



## Agenda

### Land Use Management Committee

Notice is hereby given that a Land Use Management Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

**Monday 1 May 2006**

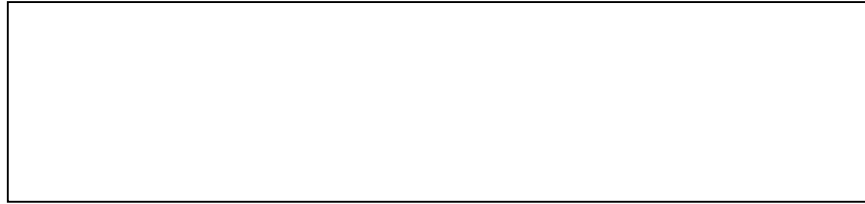
Commencing at 7:30:00 PM for the purpose of considering items included on the Agenda.

Persons in the gallery are advised that the proceedings of the meeting are being taped for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

*Copies of business papers are available at the Customer Services Counter at Manly Council, Manly Library and Seaforth Library and are available on Council's website:  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*

# Seating Arrangements for Meetings

Staff    Staff    General  
   Manager    Chairperson    Staff    Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

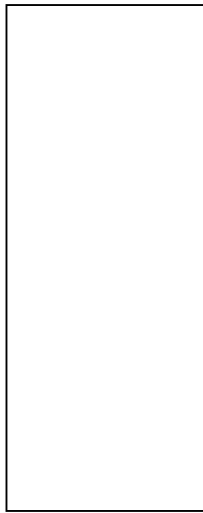
Clr Mark Norek

Clr Joanna Evans

**Deputy Mayor**  
Clr Barbara Aird

Clr Brad  
Pedersen

Clr Richard  
Morrison



Clr Jean Hay AM

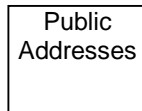
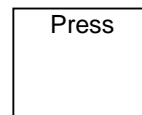
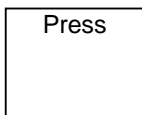
Clr Adele Heasman

Clr Dr Judy Lambert  
AM

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



**Public Gallery**

**Chairperson:** Clr Dr Judy Lambert  
**Deputy Chairperson:** Clr Richard Morrison

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### **DECLARATIONS OF INTEREST**

### **CONFIRMATION OF MINUTES**

The Land Use Management Committee of 3 APRIL 2006

### **SITE INSPECTIONS**

On Monday 1 May 2006 there will be site inspections for the following properties:

64 Edgecliffe Esplanade, Seaforth	8:00am
29 Edgecliffe Esplanade, Seaforth	8:20am
10 & 10A Addison Road, Manly	8:50am
51 Whistler Street, Manly	9:20am
56 Alexander Street, Manly	9:50am

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**\*\*\*\*\* END OF AGENDA \*\*\*\*\***

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Mayoral Minute Report No. 8  
**SUBJECT:** Local Area Traffic Management Scheme for Darley Road  
**FILE NO:**

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Background:

In recent months there has been a very significant increase in the number of truck and heavy vehicles using Darley Road to access and egress various sites on North Head. This has come about due to some increase in the movements associated with Sydney Water's activities at the NHTP but mainly due to Lend Lease's site works for the residential development on the two eastern precincts. As an example, during second week in February, according to figures provided by SW, there were an average of 400 movements a day in and out. About 10% are SW, the balance LL. There was a peak on 7.2.06 of about 600. In addition, noise levels are in the range of 97 decibels which is 10 decibels above permitted levels.

As a result of community disquiet, a "stakeholder" meeting was arranged by Margaret Bailey, the area manager of NPWS/DEC, on 16<sup>th</sup> March to map some strategies to mitigate impacts and perhaps co-ordinate future planning. At that meeting certain protocols were agreed upon covering the timing of early morning truck movements, parking of trucks, use of air brakes, avoidance of critical times such as school entry time and an adequate communication strategy. There was also talk of establishing a "NH Stakeholder Group" to progress the broader issues of policy and integrated management. No outcome from this proposal is evident.

Meanwhile, local residents and the Precinct Committees have agitated for a holistic approach to local traffic management on Darley Road and feeder roads as well as the critical question of pedestrian safety. A petition has been collected calling for action and improved community consultation, particularly relating to DA's that would further impact on the problems.

I have met with resident representatives and agreed to seek Council support for a LATM Planning Committee to consider an overall scheme for that area and to recommend appropriate traffic calming and safety measures. It would consist of the General Manager or nominee, RTA, Precinct reps, Chair of the TC, local residents and myself.

### **RECOMMENDATION**

That Council establish a LATM Planning Committee to consider an overall Traffic Management Scheme for Darley Road and the immediate surrounding area and make recommendations for appropriate traffic calming and safety measures.

### **ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Mayoral Minute Report No. 8 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 17  
**SUBJECT:** 64 Edgecliffe Esplanade, Seaforth  
**FILE NO:** DA25/06

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<b><u>Application Lodged:</u></b>	5 January 2006
<b><u>Applicant:</u></b>	Forte Designer Homes
<b><u>Owner:</u></b>	Anthony David & Marguerite Anne Hudson
<b><u>Estimated Cost:</u></b>	\$515,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	1, 2 and 3 storey dwellings
<b><u>Heritage:</u></b>	Nil.

