, in accordance with the provisions of the *Home Building Act 1989*.

18. 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 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).

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. Details of *critical stage inspections* carried out and copies of certification relied upon must also be forwarded to Council with the *occupation certificate*.

19. 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".
20. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, the requirements of the *Home Building Act 1989* must be complied with.

Details of the Licensed Building Contractor (and a copy of the relevant

Certificate of Insurance) or a copy of the Owner-Builder Permit (as applicable) must be provided to the Principal Certifying Authority and Council, in writing, **prior to commencement of works.**

21. 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.

22. 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.

23. Smoke alarms are required to be installed in each Class 1 building or residential dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the **construction 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:

24. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additions.
25. The demolition of buildings and the removal, storage, handling and disposal of building materials must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Climate Change (formerly EPA) and Randwick City Council policies, including:
- Occupational Health and Safety Act 2000 & Regulations
 - WorkCover NSW Guidelines & Codes of Practice
 - Australian Standard 2601 (2001) – Demolition of Structures
 - The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 2005
 - Relevant DECC/EPA Guidelines
 - Randwick City Council Asbestos Policy (adopted 13 September 2005)

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.

26. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Demolition Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials (including asbestos)
- Method/s of demolition (including removal of any asbestos)
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne dust and asbestos
- Methods and location of disposal of any hazardous materials
- Other relevant details, measures and requirements to be implemented
- Date the demolition works will commence

The Demolition Work Plan must be submitted to the Principal Certifying Authority (PCA), not less than two (2) working days before commencing any demolition work. A copy of the Demolition Work Plan must be maintained on site and be made available to Council officers upon request.

If the work involves asbestos products or materials, a copy of the Demolition Work Plan must be provided to Council, not less than 2 days before commencing such works.

Note *it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

27. Any work involving the demolition, storage or disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
- Randwick City Council's Asbestos Policy (adopted 13 September 2005)
- 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.
- 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.
- 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 2005*.
- A Clearance Certificate or Statement, prepared by a suitably qualified person (i.e. 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 immediately upon completion of the asbestos related works, 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.

28. 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.

29. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

- 1) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause 1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

30. A dilapidation report prepared by a professional engineer, building surveyor or other suitably qualified independent 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) are required 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. A copy of the dilapidation report is to be given to the owners of the premises encompassed in the report/s before commencing any works.

31. 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.

32. 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, pile drivers and all plant and equipment must be minimised, by using appropriate plant and equipment, silencers and the implementation of noise management strategies.

A construction noise and vibration minimisation strategy, prepared by a suitably qualified person is to be implemented throughout the works, to the satisfaction of the Council. A copy of the strategy must be provided to the Principal Certifying Authority and Council **prior to the commencement of site works.**

33. 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, to the satisfaction of Council.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

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.

34. A Construction Site Management Plan is to be developed and implemented **prior to the commencement of any 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 Construction Site Management Plan must be provided to the Principal Certifying Authority and Council. A copy must also be maintained on site and be made available to Council officers upon request.

35. 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 Landcom, to the satisfaction of Council.

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 or Council **prior to the commencement of any site works.**

36. 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.

The following conditions are applied to ensure compliance with the

Swimming Pools Act 1992 and to maintain public safety and amenity:

37. 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 1926.1 - 2007.

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 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the *Swimming Pools Regulation 2008*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

38. Spa pools are to be provided with a child resistant barrier, in accordance with the provisions of the *Swimming Pools Act 1992* and regulations.

A 'warning notice' must be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the provisions of the *Swimming Pools Regulation 2008*, detailing pool safety requirements, resuscitation techniques and the importance of the supervision of children at all times.

39. 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.

40. 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:

41. 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.

42. The air conditioning 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:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

43. The installation of rainwater tanks shall comply with the following noise control requirements:-

- a) 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.

- b) Plant and equipment associated with rainwater tank(s) are to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.
- c) The operation of plant and equipment associated with the rainwater tank(s) are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:
- before 8.00am or after 8.00pm on weekends or public holiday; or
 - before 7.00am or after 8.00pm on weekdays.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

44. 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. Reconstruct/extend the existing concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site, if required.

45. The applicant must meet the full cost for Council or a Council approved contractor 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.
46. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

47. The Council's Development Engineer has inspected the above site and has determined that the design alignment level at (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, must match the back of the existing footpath along the full site frontage.
48. The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.
49. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$121.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

The following conditions are applied to provide adequate consideration for service authority assets:

50. The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.
51. Side boundary fences must not be higher than 1.8 metres above ground. Design details must be shown on the Construction Certificate.

ADVISORY MATTERS:

- A1 Demolition, building or excavation work must not be commenced until;
- A Construction Certificate has been obtained from Council or an Accredited Certifier
 - Council or an Accredited Certifier has been appointed as the Principal Certifying Authority for the development
 - Council and the Principal Certifying Authority have been given at least 2 days notice (in writing) prior to commencing any works.

Failure to comply with these important requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million

under the *Environmental Planning & Assessment Act 1979*. Alternatively, Council may issue a penalty infringement notice (for up to \$1,500) for each offence.

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 Specific details of the location of the building/s should be provided in the Construction Certificate to demonstrate that the proposed building work will not encroach onto the adjoining properties, Council's road reserve or any public place, to the satisfaction of the certifying authority.

A4 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: (Matson/Tracey) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**CP46/09 Director City Planning Report - 20 Beach Street, Coogee
(DA/307/2009)**

237/09

RESOLUTION: (Andrews/Nash) that Council support the objection under State Environmental Planning No. 1 (SEPP No.1) in respect to non-compliance with Clauses 32 and 33 of the Randwick Local Environmental Plan 1998 (as amended), relating to floor space ratio and maximum external wall height, on the grounds that the proposed development is consistent with the relevant objectives of the clauses and will not adversely affect the amenity of the surrounding locality and that the Department of Planning be advised accordingly.

AND

That Council as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 to Development Application No 307/2009 to enlarge the approved attic spaces within each of the approved townhouses including new dormer windows at 20 Beach Street, Coogee, subject to the following conditions:

Conditions

1. The development must be implemented substantially in accordance with the plans numbered 07_083 DA_02, DA_03, DA_05 and DA_06, dated 14/7/09 and received by Council on 20/7/09, 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 existing building 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.

3. Lighting to the premises shall be designed so as not to cause a nuisance to nearby residents or motorists and to ensure that light overspill does not affect the amenity of the area.

The following conditions are applied to satisfy relevant legislative requirements and to provide reasonable levels of health, safety and amenity:

Building regulation & construction conditions

4. 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.

5. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 of the Environmental Planning & Assessment Regulation 2000, it is a prescribed condition that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
6. Prior to the commencement of any building or 'fit-out' 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.
7. 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
8. Prior to the commencement of any building or 'fit-out' works, the person having the benefit of the development consent must:-
 - appoint a Principal Certifying Authority for the building work, and
 - 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
 - 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
 - give at least two days notice to the Council, in writing, of the person's intention to commence building works.
9. The 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.

10. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation or use of the development encompassed in this development consent (including alterations, additions and 'fit-out' work to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.
11. Where applicable, a Fire Safety Certificate must be submitted to Council prior to the issuing of an Occupation Certificate, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.
12. The Fire Safety Certificate must include details of all of the fire safety measures contained in the building and as detailed in the fire safety schedule attached to the Construction Certificate.
13. Prior to issuing any Occupation Certificate the Principal Certifying Authority must be satisfied that all of the relevant fire safety measures have been included and are sufficiently detailed within the Fire Safety Certificate. A copy of the fire safety certificate must be displayed in the building near the entrance and a copy must be forwarded to the NSW Fire Brigades.
14. An annual Fire Safety Statement must be submitted to the Council and the NSW Fire Brigades, each year after the date of the Fire Safety Certificate, in accordance with the Environmental Planning & Assessment Regulation 2000.
15. Any 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.

16. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.
17. 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 the proposed works are suitable, the plans will be appropriately stamped by Sydney Water or their Agent. 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 is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans prior to the commencement of any building works.

18. In existing buildings, the following works are to be carried out to ensure minimum levels of fire safety (as applicable):-
19. Any new or replacement ceilings walls and floor linings and doorways are required to satisfy the relevant requirements of the Building Code of Australia.

20. Any residential part/s of the building are to be fire-separated from the commercial area encompassed in this development application, in accordance with the relevant provisions of the Building Code of Australia.
21. Any residential parts of the building must be provided with a smoke detection and alarm system, in accordance with the relevant provisions of the Building Code of Australia.

Details of the abovementioned items and other building and fire safety works are to be provided in the construction certificate.

22. In accordance with section 80 A (11) of the Environmental Planning & Assessment Act 1979 and clause 98 E of the Environmental Planning & Assessment Regulation 2000, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.
23. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development must, at the person's own expense:
 - protect and support the adjoining premises from possible damage from the excavation, and
 - where necessary, underpin the adjoining premises to prevent any such damage.

Does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

24. 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 (except as detailed below) between 8.00am to 5.00pm on Saturdays.
25. All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.
26. In addition, the use of any rock excavation machinery or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only.
27. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times (as applicable):
28. Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to be developed and implemented to the satisfaction of the Principal Certifying Authority prior to commencing any demolition works.
29. The demolition, removal, storage and disposal of any materials containing asbestos must be carried out in accordance with the relevant requirements of WorkCover NSW, Council's Asbestos Policy and the following requirements:
30. A licence must be obtained from WorkCover NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro)

31. Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 & relevant Regulations
32. A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress"
33. A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist) upon completion of the asbestos removal works, which is to be submitted to the Principal Certifying Authority and Council prior to issuing an Occupation Certificate.

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.

34. A sign must be provided and maintained in a prominent position, 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".
35. The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, trip hazards, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.
36. 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.
37. 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. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.
38. 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.
39. 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 Services section.
40. During demolition and construction, 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 Landcom, to the satisfaction of Council.
41. Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be

restricted. If necessary, a temporary safety fence or hoarding is to be provided to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

42. If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council's adopted Pricing Policy.
43. 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.
44. The requirements and practices contained in the Protection of the Environment Operations Act 1997 and relevant DECC Construction Noise and Vibration Guidelines are to be satisfied and a Construction Noise and Vibration Management Plan is to be developed and implemented throughout the works to the satisfaction of Council.

Health & amenity

45. The operation of the premises and all plant and equipment must not give rise to an environmental health or public nuisance or, result in an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.
46. In this regard, the use and operation of the premises (including all plant and equipment) shall not give rise to an $L_{Aed, 15 \text{ min}}$ 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 DECC/EPA Noise Control Guidelines.
47. Access and/or facilities for people with disabilities must be provided to new buildings or work in accordance with the relevant provisions of the Building Code of Australia, to the satisfaction of the Certifying Authority and details are to be provided with the Construction Certificate application

Waste management

48. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.
49. Any trade/commercial waste materials must not be disposed in or through Council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales. Details of the proposed waste collection and disposal service are to be submitted to Council prior to commencing operation of the business.

ADVISORY

- The assessment of this development application does not include an assessment of the proposed building work under the Building Code of Australia (BCA).

- All new building work must comply with the BCA and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.
- In existing buildings, the levels of fire and occupant safety should be upgraded where necessary and details should be incorporated in the Construction Certificate to the satisfaction of the Certifying authority.
- Where the levels of accessibility to existing buildings do not meet current standards, if practicable, the level of accessibility should also be upgraded in conjunction with the proposed development (e.g. via the installation of a 1:8 access ramp within the building) and details included in the construction certificate application.
- Building owners, applicants and builders are advised to speak to the appointed Certifying Authority prior to lodgement of the Construction Certificate.

MOTION: (Matson/Woodsmith) that matter be refused as the SEPP1 objection cannot be supported due to the inadequate FSR and building height limits. **LOST.**

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

FOR	AGAINST
Councillor Matson	Councillor Andrews
Councillor Woodsmith	Councillor Belleli
	Councillor Bowen
	Councillor Hughes
	Councillor Matthews
	Councillor Nash
	Councillor Notley-Smith
	Councillor Seng
	Councillor Smith
	Councillor Tracey
Total (2)	Total (10)

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

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

FOR	AGAINST
Councillor Andrews	Councillor Matson
Councillor Belleli	
Councillor Bowen	
Councillor Hughes	
Councillor Matthews	
Councillor Nash	
Councillor Notley-Smith	
Councillor Seng	
Councillor Smith	
Councillor Tracey	
Councillor Woodsmith	
Total (11)	Total (1)

**CP47/09 Director City Planning Report - 17 Clovelly Road, Randwick
(DA/415/2009)**

238/09

RESOLUTION: (Smith/Belleli) 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/415/2009 for the fit-out and continued use of the premises as a cafe with hours of operation 7.00am to 9.00pm and outdoor dining for 12 people at 17 Clovelly Road, Randwick, subject to the following conditions:

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

1. The development must be implemented substantially in accordance with the plan labelled 'Alterations to Existing Café at 17 Clovelly Road, Randwick', dated 24 June 2009 and received by Council on 25 June 2009, 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. This consent does not grant approval for the construction works which have already taken place to the premises. The consent is for the remaining internal works and the use of the premises as a café only.
3. A Certificate prepared by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to issuing an occupation certificate**, which certifies the structural adequacy of the building with regard to the recent removal of a wall to the ground floor of the premises, between the rooms shown as 'kitchen' and 'café' on the plan received by Council on 25 June 2009, as well as compliance with the relevant structural requirements of the Building Code of Australia.
4. The maximum number of employees operating from the subject premises is restricted to 4. Any proposal to change the number of employees shall require a further application to Council.
5. The hours of operation of the internal part of the cafe are restricted to 7.00am to 9.00pm (Monday – Sunday). Any proposal to change the hours of operation shall require a further application to Council.
6. The trading hours of the footway dining area of the cafe are restricted to 7.00am to 8.00pm (Monday – Sunday). However, the furniture associated with the outdoor dining area may remain in place **until** 9.00pm. Any proposal to change the hours of operation shall require a further application to Council.
7. No outdoor seating shall be installed to the rear yard of the property without prior Council consent.
8. No part of the residential component to the ground floor or first floor of the premises may be used for food preparation or storage without further Council consent.
9. No further works to the exterior north-western wall of the subject site may be undertaken without the prior consent of the owners of that property to the north-west (15 Clovelly Road).

