



Willoughby City Council

ORDINARY COUNCIL

MINUTES

Council Chambers, 31 Victor Street, Chatswood

12 May 2014

commencing at 7:00pm

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1 PRESENT

Councillors

Her Worship the Mayor Councillor G Giles-Gidney, Councillors S Coppock, H Eriksson, J Hooper, T Mustaca, W Norton, A Rozos, L Saville, M Stevens and N Wright.

Officers

Mr N Tobin (General Manager), Mr G Woodhams (Environmental Services Director), Ms T Crouch (Corporate Support and Performance Director), Ms M Smith (Community Services Director), Mr J Ellis (Economic Property & Development Director), Mr P Collings (Acting Infrastructure Services Director), Mr J Knight (Administrative Services Manager), Mr V Grepl (Corporate Planning and Governance Officer) and Ms B Jeffries (Executive Assistant).

2 DISCLOSURES OF INTEREST - COUNCILLORS AND STAFF

- Councillor Giles-Gidney declared a significant, non-pecuniary interest in Item 22.4 - Notice of Motion: Talus Street (R73306) Reserve Trust.
- Councillor Giles-Gidney declared a non-significant, non-pecuniary interest in Item 14.1 - Inspection Committee Meeting - 2/77A Edinburgh Road, Castlecrag - 3 May 2014
- Councillor Wright declared a non-significant, non-pecuniary interest in Item 14.1 - Inspection Committee Meeting - 2/77A Edinburgh Road, Castlecrag - 3 May 2014
- Councillor Eriksson declared a significant, non-pecuniary interest in Item 14.1 - Inspection Committee Meeting - 2/77A Edinburgh Road, Castlecrag - 3 May 2014
- Councillors Wright, Coppock, Eriksson, Saville and Mustaca and the General Manager and Environmental Services Director declared non-significant, non-pecuniary interests in Item 22.4 - Notice of Motion: Talus Street (R73306) Reserve Trust.
- Councillor Stevens declared a non-significant, non-pecuniary interest in Item 15.2 - Planning Proposal 2013/4 - 65 Albert Avenue, Chatswood - Mandarin Centre.

3 CONFIRMATION OF MINUTES

That the Minutes of the Ordinary Meeting of Council held 28 April 2014, copies of which have been circulated to each member of Council, be confirmed, subject to the following corrections:

- *Item 14.2- Transport, Access and Environment Committee to include Minutes of the Access Steering Committee Meeting held Wednesday 19 March 2014*

- *Item 18.2 Northern Metropolitan Council of Mayors to show Councillor Saville as Moving the Amendment and Councillor Norton Seconding the Amendment.*
- *Item 20.2 - 635 Mowbray Road West, Lane Cove North NSW 2066 - DA 2014/65 to show Councillor Mustaca as Seconding the Motion.*
- *Item 2 - Disclosures of Interest - noting that Councillor Rozos did not declare a Non-Significant, Non-Pecuniary interest in Items:*
 - *Item 18.5 - Lease to Chatswood Golf Club*
 - *Item 18.6- Licence to Northbridge Golf Club; and*
 - *Item 21.2 - Willoughby Park Centre Master Plan*
- *Mayoral Report - to note that Councillor Mustaca attended the Dawn Service on ANZAC Day 26 April 2014.*

4 APOLOGIES AND LEAVE OF ABSENCE

- Councillor J Rutherford submitted an apology for non-attendance and requested leave of absence.
- Councillor M Sloane submitted an apology for non-attendance and requested leave of absence.
- Councillor A Rozos requested leave of absence for 26 May 2014.
- Councillor Rutherford requested leave of absence for the period 20 - 27 May 2014.

RESOLUTION

That:

1. **the apologies from Councillors Rutherford and Sloane be accepted and leave of absence be granted.**
2. **Councillor Rozos be granted leave of absence for the 26 May 2014.**
3. **Councillor Rutherford be granted leave of absence from 20 - 27 May 2014.**

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR NORTON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against: Nil

5 INTERVIEWS

NIL

6 PETITIONS

6.1 PETITION REGARDING TRAFFIC CHANGES TO GLENROY AVENUE, MIDDLE COVE

Councillor Rozos tabled a petition from residents of Glenroy Avenue, Middle Cove opposing the proposed changes to parking arrangements in their street.

RESOLUTION

That the petition be received and referred to the Infrastructure Services Director for consideration and report.

MOVED COUNCILLOR ROZOS

SECONDED COUNCILLOR MUSTACA

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against: Nil

7 OPEN FORUM

NIL

8 MAYORAL REPORT

The Mayoral Report was circulated to all Councillors listing the Mayor's activities.

MAYOR'S DIARY – COUNCIL MEETING NOTES FOR 12 MAY 2014

WEDNESDAY 30 APRIL			
Mayor	12 noon	Opening of "Post School Options" Expo	The Concourse Pavilion
Mayor	7.15 pm	Opening of Art Exhibition: <i>Private Practice of the Public Artist</i>	Art Space on The Concourse
Mayor Crs Norton, Sloane	8 pm	Opening Night: Artarmon Progress Association Heritage Festival Display	Artarmon Community Centre
THURSDAY 1 MAY			
Mayor	10 am	ANZAC Service	Willoughby Public School
Clr Saville		Art Exhibition: <i>Private Practice of the Public Artist</i>	Art Space on The Concourse
Mayor Cr Norton	6 pm	NSROC Meeting	Lane Cove Council
SATURDAY 3 MAY			
Mayor Deputy Mayor: Cr Coppock Crs Norton, Sloane, Wright	10.30 am	Official Opening of Naremburn Library	7 Central Street, Naremburn
SUNDAY 4 MAY			
Crs Norton, Saville	7 pm	WSOC Concert – <i>Majestic Mozart</i>	The Concourse
WEDNESDAY 7 MAY			
Mayor	6 pm	Chatswood Rotary – Presentation of Community Service Awards	Roseville Memorial Club
THURSDAY 8 MAY			
Mayor	2.30 pm	Mother's Day afternoon Tea	Ashley House
SATURDAY 10 MAY			
Mayor Crs Eriksson, Coppock & Hooper	6 pm	Northbridge Rotary – Annual Fireworks	Northbridge Oval
SUNDAY 11 MAY			
Mayor	10 am	Buddha's Birthday Festival	Tumalong Park
Mayor	4.30 pm	Presentation of Medals – NFC	Bicentennial Reserve

Councillor L Saville brought to Council's attention the fact that today is International Nurses Day. She highlighted the tremendous and dedicated work that nurses do every day of the year and the fact that their efforts quite often go unnoticed.

RESOLUTION

That the Mayoral report be received

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR WRIGHT

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against: Nil

9 MAYORAL MINUTE

Councillor Saville mentioned the passing of Ian Affleck.

The Mayor indicated that she would bring forward a Mayoral Minute to the next meeting.

10 GENERAL MANAGER'S LATE REPORT

NIL

11 MATTERS FOR DEFERRAL, REFERRAL TO INSPECTION AND/OR PROCEDURAL PRIORITY

Item 22.3 Notice of Motion - Trans Pacific Partnership Agreement (TPP)

12 MATTERS BROUGHT FORWARD BY THE PUBLIC

Item 15.1 7 Donnelly Road, Naremburn NSW 2065 - DA 2011/261/A

Item 14.2.2 (9.1) Planning Proposal 2013/4 - 65 Albert Avenue, Chatswood - Mandarin Centre

Item 15.2 Planning Proposal 2013/4 - 65 Albert Avenue, Chatswood - Mandarin Centre

Item 21.1 Edinburgh Road - Eastern Valley Way Right Turn Phase

Item 22.4 Notice of Motion - Talus Street (R73306) Reserve Trust

13 MATTERS NOT REQUIRING ELABORATION OR DEBATE

The Mayor invited Councillors to indicate the items not brought forward by the public that they wished to deal with separately:

Item 14.1 Inspection Committee Meeting - 2/77A Edinburgh Road, Castlecrag - 3 May 2014

Item 14.3 33 Stanley Street, Chatswood - Sailors Bay Ward Councillors Inspection Committee Meeting.

