

**THESE MINUTES ARE DRAFT UNTIL CONFIRMED AT THE NEXT MEETING OF THIS COUNCIL AND/OR COMMITTEE**

**MINUTES OF ORDINARY COUNCIL MEETING OF THE  
COUNCIL OF THE CITY OF RANDWICK HELD ON  
TUESDAY, 23 MAY 2017 AT 6:11PM**

**Present:**

The Mayor, Councillor N D'Souza (Chairperson) (South Ward)

Councillor B Roberts (Deputy Mayor) (East Ward)

- |              |  |
|--------------|--|
| North Ward   | - Councillors K Neilson, L Shurey & K Smith      |
| South Ward   | - Councillors R Belleli & P Garcia (from 6.25pm) |
| East Ward    | - Councillors T Bowen & M Matson                 |
| West Ward    | - Councillors G Moore, S Nash & H Stavrinou      |
| Central Ward | - Councillors A Andrews & T Seng                 |

**Officers Present:**

General Manager	Mr R Brownlee
Director City Services	Mr J Frangoples
Director City Planning	Ms S Truuvert
Director Governance & Financial Services	Mr J Smith
Manager Administrative Services	Mr D Kelly
Manager Development Assessment	Mr K Kyriacou
Communications Manager	Mr J Hay
Manager Corporate Improvement	Ms A Warner

**Prayer & Acknowledgement of Local Indigenous People**

The Council Prayer was read by Cr Moore. The Acknowledgement of Local Indigenous People was read by Cr Bowen.

**Apologies/Granting of Leave of Absences**

An apology was received from Cr Stevenson.

**RESOLVED: (Stavrinou/Shurey)** that the apology received from Cr Stevenson 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 18 APRIL 2017**

- 78/17 **RESOLUTION: (Shurey/Stavrinis)** that the Minutes of the Ordinary Council Meeting held on Tuesday 18 April 2017 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

**CONFIRMATION OF THE MINUTES OF THE EXTRA ORDINARY COUNCIL MEETING HELD ON TUESDAY 9 MAY 2017**

- 79/17 **RESOLUTION: (Shurey/Matson)** that the Minutes of the Extra Ordinary Council Meeting held on Tuesday 9 May 2017 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

One minute's silence was observed for the victims of today's Manchester City bombing.

**Declarations of Pecuniary and Non-Pecuniary Interests**

- a) Cr Belleli declared a non-significant non pecuniary interest in Item NR6/17 as his wife teaches at various child care centres in Randwick City.
- b) Cr Shurey declared a non-significant non pecuniary interest in Item NM31/17 as she is a member of the 'Friends of Malabar Headland.'
- c) Cr Stavrinis declared a non-significant non pecuniary interest in Item CP23/17 as he knows some of the board members of the applicant organisation.
- d) Cr Stavrinis declared a non-significant non pecuniary interest in Item NR6/17 as he knows some of the objectors.
- e) Cr Neilson declared a non-significant non pecuniary interest in Item GF16/17 as she knows the speaker on this matter.
- f) Cr Neilson declared a non-significant non pecuniary interest in Item NM30/17 as she knows the speaker on this matter.
- g) Cr Neilson declared a non-significant non pecuniary interest in Item CS4/17 as she is a member of the Randwick Rugby Club.
- h) Cr Nash declared a non-significant non pecuniary interest in Item CP21/17 as he knows speakers for the applicant on a professional basis.
- i) Cr Nash declared a non-significant non pecuniary interest in Item CP22/17 as he knows speakers for the applicant on a professional basis.
- j) Cr Nash declared a significant non pecuniary interest in Item GM9/17 as he has a professional relationship with a number of these organisations. Cr Nash will be taking no part in the debate or voting on this matter.
- k) Cr Andrews declared a non-significant non pecuniary interest in Item CP22/17 as he knows some of the objectors.
- l) Cr Andrews declared a non-significant non pecuniary interest in Item CP23/17 as he knows some of the board members of the applicant organization.
- m) Cr Andrews declared a non-significant non pecuniary interest in Item NR6/17 as he knows the applicant and some of the objectors.
- n) Cr Bowen declared a non-significant non pecuniary interest in Item NR6/17 as he knows a number of the objectors and supporters in this matter.
- o) Cr Bowen declared a significant non pecuniary interest in Item GM9/17 as one of

the organisations employs a relative of his and he has a professional relationship three of these organisations. Cr Bowen will be taking no part in the debate or voting on this matter.

- p) Cr Matson declared a non-significant non pecuniary interest in Item GF13/17 as he served as a councillor with the speaker on this matter.
- q) Cr Matson declared a non-significant non pecuniary interest in Item NM31/17 as he knows a number of the members of the 'Friends of Malabar Headland.'
- r) Cr Roberts declared a significant pecuniary interest in Item NR6/17 as he is a property owner in the immediate vicinity of this proposed child care centre. Cr Roberts will be taking no part in the debate or voting on this matter.
- s) Cr Seng declared a non-significant non pecuniary interest in Item GF11/17 as he lives in the vicinity of this site.
- t) Cr Matson declared a non-significant non pecuniary interest in Item CP22/17 as he knows residents living in an adjacent street.
- u) Cr Garcia declared a significant non pecuniary interest in Item MM11/17 as he is the Secretary of Coogee Surf Life Saving Club. Cr Garcia will be taking no part in the debate or voting on this matter.
- v) Cr Garcia declared a non-significant non pecuniary interest in Item NM33/17 as he is the Secretary of Coogee Surf Life Saving Club.

### **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:

CP21/17 89-91 BREAM STREET, COOGEE (DA/399/2016/A)

**Objector** Mr John Kambas

**Applicant** Mr George Karavanas on behalf of applicant

CP22/17 90-92 MARINE PARADE, MAROUBRA (DA/816/2016)

**Objector** Mr Bryan Hayes

**Applicant** Mr Jeff Mead on behalf of applicant

CP23/17 36-38 GARDENERS ROAD, KINGSFORD (DA/65/2017)

**Objector** Mr Robert Brooks

**Applicant** Mr Theo Theol

CP24/17 21 MEEHAN STREET, MATRAVILLE (DA/63/2017)

**Applicant** Ms Eleni Katholas on behalf of applicant

GF13/17 QUARTERLY BUDGET REVIEW - MARCH 2017

**Against** Ms Margery Whitehead

GF16/17 KENSINGTON PARK COMMUNITY CENTRE DRAFT FEES & CHARGES

**For** Ms Stella Calpis

- NM30/17 NOTICE OF MOTION FROM CR MATSON - LIGHT RAIL CAPACITY UNDER DIFFERENT FREQUENCY SCENARIOS IN THE KINGSFORD AND KENSINGTON TOWN CENTRES
- Against** Ms Rosemary McKenzie
- NM31/17 NOTICE OF MOTION FROM CR MATSON - FOLLOW UP TO MEETING HELD BETWEEN FOMH, COUNCIL AND NSW NATIONAL PARKS AND WILD LIFE SERVICE
- For** Mr David Pyett
- NM32/17 NOTICE OF MOTION FROM CR SHUREY - CLOVELLY CHILDCARE CENTRE OFF THE GRID
- For** Ms Margaret Carey (Clovelly CCC)
- NM34/17 NOTICE OF MOTION FROM CR MATSON - FUTURE RE-USE OF RAINWATER AND BLACKWATER ON THE NEWMARKET DEVELOPMENT SITE
- For** Mr Damien Lucas
- NR6/17 NOTICE OF RESCISSION MOTION SUBMITTED BY CRS SENG, ANDREWS AND STAVRINOS - 27 DUNCAN STREET, MAROUBRA (DA/234/2016)
- Objector** Ms Kate Mitchell
- Applicant** Ms Theresa Fearn

The Meeting was adjourned at 7.47pm and was resumed at 8.05pm.