Outdoor dining area

10. The areas to be used for outdoor dining are marked by existing brass plates to the footpath. These areas are limited to dimensions of 1.2m x 5.4m and 1.2m x 3.8m respectively. No tables or chairs or articles associated with the use of the premises as a café may be placed outside these areas at any time unless

prior written consent has been obtained from Council.

11. The footway dining area is restricted to 4 tables and 12 chairs only.
12. Prior to operation of the proposed footpath restaurant the applicant/proposed Licensee shall enter into a formal license agreement with Council covering the terms and conditions of the footpath restaurant. The applicant is advised to contact Council's Property Compliance Officer, (9399-0936), regarding Council's requirements for the formal license agreement.
13. The Licensee must keep in full force and effect for the term of the license agreement established, a policy of public risk insurance with respect to the licensed area and the business undertaken by the Licensee therein. The limit of public risk shall be not less than \$10,000,000 or such other sum as the Council may reasonably nominate in writing from time to time as the amount which may be paid arising out of any one single accident or event.

NOTES:

- a. The policy shall extend to cover death or injury to any person and damage to property of any person sustained when such person is using or entering the licensed area.
 - b. The policy must name the Council as an interested party and the Licensee as the insured and must contain a clause that the insurer will not cancel or change the insurance without first giving the Council ten (10) days prior written notice.
 - c. The insurance must be with an insurer approved by the Council and a copy of the policy or a certificate of insurance shall be delivered by the Licensee to the Council
14. The Licensee shall indemnify Council for the full duration of the license agreement from and against all claims, demands, writs, etc. as set out in the formal license agreement.
 15. The style and colour of the furniture to be used in the footpath restaurant area shall be in accordance with the Development Control Plan "Footpath Dining & Trading". No advertising or other structures shall be installed without the prior written consent of Council. Design details of the proposed furniture shall be submitted to Council for approval, and approved, prior to the execution of a formal license agreement between Council and the applicant.

Note:

The chairs are to be suitably placed to ensure they are located within the proposed licenced area.

All street furniture is to be removed from the Licenced area outside approved trading hours.

16. The applicant shall meet all other requirements of Council's Development Control Plan "Footpath Dining & Trading".
17. The applicant shall ensure that the footpath restaurant area is maintained in a clean and tidy condition at all times. It is noted that this includes high pressure water blasting to clean the footpath restaurant area at least once every 6 months or as directed by Council's officers.
18. The footpath restaurant area Licensee shall ensure that the pavement of the footpath restaurant area is maintained free of grease and other foodstuffs at all times.
19. The footpath restaurant area Licensee shall, during the term of the agreement

with Council, abide with any current or future Council Policy, Resolution or directive relative to the consumption of alcohol in public spaces.

20. The Licensee shall abide with any directive given by any utility authority in relation to access requirement to any utility within the proposed licensed area.
21. The development consent is valid for a maximum period of seven (7) years from the date of determination. A new development application is to be lodged prior to the expiration of the development consent should the Licensee/owner wish to continue using Council's footpath for outdoor dining.

Food safety, environmental health & amenity

22. The premises is to be designed and constructed in accordance with the Food Act 2003, Food Regulation 2004, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises. Details of the design and construction of the premises are to be included in the documentation for the construction certificate to the satisfaction of the certifying authority.
23. Food safety practices and the operation of the food premises must be in accordance with the Food Act 2003 , Food Regulation 2004, Food Standards Code and Food Safety Standards at all times, including the requirements and provisions relating to:
 - Food handling – skills, knowledge and controls.
 - Health and hygiene requirements.
 - Requirements for food handlers and businesses.
 - Cleaning, sanitising and maintenance.
 - Design and construction of food premises, fixtures, fitting and equipment.

Failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

24. **Prior to the issuing of an occupation certificate**, the premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.
25. The food premises must be registered with Council's Health, Building & Regulatory **Services** Department **and** the NSW Food Authority in accordance with the Food Safety Standards, **prior to commencement of any food business operations.**
26. The **Proprietor of the** food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.
27. The food premises must be kept in a clean and sanitary condition at all times, including all walls, floors, ceilings, fixtures, fittings, appliances, equipment, fridges, freezers, cool rooms, shelving, cupboards, furniture, crockery, utensils, storage containers, waste bins, light fittings, mechanical ventilation & exhaust systems & ducting, storage areas, toilet facilities, basins and sinks.
28. The design, construction and operation of the food premises must comply with the following general requirements:-

- (a) The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non slip and non abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer.
- (b) The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.
- (c) Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface.
- (d) The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops or other facilities and equipment.
- (e) Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with other approved materials.
- (f) The ceilings of kitchens, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non absorbent material i.e., fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material.
- (g) All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc... to be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
- (h) Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.
- (i) Adequate fly screens and doors with self-closing devices, (where applicable), are to be provided to all external door and window openings. An electronic insect control device must also be provided within the food premises.
- (j) A mechanical ventilation exhaust system hood is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, in accordance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.
- (k) Emission control equipment shall be provided in the mechanical exhaust system serving the cooking appliances, to effectively minimise the emission of odours, vapours and oils.
- (l) Wash hand basins must be provided in convenient positions located in the food preparation areas, with hot and cold water, together with a sufficient supply of soap and clean towels. The hot and cold water shall be supplied to the wash hand basins through a suitable mixing device.
- (m) Ceramic tiles being provided to a height of 450mm above bench tops, wash hand basins and similar fittings.

- (n) A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and bainmaries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.
 - (o) All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more that 5C and keep this food cold at or below that temperature.
 - (p) Cool rooms or freezers must have a smooth epoxy coated concrete floor, which is to be sloped to the door. A floor waste connected to the sewer is to be located outside the cool room/freezer. The floor waste should be provided with a removable basket within a fixed basket arrestor and must comply with Sydney Water requirements.
 - (q) All cool rooms and freezers must be able to be opened from the inside without a key and fitted with an alarm (bell) that can only be operated from within the cool room/freezer.
 - (r) Any space or gaps between the top of any cool room or freezer and the ceiling must be fully enclosed and kept insect and pest proof (e.g. plasterboard partition with gaps sealed).
29. There are to be no emissions or discharges from the premises which will give rise to a public nuisance, vibration, or result in an offence under the *Protection of the Environment Operations Act 1997 and Regulations*.
30. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997 and Regulations*.
- In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (L_{A90}), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an L_{Aeq} , 15 min and adjusted in accordance with the NSW DECC/EPA Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).
31. **Prior to an occupation certificate being issued** for the development a report, or correspondence must be obtained from a suitably qualified and experienced consultant in acoustics, which demonstrates and certifies that noise and vibration from the development complies with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA/DECC Noise Control Manual & Industrial Noise Policy and conditions of Council's consent. A copy of the report is to be forwarded to the Council with the occupation certificate.
32. The sale, supply and consumption of alcohol must not take place at the premises except with or ancillary to the service of food to be consumed on the premises and the relevant liquor licence under the *Liquor Act 2007*.

Building regulation & construction

33. 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.

34. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 of the *Environmental Planning & Assessment Regulation 2000*, it is a *prescribed condition* that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

35. **Prior to the commencement of any excavation, building or fit-out 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.