Item 15.3 Northern Metropolitan Council of Mayors

Item 20.1 41-47 Oakville Road, Willoughby NSW 2068 - DA 2013/43

Item 22.2 Notice of Motion: Proposed Changes to the Racial Discrimination Act 1975

RESOLUTION

That the remaining items, viz:

Item 14.2 Transport, Access & environment committee Meeting 5 May 2014

Item 14.2.1 (8.2) Sustainability Reference Group Notes - 11 March 2014

Item 14.2.3 (9.2) Draft Sustainability Action Plan

Item 14.2.4 (9.3) NSROC Regional Waste Tender Project

Item 16.1 Councillors Information Booklets - 1 & 8 May 2014

- Item 18.1 Councillor Fees 2014 - 2015
- Item 18.2 Mid Year Recess 2014
- Item 20.2 Applications Determined under Delegated Authority for the Month of April 2014
- Item 20.3 Development Application Report to 5 May 2014
- Item 22.1 Notice of Motion - Pre-Polling Venue for Recent Mayoral Election

be adopted in accordance with the recommendations in the reports.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Stevens

14 REPORTS FROM COMMITTEES

14.1 INSPECTION COMMITTEE MEETING - 2/77A EDINBURGH ROAD, CASTLECRAG - 3 MAY 2014

ATTACHMENTS:	1. MINUTES
RESPONSIBLE OFFICER:	NICK TOBIN - GENERAL MANAGER
AUTHOR:	GREG WOODHAMS - ENVIRONMENTAL SERVICES DIRECTOR
MEETING DATE:	12 MAY 2014

Purpose of Report

To list on the agenda the minutes of the Inspection Committee Meeting held 3 May 2014.

MOTION

That the application be approved and delegated authority be granted to the General Manager to issue the development consent notice, subject to the attached conditions, noting the special circumstances for the variation of the side boundary setback, recreational area, car parking, width of planter boxes and communal area requirements under WDCP, and subject to the eastern wall on the boundary extending *no further than one metre beyond* the existing wall and then the wall of the proposed extension being setback 1.0m from the eastern boundary.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ROZOS

CARRIED

Voting

For the Motion: Councillors Giles-Gidney, Mustaca, Rozos, and Wright.

Against the Motion: Councillors Hooper, Saville and Norton.

Absent: Councillors Eriksson, Stevens and Coppock.

AMENDMENT

That the application be approved and delegated authority be granted to the General Manager to issue the development consent notice, subject to the attached conditions, noting the special circumstances for the variation of the side boundary setback, recreational area, car parking, width of planter boxes and communal area requirements under WDCP, and subject to the eastern wall on the boundary extending *no further than* the existing wall and then the wall of the proposed extension being setback 1.0m from the eastern boundary.

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR NORTON

LOST

Voting

For the Amendment: Councillors Hooper, Saville and Norton.

Against the Amendment: Councillors Giles-Gidney, Mustaca, Rozos and Wright.

Absent: Councillors Eriksson, Stevens and Coppock.

Councillor Eriksson declared a significant, non-pecuniary interest in the above matter and withdrew from the Chamber taking no part in the discussion or voting on the matter.

Councillors Giles-Gidney and Wright declared non-significant, non-pecuniary interests in the above matter.

**14.2 TRANSPORT, ACCESS & ENVIRONMENT COMMITTEE MEETING - 5
MAY 2014**

ATTACHMENTS:	1. MINUTES
RESPONSIBLE OFFICER:	GREG WOODHAMS - ENVIRONMENTAL SERVICES DIRECTOR
AUTHOR:	GREG WOODHAMS - ENVIRONMENTAL SERVICES DIRECTOR
MEETING DATE:	12 MAY 2014

Purpose of Report

To present the minutes of the Transport, Access & Environment Committee Meeting held on 5 May 2014.

RESOLUTION

That:

- 1. The Minutes be received.**
- 2. Council note the resolutions adopted by the Committee.**
- 3. Council adopt the Committee's recommendations with the exception of:**
**Item 14.2.2 (9.1) Planning Proposal 2013/4 - 65 Albert Avenue, Chatswood -
Mandarin Centre**

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Stevens.

**14.2.2 (9.1) PLANNING PROPOSAL 2013/4 - 65 ALBERT AVENUE,
CHATSWOOD - MANDARIN CENTRE**

ATTACHMENTS:	1. PLANNING PROPOSAL CONCEPT PLANS 2. HEIGHT AND FLOOR SPACE RATIO MAPS - EXTRACT FROM WLEP 2012 3. LETTER OF OFFER FOR DRAFT VOLUNTARY PLANNING AGREEMENT 4. RECOMMENDED BUILDING HEIGHTS
RESPONSIBLE OFFICER:	LINDA MCCLURE - STRATEGIC PLANNING MANAGER
AUTHOR:	JANE HOSIE - STRATEGIC PLANNER
CITY STRATEGY LINK:	6.2.1 A COMMUNITY THAT IS INFORMED OF KEY COUNCIL POLICIES, SERVICES AND ACTIVITIES AND CAN PARTICIPATE IN THE DECISION MAKING PROCESS
MEETING DATE:	5 MAY 2014

Purpose of Report

This report considers a Planning Proposal for the Mandarin Centre at 65 Albert Avenue Chatswood. The applicant is Urbis on behalf of Mandarin Developments and Blue Papaya Pty Ltd (the owners of the site). The Planning Proposal is accompanied by indicative concept plans, context analysis and shadow diagrams prepared by Bates Smart, planning report and economic assessment prepared by Urbis, a traffic report prepared by GTA Consultants and an offer for a Voluntary Planning Agreement for the provision of public benefits to enable satisfactory site redevelopment.

The report recommends that a Planning Proposal be referred to the Gateway for public exhibition together with a draft Voluntary Planning Agreement.

(This matter was dealt with at Item 15.2).

**14.3 33 STANLEY STREET, CHATSWOOD - SAILORS BAY WARD
COUNCILLORS INSPECTION COMMITTEE MEETING**

ATTACHMENTS:	1. MINUTES
RESPONSIBLE OFFICER:	PETER ROWAN - BUILDING SERVICES MANAGER
AUTHOR:	MARK GRACZYK - DEVELOPMENT OFFICER (BUILDING SURVEYOR)
MEETING DATE:	12 MAY 2014

Purpose of Report

To list on the agenda the minutes of the Sailors Bay Ward Councillors Inspection Committee Meeting held 29 April 2014.

RESOLUTION

That:

1. The Minutes be received.
2. That the Officer's recommendations be adopted, subject to the following changes:
 1. The timber lattice screening located along the northern elevation, behind the building line, is to be attached to the 1.8m high boundary fence. The screen is to be flush with the fence line and consistent with the height depicted in the architectural plans.
 2. That no shade cloth is to be attached to the proposed timber privacy screen along the northern elevation.
 3. That a subsequent condition be added to the consent to read as follows:

"The proposed timber privacy screen along the northern elevation, behind the building line, is to be attached to the 1.8m high timber paling fence. The screen is to be flush with the fence line, with no shade cloth installed or attached to the screen. Details are to be provided prior to the release of a Construction Certificate."