### **SUMMARY:**

1. DA 222/05 FOR DEMOLITION AND CONSTRUCTION OF A TWO STOREY DWELLING WAS SUBMITTED TO COUNCIL ON 5 JANUARY 2006.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
3. THE APPLICATION WAS REPORTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 4 APRIL 2006 WHERE IT WAS RECOMMENDED FOR APPROVAL SUBJECT TO THE ADDITIONAL CONDITION THAT THE STORE ROOM AT THE REAR NOT BE USED FOR HABITABLE PURPOSES WITHOUT THE PRIOR CONSENT OF COUNCIL.
4. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR HEASMAN.
5. A SITE INSPECTION IS RECOMMENDED.
6. APPROVAL OF THE APPLICATION IS RECOMMENDED.

### **LOCALITY PLAN**

Shaded area is subject land.



## **REPORT**

### **Introduction**

#### ***The site and surrounds***

The site is located on the upper northern side of Edgecliffe Esplanade, being the front allotment of a battleaxe subdivision. The site has an irregular rectangular form, with a diagonal front boundary of 18.79m, staggered rear boundary, and length of 45.34m along its western side for a total area of 801m<sup>2</sup>. The site also has a fall of approximately 1m towards the street.

**Environmental Services Division Report No. 17 (Cont'd)**

The site is currently occupied with a single storey dwelling of brick construction with pitched tile roof, and detached single garage at its rear North Western corner. Landscaping comprises lawns surrounding the dwelling with several small to medium height trees and shrubs.

Development in the surrounds comprises two and three storey dwellings with a 2 and 3 storey dwelling to the east and a two storey dwelling to the west. Fragmented views to the south of Middle Harbour and the Spit are available looking down Ashton Avenue located opposite the site, with views also available from the upper levels of neighbouring dwellings.

***Proposed development***

Development consent is sought for demolition of the existing dwelling and construction of a new 2 storey dwelling. The ground floor will feature living rooms and an attached double garage. The upper level will feature 4 bedrooms with master ensuite, 2<sup>nd</sup> bathroom, rumpus room and two south facing balconies off the master bedroom and rumpus room. At the rear, the existing double garage is to be converted into a store room with bathroom, bench and sink.

Construction will be of brick with rendered and painted finish and the roof will be "colorbond" metal divided into two detached mono-pitch sections to the front and rear.

Open space and landscaping comprises a mix of lawns and paving, with shrubs and trees along each boundary as detailed in the landscape plan.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the Manly Residential Development Control Plan 2001. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

<b>Control</b>	<b>Provision</b>	<b>Proposal</b>	<b>Compliance</b>
Open Space	440m <sup>2</sup> / 55% min	570m <sup>2</sup> / 71%	Yes
Landscaping	35% min of O/S / 114m <sup>2</sup>	397m <sup>2</sup> / 70%	Yes
FSR	0.45:1	0.47:1	No
Wall height east	6.9m	5.8m	Yes
Wall height west	6.9m	6.5m	Yes
Setback – Front	6.0m or defacto	8.0m	Yes
Setback – Rear	8.0m	14.8m	Yes
Setback – side	2.2m to east  2.2m to west	1.5m – 3.9m east (2.9m east average) 1.5m – 4.5m west (3.2m east average)	Yes (on average) Yes (on average)
Roof height	3.0m	1.9m	Yes
Overshadowing	Min 4hrs sunlight to neighbours living areas & < 1/3 increase to neighbours open space	> 4 hours retained to north side living areas & open space.	Yes Yes
Parking	2 spaces	2 spaces	Yes

**Applicant's Supporting Statement**

The applicant submitted a Statement of Environmental Effects in support of the application, a copy of which is available for viewing on Council's file.

**Environmental Services Division Report No. 17 (Cont'd)****Submissions**

The application was notified to nearby and adjoining property owners with one submission received . Issues raised are as follows:

- DCP non-compliances
- Loss of outlook
- Streetscape impact
- Overshadowing

**Precinct Community Forum Comments**

Paula Beaumont spoke in opposition to the application, pointing out a number of breaches of DCP numerical controls, as well as loss of amenity and solar access.

The following motion was put:

Motion 1. That this Precinct asks Council to reject the application in its present form as it is non compliant in terms of FSR, side and rear setbacks, overshadowing and building height, and that some consideration be given to the impact on the streetscape.

Proposed by: Paula Beaumont

Seconded by: Diana Brown

For 19; Against 3; Abstain 4

**Engineers Comments**

Standard conditions of consent advised.

**Building Comments**

Standard conditions of consent advised.

**Landscape Architects Comments**

Standard conditions of consent advised.

**Planning Comments*****Manly Local Environmental Plan 1988***

The site is located in Zone No.2 – The Residential Zone which permits dwelling houses with the consent of Council. The proposed dwelling is permissible with consent in the zone.

The proposal is considered satisfactory in response to the relevant objectives of the zone, with no unreasonable amenity impacts to neighbouring properties identified in terms of excess overlooking, overshadowing, view loss or visual bulk. The design of the proposed dwelling is also considered to complement the varying dwelling forms presenting to the streetscape, being compatible in bulk, scale and design character. Consequently the proposal is considered an acceptable form of development in response to the objectives of the Residential Zone.