36. Prior to the commencement of any excavation, building or fit-out 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 and notify the *Principal Certifying Authority* and Council accordingly in writing, and
- iii) 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, prior to the commencement of building works.

37. The 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.

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

Prior to the issuing of an interim or final occupation certificate, the Principal Certifying Authority must be satisfied that the development is not inconsistent with the development consent and all of the relevant conditions of development consent and Building Code of Australia requirements have been satisfied.

39. A *Fire Safety Certificate* must be submitted to Council **prior to the issuing of an Occupation Certificate**, in accordance with the requirements of the Environmental Planning and Assessment Regulation 2000.

The *Fire Safety Certificate* must include details of all of the fire safety measures contained in the building as detailed in the *fire safety schedule* attached to the Construction Certificate.

Prior to issuing any Occupation Certificate the Principal Certifying Authority must be satisfied that all of the relevant fire safety measures have been included and are sufficiently detailed within the *Fire safety Certificate*. A copy of the *fire safety certificate* must be displayed in the building near the entrance and a copy must be forwarded to the NSW Fire Brigades.

An annual *Fire Safety Statement* must be submitted to the Council and the NSW Fire Brigades, each year after the date of the *Fire Safety Certificate*, in accordance with the *Environmental Planning & Assessment Regulation 2000*.

40. 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 (except as detailed below) between 8.00am to 5.00pm on Saturdays.

All building, demolition and associated site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.

In addition, the use of any rock excavation machinery or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only.

41. In accordance with section 80 A (11) of the *Environmental Planning & Assessment Act 1979* and clause 98 E of the *Environmental Planning & Assessment Regulation 2000*, it is a prescribed condition that the adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

- 1) If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development must, at the person's own expense:
 - a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause 1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

42. Public health, safety and convenience must be maintained at all times during demolition and building works and the following requirements must be complied with at all times (as applicable):

- (a) Demolition work must be carried out in accordance with Australian Standard, AS2601 (2001) - The Demolition of Structures and a Demolition Work Plan is required to be developed and implemented to the satisfaction of the Principal Certifying Authority **prior to commencing any demolition works**.
- (b) The demolition, removal, storage and disposal of any materials containing asbestos must be carried out in accordance with the relevant requirements of WorkCover NSW, Council's Asbestos Policy and the following requirements:

- A licence must be obtained from WorkCover NSW for the removal of friable asbestos and or more than 10m² of bonded asbestos (i.e. fibro)
- Asbestos waste must be disposed of in accordance with the Protection of the Environment Operations Act 1997 & relevant Regulations
- A sign must be provided to the site/building stating "Danger Asbestos Removal In Progress"
- A Clearance Certificate or Statement must be obtained from a suitably qualified person (i.e. Occupational Hygienist) upon completion of the asbestos removal works, which is to be submitted to the Principal Certifying Authority and Council **prior to issuing an Occupation Certificate.**

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.

- (c) A sign must be provided and maintained in a prominent position, 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".
- (d) 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 an occupation certificate** for the development. For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

- (e) 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.
- (f) 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.
- (g) Public safety must be maintained at all times and public access to any demolition and building works, materials and equipment on the site is to be restricted. If necessary, a temporary safety fence or hoarding is to be provided to protect the public. Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner

and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place prior to the commencement of any demolition, excavation or building works and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or items upon any part of the footpath, nature strip or any public place, a Local Approval application must be submitted to and approved by Council's Health, Building & Regulatory Services Department beforehand. Details and plans are to be submitted with the application, together with payment of the weekly charge in accordance with Council's adopted Pricing Policy.

- (h) Noise and vibration emissions during the site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents.

A construction noise and vibration management plan, prepared in accordance with the DECC Construction Noise Guidelines by a suitably qualified person is to be implemented throughout the works, to the satisfaction of the Council. A copy of the plan must be provided to the Council (and Principal Certifying Authority) prior to the commencement of site works.

43. 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 is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before any works are commenced**.

44. In existing buildings, the following works are to be carried out to ensure minimum levels of fire safety (as applicable):-

- (a) Any new or replacement ceilings walls and floor linings and doorways are required to satisfy the relevant requirements of the Building Code of Australia.
- (b) Any residential part/s of the building are to be fire-separated from the commercial area encompassed in this development application, in accordance with the relevant provisions of the Building Code of Australia.
- (c) Any residential parts of the building must be provided with a smoke detection and alarm system, in accordance with the relevant provisions of the Building Code of Australia.

Details of the abovementioned items and other building and fire safety works are to be provided in the construction certificate.

Access & facilities

45. Sanitary facilities, plus wash hand basin and paper towel dispenser or hand dryer and appropriate signage, must be provided to the premises and details are to be provided in the Construction Certificate Application.
46. Access and facilities for people with disabilities must be provided to new buildings and new building work in accordance with the relevant provisions of the Building Code of Australia, to the satisfaction of the Certifying Authority and details are to be provided with the Construction Certificate application.
47. In existing buildings, as a minimum, access for people with a disability is to be provided where:
- (a) The building/fit-out work encompasses more than 50% of the area of the subject occupancy and
 - (i) the floor area of the subject occupancy is more than 75m² and the floor level is less than 190mm above footpath level, and
 - (ii) the floor area of the subject occupancy is more than 150m² and the floor level is less than 380mm above footpath level.
 - (b) A new floor is to be constructed in the occupancy.
 - (c) As otherwise required by the Certifying Authority.

Details are to be included in the construction certificate to the satisfaction of the Certifying Authority.

Waste Management

48. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council and the location, collection, storage and removal of wastes generated within the premises must not result in a nuisance or cause pollution.

The waste storage area must be located within the property and not within any areas used for the preparation or storage of food.

A tap and hose is to be provided within or near the waste storage area and suitable drainage provided so as not to cause a nuisance.

Waste/recyclable bins and containers must not be placed on the footpath (or road), other than for waste collection, in accordance with Council's requirements.

49. Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or an appropriately licensed waste contractor and details of the proposed waste collection and recycling service contractor are to be submitted to Council **prior to occupation of the building**.
50. Any liquid trade waste materials are to be disposed of in accordance with the requirements of the Sydney Water, Trade Waste Department (i.e. via a grease trap) and details of compliance are to be submitted to the certifying authority **prior to the commencement of any works**.

Advisory

- A1 The assessment of this development application does not include an assessment of the proposed building work under the Building Code of Australia (BCA).

All new building work must comply with the BCA and relevant Australian Standards and details of compliance must be provided in the Construction Certificate application.

- A2 The levels of fire and occupant safety in existing buildings should be upgraded where necessary and details should be incorporated in the Construction Certificate to the satisfaction of the Certifying authority.

Where the levels of accessibility to existing buildings do not meet current standards, if practicable, the level of accessibility should also be upgraded in conjunction with the proposed development (e.g. via the installation of a 1:8 access ramp within the building) and details included in the construction certificate application.

Building owners, applicants and builders are advised to liaise with the appointed Certifying Authority prior to lodgement of the Construction Certificate.

MOTION: (Smith/Belleli) CARRIED UNANIMOUSLY – SEE RESOLUTION.

