BACKGROUND
After consulting with distinguished law professors and legal authorities on property and equity law, the view has been expressed that there are complex legal issues associated with the road closure methods and the land titles and uses in the upper Tamarama Gully area.

Unmade Road: complexity of law surrounding the road closure and access to private properties indicates that Council should be seeking specialist legal advice on how best to proceed. There could be risks for Council arising from works in the unmade road either during construction or with future use as completed.

Surveying of the “Unidentified” land holding in the gully could bring to light complexities relating to boundaries, the open water course and easement definitions.

In consultation with the General Manager, he advised that a resolution of Council would be required to authorise specialist legal advice. Although Council’s legal budget is tight, the report can address the likely need for advice regarding the road closure and title registrations as agreed at the February 2010 meeting of Council”.

1003.10.8
The Boot Factory, Bondi Junction

The following Notice of Motion was submitted by Cr Main:

“That

1. Officers identify and report on all the planning constraints applicable to the existing building and its site, the history of heritage interventions, FSR and other Transferred Development Rights, or any other development benefits pertaining to the Boot factory building and its curtilage.

2. Officers seek informed heritage architectural advice from a consultant recommended by Council's Heritage Adviser, and/or the NSW Heritage Branch, for restoration and adaptive reuse of the Boot Factory building.

3. Funding is allocated to commence a restoration plan for the Boot Factory building, suitable to accommodate future use by community organisations.

BACKGROUND
The Boot Factory is one of Bondi Junction’s most important heritage items and a reminder of the working past. Its leafy courtyard setting is a retreat from the busy commercial streets. It is also highly valued by Waverley’s community, with “restoration of the historic Boot Factory in Bondi Junction” recognised in the Wentworth Courier of 3rd March 2010 (News p. 11 “Council’s legal expenses soar”) as one of 6 priorities identified by residents for Council attention: see “Residents Speak Out” box on page 11 of the March 3rd edition of the Wentworth Courier: http://digitaledition.wentworthcourier.com.au/?email-analytics=Wentworth%20Courier&startpage=10&iid=33899

Built in 1892, it is a good example of Victorian industrial architecture, and was proclaimed in 1981 under s.130 of the Heritage Act 1977. The order “inhibited the realisation of the full potential of the site” and “Heritage Council officers (required) that the building be not just retained but also accessible and visible from Spring Street”. Complex Development


### ADDITIONAL MATTERS FOR CONSIDERATION

1003.11.1 Code of Meeting Practice Review – Additional Information (A02/0649)

Report dated 10 March 2010 from the General Manager about proposed changes to the revised draft of the Code of Meeting Practice recommended at the Finance, Ethics and Strategic Planning Committee in March 2010.

Recommendation: That Council:

1. Not adopt the recommendation of the Finance, Ethics and Strategic Planning Committee (FESP) to delete the reference and information about questions with notice and insert the previous reference and information about questions without notice.

2. Either seek legal advice on continuing to retain questions without notice in our Code of Meeting Practice or adopt the revised draft of the Code of Meeting Practice considered at the FESP Committee meeting including the section on questions with notice.

1003.11.2 Reclassification of Community Classified Properties (A09/0318)

Report dated 5 March 2010 from the Director, Corporate and Technical Services about the reclassification of certain Council properties.

Recommendation: That Council:

1. Approve commencement of a process to consult with the community on the potential risks and benefits of reclassification of certain Council properties outlined in this report from a “community land” classification to an “operational land” classification as defined under the Local Government Act 1993.

2. Commence the consultation via processes provided for this purpose under the Environmental Planning and Assessment Act 1979 by including proposals to reclassify the properties listed in Attachment 1 of this report in Part 2 Schedule 4 of the draft Waverley 2010 LEP prior to its submission to the Department of Planning for a Section 65 certificate to allow for public exhibition.
DECISION: That the Motion not be adopted.

BACKGROUND
After consulting with distinguished law professors and legal authorities on property and equity law, the view has been expressed that there are complex legal issues associated with the road closure methods and the land titles and uses in the upper Tamarama Gully area.