**RESOLVED (PROCEDURAL MOTION): (Garcia/Stavrinos)** that the matters that were the subject of addresses to Council by members of the public be brought forward for immediate consideration.

## Mayoral Minutes

### **MM10/17 Mayoral Minute - Schools Regional Titles 2017 - Surfing NSW Request for Waiving of Fees (F2017/00096)**

80/17

**RESOLUTION: (Mayor, Cr N D'Souza)** that Council vote \$4,345.00 to cover the fees associated with the conduct of the 2017 Schools Regional Titles held at Maroubra Beach from 18 to 19 May 2017 and funds be allocated from the 2016-17 Contingency Fund.

**MOTION: (Mayor, Cr N D'Souza) CARRIED - SEE RESOLUTION.**

### **MM11/17 Mayoral Minute - Coogee Boatshed - Request for Erection of Commemorative Sign and Plaque (F2011/00406)**

Note: Having previously declared an interest, Cr Garcia left the chamber and took no part in the debate or voting on this matter.

81/17

**RESOLUTION: (Mayor, Cr N D'Souza)** that Council grant permission for the Coogee Surf Life Saving Club to erect a sign and plaque at their boat shed to commemorate the wonderful life and outstanding achievements of John LeMarseny.

**MOTION: (Mayor, Cr N D'Souza) CARRIED - SEE RESOLUTION.**

**MM12/17 Mayoral Minute - Sydney Film Festival Partnership (F2014/00608)**

82/17

**RESOLUTION: (Mayor, Cr N D'Souza) that:**

- 1) Randwick City Council offer its official support to the Sydney Film Festival coming to Randwick; and
- 2) the General Manager be delegated authority to enter into a partnership agreement to support the Sydney Film Festival as outlined in this Mayoral Minute.

**MOTION: (Mayor, Cr N D'Souza) CARRIED - SEE RESOLUTION.**

**Urgent Business**

Nil.

**Director City Planning Reports**

**CP21/17 Director City Planning Report - 89-91 Bream Street, Coogee (DA/399/2016/A)**

83/17

**RESOLUTION: (Matson/Neilson)** that Council, as the consent authority, refuses development consent under Section 96 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/399/2016/A at No. 89-91 Bream Street, Coogee for modification of the approved development by the partial enclosure of lobby areas, increase size of units 2, 4, 5, 7 and 8, alterations to window openings to the eastern and western elevation and deletion of condition nos. 2(a) to 2(m), for the following reasons:

1. The proposal does not satisfy the design criteria or objectives for Natural Ventilation specified in Part 4B of the Apartment Design Guide as per the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
2. The proposal does not satisfy the design criteria or objectives for Apartment Size and Layout specified in Part 4D Apartment Size and Layout of the Apartment Design Guide as per the State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development.
3. The proposal does not satisfy the objectives of the R3: Medium Density Residential Zone in the Randwick Local Environmental Plan 2012.
4. The proposal exceeds the maximum floor space ratio of 0.9:1 and does not satisfy the objectives specified in Clause 4.4 of the Randwick Local Environmental Plan 2012.
5. The proposal does not satisfy the controls or objectives for vehicular parking rates specified in Clause 3.2 of the Randwick Development Control Plan 2013.

**MOTION: (Stavrinos/Andrews)** that the application be deferred to give the applicant more time to address the issues that have been raised at this Council meeting. **LOST.**

**MOTION: (Matson/Neilson) CARRIED UNANIMOUSLY - SEE RESOLUTION.**

**CP22/17 Director City Planning Report - 90-92 Marine Parade, Maroubra  
(DA/816/2016)**

84/17

**RESOLUTION: (Andrews/Shurey)** - that Council, as the consent authority, refuses development consent under Sections 80 of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/816/2016 for the demolition of the existing structures and construction of a four storey residential flat building containing 4 dwellings, basement car parking for 8 vehicles with access from The Corso, swimming pool at ground level and associated works (variation to height control) at No. 90-92 Marine Parade, Maroubra, for the following reasons:

- (a) the proposal does not comply with the maximum height standard and external wall height control;
- (b) the clause 4.6 exception in relation to the breach of the maximum height standard is not well founded;
- (c) the proposal will adversely impact on neighbouring properties in respect to view loss & does not meet the principles of Tenacity v Warringah Council;
- (d) the proposal does not meet the three metre setback requirement along frontage of The Corso;
- (e) the proposal will adversely impact on the heritage significance of Mahon pool; and
- (f) the proposal is not in the public interest.

**MOTION: (Andrews/Shurey) CARRIED – SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Belleli
Councillor Bowen	Councillor Moore
Councillor D'Souza	Councillor Nash
Councillor Garcia	Councillor Neilson
Councillor Matson	Councillor Roberts
Councillor Seng	Councillor Stavrinou
Councillor Shurey	
Councillor Smith	
<b>Total (8)</b>	<b>Total (6)</b>

**CP23/17 Director City Planning Report - 36-38 Gardeners Road, Kingsford  
(DA/65/2017)**

85/17

**RESOLUTION: (Andrews/Stavrinou)** that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 65/2017 for demolition of existing building and construction of new building containing restaurant, apartments and a cultural centre, at Nos. 36-38 Gardeners Road, Kingsford, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

**Non standard conditions****Hours of Operation**

66. The hours of operation are restricted to the following;
- a. The hours of operation for the Restaurant are to be: from;
    - 8:00am to 11:30pm Sunday to Thursday, and
    - 8:00am to 12:30am Friday to Saturday.
    - The operation of the kitchen exhaust is to be time switched to cease operation at 10:00pm.
  - b. The hours of operation of the Cultural Centre are to be:
    - 10:00am to 11:30pm Sunday to Thursday; and
    - 10:00am to 12:30am Friday to Saturday.

**Acoustic**

101. The proposed uses and operation of the premises must be in accordance with the Noise Impact Statement (V2.0) prepared by SLR Global Environmental Solutions dated 23 January 2017.
102. The proposed use of the premises must be implemented in accordance with the Management Plan dated 8 February, 2017 – Revision D.
103. A report/correspondence prepared by a suitably qualified and experienced consultant in acoustics shall be submitted to Council **3 months after occupation certificate being issued for the development**, which demonstrates that noise and vibration emissions from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, Environmental Protection Authority Noise Control Manual & Industrial Noise Policy, relevant conditions of consent (including any relevant approved acoustic report and recommendations). The assessment and report must include all relevant fixed and operational noise sources.