AMENDMENT: (Andrews/Nil) that Council grant development consent for a twelve month trial period with the hours of operation as per the Director City Planning's report. **LAPSED FOR WANT OF A SECONDER.**

**CP48/09 Director City Planning Report - 11 Judge Street, Randwick
(DA/263/2009)**

Note; Having declared an interest in this matter earlier in the meeting, Cr Belleli left the Council Chamber during the debate and the vote on the matter.

239/09

RESOLUTION: (Woodsmith/Nash) that Council, as the consent authority refuse development consent under Section 80 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 263/2009 for alterations and additions to an existing residential flat building, including construction of a new garage fronting Dolphin Street and a 2-storey extension to the rear, widening of the existing garage fronting Judge Street, amendments to the internal floor layout and general landscape works, at No. 11 Judge Street, Randwick, for the following reasons:

1. The development scheme will significantly intensify the existing use without maintaining a reasonable level of amenity to the surrounding residential uses in terms of solar access and spatial separation. Accordingly, the proposal fails to satisfy zoning objective (c) stipulated under Clause 11(1) of Randwick Local Environmental Plan 1998.
2. The proposed development does not comply with Clause 31(2) *Landscaped area* of Randwick Local Environmental Plan 1998 in that the proposal will result in a significant shortfall in landscaped open space provision. The submitted Objection under State Environmental Planning Policy No. 1 Development Standards in relation to this control is not well founded as the development will have excessive site coverage and result in detrimental overshadowing on the adjoining property to the south.
3. The proposed development does not comply with Clause 32(1) *Floor space ratio* of Randwick Local Environmental Plan 1998 in that the proposal will significantly exceed the permissible floor space ratio. The submitted Objection under State Environmental Planning Policy No. 1 Development Standards in relation to this control is not well founded as the development will have insufficient setbacks and spatial separation from the adjoining properties and result in detrimental overshadowing on the neighbouring dwelling to the south.

4. The proposed development does not satisfy the performance requirements for site planning prescribed under Clause 3.1 of Development Control Plan – Multi-Unit Housing.
5. The proposed development has reserved insufficient setbacks from the southern side boundary and does not satisfy the preferred solutions or performance requirements for building setbacks prescribed under Clause 3.3 of Development Control Plan – Multi-Unit Housing.
6. The proposed development will result in a built form that significantly reduces landscaped area provision on site and overshadows the adjoining dwelling, and does not satisfy the performance requirements for density prescribed under Clause 3.4 of Development Control Plan – Multi-Unit Housing.
7. The proposed hipped roof over the front balconies does not allow preservation of an existing view corridor from a nearby residential property, which could otherwise be maintained via an alternative roof design. The proposal in its current form does not satisfy the performance requirements for view sharing prescribed under Clause 4.3 of Development Control Plan – Multi-Unit Housing.
8. The proposed development will result in significant overshadowing of the principal private open space of the adjoining dwelling, and does not satisfy the performance requirements for solar access and energy efficiency prescribed under Clause 4.4 of Development Control Plan – Multi-Unit Housing.
9. The proposed development will create overshadowed, confined side walk areas that do not receive adequate casual surveillance, and does not satisfy the performance requirements for safety and security prescribed under Clause 4.5 of Development Control Plan – Multi-Unit Housing.
10. The submitted documentation is deficient of information relating to the provision of external waste storage facilities for the individual units. The proposal is not considered to satisfy the preferred solutions or performance requirements for waste minimisation and management prescribed under Clause 5.6 of Development Control Plan – Multi-Unit Housing.

MOTION: (Andrews/Tracey) that the application be approved subject to standard conditions. **LOST.**

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

FOR	AGAINST
Councillor Andrews	Councillor Belleli
Councillor Hughes	Councillor Bowen
Councillor Notley-Smith	Councillor Matson
Councillor Tracey	Councillor Matthews
	Councillor Nash
	Councillor Seng
	Councillor Smith
	Councillor Woodsmith
Total (4)	Total (8)

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

**CP49/09 Director City Planning Report - 3A Gordon Avenue, Coogee
(DA/1110/2006/a)**

240/09

RESOLUTION: (Nash/Bowen) that Council as the responsible Consent Authority grant consent under Section 96(2) of the Environmental Planning and Assessment Act 1979 to modify Development Consent No DA/1110/2006 to reduce the height of the pool house from RL28.45 to RL27.93, increase the gross floor area of the approved development by 76msq, changes to window openings, changes to the pool and associated pool house and terrace area, alterations and additions to the ground, first and garage floors and a new hydraulic plan in the following manner:

- **Amend Condition No 1 to read as follows**

The development must be implemented substantially in accordance with the plans numbered 0613/1A, 0613/2A, 0613/3, 0613/4, 0613/5, 0613/6A & 0613/7A dated September 2006, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plan **and as amended by the Section 96 plans numbered 0613, Revision C dated 19/5/09 only in so far as the related to the modifications highlighted on the Section 96 plans and detailed in the Section 96 application.**
- **Amend Condition No 7 to read as follows**

Prior to the issuing of an Occupation Certificate the applicant must meet the full cost for Council or a Council approved contractor to:

 - a. Remove the existing damaged concrete driveway and layback and to construct a new concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site.
 - b. Carry out civil construction works in Gordon Avenue and along the southern site boundary in accordance with Council approved plans and in general accordance with Hydraulic Plans Drawing numbers 600203 – 100 Revision 4, 600203-110 Revision 4 and 600203-120 Revision 4 by Cardno Pty Ltd. Works shall include, but not be limited to, installation of drainage pipelines, construction of drainage pits, reinstatement/reconstruction of kerb and gutter, reinstatement of the naturestrip and roadworks.
- **Amend Condition No 16 to read as follows**

Prior to the issuing of a construction certificate the applicant must submit to Council for approval, and have approved a detailed design and specification for the following works:

 - a. Reconstruction of the existing Council controlled stormwater drainage pipeline located within Gordon Avenue and along the majority of the southern site boundary of the development site, (refer to Hydraulic Plans Drawing numbers 600203 – 100 Revision 4, 600203-110 Revision 4 and 600203-120 Revision 4 by Cardno Pty Ltd for general details). Note: Provision is to be made for a stormwater overland flowpath within the development site between pit A2 and the eastern site boundary to Council's satisfaction.
 - b. The applicant must liaise with Council's Development Engineer Coordinator (9399 0924) to obtain Council's requirements for the design of the new drainage system and reconstruction of a portion of the existing Council controlled drainage system.
- **Amend Condition No 17 to read as follows**

The applicant shall meet the full cost for the creation of a minimum 3.0 metre wide drainage easement over the new/reconstructed Council controlled stormwater pipeline, together with that section of the Council controlled stormwater pipeline to remain as existing, located adjacent to the southern site boundary and burdening the development site. The easement shall be

created in favour of Randwick City Council and must be created to Council's satisfaction prior to the issuing of a final occupation certificate.

- **Delete Conditions No 19 and 20**

- **Amend Condition 21 to read as follows**

All proposed footings located within or adjacent to the proposed minimum 3.0 metre wide drainage easement over the new/reconstructed Council controlled stormwater pipeline and over that section of the Council pipeline that is to remain as existing must:

- a. be founded on rock, or;
- b. extend below a 30 degrees line taken from the level of the pipe invert at the edge of the drainage reserve (angle of repose).