***Manly DCP for the Residential Zone 2001***

The proposal is considered an acceptable form of development in response to the provisions and design objectives of the DCP. Non compliances and amenity issues are discussed as follows:

***Floor Space Ratio***

The maximum FSR / gross floor area permitted for the site is 0.45:1 / 360m<sup>2</sup>. The proposal at 0.47:1 / 377.6m<sup>2</sup> seeks a departure to the FSR of 17m<sup>2</sup>, which is considered minor in context of the size of the dwelling, it being noted that the calculated FSR includes the area of the existing rear



**Environmental Services Division Report No. 17 (Cont'd)**

detached garage. Demolition of the garage would achieve compliance with the FSR. However, given that existing garage does not present adverse amenity issues the minor variation is considered acceptable.

Furthermore the proposal complies with all other provisions of the DCP including height, setback, open space and soft landscaping, and is comparable in bulk and scale to other 2 storey dwellings along the street. Consequently the variation to the FSR provision is considered acceptable on merit.

***Side setback***

The minimum required setback for both the eastern and western sides is 2.2m. Whilst a portion of both walls has a non-complying setback of 1.5m, it is noted that the DCP permits this where the proposal complies with the setback on average, with the portion of setback non-compliance offset by an equal or larger portion of surplus setback. The average setbacks are 2.9m and 3.2m to the east and west sides respectively, therefore complying with the required setback provision of 2.2m.

***Privacy***

Living areas are located on the ground floor where overlooking opportunities are minimal due to the relatively flat nature of the site. The first storey bedrooms have some side facing windows which are positioned out of alignment from opposite facing windows on the neighbouring dwellings, thereby minimising direct overlooking. The two balconies on the first storey are oriented to the south to maximise view opportunities whilst not resulting in any direct looking back into the neighbours living areas or private open space.

***Overshadowing***

The proposed 2 storey dwelling will result in some increase in overshadowing compared with the existing dwelling. Notwithstanding this, its siting and height will enable more than 4 hours direct sunlight to be maintained into the rear north facing windows and rear north facing garden areas of the neighbouring dwellings to the east and west, as required by the DCP.

***Views***

Fragmented views to Middle Harbour and The Spit to the south are available from the front garden of the site, looking down Ashton Avenue located opposite the site. Similar fragmented views are also available from the upper level of neighbouring dwellings. Less significant district views of the residential surrounds to the east and south-east are also available, mainly being from the upper level of neighbouring dwellings.

The proposed dwelling complies with the front setback provision but will have less front setback compared with the existing single storey dwelling, resulting in a some loss of outlook to the south-east from the adjoining dwelling to the west. However, this is not considered a significant loss of outlook as the front garden of the adjoining property to the west contains 3 mature trees adjacent to the dividing boundary with the subject site. These trees provide significant screening to and from the upper level of the adjoining dwelling to the west such that much of the district outlook to the southeast is filtered by these trees. Consequently the extent of loss resulting to district views is not considered significant.

Notification of the application to nearby and adjoining owners resulted in one submission being received. The issues raised in the submission are commented on as follows:

***DCP non-compliances***

The DCP non-compliances are addressed in the DCP assessment over page, with the proposal considered acceptable on merit with respect to non-complying FSR and portions of setback where non-compliance results. The reference to wall height exceeding that permitted under the DCP is not valid as the wall height is taken to the underside of the eave and the DCP states that gable walls above the eave level may be considered as part of the roof structure where the applicant demonstrates that the objectives of the DCP in respect of wall height are met. The proposed roof is

**Environmental Services Division Report No. 17 (Cont'd)**

a maximum 1.9m above eave level and therefore complies with the DCP in respect of roof height. The applicant has submitted further information in response to the objection and it is considered that the objectives of the DCP are satisfied with this proposal.

***Loss of outlook***

It is acknowledged that some outlook may be affected when looking diagonally across the subject site to the south-east, however much of this outlook is filtered by three mature trees along the side boundary in the front garden area. Furthermore the proposal complies with the front setback provision. On this basis the claimed loss of outlook is considered minor and an acceptable impact.

***Streetscape impact***

The streetscape of Edgecliffe Esplanade is characterised by varying forms of housing in terms of bulk, scale and roof form with no specific characteristic that should be followed in designs for new development. Consequently the proposed 2 storey dwelling with its split roof form is considered acceptable in the streetscape.

***Overshadowing***

The proposal will result in some increase in overshadowing due to replacing a single storey dwelling with a 2 storey dwelling, with the adjoining site to the west experiencing an increase between 9am and approximately 11am and the adjoining site to the east experiencing a slight increase in the afternoon period. The proposal will allow at least 4 hours direct sunlight being maintained to the north facing windows of both neighbouring properties, thereby complying with the solar access requirements of Council's DCP.

It is noted from assessment of the shadow diagrams submitted that overshadowing to the front (southern) garden of the adjoining property to the west at 9am winter solstice will result, however this is not the principal area of private open space, noting that the north facing rear yard area remains unaffected by shadowing from the proposal.

The submission also requests clarification of matters referred to on the plans as follows:

*Roof over terrace*, site plan shows "roof by owner" over the proposed terrace at the rear of the dwelling, there is also reference on the elevations to "pergola by owner". The dimensions are nominated however there is insufficient detail to fully assess the impacts of this aspect of the proposal, accordingly such works should be subject of a separate application, a condition in this regard is included in the recommendation.

*Entry structure*, the site plan shows a reference a "pathway and entry structure by owner". The path links the dwelling with the footpath/road reserve. The entry structure is not sufficiently detailed to enable proper assessment of the impacts, accordingly such works should be subject of a separate application, a condition in this regard is included in the recommendation.