**Green Travel Plan**

109. Prior to the issue of the final Occupation Certificate, a detailed Green Travel Plan shall be submitted to Council's Manager Integrated Transport for approval to promote the use of public transport and other sustainable modes of transport by members of the Castellorizan Club and restaurant patrons. The GTP shall address but not limited to sustainable transport targets; strategies and actions to be implemented to encourage sustainable transport modes; and an annual monitoring and reporting program.

**MOTION: (Andrews/Stavrinou) CARRIED - SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Neilson
Councillor Belleli	Councillor Shurey
Councillor Bowen	
Councillor D'Souza	
Councillor Garcia	
Councillor Matson	
Councillor Moore	
Councillor Nash	
Councillor Roberts	
Councillor Seng	

Councillor Smith  
Councillor Stavrinou

**Total (12)**

**Total (2)**

**CP24/17 Director City Planning Report - 21 Meehan Street, Matraville  
(DA/63/2017)**

86/17

**RESOLUTION: (Smith/Andrews)** that Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. 63/2017 for the demolition of the existing dwelling house and the construction of new attached dual occupancy and swimming pools, at No. 21 Meehan Street, Matraville, subject to the following non standard conditions and the standard conditions contained in the development application compliance report attached to this report:

**Non standard conditions**

**Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. Privacy screens having a height of a maximum of 1.6m above the finished floor level of rear balconies must be provided to the sides of the balconies. (NB: The screens can wrap around along the rear elevation for not more than half of the length of each balcony). The privacy screens must be constructed of metal or timber and the total area of any openings within the privacy screen must not exceed 25% of the area of the screen. Alternatively, the privacy screen may be constructed with translucent, obscured, frosted or sandblasted glazing in a suitable frame.

Details are to be provided on Construction Certificate plans to the satisfaction of Council's Director of City Planning prior to obtaining a Construction Certificate.

3. The privacy screens on the side elevations must be fixed, not exceed 25% of the area of the screen; extend at least 1.6m in height measured from the finished internal floor level of the respective room, and consist of slats oriented away from the private open space or windows of the neighbouring dwellings.

Alternatively, the windows may be constructed with translucent, obscured, frosted or sandblasted glazing.

Details of compliance are to be provided in the construction certificate plans.

**External Colours, Materials & Finishes**

4. No approval is granted to the dark colour of the external cladding. The color must be lighter and earthier in tone.

An amended colour scheme is to be submitted to and approved by Council's Director of City Planning prior to issuing a construction certificate for the development.

**Side/rear fences – Dividing Fences**

5. No approval is granted to any dividing fences located on the side or rear boundaries.

The applicant and owner is advised that the relevant provisions of the Dividing Fences Act 1991 are to be satisfied accordingly and any necessary approvals or agreements should be obtained from the owner/s of the adjoining land



beforehand.

**Lower ground level**

6. The openings on the rear and side elevations of the lower ground level, beyond the laundry/WC, must not be enclosed by any means. Where possible, the swimming pool equipment shall be relocated within the lower ground level.

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

**General Manager's Reports**

**GM8/17 General Manager's Report - Review of the Randwick City Council 2016-17 Operational Plan - March Quarter (F2016/03001)**

- 87/17 **RESOLUTION: (Smith/Andrews)** that the information contained in the March Quarterly Review of the 2016-17 annual Operational Plan be received and noted.

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

**Director City Services Reports**

**CS4/17 Director City Services Report - Latham Park Synthetic Pitch (F2016/00465)**

- 88/17 **RESOLUTION: (Roberts/Andrews)** that Council forgoes the difference between the use of the synthetic pitch and turf pitch hire for Randwick Rugby Club.

**MOTION: (Roberts/Andrews) CARRIED - SEE RESOLUTION.**

**Director Governance & Financial Services Reports**

**GF11/17 Director Governance & Financial Services Report - 1-11 Rainbow Street, Kingsford (F2014/00400)**

- 89/17 **RESOLUTION: (Stavrinos/Matson)** that Council:

- a) accept the offer of \$12.55 million from Transport for NSW to purchase 1-11 Rainbow St Kingsford (Lot 1 in Deposited Plan 120465);
- b) endorse the amendment to the terms of the contract which replaces the payment plan arrangement with a standard settlement period and a lease of the site to TfNSW as a Light Rail construction compound in accordance with the Development Agreement;
- c) approve the affixing of the Council Seal to all necessary documents associated with the property acquisition and lease; and
- d) delegate authority to the General Manager to finalise negotiations and execute all necessary contracts on behalf of Council.

**MOTION: (Stavrinos/Matson) CARRIED - SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Belleli

Councillor D'Souza  
 Councillor Garcia  
 Councillor Matson  
 Councillor Moore  
 Councillor Nash  
 Councillor Roberts  
 Councillor Seng  
 Councillor Shurey  
 Councillor Smith  
 Councillor Stavrinis

Councillor Bowen  
 Councillor Neilson

**Total (11)**

**Total (3)**

**GF12/17 Director Governance & Financial Services Report - Urban Renewal Conference 2017 (F2005/00646)**

90/17

**RESOLUTION: (Stavrinis/Shurey)** that Councillors interested in attending the Urban Renewal Conference being held in Melbourne from 21-22 June 2017 advise the General Manager's office of their interest.

**MOTION: (Stavrinis/Shurey) CARRIED - SEE RESOLUTION.**

**GF13/17 Director Governance & Financial Services Report - Quarterly Budget Review - March 2017 (F2016/00402)**

91/17

**RESOLUTION: (Stavrinis/Andrews)** that:

- a) the report in relation to the March 2017 Budget Review be received and noted; and
- b) the proposed March 2017 budget variations shown in the attachment to this report be adopted.

**MOTION: (Stavrinis/Andrews) CARRIED - SEE RESOLUTION.**

**GF14/17 Director Governance & Financial Services Report - Withdrawal of Caveat and Affixing of the Council Seal - 22 Meagher Avenue, Maroubra (F2004/06862)**

92/17

**RESOLUTION: (Andrews/Stavrinis)** that the Council's Seal be affixed to the Withdrawal of Caveat form for the property at 22 Meagher Avenue, Maroubra also known as Lot 236 in Deposited Plan 230712.

**MOTION: (Andrews/Stavrinis) CARRIED - SEE RESOLUTION.**

**GF15/17 Director Governance & Financial Services Report - Investment Report - April 2017 (F2015/06527)**

93/17

**RESOLUTION: (Stavrinis/Garcia)** that the investment report for April 2017 be received and noted.

**MOTION: (Stavrinis/Garcia) CARRIED - SEE RESOLUTION.**

**GF16/17 Director Governance & Financial Services Report - Kensington Park Community Centre Draft Fees & Charges (F2017/00098)**

94/17

**RESOLUTION: (Stavrinos/Moore) that:**

- a) the Draft Kensington Park Community Centre Casual Hire fees be placed on public exhibition for not less than 28 days, inviting submissions from the public;
- b) at the conclusion of the period of public exhibition consideration be given to any submissions made concerning the fees; and
- c) the General Manager be authorised to make any minor changes if required.