(Structural details demonstrating compliance with this condition shall be submitted with the construction certificate application.)

- c. be inspected by the applicant's engineer to ensure that these footings are either founded on rock or extend below the "angle of repose."

(Documentary evidence of compliance with this condition is to be submitted to Council, prior to proceeding to the subsequent stages of construction.)

- **Amend Condition No 22 to read as follows**

Detailed site drainage plans for the proposed drainage system, (excluding those pipelines that are under the control of Council and must be approved by Council), shall be submitted to and approved by the certifying authority prior to the issue of a construction certificate. The drainage plans shall demonstrate compliance with the conditions of this development approval.

- **Delete repeated Condition No 23**

- **Amend Condition No 25 to read as follows**

The majority of site stormwater must be discharged to the existing Council controlled drainage pipeline located within the development site along the southern site boundary, (this is the preferred method for site stormwater discharge). For any areas not discharging to the Council controlled stormwater pipeline the applicant must fully document, to the satisfaction of the certifying authority, the constraints that have prevented compliance with the preferred method of stormwater discharge. Note: Detailed plans must be approved by the certifying authority prior to the issuing of a construction certificate.

- **Amend Condition No 28 to read as follows**

All site stormwater which is discharged from the site must be taken through either a sediment/silt arrester pit or a proprietary pollution control pit. Any proposed pollution control pit must be approved of by Council prior to the issuing of a Construction Certificate. Any sediment/silt arrester pit shall be constructed with:-

- a. The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- b. The pit must be constructed from cast in-situ concrete, precast concrete or double brick.
- c. The grate is to be a galvanised heavy-duty grate that has a provision for a child proof fastening system.

- d. A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- e. A galvanised heavy-duty screen located over the outlet pipe (Mascot GMS Multi-purpose filter screen or similar).
- f. A child proof and corrosion resistant fastening system for the access grate (spring loaded j-bolts or similar).
- g. The inlet pipeline located on the side of the pit so that the stormwater will discharge across the face of the screen.
- h. A sign adjacent to this pit stating that:

"This sediment/silt arrester pit shall be regularly inspected and cleaned."

Note: Sketch details of a standard sediment/silt arrester pit can be obtained from Council's Drainage Engineer.

- **Insert after Condition 70, the following headings and conditions**

Tree Management

71. The applicant shall submit a total payment of \$3,110.00 (including GST), being the cost for:
 - a. Council or Council's approved contractors to remove the southern most of the two existing Melaleuca quinquinervia (Broad Leafed Paperbark's) street trees only, which is located on Council's Gordon Avenue nature strip, to the north of the existing vehicle crossing, in front of 3 Gordon Avenue, in order to accommodate the proposed drainage/civil works on public property as shown; and;
 - b. A loss of amenity fee in order compensate Council, the community and environment for the loss of this established native tree for no other reason that to accommodate the proposed development, with these funds to be directed to the planting of suitable replacement native species in this street and surrounding area.

This contribution shall be paid into Tree Amenity Income account no 4001.768401 at the Cashier on the Ground Floor of the Administrative Centre prior to a construction certificate being issued for the development.

The applicant will be required to contact Council's Landscape Development Officer on 9399-0613, giving at least four working weeks notice, to arrange for removal of this street tree, prior to the commencement of any site works.

Tree Protection Measures

72. In order to ensure retention of the remaining, most northern Melaleuca quinquinervia (Broad Leafed Paperbark), located on Council's Gordon Avenue nature strip, to the north of the existing vehicle crossing, towards the northern boundary of the adjoining property, 3 Gordon Avenue, in good health, the following measures are to be undertaken:
 - a. All documentation submitted for the construction certificate application must show the retention of this remaining street tree, with the position and diameter of both its trunk and canopy to be clearly shown on all drawings.

- b. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall that any new services, pipes, stormwater systems, civil infrastructure or similar which is being proposed on public property as part of this amendment, will be located a minimum distance of 4 metres away from its trunk (measured off its outside edge at ground level), as has been shown on the submitted plans.
- c. So as to maintain safe pedestrian and vehicle access during the course of these external works, chainwire panels as a protection measure shall be replaced by wrapping geo-textile, underfelt or layers of Hessian over the trunk of this tree, to which 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres shall be placed, and are to be secured by 8 gauge wires or steel strapping at 300mm spacing.
- d. The measure described in point 'c' above must be implemented prior to the commencement of any site works, and shall remain in place until all works are completed, to which signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION MEASURE, DO NOT REMOVE".
- e. The applicant is not authorised to perform any other works to this street tree, and shall contact Council's Landscape Development Officer on 9399-0613 should pruning or any similar such work appear necessary, with the applicant required to cover all associated costs with such work, to Council's satisfaction, prior to the issue of a final occupation certificate.
- f. There must be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble on public property.
- g. Should any roots be encountered during the course of the proposed works, Council's Landscape Development Officer (9399-0613) must be contact so that an inspection of their size and location can be carried out.
- h. The applicant and any site staff must comply with Council's advice regarding tree roots, with any major roots having a diameter of 50mm or more to be preserved, with any smaller roots to be cut cleanly by hand and the affected area backfilled with clean site soil as soon as practically possible.
- i. A refundable deposit in the form of cash, credit card or cheque for an amount of \$3,500.00 (no GST) shall be paid at the Cashier on the Ground Floor of the Administrative Centre, prior to a construction certificate being issued for the development, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of this street tree.
- j. The refundable deposit will be eligible for refund following the issue of a Final Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9399-0613).
- k. Any contravention of Council's conditions relating to the tree at any time during the course of the works, or prior to the issue of a final occupation certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary, as per the requirements of 80A (6) of the Environmental Planning and Assessment Act 1979.

The following Conditions are applied to provide adequate provisions for access, transport and infrastructure:

73. Prior to the issuing of a Construction Certificate the applicant must submit to the Certifying Authority for approval, and have approved, detailed design long-sections and cross-sections of the proposed reconstructed internal driveway serving 3A Gordon Avenue and extending to the garage of 3 Gordon Avenue. The long-sections and cross-sections must demonstrate that the proposal is fully compliant with the relevant provisions of AS 2890.1-2004 and that no vehicular scraping will occur when travelling from the Gordon Avenue property alignment through to the garage of 3 Gordon Avenue. This condition is required because the cross section submitted on Drawing No 600203-120 Revision 4 by Cardno Pty Ltd indicates excessive change in gradient.
74. A separate written approval from Council is required to be obtained in relation to all works which are located externally from the site within the road reserve/public place, in accordance with the requirements of the Roads Act 1993. Similarly written approval from Council is required to be obtained in relation to all works located within the site as required to reconstruct the Council controlled stormwater drainage pipeline located along the southern site boundary. Detailed plans and specifications of the proposed works are to be submitted to and approved by Council prior to commencing any works within the road reserve/public place or on the Council controlled pipeline.

All works within the road reserve/public place and on the Council controlled pipeline must be carried out to the satisfaction of Council and certification from a certified practicing engineer is to be provided to Council upon completion of the works.