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Stevens.

15 DEFERRED MATTERS

15.1 7 DONNELLY ROAD, NAREMBURN NSW 2065 - DA 2011/261/A

ATTACHMENTS:

1. Approved Plans
2. Plans submitted with the Section 96
3. Notification Map

MEETING DATE: 28 APRIL 2014

LOCATION: 7 DONNELLY ROAD, NAREMBURN NSW 2065

APPLICANT: DONNELLY ROAD PARTNERSHIP

OWNER: SANDERSON PROPERTIES PTY LTD

PROPOSAL: S96 - MODIFICATION OF COURT ISSUED CONSENT INCLUDING INTERNAL AND EXTERNAL CHANGES TO CHILD CARE CENTRE RESIDENCE, CARPARKING, DRIVEWAY AND LANDSCAPING.

DATE OF LODGEMENT: 11 MARCH 2014

VALID APPLICATION DATE: 11 MARCH 2014

REPORTING OFFICER: ANA VISSARION - DEVELOPMENT PLANNER

RESPONSIBLE OFFICER: IAN ARNOTT - DEVELOPMENT PLANNING MANAGER

DESCRIPTION OF PROPOSAL

The Modification Application 2011/261/A to modify Court issued Consent (*Land and Environment Court Proceedings no 11128 of 2011*) including internal and external changes to the managers residence and to the child care centre, carparking, driveway and landscaping at No 7-9 Donnelly Rd, Naremburn is lodged with the Land and Environment Court, *Case No 10103 of 2014*.

Council does not have the function to determine the application. However, according to the EP&A Act 1979, Council is required to notify the application according to the regulations and WDCP.

RESOLUTION

That Council Officers be delegated authority to attend the Section 34 Conference and, if required, any subsequent hearings to present Council's position on the Modification Application 2011/261/A generally in the terms presented in the conclusion of the report.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR NORTON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillors Coppock and Stevens.

15.2 PLANNING PROPOSAL 2013/4 - 65 ALBERT AVENUE, CHATSWOOD - MANDARIN CENTRE

ATTACHMENTS:	1. PLANNING PROPOSAL CONCEPT PLANS 2. HEIGHT AND FLOOR SPACE RATIO MAPS - EXTRACT FROM WLEP 2012 3. LETTER OF OFFER FOR DRAFT VOLUNTARY PLANNING AGREEMENT 4. RECOMMENDED BUILDING HEIGHTS
RESPONSIBLE OFFICER:	LINDA MCCLURE - STRATEGIC PLANNING MANAGER
AUTHOR:	JANE HOSIE - STRATEGIC PLANNER
CITY STRATEGY LINK:	6.2.1 A COMMUNITY THAT IS INFORMED OF KEY COUNCIL POLICIES, SERVICES AND ACTIVITIES AND CAN PARTICIPATE IN THE DECISION MAKING PROCESS
MEETING DATE:	5 MAY 2014

Purpose of Report

This report considers a Planning Proposal for the Mandarin Centre at 65 Albert Avenue Chatswood. The applicant is Urbis on behalf of Mandarin Developments and Blue Papaya Pty Ltd (the owners of the site). The Planning Proposal is accompanied by indicative concept plans, context analysis and shadow diagrams prepared by Bates Smart, planning report and economic assessment prepared by Urbis, a traffic report prepared by GTA Consultants and an offer for a Voluntary Planning Agreement for the provision of public benefits to enable satisfactory site redevelopment.

The report recommends that a Planning Proposal be referred to the Gateway for public exhibition together with a draft Voluntary Planning Agreement.

PROCEDURAL MOTION

That Mr Phillip Vivian address the meeting

Mr Vivian addressed the meeting and answered questions of the Councillors.

RESOLUTION

That:

- 1. the Planning Proposal for 65 Albert Ave, Chatswood (Mandarin Centre) be forwarded to the Department of Planning and Environment seeking a Gateway Determination for public exhibition under Section 56 of the Environmental Planning and Assessment Act 1979 subject to:**
 - a) the Planning Proposal amendments as outlined in the Officer's report;**

- b) the proposed draft amendments to Willoughby Local Environmental Plan 2012 as set out in the report; and
 - c) the proposed draft amendments to Willoughby Development Control Plan for specific controls for the site as outlined in the report.
2. a draft Voluntary Planning Agreement be exhibited with the Planning Proposal, as outlined in the letter of offer from the applicant dated 11 April 2014, subject to the offer being amended to be consistent with the maximum height of the proposed tower buildings, that is, RL181.95 and RL 140.7 and the revised floor space ratio of 10.5:1 and to accord with the plans as shown on the Design Concepts and Urban Design Analysis dated March 2014. As well as achieving provision of on-site car parking in accordance with the DCP.
 3. the applicant submit certification by a suitability qualified independent person of the Shadow Diagrams provided with the Planning Proposal prior to the exhibition.

MOVED COUNCILLOR MUSTACA

SECONDED COUNCILLOR ROZOS

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Mustaca, Rozos and Stevens.

Against the Resolution: Councillors Coppock, Hooper, Norton, Saville and Wright.

The vote being equal, the Mayor exercised her casting vote in Favour of the Motion.

Councillor Stevens declared a non-significant, non-pecuniary interest in the above matter.

15.3 NORTHERN METROPOLITAN COUNCIL OF MAYORS

ATTACHMENTS:	1. MINUTES OF MEETING OF MAYORS AND GENERAL MANAGERS HELD ON 29 NOVEMBER 2013 2. MINUTES OF SHOROC/NSROC WORKING PARTY MEETING HELD ON 30 JANUARY 2014 3. REPORT TO COUNCIL 24 MARCH 2014
RESPONSIBLE OFFICER:	NICK TOBIN - GENERAL MANAGER
AUTHOR:	TRACEY CROUCH - CORPORATE SUPPORT AND PERFORMANCE DIRECTOR
CITY STRATEGY LINK:	6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS
MEETING DATE:	22 APRIL 2014

Purpose of Report

To provide further information as requested on the GMAT meetings of NSROC and to seek Council's agreement to the formation and participation in the Northern Metropolitan Council of Mayors.

MOTION

That:

- 1. Council supports the formation and participation in a Northern Metropolitan Council of Mayors (working title).**
- 2. Council authorises the Mayor and General Manager to sign a Memorandum of Understanding for Council to become a member of the Northern Metropolitan Council of Mayors (working title) under the terms outlined in the draft Terms of Reference.**
- 3. Council outlines to the NSW Government in its submission regarding the Independent Local Government Review Panel's 'Revitalising Local Government' report the intention to form the Northern Metropolitan Council of Mayors noting its alignment with the Panel's proposed Joint Organisation model.**
- 4. the Northern Metropolitan Council of Mayors circulate all correspondence, Agendas and Minutes to all interested Willoughby Councillors.**

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ROZOS

CARRIED

Voting

For the Motion: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos and Wright.

Against the Motion: Councillor Saville.

Absent: Councillor Stevens and Coppock.

15.4 7 DONNELLY ROAD, NAREMBURN

ATTACHMENTS:	1. SUBMISSION FROM ROBERT MANNING, 1 DONNELLY ROAD, NAREMBURN, DATED 4TH MAY 2014
RESPONSIBLE OFFICER:	IAN ARNOTT - DEVELOPMENT PLANNING MANAGER
AUTHOR:	ANA VISSARION - DEVELOPMENT PLANNER
CITY STRATEGY LINK:	6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS
MEETING DATE:	12 MAY 2014

Purpose of report

To present the outcome of the meeting that took place at Council offices on Thursday 8 May 2014 following Council's resolution at the meeting of 28 April 2014 in respect to the above mentioned application.

