

HURSTVILLE CITY COUNCIL
CIVIC CENTRE, MACMAHON STREET, HURSTVILLE.

**REPORT OF THE MEETING OF THE DEVELOPMENT ASSESSMENT
COMMITTEE
HELD ON WEDNESDAY, 7TH MAY, 2008 AT 7.04 PM**

PRESENT

Committee Members:

His Worship the Mayor, Councillor V Badalati (Chairperson)
Councillor B Giegerl
Councillor S Grekas
Councillor C Hindi
Councillor C Lee
Councillor S McMahon
Councillor C Minns (Deputy Mayor)
Councillor P Sansom
Councillor C Wong

Council Staff:

General Manager, Mr V Lampe
Director - Development Control, Mr B Daintry
Manager - Development Assessment, Mrs T Christy
Manager - Environmental Health and Building, Ms J Nicol
Senior Development Assessment Officer, Ms L Locke
Senior Environmental Health & Building Surveyor, Mr M Alexander
Office Team Leader, Mrs L Stephens

APOLOGIES

Apologies for inability to be present were tendered on behalf of Councillor W Pickering.

RESOLVED THAT the apologies be received and leave of absence granted.

(Moved Clr C Hindi/Seconded Clr S McMahon)

CONFIRMATION OF MINUTES

Development Assessment Committee Meeting - 2nd April, 2008

RESOLVED THAT the Minutes of the meeting of the Development Assessment Committee held on 2nd April, 2008, as previously circulated to each Councillor, be confirmed as a correct record.

(Moved Clr C Hindi/Seconded Clr S McMahon)

DISCLOSURE OF INTEREST

The following Councillor declared an interest in a matter before the Committee:

Mayor Councillor V Badalati - Item No: DAC011.01-08 - 8 Cahill Street, Beverly Hills *by virtue of residing opposite the property.*

NOTE RE NON-PECUNARY INTEREST

The following Councillor requested that the information below be noted re non-pecunary interest.

Councillor S McMahon - Item No: DAC010.02-08 - 7 Tournay Street, Peakhurst, and
- Item No: DAC010.03-08 - 621-629 Forest Road, Peakhurst
by virtue of his parents residing in the vicinity of the above properties, but outside the notification zone.

NOTE:

The Council at its meeting held on 22 March, 2000 granted delegated authority to the Committee to consider and determine matters placed before the Committee for its consideration in accordance with the functions of the committee adopted by Council. Accordingly the Committee's decisions do not require subsequent adoption by Council.

ITEMS

Item No: DAC010 - 08 DEVELOPMENT APPLICATIONS - PENSHURST WARD

(Report by Director - Development Control, Mr B Daintry)

COMMITTEE'S DECISION:

THAT the information be received and noted.
(Moved Clr S McMahon/Seconded Clr B Giegerl)

**Item No: DAC010.01 - 08 92 EDGBASTON ROAD, BEVERLY HILLS -
CONSTRUCTION OF OUTBUILDING TO BE USED AS A PIGEON LOFT**
(Report by Manager - Development Assessment) 07/DA-569

COMMITTEE'S DECISION:

THAT the application be granted a 'deferred commencement' approval in
accordance with the conditions included in the report.
(Moved Clr S McMahon/Seconded Clr B Giegerl)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S
Grekas,
C Wong, B Giegerl, C Minns, S McMahon
Councillors Absent from meeting: W Pickering, D Gillespie

The Mayor declared that the decision was unanimous.

**Item No: DAC010.02 - 08 7 TOURNAY STREET, PEAKHURST -
CONSTRUCTION OF AN ATTACHED DUAL OCCUPANCY AND
TORRENS TITLE SUBDIVISION**
(Report by Manager - Development Assessment) 07/DA-560

COMMITTEE'S DECISION:

THAT the application be approved in accordance with the conditions included in
the report.
(Moved Clr B Giegerl/Seconded Clr C Lee)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, S Grekas,
C Wong, B Giegerl, C Minns, S McMahon
Councillors against the Motion: C Hindi
Councillors Absent from meeting: W Pickering, D Gillespie

**Item No: DAC010.03 - 08 621-629 FOREST ROAD, PEAKHURST -
SECTION 96 APPLICATION TO SANCTION INCREASED HEIGHT OF
BUILDING AS CONSTRUCTED - LEGAL MATTER**

(Report by Manager - Development Assessment) 03/DA-3REV02, Land and Environment Court Proceedings No 10151 of 2008

COMMITTEE'S DECISION:

RESOLVED THAT in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act, 1993, the matters dealt with in this report are to be considered in Committee of the Whole (closed Council Meeting) at which the press and public be excluded. Specifically, the matters to be dealt with pursuant to Clause 10A relate to consideration of legal advice concerning development at 621 Forest Road Peakhurst and pursuant to Sub Clause (2)(g) are regarded as being advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

FURTHER, THAT in accordance with the provisions of Section 11(2) of the Local Government Act, 1993, the reports and correspondence relating to this matter be withheld from the press and public.