*No reference to colour of roofing material as required by DA application checklist*. Perusal of documentation submitted with the application shows roofing being "colorbond custom orb sheeting", statements in the Basix certificate advise 'Roof – colour - Medium solar Absorbance between 0.45 and 0.70". This information is sufficient to enable assessment and it is noted that standard conditions of approval also refer to controls in respect of reflectivity of all external materials.

*Fill to within 900mm of west side boundary*. The Statement of Environmental Effects makes reference to fill to a maximum depth of 500mm at the western boundary for the extent of the proposed dwelling. This is to rectify previous cutting associated with construction of the existing dwelling on the site. This is considered acceptable providing finished ground levels within 900mm of the west side boundary match that those existing on the boundary along the boundary of the adjoining site to the west. A condition in this regard is included in the recommendation.

**Environmental Services Division Report No. 17 (Cont'd)**

*Removal of Brushbox Tree.* The landscape plans show existing trees on the adjoining property, adjacent to the western side of the subject site. These trees are identified and nominated as “neighbouring” and “protect”. The proposal is considered acceptable in this regard.

*No details of boundary fencing.* Plans show boundary fencing “by owner”. There is no information as to materials height or construction. Boundary fencing within the parameters described in the Manly Local Environmental Plan 1988 is exempt development. This matter is usually subject to agreement between owners concerned under the provisions of the Dividing Fences Act. A condition is included in the recommendation drawing the applicants attention to the need to submit a development application for fencing which exceeds the limitations listed in the LEP.

**LEP 1988 - Clause 10 Objectives for Residential Zone**

(a) to set aside land to be used for purposes of housing and associated facilities;

Comment: The site is zoned residential and will retain its residential use.

(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;

Comment: Council’s Residential DCP has been considered in the assessment of the proposal.

(c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;

Comment: The proposed dwelling is considered compatible with the character and size of housing in the locality.

(d) to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;

Comment: The design of the dwelling is considered to maintain acceptable levels of neighbour’s amenity in terms of privacy, views, overshadowing and visual impact.

(e) to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;

Comment: The proposal has been reviewed by Council’s Landscaping Officer as being acceptable.

(f) to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;

n/a.

(g) to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;

Comment: The proposal will not result in any increase in demand on services and facilities.

(h) to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.

The proposed dwelling is considered to complement the site responding to its form, slope and surrounds.

(i) to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.

n/a.

**CONCLUSION:**

The application has been assessed pursuant to Section 79C of the EP&A Act, including the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone.

**Environmental Services Division Report No. 17 (Cont'd)**

The design complies with the DCP apart from a departure to the FSR provision which is considered acceptable by virtue of satisfying the objectives for FSR. In this regard the design maintains a form, bulk and scale of development that is consistent with housing in the surrounds, with no unacceptable amenity impacts identified. The design is also considered satisfactory on merit in response to issues raised in submissions such that it may be considered a suitable form of development for the site and within the public interest. Consequently it is recommended for approval.

**RECOMMENDATION**

That Development Application 25/06 for demolition of the existing dwelling and construction of a two storey dwelling including conversion of the rear garage to a store room at 64 Edgecliffe Esplanade, Balgowlah, be approved subject to the following conditions:

**DA1**

This approval relates to drawings/plans No. Job 111 sheets 1 to 8 dated 21 December 2005 and LPDA 06 – 123/B dated December 2005 all received by Council 5 January 2006.

**ANS01**

Trees 13,15 and 26 as identified on the plans are to be retained, and shall be appropriately protected during construction plans being suitably notated **prior to issue of the Construction Certificate.**

**ANS02**

The rear detached garage / storeroom is not permitted to be occupied as a separate dwelling or used for habitable purposes.

**ANS03**

Finished ground level within 900mm of the west side boundary is to match existing ground level along the west side boundary line, plans being suitably notated **prior to issue of the Construction Certificate.**

**ANS04**

Any new boundary fencing being undertaken in accordance with the provisions of the Dividing Fences Act, note fencing not within the general criteria for exempt development under Council Local Environmental Plan 1988 is to be subject of a separate development application to Council.

**ANS05**

Entry structure and roof over rear terrace are not approved and are to be deleted from the plans. Plans being suitably amended **prior to issue of the Construction Certificate.**

**DA009**

The construction of a vehicular footpath crossing is required. The design and construction including allowable width shall be in accordance with the current Policy of Council and Specification for the Construction of Vehicle Crossings. All works shall be carried out prior to the issue of Occupation Certificate.

**DA010**

Separate application to Council for the construction of a Vehicular Crossing for the design, specification and inspection by Council. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property.

**DA011**

The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

**Environmental Services Division Report No. 17 (Cont'd)**

## DA012

The driveway/access ramp grades, access and car parking facilities shall comply with the Australian Standard for Off-Street Parking AS2890.1-2004 or later editions.

## DA016

Pursuant to Section 97 of the Local Government Act, 1993, Council requires, prior to issue of the Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$7,500. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.

## DA017

No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction. .

## DA341

Any Heritage listed stone kerb, removed for construction of a driveway or other approved works, is to be removed without damaging it and contact is to be made with Council's Manager, Construction and Maintenance, for the stone to be transported to Council's Depot.

## DA342

Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.

## DA343

Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.

## DA018

Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.

## DA019

Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council /Accredited Certifier prior to issue of the Construction Certificate.