(This matter was dealt with at Item 15.1)

16 CORRESPONDENCE

16.1 COUNCILLORS INFORMATION BOOKLETS - 1 & 8 MAY 2014

RESPONSIBLE OFFICER:	NICK TOBIN - GENERAL MANAGER
AUTHOR:	TRISHA DUFFY
CITY STRATEGY LINK:	6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS
MEETING DATE:	12 MAY 2014

Purpose of Report

To list on the Agenda the Councillors Information Booklets, circulated to all Councillors on 1 & 8 May 2014.

RESOLUTION

That the Councillors Information Booklets be received.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens.

17 REPORTS FROM OFFICERS - GENERAL MANAGER

NIL

18 REPORTS FROM OFFICERS - CORPORATE SERVICES DIRECTOR

18.1 COUNCILLOR FEES 2014 - 2015

RESPONSIBLE OFFICER: TRACEY CROUCH - CORPORATE SUPPORT AND PERFORMANCE DIRECTOR

AUTHOR: JEFF KNIGHT

CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS

MEETING DATE: 12 MAY 2014

Purpose of Report

To inform Council of the 2014 Report and Determination from the Local Government Remuneration Tribunal and to adopt the Mayoral and Councillor's Allowances for the 2014/15 financial year.

RESOLUTION

That Council set the annual fees payable to the Councillors and Mayor from 1 July 2014 to 30 June 2015 at \$22,800 for Councillors and \$60,580 for the Mayor.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens.

18.2 MID YEAR RECESS 2014

RESPONSIBLE OFFICER: TRACEY CROUCH - CORPORATE SUPPORT AND PERFORMANCE DIRECTOR

AUTHOR: JEFF KNIGHT

CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS

MEETING DATE: 12 MAY 2014

Purpose of Report

To set the dates for Council's Mid-Year Recess.

RESOLUTION

That:

1. Council break for a mid-year recess from the week commencing 23 June and concluding 11 July 2014.
2. the Mayor and the General Manager be delegated authority to deal with matters considered by them to be urgent during the recess, subject to:
 - a) the relevant legislation with the *Local Government Act, 1993*;
 - b) matters that are considered urgent in nature or would cause undue delays to stakeholders;
 - c) consultation with Ward Councillors for decisions involving development applications;
 - d) decision being deferred where Council policy provides no clear guidelines; and
 - e) a list of matters dealt with under delegated authority to be presented to Council at the meeting on 14 July 2014.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens.

**19 REPORTS FROM OFFICERS - COMMUNITY SERVICES
DIRECTOR**

NIL

20 REPORTS FROM OFFICERS - ENVIRONMENTAL SERVICES DIRECTOR

20.1 41-47 OAKVILLE ROAD, WILLOUGHBY NSW 2068 - DA 2013/43

ATTACHMENTS: 1. NOTIFICATION MAP
2. AMENDED PLANS

MEETING DATE: 12 MAY 2014

RECOMMENDATION: APPROVAL

LOCATION: 41-47 OAKVILLE ROAD, WILLOUGHBY NSW 2068

APPLICANT: FABCOT PTY LIMITED

OWNER: FABCOT PTY LIMITED

PROPOSAL: PROPOSED DEMOLITION OF EXISTING DWELLING HOUSES AND ANCILLARIES TO RECONFIGURE AND EXTEND EXISTING CAR PARK

DATE OF LODGEMENT: 13 FEBRUARY 2013

VALID APPLICATION DATE: 7 APRIL 2014 (REVISED LANDSCAPE PLAN AND AGREEMENT ON DRAFT DEED)

REPORTING OFFICER: ANA VISSARION - DEVELOPMENT PLANNER

RESPONSIBLE OFFICER: IAN ARNOTT - DEVELOPMENT PLANNING MANAGER

DESCRIPTION OF PROPOSAL

The proposal seeks consent to demolish the dwellings and ancillary structures on 41 and 43 Oakville Road, Willoughby and proposes a car park in conjunction with the adjoining existing car park at 45 and 47 Oakville Road.

Currently there are 44 car spaces in the existing public car park. The extended car park would provide for a total of 71 car spaces.

The application as amended is referred to Council for determination as the proposal received twenty (20) objections following notification and involves Council-owned assets.

RESOLUTION

That:

1. Council authorises the General Manager to negotiate with Fabcot Pty Ltd the final terms of the Car park Operation Deed for a minimum term of 20 years.

2. Council authorises the General Manager and the Mayor to execute the Car park Operation Deed under the Common Seal of Council.
3. Council supports waiving the development application requirements of the Section 94A Development Contributions Plan.
4. the application be APPROVED and delegated authority be granted to the General Manager to issue the consent notice subject to the attached conditions.

MOVED COUNCILLOR ERIKSSON

SECONDED COUNCILLOR MUSTACA

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillors Coppock and Stevens.

Schedule of Conditions

CONDITIONS OF CONSENT:

CONSENT IDENTIFICATION

The following condition provides information on what forms part of the Consent.

1. Approved Plan/Details

The development must be in accordance with the following plans:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Plan	288542WI01- DAC01	D	1 Oct 2013	21 Nov 2013	Mott MacDonald Hughes Trueman
Plan	288542WI01- DAC02	A	2 Oct 2013	21 Nov 2013	Mott MacDonald Hughes Trueman
Landscape	13_025	D	02 Apr 2014	7 Apr 2014	Habitation Landscape Architecture

the application form and any other supporting documentation submitted as part of the application, except for:

- a) any modifications which are "Exempt Development" as defined under S76(2) of the Environmental Planning and Assessment Act 1979;
- b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

PRIOR MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to making an application for a construction certificate.

2. OSD System Design and Calculation

Submit the Following Information to Willoughby City Council

Prior to the lodgement of an application for a construction certificate, the applicant shall submit plans and specifications satisfying the following requirements to Willoughby City Council for approval. A letter confirming the documentation is approved by Willoughby City Council, shall then be submitted to the certifying authority for the application of a construction certificate.

The following issues shall be submitted to Council for approval:

1. The OSD Design and Calculation Checklists shall be completed and signed by a suitably qualified professional engineer and submitted to Council. This is to ensure that the design of the proposed OSD systems has been carried out in accordance with Council's DCP and Technical Standard No. 1 – On-Site Detention.
2. Detailed analysis with supporting calculations shall be submitted to Council demonstrating that the existing stormwater pipe and pit in Chaffer lane has sufficient capacity to convey the additional runoff from the proposed car park.
3. The Applicant shall submit documentary evidence to Council by way of title documents and relevant instruments demonstrating that the subject properties (Lot 14 of DP 33364 and Lot 15 of DP 33364) benefit from a drainage easement over the downstream property being (Lot 13 of DP 33364 and Lot 1 of DP 175604).
4. In light of point 3, the applicant shall submit site plan (1:100) and long sections showing the design of an interallotment system (proposed 300 ϕ pipe) with dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and the exact point of discharge. The drawings shall include the following:
 - i. The contributing catchments calculations and supporting pipe sizing information;
 - ii. The proposed interallotment drainage system must be designed so that it has adequate capacity to carry uncontrolled runoff (up to 1 in 100yr ARI storm) from all upstream property(s) benefiting from the easement and the subject property;
 - iii. Scaled longitudinal section (1:100) showing existing ground levels, horizontal distance and proposed pipe invert levels, grades and flow capacities.

(Reason: Ensure compliance)

3. Traffic on Chaffer Lane

The plans must be appropriately amended to show that Chaffer Lane has a one-way traffic. Details of retaining the lane as one way are to be incorporated within the Construction Certificate plans.