**MOTION: (Stavrinos/Moore) CARRIED - SEE RESOLUTION.****Motion Pursuant to Notice****NM29/17 Motion Pursuant to Notice - Notice of Motion from Cr Shurey - Additional Preferred Name Option for the Alison Road Light Rail Stop (F2014/00453)**

95/17

**RESOLUTION: (Shurey/Matson) that Council advises TfNSW that in addition to "Randwick Racecourse" it also favors "Centennial Parklands" as a preferred name for the first CSELR light rail stop in Alison Road on the Randwick branch and notes that:**

- a majority of Council's online forum respondents preferred a Centennial Park related name;
- the rail stop is now on the Centennial Park side of Alison Road rather than on the planned racecourse side;
- Centennial Park itself considers that "Centennial Park" will better service the 10 million Australian and international visitors per year to its publicly accessible urban green spaces; and
- a park related name matches TfNSW's own recommendation.

**MOTION: (Shurey/Matson) CARRIED - SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Belleli	Councillor Andrews
Councillor Bowen	Councillor Moore
Councillor D'Souza	Councillor Seng
Councillor Garcia	Councillor Stavrinos
Councillor Matson	
Councillor Nash	
Councillor Neilson	
Councillor Roberts	
Councillor Shurey	
Councillor Smith	
<b>Total (10)</b>	<b>Total (4)</b>

**NM30/17 Motion Pursuant to Notice - Notice of Motion from Cr Matson - Light Rail Capacity Under Different Frequency Scenarios in the Kingsford and Kensington Town Centres (F2013/00263)**

**MOTION: (Matson/Shurey)** that Council recommissions EMM to augment and expand on the findings of their 2016 report 'Anzac Parade corridor future Light Rail station and system capacity analysis' by conducting further studies using an additional range of alternative operating scenarios including:

- Announced State Government intentions to privatise bus services between the CBD and Kensington;
- improved light rail service frequencies on the branch line of 6,5,4 and 2 minutes for 2020;
- different achievable occupancy rates including the corridor's average bus capacity of 70%;
- a total dedication of the entirety of the CSELR line to rail only;
- the adoption of Moving Block Signalling;
- the extension of the Kingsford branch stations to allow for three or more linked carriages; and
- other frequency enhancing strategies that Council officers think useful. **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 D'Souza	Councillor Bowen
Councillor Matson	Councillor Garcia
Councillor Seng	Councillor Moore
Councillor Shurey	Councillor Nash
	Councillor Neilson
	Councillor Roberts
	Councillor Smith
	Councillor Stavrinou
<b>Total (5)</b>	<b>Total (9)</b>

**NM31/17 Motion Pursuant to Notice - Notice of Motion from Cr Matson - Follow up to Meeting held between FOMH, Council and NSW National Parks and Wild Life Service (F2005/00887)**

96/17

**RESOLUTION: (Matson/Shurey)** that Council:

- 1) progresses on from the recent onsite meeting of 11 April with the Friends of Malabar Headland and the NSW National Parks and Wildlife Service by commissioning a concept plan from a landscape architect for our parcel of land at the end of Fishermans Road, Malabar; and
- 2) in consultation with FOMH, adopts a program of weed suppression on the site, as soon as possible, on a regular, ongoing basis, to prevent infestation of the adjacent National Park land.

**MOTION: (Matson/Shurey) CARRIED - SEE RESOLUTION.**

**NM32/17 Motion Pursuant to Notice - Notice of Motion from Cr Shurey - Clovelly Childcare Centre off the Grid (F2004/07725)**

97/17

**RESOLUTION: (Shurey/Matson)** that Council commends the objective of the Clovelly Childcare Centre to achieve independence from the NSW electricity grid and will help the Centre with a technological assessment as to how this can be best

achieved.

**MOTION: (Shurey/Matson) CARRIED - SEE RESOLUTION.**

**NM33/17 Motion Pursuant to Notice - Notice of Motion from Cr Garcia - Increase Access to Parking - Members Patrolling Surf Clubs (F2004/07230)**

98/17

**RESOLUTION: (Garcia/Roberts)** that the General Manager bring back a report to Council on ways to increase access to parking to patrolling members of surf clubs at the beaches on which they patrol.

**MOTION: (Garcia/Roberts) CARRIED - SEE RESOLUTION.**

**NM34/17 Motion Pursuant to Notice - Notice of Motion from Cr Matson - Future Re-use of Rainwater and Blackwater on the Newmarket Development Site (F2009/00408)**

99/17

**RESOLUTION: (Matson/Shurey)** that Council liaises with Cbus Property and the Randwick Community Organic Garden to facilitate the future collection and re-use of rainwater and blackwater both directly on the Newmarket redevelopment site and as irrigation for the adjacent Gardens.

**MOTION: (Matson/Shurey) CARRIED - SEE RESOLUTION.**

### Confidential Reports

The meeting moved into closed session in order to consider confidential items.

### Closed Session

**GF17/17 Confidential - Tender Report Smash Repairs of Motor Vehicles and Trucks (F2016/00607)**

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

100/17

**RESOLUTION: (Garcia/Smith)** that:

- a) under Regulation 178(1)(a) of the Local Government (General) Regulation 2005 that:
  - BT Ryan Smash Repairs,
  - Nathan's Truck and Trailer Repairs, and
  - Wales Truck Repairs
 be accepted for **Passenger Vehicle & Light Commercial** at their tendered rates;
- b) under Regulation 178(1)(a) of the Local Government (General) Regulation 2005 that:
  - Californian Smash Repairs,
  - Epsom Smash Repairs,
  - Franklin Smash Repairs and
  - Maroubra Automotive Refinishers
 be accepted as smash repairers for **Truck & Heavy Commercial** at their tendered rates;

- c) the General Manager, or delegated representative, be authorised to enter into contract on behalf of Council for a period of three (3) years, with two (2) optional one (1) year extensions;
- d) entering into this contractual arrangement is in accordance with the "Guidelines for Council Decision making During Merger Proposal Periods" under Section 23A of the Local Government Act, in that the contract is necessary for the purposes of meeting Council's ongoing service delivery commitments to our community; and
- e) unsuccessful tenderers are notified.