Unmade Road: complexity of law surrounding the road closure and access to private properties indicates that Council should be seeking specialist legal advice on how best to proceed. There could be risks for Council arising from works in the unmade road either during construction or with future use as completed.

Surveying of the “Unidentified” land holding in the gully could bring to light complexities relating to boundaries, the open water course and easement definitions.

In consultation with the General Manager, he advised that a resolution of Council would be required to authorise specialist legal advice. Although Council’s legal budget is tight, the report can address the likely need for advice regarding the road closure and title registrations as agreed at the February 2010 meeting of Council.

1003.10.8
The Boot Factory, Bondi Junction (A02/0303)

The following Motion is a revised version of the Notice of Motion submitted by Cr Main:

MOTION / DECISION (Main / Cancian)

That:

1. Officers identify and report on all the planning constraints applicable to the existing building and its site, the history of heritage interventions, FSR and other Transferred Development Rights, or any other development benefits pertaining to the Boot factory building and its curtilage. The report is to include suggestions of a business model for obtaining an income return from the use of the property following its restoration and adaptive reuse. Council can then determine what portion of the restoration costs could be recovered from fees for use.

2. Officers seek informed heritage architectural advice from a consultant recommended by Council's Heritage Adviser, and/or the NSW Heritage Branch, for restoration and adaptive reuse of the Boot Factory building.

3. Consideration is given to funding a restoration plan for the Boot Factory building by the Investment Strategy Working Group.

AMENDMENT (Kay / Betts) (WITHDRAWN)

The matter be deferred to allow the Investment Strategy Working Group to consider the need for the actions referred to in the Motion.
BACKGROUND
The Boot Factory is one of Bondi Junction’s most important heritage items and a reminder of the working past. Its leafy courtyard setting is a retreat from the busy commercial streets. It is also highly valued by Waverley’s community, with “restoration of the historic Boot Factory in Bondi Junction” recognised in the Wentworth Courier of 3rd March 2010 (News p. 11 “Council’s legal expenses soar”) as one of 6 priorities identified by residents for Council attention (see “Residents Speak Out” box on page 11 of the March 3rd edition of the Wentworth Courier: http://digitaledition.wentworthcourier.com.au/?email-analytics=Wentworth%20Courier&startpage=10&iid=33899).

Built in 1892, it is a good example of Victorian industrial architecture, and was proclaimed in 1981 under s.130 of the Heritage Act 1977. The order “inhibited the realisation of the full potential of the site” and “Heritage Council officers (required) that the building be not just retained but also accessible and visible from Spring Street”. Complex Development Approvals and transferred development rights ensued during development of surrounding sites in Spring Street in the late 1980s which subsequently became the subject of ICAC investigations (see ICAC report 1991 http://www.icac.nsw.gov.au/dmdocuments/pub2_11i1.pdf).

The Boot Factory is listed in Waverley’s LEP 1996 as a heritage item (see http://www.heritage.nsw.gov.au/07_subnav_01_2.cfm?itemid=2620276).

1003.11 ADDITIONAL MATTERS FOR CONSIDERATION

1003.11.1 Code of Meeting Practice Review – Additional Information (A02/0649)

Report dated 10 March 2010 from the General Manager about proposed changes to the revised draft of the Code of Meeting Practice recommended at the Finance, Ethics and Strategic Planning Committee in March 2010.

MOTION / DECISION (Kay / Betts)

That Council receive and note this report.

1003.11.2 Reclassification of Community Classified Properties (A09/0318)

Cr Betts declared a significant non-pecuniary interest in this item, and informed the meeting that she is on the board of WAYS. Cr Betts was not present at, or in the sight of, the meeting while the matter was being considered and voted on.

Cr Kay was elected by those councillors present at the meeting to chair this item.

Report dated 5 March 2010 from the Director, Corporate and Technical Services about the reclassification of certain Council properties.

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MAYOR