(Reason: Ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

4. Additional Details and/or Information for Construction Certificate

Any requirements outlined by conditions of this consent requiring changes to be noted on plans and/or information to be submitted including compliance with the Building Code of Australia are to be incorporated within the Construction Certificate plans and/or documentation.

(Reason: Ensure Compliance)

5. Sydney Water 'Quick Check' Certificate

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

Plans will be appropriately stamped and the Principal certifying authority must ensure the plans are stamped by Sydney Water prior to release of the Construction Certificate.

(Reason: Ensure compliance)

6. Damage Deposit

The applicant shall lodge a Damage Deposit of \$90,000 (GST Exempt) as cash, cheque or an unconditional bank guarantee, to Council against possible damage to Council's asset during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of \$264 (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

(Reason: Protection of public asset)

7. Analysis of Outlet Condition

The capacity of the existing Council stormwater drainage system at the proposed connection of the outlet shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that no stormwater will be able to surcharge from Council's system to the proposed drainage system. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to Council for consideration.

(Reason: Prevent property damage)

8. Detailed Stormwater Management Plan (SWMP)

Submit for approval by the Principal Certifying Authority, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer. All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.

(Reason: Ensure Compliance)

9. Construction Management Plan (CMP)

Submit, for approval by the Principal Certifying Authority, detailed Construction Management Plan (CMP). The CMP shall address:

- (a) Construction vehicles access to and egress from the site
- (b) Parking for construction vehicles
- (c) Locations of site office, accommodation and the storage of major materials related to the project
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets
- (e) Location and extent of proposed builder's hoarding and Work Zones
- (f) Tree protection management measures for all protected and retained trees.

(Reason: Compliance)

10. Traffic Management Plan

A detailed Traffic Management Plan shall be prepared for pedestrian and traffic management and be submitted to the relevant road authority for approval. The plan shall: -

- a) Be prepared by a RTA accredited consultant.
- b) Implement a public information campaign to inform any road changes well in advance of each change. The campaign shall be approved by the Traffic Committee.
- c) Nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- d) Temporary road closures shall be confined to weekends and off-peak hour times and are subject to the approval of Council. Prior to implementation of any road closure during construction, Council shall be advised of these changes and a Traffic Control Plan shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

(Reason: Public safety and amenity)

11. Design of Civil Works in Public Road (Roads Act Approval)

Prior to issue of any Construction Certificate, the Applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- Construction of full width footpath (max. 2.5% crossfall) for the full frontage of the development in Oakville Road. Detailed long section and cross section in 5 metres interval shall be provided.
- Construction of kerb and gutter for the full frontage of the development in Oakville Road.
- Construction of new stormwater pit and 375mm pipe in Chaffer lane to Council specifications.
- Construction of vehicular crossing to Council specifications. The design levels at the property boundary shall be 200mm above and parallel to the gutter invert. Crossings shall be designed in accordance with Council's standard drawing SD105 and specification.
- Construction of one lane 3 metres of the road pavement and any associated works fronting the subject site in Oakville Road.
- Re-sheet Chaffer lane with 40-50 mm thick of AC10 in accordance with Council's standard and specification.
- Re-sheet the existing parking area with 40-50 mm thick of AC10 in accordance with Council's standard and specification.
- Install the signage and linemarking for the car park, all signage and linemarking is to meet current RMS and Australian Standards requirements.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of two (2) weeks will be required for Council to assess the *Roads Act* submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current *Fees and Charges Schedule* are payable to Council prior to issue of the approved plans. Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.
(Reason: Ensure compliance)

12. Certificate Issued by Willoughby City Council

Prior to issue of any Construction Certificate, the applicant shall submit, for approval by the Accredited Certifier, a letter issued by Willoughby City Council confirming that the documentation listed in Condition 2 of this consent has been approved by Council.
(Reason: Ensure compliance)

13. Design of Interallotment Drainage System

The inter-allotment drainage system at the development site shall be provided, at the applicant's expense, to cater all upstream properties that fall towards the site. The proposed interallotment drainage pipeline shall be designed so that the pipelines have adequate capacity to carry the uncontrolled runoff (up to 1 in 100yr ARI) in accordance with Part C5 of Council's Development Control Plan.

Detailed design drawings prepared by a suitably qualified and experienced civil engineer of the required interallotment drainage system shall be submitted to the Accredited Certifier for approval prior to issue of any Construction Certificate.
(Reason: Prevent nuisance flooding)

14. Vehicle Access – Engineer's Certification

The Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- a) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- b) That the proposed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- c) All parking spaces for people with disabilities shall comply with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

15. Hazardous Building Material Assessment

A hazardous building material assessment shall be undertaken by an appropriate qualified person and is to be submitted to the Principal Certifying Authority for approval. The assessment shall identify any likely hazardous materials within any structure to be demolished and provide procedures on how to handle and dispose of such materials.

(Reason: Environmental protection/public health and safety)

16. Noise Attenuation

To ensure compliance with the noise attenuation measures, recommended in acoustic report no:13-1728-R1 prepared by Reverb Acoustics dated June 2013 the following measures must be implemented. These measures include:

- 2.1m high fence along the full length of the sites eastern boundary;
- 1.8m high fence along the full length of the sites northern boundary.

Detailed plans showing these attenuation measures are to be submitted to the Principal Certifying Authority together with certification from a suitably qualified acoustical engineer that the relevant noise criteria can be complied with prior to a Construction Certificate being issued.

(Reason: Ensure Compliance)

PRIOR TO COMMENCEMENT

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site.

17. Dilapidation Report of Adjoining Properties

Submit a photographic survey and report of the adjoining properties 39 Oakville Road and 85 Penshurst Street Willoughby to the PCA and all owners of these adjoining properties. Such photographic survey and report shall be prepared by a suitably qualified person, detailing the physical condition of these properties, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary.

In the event of a property owner refusing to allow access to carry out the photographic survey, the proponent must demonstrate in writing to the PCA, and provide a copy to Council, that the purpose of the survey was made clear to the property owner and that reasonable attempts to obtain access were made.

(Reason: Protection of adjoining owners)

18. Operation Deed

A car park operation deed must be finalised and entered into with Council prior to commencement of any works.

(Ensure Compliance)

19. Dilapidation Report of Council's Property

Submit a dilapidation report including photographic record of Council's property extending to a distance of 50m from the development, detailing the physical condition of items such as, but not exclusively to, the footpath, roadway, nature strip, and any retaining walls.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this regard,

the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

This dilapidation report shall be submitted to Council and the Principal Certifying Authority.

(Reason: Protection of Council's infrastructure)

20. Report Existing Damages on Council's Property

Prior to commencement of any works on site, the applicant shall notify Council in writing with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

21. Permits and Approvals Required

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:-

- a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and the RTA. A separate written application to work outside normal hours must be submitted for approval.

It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

- c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).

- f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.
(Reason: Legal requirements)

22. Application for Vehicle crossing

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

23. Spoil Route Plan

Submit a "to and from" spoil removal route plan to Council prior to the commencement of excavation on the site. Such a route plan should show entry and exit locations of all truck movements.

(Reason: Public amenity)

24. Vehicle Access - Construction & Certification

The Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate plans.
- b) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- c) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- d) All parking spaces for people with disabilities did comply with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

25. Construction of Interallotment Drainage Pipeline

The required interallotment drainage system within the existing car park shall be installed, surveyed and certified. The designing engineer or equivalent professional engineer shall supervise the works.