## DA021

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

**Environmental Services Division Report No. 17 (Cont'd)**

## DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

## DA023

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

## DA024

A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm. Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

## DA026

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

## DA031

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

## DA039

Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

## DA040

Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.

## DA044

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.

## DA048

The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

## DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

**Environmental Services Division Report No. 17 (Cont'd)**

## DA060

On completion of the building structure a report from a Registered Surveyor is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.

## DA65

All external cladding and trim of the approved building shall be of a non reflective nature. Details of such finishes shall be **submitted with the Construction Certificate Application.**

## DA357

Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.

## DA109

All demolition is to be carried out in accordance with AS2601-2001.

## DA111

Any asbestos cement sheeting existing on the site must be removed in accordance with the requirements of the WorkCover Authority.

## DA084

Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter in accordance with Council's standards and specification for Stormwater Drainage.

## DA088

A system of onsite stormwater detention shall be provided within the property in accordance with Council's Specification for On-Site Stormwater Management 2003. The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate. The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

## DA095

A copy of the approved OSD plan showing work as executed details shall be submitted to Council prior to the issue of the Occupation Certificate. The work as executed plan shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention.

## DA100

A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.

## DA121

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

## DA126

An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.

**Environmental Services Division Report No. 17 (Cont'd)**

DA230

No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.

DA239

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.

DA348

Precautions shall be taken when working near trees to be retained including the following: - do not store harmful or bulk materials or spoil under or near trees - prevent damage to bark and root system - do not use mechanical methods to excavate within root zones - do not add or remove topsoil from under the drip line - do not compact ground under the drip line.

DA255

Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.

DA261

A sediment/erosion control plan for the site shall be submitted for approval to the Council/Accredited Certifier prior to the issue of the Construction Certificate. Implementation of the scheme shall be completed prior to commencement of any works on the site and maintained until completion of the development.

DA269

A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier prior to any building works being carried out on site.

DA270

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction then the following inspection/certification are required:-

Silt control fences

Footing inspection - trench and steel

Reinforced concrete slab

Framework inspection

Wet area moisture barrier

Drainage inspection

Driveway crossing/kerb layback

Landscaping inspection

Final inspection

The cost of these inspections by Council is \$1,980. (being \$220.00 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1573 or 9976 1587.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$100.00.

DA271

An Occupation Certificate is to be issued by the Principal Certifying Authority prior to occupation of the development.



**Environmental Services Division Report No. 17 (Cont'd)**

DA284

Detailed plans of roof trusses indicating type and position of trusses, design wind classification, manufacturer name, stress grade of timber used, and method of bracing and fixing trusses are to be submitted to the Principal Certifying Authority prior to the commencement of roof framework.

DA332

The capacity and effectiveness of erosion and sediment control devices must be maintained to Council satisfaction at all times.

DA333

A copy of the Soil and Water Management Plan must be kept on-site at all times and made available to Council officers on request.

DA334

Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.

DA335

Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.

DA336

Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

All disturbed areas shall be stabilised against erosion to Council satisfaction within 14 days of completion, and prior to removal of sediment controls.

DA339

Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council satisfaction.

DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the

**Environmental Services Division Report No. 17 (Cont'd)**

Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

**DA319**

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and nonstructural elements, shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".

**DA320**

Prior to issue of the Occupation Certificate, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".

**DA323**

This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.

**ATTACHMENTS**

There are no attachments for this report.

LUM010506ESD\_1.doc

\*\*\*\*\* End of Environmental Services Division Report No. 17 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 18  
**SUBJECT:** 29 Edgecliffe Esplanade, Seaforth  
**FILE NO:** DA28/06

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**Application Lodged:** 30 December 2006  
**Applicant:** Michael Blakeney Architects  
**Owner:** Mrs Gail Castellan and Mr Frank Castellan  
**Estimated Cost:** \$275,000  
**Zoning:** Zone No.2 (Residential) of the Manly Local Environmental Plan 1988.  
**Surrounding Development:** Single and two storey dwellings.  
**Heritage:** Not applicable

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND A PREDOMINANTLY TWO (2) STOREY ADDITION TO AN EXISTING DWELLING HOUSE WITH ATTACHED GROUND FLOOR FAMILY FLAT, A SWIMMING POOL, CABANA, FENCING AND LANDSCAPING WORKS.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
4. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLORS AIRD AND MACDONALD.
5. AN APPEAL HAS BEEN LODGED WITH THE LAND AND ENVIRONMENT COURT OF NSW AGAINST DEEMED REFUSAL OF THE APPLICATION.
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF THE APPLICATION SUBJECT TO CONDITIONS IS RECOMMENDED.

### **LOCALITY PLAN**

Shaded area is subject land.



### **REPORT**

#### **Introduction**

The subject site is a corner allotment located on the southern side of Edgecliffe Esplanade and the western side of Ashton Avenue, Seaforth. It has a 40.3m western side boundary; 25.8m eastern side boundary; 20.1m southern rear boundary and a 14.5m irregularly shaped northern front boundary. The site has a total site area of 725.9m<sup>2</sup> and an average fall of 4.87m from the northern (front) to the southern (rear) of the property.

**Environmental Services Division Report No. 18 (Cont'd)**

There is approximately fifteen (15) metres of landscaped Council owned road reserve, between the kerb of the road (Edgecliffe Esplanade) and the northern boundary of the subject site, with an average 3.32 metre fall from the road down to the northern boundary.