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

**GF18/17 Confidential - SSROC Tender for Council Owned Lighting (Public Lighting) - Tender No. T2016-09 (F2016/00261)**

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

101/17

**RESOLUTION: (Garcia/Smith) that:**

- a) under Regulation 178(1)(a) of the Local Government (General) Regulation 2005, Artcraft Urban Group Pty Ltd, Ausgrid Operating Partnership T/A Ausgrid, Beca Consultants Pty Ltd, Bonnell's Supply Pty Ltd T/A International Poles, Electrolight Australia Pty Ltd, GHD Pty Ltd, GM Poles NSW Pty Ltd, Grid Power Pty Ltd, Harnleigh Pty Ltd, HUB Australasia Pty Ltd, Rubidium Light, Steensen Varming (Australia) Pty Ltd and Sydney Data & Electrical Pty Ltd be accepted as the successful tenderers for Council Owned Lighting (Public Lighting);
- b) entering into this contractual arrangement is in accordance with the "Guidelines for Council Decision making During Merger Proposal Periods" under Section 23A of the Local Government Act, in that the contract is being entered into as a result of a decision made and is necessary for the purposes of meeting Council's ongoing service delivery commitments to our community; and
- c) the General Manager, or delegated representative, be authorised to enter into preferred supplier agreements for a period of two (2) years.

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

**MM13/17 Confidential - Gold Coast Commonwealth Games Queen's Baton Relay Council Selected Batonbearer (F2016/00510)**

*This matter is considered to be confidential under Section 10A(2) (a) Of the Local Government Act, as it deals with personnel matters concerning particular individuals.*

102/17

**RESOLUTION: (Mayor, Cr N D'Souza)** that Council select the community representative recommended in this Mayoral Minute to nominate as a Batonbearer in the Queen's Baton Relay through the Council Selected Batonbearer Nomination Program.

**MOTION: (Mayor, Cr N D'Souza) CARRIED - SEE RESOLUTION.**

**MM14/17 Confidential - Renewal of General Manager's Contract (EMP02901)**

*This matter is considered to be confidential under Section 10A(2) (a) Of the Local Government Act, as it deals with personnel matters concerning particular individuals.*

103/17

**RESOLUTION: (Mayor, Cr N D'Souza) that:**

- a) due to the restrictions currently imposed by the "Council Decision Making During Merger Proposal Periods" guidelines, Council offer to renew the General Managers contract of employment for a period of twelve (12) months from the expiry of the current contract in July 2018 to July 2019 under the 'Division of Local Government Standard Contract for General Managers' performance based contract with a total remuneration package equal to the General Manager's remuneration package at the completion of the current contract term.
- b) if the offer is accepted by the General Manager, delegate authority to the Mayor to negotiate minor terms and conditions of the contract and execute it on behalf of Council.
- c) in the event that Council ceases to be in a 'Merger Proposal Period' (as defined by the Local Government Act) at any time before July 2019, Council offer to renew the General Managers contract of employment for a period of five (5) years under the 'Division of Local Government Standard Contract for General Managers' performance based contract with a total remuneration package equal to the General Manager's remuneration package at that time.

**MOTION: (Mayor, Cr N D'Souza) CARRIED - SEE RESOLUTION.**

**GM9/17 Confidential - Engagement of Legal Representation for Proceedings Against the NSW Government to Challenge Merger Proposal (F2016/04003)**

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

Note: Having previously declared an interest, Crs Nash & Bowen left the chamber and took no part in the debate or voting on this matter.

104/17

**RESOLUTION: (Garcia/Shurey) that:**

- a) in accordance with Clause 55(3) of the Local Government Act 1993, Council be exempt from tendering for the provision of legal representation to commence its proceedings against the NSW Government to challenge the merger proposal for Randwick, Waverley and Woollahra Councils because of extenuating circumstances; and
- b) Beswick Lynch Lawyers (as instructing solicitors of Ian Davidson SC), be engaged to represent Council in its proceedings against the NSW Government to challenge the merger proposal for Randwick, Waverley and Woollahra Councils.

**MOTION: (Garcia/Shurey) CARRIED - SEE RESOLUTION.**

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Roberts
Councillor Belleli	Councillor Smith

Councillor D'Souza  
 Councillor Garcia  
 Councillor Matson  
 Councillor Moore  
 Councillor Neilson  
 Councillor Seng  
 Councillor Shurey

**Total (9)**

Councillor Stavrinou

**Total (3)**

**AMENDMENT: (Stavrinou/Roberts)** that Marsdens Lawyers be engaged to represent Council in its proceedings against the NSW Government to challenge the merger proposal for Randwick, Waverley and Woollahra Councils. **LOST.**

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

**FOR**

Councillor Roberts  
 Councillor Stavrinou

**Total (2)**

**AGAINST**

Councillor Andrews  
 Councillor Belleli  
 Councillor D'Souza  
 Councillor Garcia  
 Councillor Matson  
 Councillor Moore  
 Councillor Neilson  
 Councillor Seng  
 Councillor Shurey  
 Councillor Smith

**Total (10)**

**Open Session**

The meeting moved back into open session.

**Notice of Rescission Motions**

**NR6/17 Notice of Rescission Motion - Notice of Rescission Motion submitted by Crs Seng, Andrews and Stavrinou - 27 Duncan Street, Maroubra (DA/234/2016) (DA/234/2016)**

Note: Having previously declared an interest, Cr Roberts left the chamber and took no part in the debate or voting on this matter.

**MOTION: (Andrews/Stavrinou)** that the resolution passed at the Planning Committee meeting held on 9 May 2017 in relation to Item D41/17, and reading as follows:

"That Council, as the consent authority, change its determination of Development Application No. 234/2016 for alterations and additions to the existing building, fencing with associated works and conversion to childcare centre catering 24 children, at No. 27 Duncan Street, Maroubra by granting development consent, subject to the following conditions and the standard conditions contained in the development application compliance report attached to this report:

**GENERAL CONDITIONS**

The development must be carried out in accordance with the following conditions of consent.



These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of environmental amenity.

#### **Approved Plans & Supporting Documentation**

1. The development must be implemented substantially in accordance with the plans and supporting documentation listed below and endorsed with Council's approved stamp, except where amended by Council in red and/or by other conditions of this consent:

<b>Plan</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
SK005 Rev J	Unknown	12.10.16	23 December 2016
SK006 Rev A		14.03.16	7 November 2014
SK007 Rev C		13.02.17	14 February 2017
SLP 01 Issue A	Hugh Burnett	1 July 2016	23 December 2016

#### **Amendment of Plans & Documentation**

2. The approved plans and documents must be amended in accordance with the following requirements:
  - a. The afterhours use and weekend use shall be deleted from the development. An amended Plan of Management shall be submitted to Council for approval prior to a Construction Certificate being issued for the development.
  - b. The number of child places at the childcare centre shall be restricted to a maximum of 24.
  - c. The art area in the outbuilding shall be deleted and replaced with a car space as shown on the architectural plan SK005 Rev J received by Council
  - d. Any necessary approvals must be obtained from Department of Community Services and any other relevant authorities relating to the requirements for the operation and management of the Child Care Centre.
  - e. Children are required to exit the vehicle from the kerb side of the vehicle.
  - f. A 1m deep landscape buffer shall be installed along the Duncan Street frontage excluding access paths. Details shall be included in the approved landscape plan to the satisfaction of the Principal Certifying Authority.

#### **REQUIREMENTS BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED**

The following conditions of consent must be complied with before a 'Construction Certificate' is issued by either Randwick City Council or an Accredited Certifier. All necessary information to demonstrate compliance with the following conditions of consent must be included in the documentation for the construction certificate.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent conditions and to achieve reasonable levels of environmental amenity.