Prior to issue of any Occupation Certificate, the applicant shall submit to the Principal Certifying Authority for approval of the following:

- i. Certification from the supervising engineer that the as-constructed drainage works comply with the approved interallotment design drawings, and
- ii. A full works-as-executed drawing of the as-built interallotment drainage line (dimensions, grades, materials, invert levels) prepared by a registered surveyor, and

- iii. Certification from the surveyor that all drainage structures are wholly contained within the drainage easement to be registered.

(Reason: Ensure Compliance)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.

26. Hours of Work

All construction/demolition work relating to this Development Consent within the City must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application under Section 96 of the Environmental Planning and Assessment Act for a variation to these approved hours must be lodged with Council at least 3 working days in advance of the proposed work. The application must include a statement regarding the reasons for the variation sought and must be accompanied by the required fee.

Note: This S96 application may require re-notification in some circumstances.
(Reason: Ensure compliance and amenity)

27. Construction Information Sign

A clearly visible all weather sign is required to be erected in a prominent position on the site detailing:

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator's and / or the demolisher's and / or the builder's name;
- (c) contact phone number/after-hours emergency number;
- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Principal Certifying Authority (if other than Council)

ANY SUCH SIGN IS TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.

Council may allow exceptions where normal use of the building/s concerned will continue with ongoing occupation, or the works approved are contained wholly within the building.

(Reason: Ensure compliance)

28. Building Site Fencing

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.

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 1.5m). Temporary

fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

Fences are to be structurally adequate and be constructed in a good and workmanlike 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 and be maintained throughout construction.

(Reason: Safety)

29. Provide Erosion and Sediment Control

Erosion and sediment control devices shall be provided whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

30. Suitable Screens

Suitable screens and/or barricades shall be erected during demolition and building work and where required by the principal certifying authority to reduce the emission of noise, dust, water effluent or other matter from the site.

(Reason: Maintain amenity to adjoining properties)

31. Demolition Work AS 2601

Demolition works being carried out in accordance with the requirements of AS 2601 "The demolition of structures".

(Reason: Safety)

32. Asbestos Sign to be Erected

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site.

The sign is to be erected prior to the commencement of works and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health & Safety/Ensure Compliance)

33. Neighbour Notification of Asbestos Removal

The applicant/builder is to notify the adjoining residents five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence, Work Cover NSW phone number 131 050, Councils phone number 9777 1000.

This notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.
(Reason: Public Health)

34. Asbestos Removal

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice for Safe Removal of Asbestos (National Occupational Health and Safety Committee 2002).

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.
(Reason: Public Health & Safety/Ensure Compliance)

35. Asbestos Disposal

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Principal Certifying Authority with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.
(Reason: Environmental Protection/Public Health and Safety)

36. Road and Footpath

Council's footpath, nature strip or roadway not being damaged and shall be kept clear at all times.
(Reason: Maintain public safety)

37. No Storage on Foot/Roadway

Building materials, plant and equipment and builder's waste, are not to be placed or stored at any time on Council's footpath, nature strip or roadway adjacent to building sites unless prior written approval has been granted by Council.
(Reason: Safety)

38. Skips and Bins

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.
(Reason: Safety)

39. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely, and must be properly guarded and protected to prevent them from being dangerous to life or property.
(Reason: Safety)

40. Temporary Toilet Facilities

Temporary toilet facilities shall be provided to the satisfaction of the Principal Certifying Authority.

The provision of toilet facilities must be completed before any other work is commenced on site. NOTE: Portable toilet facilities are not permitted to be placed on public areas without prior approval having been obtained from Council.
(Reason: Health and amenity)

41. Sweep & Clean Pavement

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.
(Reason: Legal requirement)

42. Street Signs

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.
(Reason: Protection of Public Assets)

43. Tree Protection

- i) Retain and protect the following trees and vegetation throughout the demolition and construction period:
All trees not indicated for removal on Landscape Plan Drawing Number L01 dated 02.04.14 by Habitation.
- ii) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- iii) A Project Arborist is to be appointed in accordance with Appendix 5 of the Arboricultural Impact Assessment Report and Tree Protection Specification Rev.A dated 2nd July 2013 prepared by Tree IQ.
- iv) Tree protection measures must comply with Appendix 5 of the Arboricultural Impact Assessment Report and Tree Protection Specification Rev.A dated 2nd July 2013 prepared by Tree IQ and AS 4970-2009 Protection of trees on development sites.
(Reason: Tree Management)

44. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified in accordance with the Environment Protection Authority (EPA) Waste Classification Guidelines prior to being disposed of to a NSW approved landfill or to a recipient site.
(Reason: Environment and Health Protection)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

45. Access for the Disabled - Disability Discrimination Act

The development must comply with the requirements of the Disability Discrimination Act.

It should be noted that this approval does not guarantee compliance with this Act and the applicant/owner should investigate their liability under this Act.

(Reason: Access and egress)

46. Sign for OSD System

An aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD system.

The wording for the plaque shall state "*This is the OSD system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris*".

(Reason: Prevent unlawful alteration)

47. Confined Space Sign

Securely install a standard confined space danger sign in a prominent location within the immediate vicinity of access grate of the OSD system.

(Reason: Safe access to tank)

48. Certification of OSD

A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with Council's DCP and Technical Standards. Council's standard certification form is available in the appendix of Council's Technical Standard No.1.

(Reason: Legal requirement)

49. Works-As-Executed Plans - OSD

Upon completion of the OSD System, the following shall be submitted to the Principal Certifying Authority:

- Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the volume of storage, PSD, water and floor levels are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.
- Engineer's certification of the OSD system together with the completed Council's standard form for On-Site Detention Record of Installation.

(Reason: Record of works)

50. S88B/S88E(3) Instrument

Create Positive Covenant and Restriction on the Use of Land on the Title in favour of Council as the benefiting authority for the as-built OSD system for the new car park. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council's Technical Standards.

The above instruments shall be created under Section 88B of the Conveyancing Act 1919 for newly created lots. For an existing lot, the instruments can be created under Section 88E(3) of the Conveyancing Act 1919 using Form 13PC and 13RPA respectively. The relative location of the OSD system, in relation to the building footprint, must be shown on the final plan of subdivision/strata plan or must be shown on the scale sketch, attached as an annexure to the request 13PC and 13RPA forms. The S88B instrument or 13PC/13RPA forms shall be lodged with Council's Standard S88B/S88E Lodgement Form with all supporting documentations listed in the Form. Council's Standard Form is available from Council upon requested.

Documentary evidence of registration of these instruments with the Land and Property Information shall be submitted to the Principal Certifying Authority and Council prior to issue of any Occupation Certificate.
(Reason: Maintenance requirement)

51. Documentary Evidence of Positive Covenant, Engineers Certificate

The following documentary evidence of the completed drainage works shall be submitted to Principal Certifying Authority and Council: -

- Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system and/or plumber's certification of the as-built rainwater reuse system.
- Work-as-Executed plans highlighting in red based on the approved stormwater management plans from a registered surveyor for the as-built OSD system and/or rainwater reuse system.

(Reason: Public record)

52. Construction of Kerb & Gutter

Construct new kerb and gutter together with any necessary associated pavement restoration in accordance with Council's specification for the full frontage of the development site with associated pavement restoration 2 metre wide in Oakville Road.