Relevant Council assessment and inspection fees, as specified in Council's adopted Pricing Policy, are required to be paid to Council prior to commencement of the works.

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

CP50/09 Director City Planning Report - 165A-167B Maroubra Road, Maroubra (DA/503/2008/A)

241/09

RESOLUTION: (Seng/Woodsmith) that Council, as the consent authority, refuse its consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to modify Development Consent No. 503/2008/A for deletion of the lowest basement level, reduction of car parking from 43 to 35 spaces and alterations to the parking layout, at No. 165A to 167B Maroubra Road, Maroubra as it does not comply with the required number of parking spaces in accordance with the DCP and the deficiency in onsite car parking will adversely impact on the parking capacity of the locality.

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

CP53/09 Director City Planning Report - 13 - 17 Botany Street, Randwick NSW 2031 (DA/850/2008/B)

242/09

RESOLUTION: (Nash/Bowen) that Council, as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No DA/850/2008 to modify the approved development by deleting Condition No. 17, altering the internal layout of units, increasing the gross floor area, modifying window and door openings and adding juliette balconies at 13-17 Botany Street, RANDWICK in the following manner:

A Amend Condition 1 to read:

The development must be implemented substantially in accordance with the following plans:

Plan Number	Dated	Received	Prepared by	
DA00B	September, 2008	24 Nov 2008	Jackson Teece Architects	
DA01B	August, 2008	24 Nov 2008		
DA02B	September, 2008	24 Nov 2008		
DA32B	August, 2008	24 Nov 2008		
LA01	07.11.2008	24 Nov 2008	Taylor Brammar Landscape Architects	
LA02	07.11.2008	24 Nov 2008		
DA-C100	Nov 2008	24 Nov 2008	Henry & Hymas	
DA-C101	Nov 2008	24 Nov 2008		
DA-C102	Nov 2008	24 Nov 2008		
DA-C200	Nov 2008	24 Nov 2008		
DA-C210	Nov 2008	24 Nov 2008		
DA-C211	Nov 2008	24 Nov 2008		
DA-SE01	Nov 2008	24 Nov 2008		
DA-SE02	Nov 2008	24 Nov 2008		
DA10C	August, 2008	15 Jan 2009		Jackson Teece Architects
DA11C	August, 2008	15 Jan 2009		
DA12C	August, 2008	15 Jan 2009		
DA13C	August, 2008	15 Jan 2009		
DA14C	August, 2008	15 Jan 2009		
DA15C	August, 2008	15 Jan 2009		
DA20C	August, 2008	15 Jan 2009		
DA21B	Nov 2008	15 Jan 2009		
DA22C	August 2008	15 Jan 2009		
DA23C	August 2008	15 Jan 2009		
DA30C	August 2008	15 Jan 2009		
DA31C	August 2008	15 Jan 2009		
DA40C	August 2008	15 Jan 2009		
DA41C	August 2008	15 Jan 2009		
DA42C	August 2008	15 Jan 2009		

the application form and on any supporting information received with the application, as amended by the following:

- *Section 96 'A' plans numbered DA10, DA11, DA12, DA13 & DA14, dated 02.06.09 and received by Council on 5th June 2009*
- **Section 96 'B' plans numbered DA11, DA12, DA13, DA14, Issue D, & DA30, DA31, Issue E, all dated August 2008 and received by Council on 30th June 2009,**

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:

B Delete condition No. 17

CP51/09 Director City Planning Report - Reporting variations to Development Standard under State Environment Planning Policy

No. 1 (SEPP1) from 1 July to 31 July, 2009 (F2004/06768)

243/09 **RESOLUTION: (Nash/Bowen)** that the report be received and noted.

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

CP52/09 Director City Planning Report - Community Partnerships Funding Program 2009-10 - Recommended Allocations (F2008/00139)

244/09 **RESOLUTION: (Nash/Bowen)** that Council approve funds totalling \$70,000 to be allocated to the organisations listed in the table attached to the report (Attachment 1).

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

CP54/09 Director City Planning Report - Progress Report - Deed of Agreement for Affordable Housing Joint Venture Project (F2004/07993)

245/09 **RESOLUTION: (Nash/Bowen)** that Council:

- a) note that construction work will commence shortly once the deed is ratified and executed by a representative of CHL and the General Manager on Council's behalf; and
- b) endorse the planning proposal to reclassify 64-66 Minneapolis Crescent and 3/90-98 King Street affordable housing dwellings from community to operational land, in accordance with the new plan making process of the EP&A Act 1979, and forward the planning proposal to the Minister of Planning for determination.

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

General Manager's Reports

GM34/09 General Manager's Report - Affixing of the Council Seal (F2004/07593)

Having declared an interest in this matter earlier in the meeting, Cr Smith left the Council Chamber and did not take part in the debate or the vote on the matter.

246/09 **RESOLUTION: (Nash/Woodsmith)** that the Council's Seal be affixed to the signing of agreements between Council and:

1. South Eastern Sydney & Illawarra Area Health Services in relation to a licence for Level 1, 1B Prince Edward Street, Malabar.
2. Robert Lees (T/As Maroubra Junction Hotel) in relation to a licence for the purpose of outdoor dining at 195-199 Maroubra Road, Maroubra.
3. Istvan Varga (T/As Sweet Kiss Cake Shop) in relation to a licence for the purpose of outdoor dining at 343-345 Clovelly Road, Clovelly.
4. Burnie Parry (T/As Oportos Kingsford) in relation to a licence for the purpose of outdoor dining at 287-291 Anzac Parade, Kingsford.
5. Allan Leite (T/As Spot on Cakes) in relation to a licence for the purpose of outdoor dining at 39 Perouse Road, Randwick.
6. Richard John Millard (T/As Isabella's Purely Pasta) in relation to a licence for the purpose of outdoor dining at 2/183 Alison Road, Randwick.
7. Tawar Ishaya (T/As Beach View Café) in relation to a licence for the purpose of outdoor dining at 53 McKeon Street, Maroubra.
8. Department of Lands in relation to an acquisition agreement over Lots 102, 104 & 109 in Deposited Plan 1013114 located at Maroubra Beach to formally finalise

- the road closings and openings for works undertaken in 2000.
9. John Sartori (T/As JT's Café) in relation to a licence for the purpose of outdoor dining at 205 Coogee Bay Road, Coogee.
 10. Chandra Aadarsh (T/As Matraville Chickens) in relation to a licence for the purpose of outdoor dining at 167 Perry Street, Matraville.
 11. Steven Fragias (T/As Coogee Bay Kiosk & Chish & Fips) in relation to a licence for the purpose of outdoor dining at Goldstein Reserve, 199 Arden Street, Coogee.
 12. Shuang Wang (T/As Chocolart Cafe) in relation to a licence for the purpose of outdoor dining at 56 Belmore Road, Randwick.
 13. The Department of Lands for a compensation agreement for the acquisition of Lots 102, 104 & 109 in DP 1013114 at Maroubra Beach to complete the transfer of land to be incorporated into Arthur Byrne Reserve as per the Council Resolution on 27 February 2009.
 14. Randwick Petersham Cricket Club for a maintenance agreement of Kensington, Snape and Coogee Ovals.