#### **Consent Requirements**

3. The requirements and amendments detailed in the 'General Conditions' must be complied with and be included in the construction certificate plans and associated documentation.
- Long Service Levy**
4. 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.*

### **Sydney Water Requirements**

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

The approved plans must be submitted to a Sydney Water Quick Check agent, to determine whether the development will affect Sydney Water's waste water 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 details please refer to the Sydney Water web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see *Building and Developing* then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see *Building and Development* then *Building and Renovating*, or telephone 13 20 92.

The Principal Certifying Authority must ensure that a Sydney Water Quick Check Agent has appropriately stamped the plans prior to issuing the construction certificate.

Details of the procedures and arrangements for the on-going waste management of the child care centre including collection, storage and removal of waste and recycling of materials shall be submitted to Council's manager of Waste prior to a Construction certificate being issued for the development.

6. Details of the procedures and arrangements for the on-going waste management of the child care centre including collection, storage and removal of waste and recycling of materials shall be submitted to Council's manager of Waste prior to a Construction certificate being issued for the development.

### **Security Deposit**

7. The following damage / civil works security deposit requirement must be complied with as security for making good any damage caused to the roadway, footway, verge or any public place; and as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the *Environmental Planning and Assessment Act 1979*:

- \$2000.00 - Damage / Civil Works Security Deposit

The damage/civil works security deposit may be provided by way of a cash, cheque or credit card payment and is refundable upon a satisfactory inspection by Council upon the completion of the civil works which confirms that there has been no damage to Council's infrastructure.

The owner/builder is also requested 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.

To obtain a refund of relevant deposits, a *Security Deposit Refund Form* is to be forwarded to Council's Director of City Services upon issuing of an occupation certificate or completion of the civil works.

#### **Design Alignment levels**

8. The design alignment level (the finished level of concrete, paving or the like) 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.

The design alignment level/s at the property boundary as issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate (a construction note is considered satisfactory). The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.

Any enquiries regarding this matter should be directed to Council's Development Engineer on 9093 6881.

9. The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$155.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.

#### **Stormwater Drainage**

10. Surface water/stormwater (from the redeveloped portion of the site) 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 or soaker wells should be located not less than 3m from any adjoining premises and the stormwater must not be directed to any adjoining premises or cause a nuisance.

#### **Sydney Water**

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

The approved plans must be submitted to the Sydney Water **Tap in™** online service, to determine whether the development will affect Sydney Water's waste water and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

*The Sydney Water Tap in™ online service replaces the Quick Check Agents as of 30 November 2015*

The **Tap in™** service provides 24/7 access to a range of services, including:

- Building plan approvals
- Connection and disconnection approvals
- Diagrams
- Trade waste approvals
- Pressure information
- Water meter installations
- Pressure boosting and pump approvals
- Change to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's **Tap in™** online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building->

[developing/building/sydney-water-tap-in/index.htm](http://developing/building/sydney-water-tap-in/index.htm)

The Principal Certifying Authority must ensure that the developer/owner has submitted the approved plans to Sydney Water Tap in online service.

#### **REQUIREMENTS TO BE INCLUDED IN THE CONSTRUCTION CERTIFICATE**

The requirements contained in the following conditions of consent must be complied with and details of compliance must be included in the construction certificate for the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Councils development consent conditions and to achieve reasonable levels of environmental amenity.

#### **Building Code of Australia & Fire Safety**

12. 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). Details of compliance are to be provided in the construction certificate.
13. All new building work (including alterations, additions, fit-out work and fire safety works are to be carried out in accordance with the relevant provisions of the Building Code of Australia (BCA) and details are to be included in the Construction Certificate, to the satisfaction of the Certifying Authority.

#### **Access & Facilities**

14. Access and/or facilities for people with disabilities must be provided to all new building work in accordance with any relevant provisions of the Building Code of Australia Disability (Access to Premises – Buildings) Standards 2010, to the satisfaction of the Certifying Authority and details are to be provided with the Construction Certificate application.

#### **Public Utilities**

15. A *Public Utility Impact Assessment* must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.
16. The applicant must meet the full cost for telecommunication companies, gas providers, Ausgrid, and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.

#### **REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS**

The following conditions of consent must be complied with prior to the commencement of any works on the site. The necessary documentation and information must be provided to the Council or the '*Principal Certifying Authority*' (PCA), as applicable.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity.

**Certification, PCA & other Regulatory Requirements**

17. Prior to the commencement of any building works, the following requirements must be complied with:

- a) 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*.

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

- b) a *Principal Certifying Authority* (PCA) must be appointed to carry out the necessary building inspections and to issue an *occupation certificate*; and
- c) the *principal contractor* must be advised of the required *critical stage inspections* and other inspections to be carried out, as specified by the *Principal Certifying Authority*; and
- d) at least two days' notice must be given to the Council, in writing, prior to commencing any works; and
- e) the relevant requirements of the *Home Building Act 1989* (as applicable) must be complied with and details provided to the Principal Certifying Authority and Council.

**Demolition Work & Removal of Asbestos Materials**

18. Demolition work must be carried out in accordance with the following requirements:

- 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 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 10m<sup>2</sup> 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](http://www.randwick.nsw.gov.au) in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.*

### **Construction Noise & Vibration**

19. 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 Management Plan*, prepared in accordance with the DECC Construction Noise Guideline, by a suitably qualified person is to be developed and 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.

### **REQUIREMENTS DURING CONSTRUCTION & SITE WORK**

The following conditions of consent must be complied with during the demolition, excavation and construction of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000* and to provide reasonable levels of public health, safety and environmental amenity during construction.

### **Road / Asset Opening Permit**

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

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

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

### **Building Inspection Requirements**

21. The works must be inspected by the *Principal Certifying Authority*, 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.

### **Excavations & Support of Adjoining Land**

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. 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.

#### **Permitted Working Hours**

24. Building, demolition and associated site works must be carried out in accordance with the following requirements:

Activity	Permitted working hours
All building, demolition and site work, including site deliveries (except as detailed below)	<ul style="list-style-type: none"> <li>Monday to Friday - 7.00am to 5.00pm</li> <li>Saturday - 8.00am to 5.00pm</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Excavating of rock, use of jack-hammers, pile-drivers or the like	<ul style="list-style-type: none"> <li>Monday to Friday - 8.00am to 5.00pm</li> <li>Saturday - No work permitted</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Internal work only within a commercial or industrial development, located in a commercial or industrial zone, which is not audible within any residential dwelling or commercial or industrial premises	<ul style="list-style-type: none"> <li>Monday to Saturday - No time limits (subject to column 1)</li> <li>Sunday &amp; public holidays - No work permitted</li> </ul>
Additional requirements for all development (except for single residential dwellings)	<ul style="list-style-type: none"> <li>Saturdays and Sundays where the preceding Friday and/or the following Monday is a public holiday - No work permitted</li> </ul>

*An application to vary the abovementioned hours may be submitted to Council's Manager Health, Building & Regulatory Services for consideration and approval to vary the specified hours may be granted in exceptional circumstances and for limited occasions (e.g. for public safety, traffic management or road safety reasons). Any applications are to be made on the standard application form and include payment of the relevant fees and supporting information. Applications must be made at least 10 days prior to the date of the proposed work and the prior written approval of Council must be obtained to vary the standard permitted working hours.*

#### **Construction Site Management**

25. 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:

- a) A sign must be provided and maintained in a prominent position throughout 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*,
  - a statement stating that "unauthorised entry to the work site is prohibited".
- b) 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.
- c) 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.
- d) 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.
- e) 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.