(Reason: Public amenity)

53. Concrete Footpath

Construct full width concrete footpath for the full frontage of the development site in Albert Avenue. All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

54. Vehicular Crossing

Construct a new vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 6 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the driveway.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with:

- At back of layback – 100 mm above and parallel to the gutter invert.
- At property boundary – 200 mm above and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. The nature strip and footpath is to be adjusted on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
(Reason: Public amenity)

55. Removal of Redundant Crossings

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
(Reason: Public amenity)

56. Inspection of Civil Works on Road Reserves

All required road pavement, footpath, kerb and gutter, drainage works and/or any necessary associated works on the road reserve shall be completed in accordance with the Council approved drawings, conditions and specification (AUS-SPEC).

Pursuant to Section 138 of the Roads Act 1993, all works carried out on the road reserve shall be inspected and approved by Council's Engineer. Upon completion, Work-as-Executed drawings prepared by a registered surveyor shall be submitted to Council for record purposes. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

(Reason: Ensure compliance)

57. Performance Bond

The Applicant shall lodge with the Council a performance bond of \$45,000 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the Roads Act 1993. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

58. Public Tree Maintenance

The Project Arborist is to certify that:

- i All trees on public land have been adequately maintained, that there has been no net deterioration in health and condition, and that any remedial work complies with AS 4970-2009 "Protection of trees on development sites" and AS 4373 - 2007 "Pruning of Amenity Trees".

(Reason: Tree management, Public Asset Management)

59. Required Planting

Tree planting is to be installed in accordance with the approved Landscape Plan.

Screen planting is to be installed along the length of the eastern boundary (adjoining 39 Oakville Road).

Screen planting is to comprise evergreen native species capable of attaining a minimum height of 3 metres at maturity, be of a minimum pot size of 25 litres and be planted at maximum of 5 metres between centres.

Screen planting is to be planted, mulched, watered and maintained according to industry best practice.

(Reason: Landscape Amenity)

60. Completion of Landscape Works

The approved landscape works are to be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards.

(Reason: Landscape amenity)

61. Acoustic Works – Report

To ensure all acoustic work has been completed, certification shall be provided upon completion of the works, accompanied with evidence from suitably qualified and practising acoustic engineer, to the effect that the acoustic attenuation has been carried out in accordance with the acoustic report no: 13-1728-R1 prepared by Reverb Acoustics dated June 2013. The report shall include all post construction validation test results.

(Reason: Amenity)

ADDITIONAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

62. Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles.

In all respects, the proposed vehicle access and/or parking spaces shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification.

(Reason: Vehicular access)

63. Underground Utility Services

Locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

64. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage caused by, but not limited to , delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of Public Assets)

65. Trees on Adjoining Properties

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.
(Reason: Environmental protection)

66. Pollution Prevention – Water

The site shall be operated and maintained to ensure all environmental risks are minimised and managed to prevent pollution of the stormwater system in accordance with the Protection of the Environment Operations Act 1997 and any current Environment Protection Authority (EPA) requirements or guidelines.
(Reason: Environment Protection)

67. Dust Control

The following measures must be taken to control the emission of dust:

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity)

68. Construction Noise

Construction noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline. Noise levels shall not exceed the rated background level by more than 10dB(A) at the most sensitive receiver during the standard construction hours. A noise monitoring plan shall be implemented during construction. Where noise levels may be exceeded appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

STATUTORY REQUIREMENTS

The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants

69. Notify Council of Intention to Commence Works

In accordance with the provisions of Clause 81A(2) of the Environmental Planning and Assessment Act 1979 the person having the benefit of the development consent shall appoint a Principal Certifying Authority and give at least 2 days' notice to Council, in writing, of the persons intention to commence the erection of the building.

(Reason: Information and ensure compliance)

20.2 APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY FOR THE MONTH OF APRIL 2014

ATTACHMENTS:	1. LIST OF DETERMINED APPLICATIONS
RESPONSIBLE OFFICER:	IAN ARNOTT - DEVELOPMENT PLANNING MANAGER, PETER ROWAN - BUILDING SERVICES MANAGER
AUTHOR:	BUILDING SURVEYORS, DEVELOPMENT PLANNERS
MEETING DATE:	12 MAY 2014

Purpose of Report

The attached schedule lists all applications determined under delegated authority for the month of April 2014.

RESOLUTION

That the information be noted.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens.

20.3 DEVELOPMENT APPLICATION REPORT TO 5 MAY 2014

ATTACHMENTS:	1. LIST OF APPLICATIONS
RESPONSIBLE OFFICER:	IAN ARNOTT - DEVELOPMENT PLANNING MANAGER, PETER ROWAN - BUILDING SERVICES MANAGER
AUTHOR:	BUILDING SURVEYORS, DEVELOPMENT PLANNERS
MEETING DATE:	12 MAY 2014

Purpose of Report

The attached schedule lists all current development applications grouped by suburb.

RESOLUTION

That the information be noted.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens

21 REPORTS FROM OFFICERS - INFRASTRUCTURE SERVICES DIRECTOR

21.1 EDINBURGH ROAD - EASTERN VALLEY WAY RIGHT TURN PHASE

- ATTACHMENTS:**
1. COUNCIL'S LETTER TO RESIDENTS
 2. RMS PROPOSED PARKING ARRANGEMENTS ON SOUTH SIDE OF EDINBURGH ROAD
 3. COPY OF RESIDENT'S PROPOSAL FOR WIDENING OF EDINBURGH ROAD
 4. COPY OF CONCEPT DESIGN FOR LEFT TURN LANE
 5. EDINBURGH ROAD - LEFT HAND TURN - OPTION 2

RESPONSIBLE OFFICER: PAUL COLLINGS – ACTING INFRASTRUCTURE SERVICES DIRECTOR

AUTHOR: JAMES BROCKLEBANK – GROUP LEADER, TRAFFIC & TRANSPORT

CITY STRATEGY LINK: 4.2.2 BALANCE TRAFFIC MANAGEMENT

MEETING DATE: 12 MAY 2014

Purpose of Report

To summarise community feedback in regard to the RMS proposal to introduce a right turn phase for Edinburgh Road traffic entering Eastern Valley Way and to seek a resolution from Council to provide the RMS with Council's views on the proposal.

RESOLUTION

That:

1. the matter be referred to a full Council Inspection to be held on 7 June 2014.
2. the speakers and the Castlecrag Progress Association and Walter Burley Griffin Society be invited to attend and speak at the Inspection Meeting.

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against: Nil

22 NOTICE OF MOTION

22.1 NOTICE OF MOTION: PRE-POLLING VENUE FOR RECENT MAYORAL ELECTION

RESPONSIBLE OFFICER: NICK TOBIN - GENERAL MANAGER

CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS

MEETING DATE: 12 MAY 2014

Purpose of Report

Councillor W Norton has indicated her intention to move the following Notice of Motion.

"That Council expresses extreme concern to the NSW Electoral Commission that the venue chosen for pre-polling at the recent Mayoral by-election was very difficult for elderly or physically disabled voters to access."

RESOLUTION

That Council expresses extreme concern to the NSW Electoral Commission that the venue chosen for pre-polling at the recent Mayoral by-election was very difficult for elderly or physically disabled voters to access.

MOVED COUNCILLOR WRIGHT

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville and Wright.

Against: Nil

Absent: Councillor Coppock and Stevens.

22.2 NOTICE OF MOTION: PROPOSED CHANGES TO THE RACIAL DISCRIMINATION ACT 1975**RESPONSIBLE OFFICER: NICK TOBIN - GENERAL MANAGER****CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS****MEETING DATE: 12 MAY 2014**

Purpose of Report

Councillor N Wright has indicated his intention to move the following Notice of Motion.