A one (1) and two (2) storey brick dwelling currently exists (in a central location) on site, with vehicular and pedestrian access to the dwelling/garage off Ashton Avenue. The property shares south-east views to Middle Harbour with its western adjoining property and properties located on the northern side of Edgecliffe Esplanade, Seaforth.

The southern side of Edgecliffe Esplanade is characterized by one (1) and two (2) storey dwellings fronting Edgecliffe Esplanade, with swimming pools located within their rear setbacks. These rear setbacks average a distance of fifteen (15) metres and adjoin the rear private open space areas of properties fronting Seaforth Crescent.

**Development History**

Development application No.379/05 for a part two (2) and part three (3) storey addition to an existing dwelling house with attached ground floor family flat, a swimming pool, cabana, water feature, fencing and associated landscaping works at property No.29 Edgecliffe Esplanade, Seaforth, was refused on 21 December 2005 for the following reasons:-

1. *The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979.*
2. *The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of the Edgecliffe Esplanade and Ashton Avenue streetscapes as a result of its excessive bulk and scale and is inconsistent with the general nature of the surrounding 2 storey homes, having regard to Section 79C(1) (c) of the Environmental Planning and Assessment Act 1979.*
3. *The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*
4. *The proposed development would be an overdevelopment of the site, and would create an undesirable precedent for the future character of development along Edgecliffe Esplanade and Ashton Avenue, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*
5. *The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*
6. *The proposed development does not comply with the height provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*
7. *The proposed development does not comply with privacy provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*
8. *The proposed development does not comply with overshadowing provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.*

**Environmental Services Division Report No. 18 (Cont'd)**

Development Application No.28/06 was received by Council on 11 January 2006. The application proposes alterations and additions to the existing dwelling including a new first floor level, attached ground floor family flat, swimming pool, cabana, fencing and landscaping works at No.29 Edgecliffe Esplanade, Seaforth and is the subject of this report.

**Proposed Development**

The proposed development includes major alterations and additions to an existing one (1) and two (2) storey dwelling, to transform it into a two (2) and in part three (3) storey dwelling as follows:-

***Basement:-***

Maintain the existing double garage; bathroom and attached western side room; and the air conditioning room which is located predominantly below ground level. Add a new internal access stair from the garage up to the ground floor level. Proposed conversion of the existing shower/toilet and attached room into a 'family flat'.

***Ground Floor:-***

- Predominantly maintain the existing ground floor dwelling structure, however the proposal involves the partial demolition of the existing western side living/dining area.
- Convert an existing northern facing bedroom into a partially open timber 'deck' area.
- Window layout modifications.
- New eastern side entry porch.
- The ground floor consists of four (4) bedrooms; two (2) ensuite; bathroom; toilet; laundry; entry area and stairs up to the first floor and down to the double garage.
- Landscaping works and new swimming pool and cabana located within the northern front setback.

***First Floor:-***

- New first floor addition consisting of a kitchen; living/dining area; southern facing terrace area and northern facing terrace area.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the DCP for the Residential Zone 2001, Amendment 1.

<b>Provision/Standard</b>	<b>Permitted/Required</b>	<b>Proposed</b>	<b>Complies Yes/No</b>
Floor space ratio	0.4:1	0.42:1(Including existing bedroom converted into a 'timber deck')	No*
Wall height East West	7.28m 7.2m	7.2m 7m	Yes Yes
Roof height	3m	3m	Yes
Parapet Height	1m	1m	Yes
Fence height Ashton Avenue Edgecliffe Esplanade	Existing 1.5m with 30% transparency over 1m	Existing 1.8m Brush fence	N/A No*
Setbacks North (Front) East (Side) West South (Rear)	6m 2.4m 0m - 2.3m 8m	7.4m to 13.6m 5m to 8.5m 0m; 1m - 3.7m 9.35m	Yes Yes Yes/ No* Yes
Setback – Swimming pool North (Front)	1m to outer edge 1.5m to water line	Predominantly 1m Predominantly 1.5m	Yes Yes

## Environmental Services Division Report No. 18 (Cont'd)

Provision/Standard	Permitted/ Required	Proposed	Complies Yes/No
Setback to Reserve (Northern Boundary)	Excavation under tree canopies must not jeopardise long term survival and stability of trees.	Minimum 4m setback proposed.	Yes
Open space - total	508.13m <sup>2</sup> / 70%	631.67m <sup>2</sup> / 87%	Yes
Open space - soft	254m <sup>2</sup> / 50%	270m <sup>2</sup> / 53%	Yes
Open space - above ground	181.48m <sup>2</sup> / 25%	41m <sup>2</sup> / 8%	Yes
Private open space	18m <sup>2</sup>	Greater than 18m <sup>2</sup>	Yes
Number of Endemic Trees	3 Tree	If approved, the development could be conditioned accordingly.	Yes
Car Parking – Residents	2	2	Yes
Shadow - adjoining N/S orientation	> 4hrs sunlight retained to adjoining dwellings windows or glazed doors of living rooms  Must not eliminate more than 1/3 of existing sunlight to open space of adjacent properties at 9am, 12 noon and 3pm at the winter solstice (21 June)	> 4 hours retained  Property No.31 Edgecliffe Esplanade. At 9am existing sunlight=322m <sup>2</sup> Proposed reduction of 88m <sup>2</sup> . Eliminates less than 1/3.	Yes  Yes

**Submissions**

The application was notified to nearby and adjoining property owners with two (2) submissions received. Concerns raised in the submissions are as follows:

- *3 storey component should be automatically rejected*
- *Southern balcony should be shortened to provide better sunlight access, privacy, view sharing and balcony size/look consistency with all the neighbours, We request that this balcony be open railed/glass, in keeping with the character of buildings of all surrounding neighbours and to lessen the bulk/size impact.*
- *we oppose the use of a massive planter box on the Southern balcony, which has the potential of blocking our view to middle harbour and further decrease sunlight access. We also seek to be reassured that the planting of 2 mature trees on the Southern setback do not grow to a height which will potentially block our view of middle harbour.*
- *We find that the proposed development well exceeds the floor space ratio of 04:1 despite mockingly quoting its FSR as 0.399:1. We calculate the FSR well in excess of 0.47:1.*
- *this excess doesn't even include all of the proposed 6 huge balconies/decks/porches/terraces/entertaining areas that are not inclusive of this measure.*
- *We oppose any sub zone 1 maximum wall height be exceeded by the proposed development. To do so would decrease our solar access to our main living areas, as well as our privacy and views. It will also increase the overall excessive size/bulk from our homes general outlook.*
- *We feel our privacy will be adversely compromised, as the proposed length of No 29 will stretch from our front yard through to almost the end of our backyard. The proposed development will overlook the whole of our pool area via a 5.6m x 7.8m excessive southern balcony. Unfortunately, by stipulating privacy screen installation to these balconies will only further go to reduce our solar access and view loss and add to the bulk/scale impact.*

**Environmental Services Division Report No. 18 (Cont'd)**

- *The proposed development requests to have their pool facing Edgecliffe Esplanade Streetscape with a 1.8m fence surround. We believe that this will forever detract from the aesthetic value of Edgecliffe Esplanade. It will be the only house in this stretch of Edgecliffe Esplanade, which will prominently face the wrong way.*

**Seaforth Precinct Community Forum**

The application was referred to the Seaforth Precinct Community Forum with the following comments received;

“Diana Brown spoke in opposition to the application pointing out that the previous application had been rejected at the LUM Committee and that directions from the LUM to the applicant appear not to have been complied with. She also outlined a number of apparent breaches of DCP controls.

The following motion was put:

Motion: 1. This Precinct asks Council to reject the application until such time as the application conforms to the DCP and all building guidelines and objectives.”

**Building Comments**

No objections, subject to recommended conditions.

**Engineering Comments**

No objections, subject to recommended conditions.

**Landscaping Comments**

No objections, subject to recommended conditions.

**Planning Comments*****Floor Space Ratio***

The subject site is located within Density Sub-Zone No.7 which permits an FSR of 0.4:1. The proposal involves an increase in FSR to 0.44:1. FSR is calculated from the outer face of the external enclosing walls of the building. The 16.4m<sup>2</sup> ground floor (partially open) northern facing timber deck area has been included in the FSR calculations. The deck is has an approximate 75% wall enclosure; is fully roofed; located within the building envelope and contributes to the bulk and scale of the building.

The proposed intensification in FSR to 0.42:1 is considered acceptable on planning grounds as the proposal is consistent with the objectives of the FSR controls. The bulk of the proposed building is consistent with that of properties located within the vicinity of the subject site, subject to recommended conditions outlined within this report. The scale of the development will not obscure important landscape features. It will be consistent with the desired character of the residential area (subject to recommended conditions). The development is consistent with Council's view sharing policy; setbacks; openspace; height; privacy and sunlight access requirements. Accordingly, no objection is raised to the increase in FSR on planning grounds.

***Setbacks***

The proposed northern (front), eastern (side) and southern (rear) setbacks comply with DCP requirements. The western side setback predominantly complies with the exception of the western side timber deck proposed in-part right up to the western side boundary. The DCP specifies that: *Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties.* A number of terraces/decks are proposed in association with the dwelling and the western side deck

**Environmental Services Division Report No. 18 (Cont'd)**

is not considered an essential outdoor component. Accordingly, to improve privacy for the western adjoining property a recommended condition of consent shall require that the western facing timber deck proposed adjacent to the laundry be replaced by a maximum 1.5m wide side access path to be located in close proximity to the dwelling, with a minimum 2m width of landscaping works (measured from the western side boundary toward the dwelling) to run along the western side boundary adjacent to this path.

***Wall Height and Roof Height***

The DCP objectives are to provide building heights that are consistent with the locality; to minimise disruption to views, loss of privacy and sunlight to existing development. The DCP also specifies that: - *Within the height subzone 1, Council does not favour development having more than 2 Storeys.*

The proposed development will predominantly visually present as a two (2) storey building from all elevations. A minor 1.3m in width three storey wall height element will however be visually evident when viewed from the east and west elevations. Notwithstanding this, the proposed setbacks and building wall height measured from existing ground level comply with the DCP requirements (refer to the *Development Control Plan Numerical Assessment* table above). Accordingly, no objection is raised to the 1.3m in length three storey wall height element.

A 28 degree pitched roof is proposed which extends the roof to the maximum height permitted under the DCP. Currently properties on the opposite side of Edgecliffe Esplanade experience south-western views over the roof line of the existing dwelling and through a view corridor between the subject site and the adjoining dwelling to the west of Middle Harbour and of the city skyline (including Centre Point Tower). East-west views of Middle Harbour are also available. These views are important to the character of the area and should be maintained as far as possible by appropriate design. Accordingly, the proposed roof height is unacceptable and it is recommended that the pitch of the roof be a maximum 23 degrees or the roof be a flat roof design extending a maximum of 0.5m in height above the approved wall height. An amended roof design as recommended will reduce the bulk and scale of the proposed building and as far as possible maintain water views towards Middle Harbour and the city skyline when viewed from the Edgecliffe Esplanade.