(Moved Clr P Sansom/Seconded Clr S McMahon)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas,
C Wong, B Giegerl, C Minns, S McMahon

Councillors Absent from meeting: W Pickering, D Gillespie

Item No: DAC011 - 08 DEVELOPMENT APPLICATIONS - HURSTVILLE WARD

(Report by Director - Development Control, Mr B Daintry)

COMMITTEE'S DECISION:

THAT the information be received and noted.

(Moved Clr C Hindi/Seconded Clr C Wong)

Item No: DAC011.01 - 08 8 CAHILL STREET, BEVERLY HILLS - DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF TWO STOREY DWELLING HOUSE WITH BASEMENT GARAGE AND GAMES ROOM OUTBUILDING

(Report by Manager - Development Assessment) 07/DA-523

Interest: In accordance with the interest declared, the Mayor, Councillor V Badalati, left the Chamber during discussion and voting on this item.

The Deputy Mayor, Councillor C Minns, assumed the position of Chairperson.

COMMITTEE'S DECISION:

THAT the application be approved in accordance with the conditions included in the report.

(Moved Clr C Hindi/Seconded Clr C Wong)

Councillors for the Motion: P Sansom, C Lee, C Hindi, S Grekas, C Wong, B Giegerl,

C Minns, S McMahon

Councillors Absent from meeting: W Pickering, D Gillespie

The Deputy Mayor declared the decision was unanimous.

Note: The Mayor resumed the position of Chairperson at this juncture.

Item No: DAC011.02 - 08 8-14 ROMANI AVENUE, HURSTVILLE - SECTION 96 APPLICATION TO MODIFY APPROVED CONSENT

(Report by Manager - Development Assessment) 07/DA-240REV01

COMMITTEE'S DECISION:

THAT the application be deferred for the submission of additional information by the applicant.

(Moved Clr C Hindi/Seconded Clr C Minns)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas,

C Wong, B Giegerl, C Minns, S McMahon

Councillors Absent from meeting: W Pickering, D Gillespie

Item No: DAC011.03 - 08 116 QUEENS ROAD AND 7-9 BOND STREET, HURSTVILLE - SECTION 96 APPLICATION TO MODIFY CONDITIONS AND DESIGN CHANGES

(Report by Manager - Development Assessment) 07/DA-236REV02

COMMITTEE'S DECISION:

THAT the application be approved in accordance with conditions included in the report.

(Moved Clr C Hindi/Seconded Clr P Sansom)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas,
C Wong, B Giegerl, C Minns, S McMahon
Councillors Absent from meeting: W Pickering, D Gillespie

The Mayor declared the decision was unanimous.

Item No: DAC012 - 08 DEVELOPMENT APPLICATIONS - PEAKHURST WARD

(Report by Director - Development Control, Mr B Daintry)

COMMITTEE'S DECISION:

THAT the information be received and noted.
(Moved Clr P Sansom/Seconded Clr B Giegerl)

Item No: DAC012.01 - 08 65 BORONIA PARADE, LUGARNO - UNLAWFUL BUILDING WORKS - REMOVAL OF FROSTED GLASS PROVISION

(Report by Manager - Environmental Health and Building) 07/263

COMMITTEE'S DECISION:

THAT Council not enforce the provision of the "frosted" glass in the balcony balustrade as stated within the Development Assessment Committee's decision of 6 June 2007 (DAC013.02 - 07) for reasons outlined in legal advice received from Marsdens Law Group dated 27 February 2008.

FURTHER THAT both the owner of the premises, Dr P Govender and the complainants, Mr and Mrs Thiveos be advised of Council's decision.
(Moved Clr P Sansom/Seconded Clr B Giegerl)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, S Grekas,
C Wong, B Giegerl, C Minns, S McMahon
Councillors against the Motion: C Hindi
Councillors Absent from meeting: W Pickering, D Gillespie

Item No: DAC012.02 - 08 55 BALMORAL ROAD, MORTDALE - DEMOLITION OF EXISTING DWELLING AND ERECTION OF PART ONE, PART TWO STOREY DWELLING

(Report by Manager - Development Assessment) 07/DA-472

MOTION: That the speaker on the application be granted an extension of time.
(Moved Clr C Hindi/Seconded Clr P Sansom)

COMMITTEE'S DECISION:

THAT the application be approved as recommended by the officer's report, subject to the following additional condition:

Modification of details of the development (s80A(1)(g) of the Act)

The *development application plans* must be amended and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail:

- a. the house being moved 6m further north towards the road as shown on the applicant's amended site plan stamped "received by Council 28 April 2008"; and
- b. the roof to be a flat roof and, if not a flat roof,
- c. the rear verandah, the roof form above and sub-floor areas below be deleted and relocated to the immediate west of the middle level living areas having a floor area not exceeding that proposed.

Reason: Having proper regard to the principle of view sharing as set forth in Tenacity Consulting v Warringah Council [2004] NSWLEC 140 the proposal, without these modifications, would have a devastating impact upon the district views of the neighbours and a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours.