Details of the proposed sediment control measures are to be detailed in the *site management plan* which must be submitted to the Principal Certifying Authority and Council prior to the commencement of any site works. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the plan is to be maintained on-site and be made available to Council officers upon request.

- f) 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 (having a minimum height of 1.5m) 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. If necessary, an overhead (B Class type) hoarding may be required to protect the public or occupants of the adjoining premises from falling articles or materials.

*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.*



- g) Adequate provisions must be made to ensure pedestrian safety and traffic flow during the site works and traffic control measures are to be implemented in accordance with the relevant provisions of the Roads and Traffic Manual "Traffic Control at Work Sites" (Version 4), to the satisfaction of Council.
- h) A Road / Asset Opening application must be submitted to and be approved by 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.

All works within or upon the road reserve, footpath, nature strip or other public place are to be 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.

#### **REQUIREMENTS PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

The following conditions of consent must be complied with prior to the 'Principal Certifying Authority' issuing an 'Occupation Certificate'.

*Note: For the purpose of this consent, any reference to 'occupation certificate' shall also be taken to mean 'interim occupation certificate' unless otherwise stated.*

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health, safety and amenity.

- 26. A report, prepared by a suitably qualified and experienced consultant in acoustics, shall be submitted to the Council **prior to an occupation certificate** being issued for the development, which demonstrates and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW EPA Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources.
- 27. The food premises must be registered with Council's Health, Building & Regulatory Services department and inspected by Council's Environmental Health Officer in accordance with the Food Act 2003, prior to commencement of any food preparation and service.

#### **Occupation Certificate Requirements**

- 28. 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*.

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.

**Fire Safety Certificate Requirements**

29. Prior to issuing an interim or final Occupation Certificate, a single and complete *Fire Safety Certificate*, encompassing all of the essential fire safety measures contained in the *fire safety schedule* must be obtained and be submitted to Council, in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2000*. The *Fire Safety Certificate* must be consistent with the *Fire Safety Schedule* which forms part of the Construction Certificate.

A copy of the *Fire Safety Certificate* must be displayed in the building entrance/foyer at all times and a copy of the *Fire Safety Certificate* and *Fire Safety Schedule* must also be forwarded to Fire & Rescue NSW.

**Noise Emissions - Certification**

30. Where plant and equipment is installed in the premises (e.g. air-conditioners, mechanical ventilation/exhaust systems or refrigeration motors etc), a written report or statement must be obtained from a suitably qualified and experienced consultant in acoustics.

The report/statement must demonstrate and confirm that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy, Council's conditions of consent (including any relevant approved acoustic report and recommendations), to the satisfaction of Council. The assessment and report must include all relevant fixed and operational noise sources and a copy of the report/statement must be provided to Council prior to the issue of an occupation certificate.

**Council's Infrastructure, Vehicular Crossings, street verge**

31. The applicant must meet the full cost for Council or a Council approved contractor to:
- a) Construct new concrete vehicle crossing opposite the vehicle entrance to the site
  - b) Install signage for a timed pickup and drop-off zone along the site frontage on Duncan street strictly in accordance with the approval by Randwick Traffic Committee (at its March 2017 meeting).
32. 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 (including street trees), 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.
33. All external civil work to be carried out on Council property (including the installation and repair of roads, footpaths, vehicular crossings, kerb and guttering and drainage works), must be carried out in accordance with Council's "Crossings and Entrances – Contributions Policy" and "Residents' Requests for Special Verge Crossings Policy" and the following requirements:
- a) Details of the proposed civil works to be carried out on Council land must be submitted to Council in a Civil Works Application Form. Council will respond, typically within 4 weeks, with a letter of approval outlining conditions for working on Council land, associated fees and workmanship bonds. Council will also provide details of the approved works including specifications and construction details.
  - b) Works on Council land, must not commence until the written letter of

approval has been obtained from Council and heavy construction works within the property are complete. The work must be carried out in accordance with the conditions of development consent, Council's conditions for working on Council land, design details and payment of the fees and bonds outlined in the letter of approval.

- c) The civil works must be completed in accordance with the above, prior to the issuing of an occupation certificate for the development, or as otherwise approved by Council in writing.

34. That part of the nature strip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicants expense.

#### **Bicycle Parking**

35. Bike storage facilities shall be provided on the site at suitable location large enough to accommodate a minimum of 2 bicycle spaces in accordance with AS 2890.3.

#### **Travel Plan**

36. The Plan of Management of the childcare centre shall include a Workplace Travel Plan which endeavours to minimise the parking and traffic generation of the proposed development; The plan may include but not be limited to aspects such as support for walking and cycling, car sharing, management of workplace parking spaces, & incentives for public transport use.

The Travel Plan shall be submitted to and approved by Council's Department of integrated Transport prior to issuing of an occupation certificate.

#### **Landscape & Playspace Certification**

37. Prior to issuing any type of Occupation Certificate, certification must be provided confirming the date the site was inspected, and that both the landscaping (planting) and play-space have been completed and installed in accordance with the approved plans and relevant conditions of consent and Australian Standards.

#### **OPERATIONAL CONDITIONS**

The following operational conditions must be complied with at all times, throughout the use and operation of the development.

These conditions have been applied to satisfy the relevant requirements of the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, Council's development consent and to maintain reasonable levels of public health and environmental amenity.

38. The use and operation of the child care centre is to be undertaken in accordance with the requirements as outlined in the noise assessment submitted with the application namely "Yogicubs at 27 Duncan St, Maroubra. Report No. 16126 Version D. Dated December 2016" prepared by Wilkinson Murray (our reference D02838844).
39. The hours of the operation of the child care centre are restricted to:-
- Monday through to Friday, inclusive from: 7.00am to 6.00pm
  - No operations permitted on weekends and public holidays
40. The use and operation of the premises shall not give rise to an environmental

health or public nuisance.

41. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
42. The premises is to be designed, constructed and operated in accordance with the *Food Act 2003*, *Food Regulation 2010*, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises.
43. Food safety practices and operation of the food premises must be in accordance with the *Food Act 2003*, *Food Regulation 2010*, *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.

A 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.

#### **Fire Safety Statements**

44. A single and complete *Fire Safety Statement* (encompassing all of the fire safety measures upon the premises) must be provided to the Council in accordance with the requirements of the *Environmental Planning & Assessment Regulation 2000*.