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

GM35/09 General Manager's Report - Review of 2008-12 Management Plan - June 2009 Quarterly Report (F2007/00620)

247/09 **RESOLUTION: (Andrews/Smith)** that the information contained in the June 2009 Quarterly Review of the 2008-12 Management Plan be received and noted.

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

GM36/09 General Manager's Report - Inter-Council Precincts Forum (F2009/00301)

248/09 **RESOLUTION: (Woodsmith/Nash)** that the report be received and noted.

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

GM37/09 General Manager's Report - Sydney Coastal Councils Group - Climate Change Forum for Councillors (F2009/00001)

249/09 **RESOLUTION: (Woodsmith/Andrews)** that any Councillors interested in attending the SCCG 'Climate Change Forum for Councillors' advise the General Manager as soon as possible, for registration purposes.

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

GM38/09 General Manager's Report - Risk Assessment - Kite Flying - Randwick City Council Beaches (F2004/07128)

250/09 **RESOLUTION: (Nash/Andrews)** that:

- a) Single kite flying be permitted on all beaches with the exception of Yarra Bay and Frenchman's Bay;
- b) Flying of single and multiple line kites be prohibited at Yarra Bay and Frenchman's Bay;
- c) Multiple line kite flying at Coogee Beach be permitted between 1 April-30 September and prohibited during 1 October-31 March;
- d) A dedicated kite flying area is established mid-beach at Maroubra Beach where multiple line kite flying is permitted all year; and

- e) Kite boarding is banned at Coogee Beach; and
- f) a report be brought back to Council recommending appropriate controls on kite boarding at Maroubra Beach.

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

Cr Matthews requested that his name be recorded as opposed to the above resolution.

Director City Services Reports

CS20/09 Director City Services Report - Community Volunteers Program for the Maintenance of Nature Strips (F2004/07515)

251/09 **RESOLUTION: (Belleli/Seng)** that the report on the Community Volunteers Program for the Maintenance of Nature Strips be received and noted.

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

CS21/09 Director City Services Report - NSW Community Building Partnership - Funding Program (F2004/06610)

252/09 **RESOLUTION: (Woodsmith/Andrews)** that the report on the NSW Community Building Partnership - Funding Program be received and noted.

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

Director Governance & Financial Services Reports

GF35/09 Director Governance & Financial Services Report - Writing Off Debts and Delegation of Authority (F2004/06895)

253/09 **RESOLUTION: (Woodsmith/Hughes)** that:

- a) outstanding receivables totalling \$7,368.43 as detailed in the report be written off in accordance with the Local Government (General) Regulation 2005; and
- b) pursuant to section 377 of the Local Government Act, the Delegations of Authority be re-affirmed as follows;

RF016	Finance - Writing Off Debts
	To approve the abandonment of debts up to the amount of \$2,500.00 in accordance with the provisions of Clause 213 of the Local Government (General) Regulation 2005.

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

GF36/09 Director Governance & Financial Services Report - Local Government Association of NSW - 2009 Annual Conference (F2004/06645)

254/09 **RESOLUTION: (Hughes/Matson)** that:

- a) Council elect two Liberal, two ALP and one Greens delegate to attend the Local Government Association's Conference in Tamworth in October 2009;
- b) Council elect one Liberal, one ALP, one Greens, one No Parking Meters Party and one Independent alternate delegate to attend the conference;

- c) other interested Councillors attend the conference in the capacity of observers; and
- d) Cr Woodsmith's motion, demanding that the Local Government State Super Board provide Councils with their individual liabilities for the Scheme's deficit, be tabled at the conference.

MOTION: (Matthews/Woodsmith): that:

- a) Council elect two Liberal, two ALP and one Greens delegate to attend the Local Government Association's Conference in Tamworth in October 2009;
- b) Council elect one Liberal, one ALP, one Greens, one No Parking Meters Party and one Independent alternate delegate to attend the conference;
- c) other interested Councillors attend the conference in the capacity of observers.

**AMENDMENT: (Hughes/Matson) CARRIED AND BECAME THE MOTION.
MOTION CARRIED – SEE RESOLUTION.**

GF37/09 Director Governance & Financial Services Report - Investment Report - July 2009 (F2004/06527)

255/09 **RESOLUTION: (Nash/Hughes)** that the investment report for July 2009 be received and noted.

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

GF38/09 Director Governance & Financial Services Report - GST and Delegations (F2004/06895)

256/09 **RESOLUTION: (Woodsmith/Hughes)** that, for the purposes of the Delegations Register, all financial delegations and financial limits set within the register be noted as being inclusive of GST and that reference RF016 remain at \$2,500.00.

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

Petitions

P8/09 Cr Bruce Notley-Smith - Petition from Local Residents in Relation to Pine Street Onsite Meeting with Residents Re: Parking Problems (F2004/06137)

257/09 **RESOLUTION: (Mayor, Cr B Notley-Smith/Nash)** that the petition tabled be received and noted.

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

Motion Pursuant to Notice

NM49/09 Motion Pursuant to Notice from Councillor Matthews - State Government Assistance with Heffron Park Plan of Management (F2004/08399)

258/09 **RESOLUTION: (Matthews/Andrews)** that this Council write to the Deputy Premier (Ms Carmel Tebbutt MP) seeking her ongoing financial support and commitment to the Heffron Park Plan of Management and requesting her to keep Council updated regularly on the progress of the deliberations as to this matter being included in the NSW State Plan.

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

NM50/09 Motion Pursuant to Notice from Councillors Andrews & Matthews - Boatshed Cafe Lease (F2004/07593)

259/09

RESOLUTION: (Andrews/Matthews) that Council write to the Hon Tony Kelly, Minister for Lands, seeking clarification as to whether the lease for the Boatshed Café has been extended and details of the tender process, with a report to come back to Council in relation to this matter.

MOTION: (Andrews/Matthews) CARRIED – SEE RESOLUTION.

NM51/09 Motion Pursuant to Notice - Motion Pursuant to Notice from Councillor Bowen - Closure of Glen Mervyn Child Care Centre (F2005/00357)

This motion was withdrawn with the consent of Council.

Notice of Rescission Motions

NR4/09 Notice of Rescission Motion - Notice of Rescission Motion from Councillors Andrews, Matthews and Seng - Australian Mayoral Aviation Council - Annual Conference (F2004/07399)

MOTION: (Andrews/Matthews) that the resolution passed at the Ordinary Council meeting held on Tuesday 28 July 2009 reading as follows:

(Hughes/Matson) that the Mayor and General Manager attend the 27th Annual Conference of the Australian Mayoral Aviation Council at the Sunshine Coast from 2-4 September 2009, with a report on the conference to come back to Council for consideration.

BE AND IS HEREBY RESCINDED. **LOST.**

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 Hughes
Councillor Matthews	Councillor Matson
Councillor Nash	Councillor Notley-Smith
Councillor Seng	Councillor Smith
	Councillor Tracey
	Councillor Woodsmith
Total (5)	Total (7)

Notices of Rescission Motions

Nil.

There being no further business, His Worship the Mayor, Cr B Notley-Smith, declared the meeting closed at 10.17 pm.

The minutes of this meeting were confirmed at the Ordinary Meeting of the Council of the City of Randwick held on Tuesday, 22 September 2009.

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CHAIRPERSON