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

(Moved Clr P Sansom/Seconded Clr S McMahon)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, S Grekas, C Wong, S McMahon

Councillors against the Motion: C Hindi

Councillors absent from Chamber during voting: B Giegerl, C Minns

Councillors Absent from meeting: W Pickering, D Gillespie

Item No: DAC012.03 - 08 16 KIMS AVENUE, LUGARNO - ALTERATIONS AND ADDITIONS TO EXISTING DWELLING INCLUDING NEW FIRST FLOOR ADDITION AND NEW ROOF

(Report by Manager - Development Assessment) 08/DA-47

COMMITTEE'S DECISION:

THAT the application be approved in accordance with the conditions included in the report.

(Moved Clr P Sansom/Seconded Clr S McMahon)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, S Grekas, C Wong, S McMahon

Councillors absent from Chamber during voting: B Giegerl, C Minns, C Hindi

Councillors Absent from meeting: W Pickering, D Gillespie

The Mayor declared the decision was unanimous.

Item No: DAC012.04 - 08 260 BELMORE ROAD, RIVERWOOD - DEMOLITION OF EXISTING COMMERCIAL BUILDING AND ERECTION OF A FOUR STOREY MIXED USE BUILDING WITH TWO LEVELS OF BASEMENT CAR PARKING

(Report by Manager - Development Assessment) 07/DA-507

COMMITTEE'S DECISION:

THAT the application be approved in accordance with the conditions included in the report.

(Moved Clr P Sansom/Seconded Clr C Lee)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas, C Wong,

B Giegerl, C Minns, S McMahon

Councillors Absent from meeting: W Pickering, D Gillespie

The Mayor declared the decision was unanimous.

Item No: DAC012.05 - 08 17 BORONIA PARADE, LUGARNO - ALTERATIONS AND ADDITIONS TO EXISTING DWELLING

(Report by Manager - Development Assessment) 07/DA-550

COMMITTEE'S DECISION:

THAT, as other garages exist in the vicinity on a nil street boundary setback, the requirement to move the double garage back one metre from the street boundary be deleted, and the application be approved in accordance with the conditions included in the report.

(Moved Clr P Sansom/Seconded Clr S McMahon)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, S Grekas, C Wong, B Giegerl, C Minns, S McMahon

Councillors against the Motion: C Hindi

Councillors Absent from meeting: W Pickering, D Gillespie

Item No: DAC012.06 - 08 73 LANSDOWNE CRESCENT, OATLEY - DEMOLITION OF EXISTING DWELLING, AND CONSTRUCTION OF NEW DWELLING HOUSE AND SWIMMING POOL

(Report by Manager - Development Assessment) 07/DA-437

COMMITTEE'S DECISION:

THAT the application be approved in accordance with the conditions included in the report.

(Moved Clr P Sansom/Seconded Clr C Lee)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas, C Wong, B Giegerl, C Minns, S McMahon

Councillors Absent from meeting: W Pickering, D Gillespie

The Mayor declared the decision was unanimous.

MATTERS REFERRED TO COMMITTEE OF THE WHOLE

Minute No. 100

RESOLVED THAT Council now resolve itself into a Committee of the Whole (Closed Council) and in accordance with Section 10A of the Local Government Act, 1993, Council Staff (other than members of the Executive, relevant Staff and the Minute Secretary) and members of the Press and the public be excluded from the Council Chamber during consideration of the following item referred to Committee of the Whole

FURTHER, THAT in accordance with the relevant provisions of the Act, the reports, correspondence and other relevant documentation associated with this matter be withheld from the Press and the public.

(Moved Clr S McMahon/Seconded Clr P Sansom)

As required under the provisions of Council's Code of Meeting Practice, before putting the above motion to the meeting, the Mayor requested those members of the public present to indicate whether they wished to make representations to the meeting, before it was closed to the public, as to whether that part of the meeting dealing with any or all of the above matters should or should not be closed. As no representations were received from members of the public the Mayor declared the motion CARRIED.

Minute No. 101

**Item No: COW020 - 621-629 FOREST ROAD, PEAKHURST - SECTION 08
96 APPLICATION TO SANCTION INCREASED HEIGHT OF BUILDING AS CONSTRUCTED - LEGAL MATTER**

RESOLVED THAT Council adopt the recommendation as outlined in the report.

FURTHER THAT a report on the progress of the prosecution be submitted to the next meeting of the Committee of the Whole.

(Moved Clr S McMahon/Seconded Clr P Sansom)

Councillors for the Motion: V Badalati (Mayor), P Sansom, C Lee, C Hindi, S Grekas,

C Wong, B Giegerl, C Minns, S McMahon

Absent from meeting: W Pickering, D Gillespie

Minute No. 102

RESOLVED THAT the Committee of the Whole revert to Open Council.

(Moved Clr P Sansom/Seconded Clr C Lee)

OPEN COUNCIL

Minute No. 103

RESOLVED THAT the Report of the Committee of the Whole as detailed be received and that the recommendations be adopted.

(Moved Clr P Sansom/Seconded Clr S McMahon)

The meeting finished at 9.20 pm.

CHAIRPERSON