The *Fire Safety Statement* must be provided on an annual basis, each year following the issue of the *Fire Safety Certificate* and other period if any of the fire safety measures are identified as a *critical fire safety measure* in the *Fire Safety Schedule*.

The *Fire Safety Statement* is required to confirm that all the fire safety measures have been assessed by a properly qualified person and are operating in accordance with the standards of performance specified in the *Fire Safety Schedule*.

A copy of the *Fire Safety Statement* must be displayed in the building entrance/foyer at all times and a copy must also be forwarded to Fire & Rescue NSW.

45. A validation report must be obtained from a suitably qualified and experienced consultant in acoustics three (3) months after the business commences trading. The report should demonstrate and certifies that noise and vibration from the development satisfies the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Office of Environment & Heritage/Environment Protection Authority Noise Control Manual & Industrial Noise Policy and conditions of Council's development consent.

The report is to be forwarded to and approved by Council. This report must address (but not limited to) the accumulation effect of mechanical plant and equipment and noise generated from all children in the outdoor play area. Any recommendations outlined in the acoustic report are to be implemented in

accordance with the report.

#### **Environmental Amenity**

46. The use and operation of the premises shall not give rise to an environmental health or public nuisance, cause a vibration nuisance or, result in an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.
47. The proposed use and operation of the premises (including all plant and equipment) must 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 ( $L_{A90}, 15 \text{ min}$  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  $L_{Aeq, 15 \text{ min}}$  and adjusted in accordance with the NSW Office of Environment & Heritage/Environment Protection Authority Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

#### **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.

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 and details of the proposed waste collection and disposal service are to be submitted to the Principal Certifying Authority and Council prior to commencing operation of the business.

The operator of the business must also arrange for the recycling of appropriate materials and make the necessary arrangements with an authorised waste services contractor accordingly.

#### **ADVISORY NOTES**

The following information is provided for your assistance to ensure compliance with the *Environmental Planning & Assessment Act 1979*, *Environmental Planning & Assessment Regulation 2000*, or other relevant legislation and Council's policies. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

- A1 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 requirements is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million. Alternatively, Council may issue a penalty infringement notice (for up to \$3,000) for each offence. Council may also issue notices and orders to demolish unauthorised or non-complying building work, or to comply with the requirements of Council's development consent.

- A2 In accordance with the requirements of the *Environmental Planning & Assessment Act 1979*, building works, including associated demolition and excavation works (as applicable) must not be commenced until:

- A *Construction Certificate* has been obtained from an Accredited Certifier or Council,
- An Accredited Certifier or Council 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.

A3 Council's Building Certification & Fire Safety team can issue your *Construction Certificate* and be your *Principal Certifying Authority* for the development, to undertake inspections and ensure compliance with the development consent, relevant building regulations and standards of construction. For further details contact Council on 9399 0944.

A4 This determination does not include an assessment of the proposed works under the Building Code of Australia (BCA), Disability (Access to Premises – Buildings) Standards 2010 and other relevant Standards. All new building work (including alterations and additions) must comply with the BCA and relevant Standards. You are advised to liaise with your architect, engineer and building consultant prior to lodgement of your construction certificate.

A5 The assessment of this development application does not include an assessment of the proposed building work under the Food Act 2003, Food Safety Standards or Building Code of Australia (BCA).

All new building work must comply with relevant regulatory requirements and Australian Standards and details of compliance are to be provided in the *construction certificate* application.

A6 The design and construction of the premises must satisfy the requirements of the Food Act 2003, Food Standards Code and AS 4674 (2004). Prior to finalising the design and fit-out for the development and prior to a *construction certificate* being obtained, advice should be obtained from an accredited Food Safety Consultant (or Council's Environmental Health Officer).

A7 The applicant and operator are also advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

A8 Any proposed amendments to the design and construction of the building may require a new development application or a section 96 amendment to the existing consent to be obtained from Council, before carrying out such works

A9 This consent does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is proposed to be carried out upon any adjoining or supported land, the land owner or principal contractor must obtain:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land & Environment Court Act 1979*, as appropriate.

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

removes the support provided by the supporting land to any other adjoining land (the supported land).

A10 Prior to commencing any works, the owner/builder should contact *Dial Before You Dig* on 1100 or [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au) and relevant Service Authorities, for information on potential underground pipes and cables within the vicinity of the development site.

A11 A Local Approval application must be submitted to and be approved by Council 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 or any other container or article in a public place.

For further information please contact Council on 9399 0944.

A12 There are to be no emissions or discharges from the premises, which will give rise to an environmental or public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997 and Regulations*.

A13 In existing buildings, where necessary, the levels of fire and occupant safety should be upgraded and details should be incorporated in the Construction Certificate to the satisfaction of the Certifying authority.

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

A14 A separate development application and construction certificate or a complying development certificate (as applicable) must be obtained if the premises is to be used for any of the purposes detailed below:

- All food businesses (including premises used for the sale, storage, preparation and distribution of food and drinks)
- Hairdressing salons, Beauty salons, Businesses involving Skin Penetration & Piercing, Massage businesses
- Licensed premises, places of public entertainment and hotels
- Places of Shared Accommodation (including Boarding / Lodging Houses, Bed & Breakfast businesses, Backpackers, Residential Hotels or the like)
- Cooling Towers or Warm Water Systems
- External plant and equipment which is not encompassed in the development consent
- Business providing any form of sexual service (i.e. brothel or the like).

Business premises which are used for any of these purposes must comply with relevant public health and safety legislation and requirements and they must be registered with Council prior to an Occupation Certificate being issued for the development. The relevant registration and inspection fee is also required to be paid to Council in accordance with Council's adopted Pricing Policy.

A15 The applicant/owner is advised to engage the services of a suitably qualified and experienced Acoustic consultant, prior to finalising the design and construction of the development, to ensure that the relevant noise criteria and conditions of consent can be fully satisfied.

A16 Underground assets (e.g. pipes, cables etc.) may exist in the area that is

subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

A17 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.

A18 Further information and details on Council's requirements for trees on development sites can be obtained from the recently adopted Tree Technical Manual, which can be downloaded from Council's website at the following link, <http://www.randwick.nsw.gov.au> - Looking after our environment - Trees - Tree Management Technical Manual; which aims to achieve consistency of approach and compliance with appropriate standards and best practice guidelines."

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

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

<b>FOR</b>	<b>AGAINST</b>
Councillor Andrews	Councillor Belleli
Councillor Matson	Councillor Bowen
Councillor Neilson	Councillor D'Souza
Councillor Seng	Councillor Garcia
Councillor Shurey	Councillor Moore
Councillor Stavrinou	Councillor Nash
	Councillor Smith
<b>Total (6)</b>	<b>Total (7)</b>

There being no further business, His Worship the Mayor, Cr D' Souza, declared the meeting closed at 10.30pm.

**The minutes of this meeting were confirmed at the Ordinary Meeting of the Council of the City of Randwick held on Tuesday, 27 June 2017.**

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**CHAIRPERSON**