"That Willoughby Council:

- 1 Intrinsically understands the importance of section 18C of the Racial Discrimination Act 1975.
- 2 Notes that section 18C provides protection to individuals from offensive behaviour because of race, colour, national or ethnic origin.
- 3 Further notes that all levels of government should combat bigotry at every opportunity.
- 4 That the Mayor write to Senator Brandis and The Treasurer, Joe Hockey requesting that the Racial Discrimination Act Draft Exposure Bill is withdrawn."

RESOLUTION

That Willoughby Council:

- 1 **Intrinsically understands the importance of section 18C of the Racial Discrimination Act 1975.**
- 2 **Notes that section 18C provides protection to individuals from offensive behaviour because of race, colour, national or ethnic origin.**
- 3 **Further notes that all levels of government should combat bigotry at every opportunity.**
- 4 **That the Mayor write to Senator Brandis MP and the Member for North Sydney the Hon Joe Hockey MP requesting that the Racial Discrimination Act Draft Exposure Bill is withdrawn.**

MOVED COUNCILLOR WRIGHT**SECONDED COUNCILLOR SAVILLE****CARRIED****Voting****For the Resolution:** Councillors Mustaca, Norton, Rozos, Saville and Wright.**Against:** Councillors Giles-Gidney, Eriksson and Hooper.**Absent:** Councillors Stevens and Coppock.

22.3 NOTICE OF MOTION: TRANS PACIFIC PARTNERSHIP AGREEMENT (TPP)

RESPONSIBLE OFFICER: NICK TOBIN - GENERAL MANAGER

CITY STRATEGY LINK: 6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS

MEETING DATE: 12 MAY 2014

Purpose of Report

Councillor L Saville has indicated her intention to move the following Notice of Motion.

"It is resolved that Willoughby City Council:

- a. Note
 - i. that Australia is in the final months of negotiating the Trans Pacific Partnership Agreement (TPP) with the United States and ten other Pacific rim countries;
 - ii. that these negotiations happen in secret and that the public and the Australian Parliament will not see the contents of the agreement until after it has been signed;
 - iii. the final TPP agreement may have an impact on local government that will not be realised until after the Agreement is signed
- b. Call on the Trade Minister to release the draft agreement for public consultation and parliamentary consideration prior to it being agreed to by Cabinet
- c. Request that the Trade Minister ensure that the agreement does not contain provisions which:
 - i. enable a foreign investor to sue governments for damages over policy, laws or regulations at local, state or national level;
 - ii. enable a foreign investor to sue governments for damages over policy, laws or regulations at local, state or national level;
 - iii. increase the period for copyright royalties and/or increases restrictions or penalties for temporary downloads from the internet;
 - iv. restrict local government policies which encourage local employment, support local economic and industry development and encourage good employment practices and initiatives;
 - v. restrict local government policies which encourage good environmental practices and initiatives;
 - vi. restrict local government supply and regulation of services or require the commercialisation of services;
 - vii. prevent local government procurement policy from giving preference to local suppliers."

RESOLUTION

That this item be deferred until the next meeting of Council.

MOVED COUNCILLOR SAVILLE

SECONDED COUNCILLOR MUSTACA

CARRIED

Voting

For the Resolution: Councillors Giles-Gidney, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against: Councillor Coppock.

22.4 NOTICE OF MOTION : TALUS STREET (R73306) RESERVE TRUST

RESPONSIBLE OFFICER:	NICK TOBIN – GENERAL MANAGER
AUTHOR:	NICK TOBIN – GENERAL MANAGER
CITY STRATEGY LINK:	6.1.1 A COUNCIL THAT IS OPEN, ACCOUNTABLE AND REPRESENTS ITS CONSTITUENTS
MEETING DATE:	12 MAY 2014

PROCEDURAL MOTION

That the following people address the meeting:

- Ms Suzie Gold
- Ms Emma Brooks Maher

Ms Gold and Ms Brooks Maher addressed the meeting and answered questions of the Councillors.

The Mayor, Councillor Giles-Gidney declared a significant non-pecuniary interest in the following matter and vacated the Chair. Councillor Coppock assumed the Chair.

A Procedural Motion to defer the matter until Council has met as a Committee of the Whole with the press and public excluded to consider the current legal position was Lost.

Purpose of Report

Councillor J Hooper has indicated his intention to move the following Notice of Motion.

"That:

1. Council notes that a procedure is available to trustees (and its managers) under Section 63(1) and (2) of the Trustee Act of NSW to seek advice:-
 - a. A trustee may apply to the Court for an opinion advice or direction on any question respecting the management or administration of the trust property, or respecting the interpretation of the trust instrument.
 - b. If the trustee acts in accordance with the opinion advice or direction, the trustee shall be deemed, so far as regards the trustee's own responsibility, to have discharged the trustee's duty as trustee in the subject matter of the application, provided that the trustee has not been guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion advice or direction.
2. Council as manager of the affairs of the Talus Street (R73306) Reserve Trust resolves to seek the advice of the Supreme Court under section 63 of the Trustee Act as to whether the principles laid down in case law of Council of the Municipality of Randwick v Rutledge (1959) 102 CLR 54, 88 apply to the Talus Street (R73306) Reserve Trust as per the advice of Mr Finkelstein QC dated 3 June 2013."

RESOLUTION

That:

1. Council notes that a procedure is available to trustees (and its managers) under Section 63(1) and (2) of the Trustee Act of NSW to seek advice:-
 - a. A trustee may apply to the Court for an opinion advice or direction on any question respecting the management or administration of the trust property, or respecting the interpretation of the trust instrument.
 - b. If the trustee acts in accordance with the opinion advice or direction, the trustee shall be deemed, so far as regards the trustee's own responsibility, to have discharged the trustee's duty as trustee in the subject matter of the application, provided that the trustee has not been guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion advice or direction.
2. Council as manager of the affairs of the Talus Street (R73306) Reserve Trust resolves to seek the advice of the Supreme Court under section 63 of the Trustee Act as to whether the principles laid down in case law of Council of the Municipality of Randwick v Rutledge (1959) 102 CLR 54, 88 apply to the Talus Street (R73306) Reserve Trust as per the advice of Mr Finkelstein QC dated 3 June 2013.

MOVED COUNCILLOR HOOPER

SECONDED COUNCILLOR WRIGHT

CARRIED

Voting

For the Resolution: Councillors Coppock, Hooper, Mustaca, Saville, Stevens and Wright.

Against the Resolution: Councillors Eriksson, Norton and Rozos.

Absent: Councillor Giles-Gidney

CONSEQUENTIAL MOTION

That a progress report on the current legal proceedings regarding the Talus Street matter be brought back to Council.

MOVED COUNCILLOR NORTON

SECONDED COUNCILLOR ERIKSSON

CARRIED

Voting

For the Consequential Motion: Councillors Coppock, Eriksson, Hooper, Mustaca, Norton, Rozos, Saville, Stevens and Wright.

Against the Consequential Motion: Nil

Absent: Councillor Giles-Gidney

The Mayor, Councillor Giles-Gidney declared a significant, non-pecuniary interest in the above matter and withdrew from the Chamber taking no part in the discussion or voting.

Councillors Coppock, Eriksson, Hooper, Mustaca, Saville and Wright and the General Manager and Environmental Services Director declared non-significant, non-pecuniary interests in the above matter.

23 CONFIDENTIAL ITEMS

NIL

24 QUESTIONS

NIL

- Councillor Stevens left the meeting at 9.15pm.
- Councillor Coppock left the meeting at 9.39pm.

The meeting concluded at 10.19pm

I have authorised a stamp bearing my signature to be affixed to the pages of the Minutes of the Council Meeting held on 12 May 2014. I confirm that Council has adopted these Minutes as a true and accurate record of the meeting.