***Privacy Impacts***

The western facing windows of the proposed development serve the ground floor bathroom and laundry and the first floor toilet and kitchen area. The majority of these windows will generate minimal overlooking impacts. However, given that the western facing kitchen window will overlook the western adjoining dwellings private balcony and living area, a condition of consent is recommended to ensure that this window be either deleted or converted to a highlight window with a sill level of 1.65m above floor level.

To improve privacy for the western adjoining property a condition of consent is recommended to delete the western facing timber deck proposed within the western side setback area (adjacent to the proposed laundry) and replace it with a maximum 1.5m wide side access path to be located in close proximity to the dwelling, with a minimum 2m width of landscaping works (measured from the western side boundary towards the dwelling) to run along the western side boundary adjacent to this path.

Privacy impacts generated from the proposed southern facing terrace are consistent with residential developments within the vicinity which have southern facing balconies intent on maximizing water views towards Middle Harbour. The western adjoining residents have indicated their preference for a clear balustrade on this terrace area to minimise harbour view impacts and reduce the visual bulk and scale of the proposed development, instead of the solid balustrade and privacy planter boxes proposed. A transparent balustrade is considered more appropriate in this instance, in keeping with Council's view sharing policy and being similar to balconies of other dwellings in the vicinity of the subject site.



**Environmental Services Division Report No. 18 (Cont'd)**

Privacy impacts for the rear southern adjoining property are also considered acceptable on planning grounds given the 9.15m rear setback proposed and taking into account the intent to maximise south-eastern views towards Middle Harbour. A standard condition of consent is recommended to ensure that the glare from any outdoor terrace lighting will not impact the amenity of adjoining properties.

***Opens Space and Landscaping - View impacts***

The proposed development complies with the opens space and landscaping requirements subject to recommended conditions of consent from Councils Landscape Architect and recommended conditions to improve privacy impacts and to ensure that species planted do not grow to a height which would have an adverse impact on harbour views as follows:-

1. The endemic plant species selected to be planted within the southern rear setback area shall be of a species that does not grow to exceed a maximum height of 5.7m. This shall ensure maintenance of water views for the western adjoining property.
2. The endemic plant species selected to be planted along the eastern side setback shall not grow to exceed a maximum height of 5.5m. This shall ensure maintenance of water views for the Edgecliffe Esplanade streetscape.
3. To improve privacy for the western adjoining property a condition of consent is recommended to delete the western facing timber deck proposed within the western side setback area (adjacent to the proposed laundry) and replace it with a maximum 1.5m wide side access path to be located in close proximity to the dwelling, with a minimum 2m width of landscaping works (measured from the western side boundary towards the dwelling) to run along the western side boundary adjacent to this path.

***Fencing***

The DCP requires any front fence above 1.0m in height to have a maximum height of 1.5m and have 30% transparency. The plans show a 1.8m high brushwood fence along the Edgecliffe Esplanade boundary. Given the slope of the land and the wide road reserve fronting Edgecliffe Esplanade it is considered that the proposed 1.8m high northern front fence would not be viewed as 1.8m in height from Edgecliffe Esplanade and in fact would not reach the height of the road, additionally it would be screened by existing vegetation on the road reserve. Accordingly, no objection is raised to the height or design of the front fence.

The Statement of Environmental Effects indicates that the western side boundary fence is proposed to generally remain (open style pool fencing) and will be extended to make the proposed pool area safe. As this side boundary fence is of negligible planning concern apart from the require pool safety fencing, a condition of consent shall ensure that the western side boundary fence is agreed upon between the affected neighbours in accordance with the Dividing Fences Act 1991.

The existing eastern side fence fronting Ashton Avenue is proposed to be rendered and painted. The existing metal patterned inserts along this fence provide visual interest along the long expanse of fence fronting Ashton Avenue. A condition of consent is recommended to ensure that the level of transparency within these insets is maintained (not withstanding the design of the insets may be modified) to form a positive design contribution to the Ashton Avenue Streetscape.

Plans show the existing pedestrian access gate off Ashton Avenue remains unchanged along with the vehicular access gates to the basement garage. The masonry and lattice fence to the southern end of the rear yard is also proposed to remain unchanged. Accordingly, no objections are raised to the proposed fencing and access provisions, subject to recommended conditions.

***View Impacts***

In addition to comments above regarding roof design and landscaping, it is considered necessary to maintain a reasonable share of views currently available from the adjoining dwelling to the west. The proposed planter and solid balustrade to the first floor level south facing terrace will unduly

**Environmental Services Division Report No. 18 (Cont'd)**

impact on the available views. A condition of consent is recommended to require the balustrade to this terrace be constructed of transparent glass and/or open-railed material to reduce the visual bulk and scale of the proposed building and maintain a share of the view from the adjoining property to the west.

Concern is also raised regarding the potential view impacts from planting within the north-eastern side first floor level planter box. This large planter box is considered unnecessary given the potential view impacts. Accordingly, a condition of consent has been included in the Recommendation which requires that the eastern side planter box located off the northern facing terrace be deleted and replaced with a roof covering the ground floor area. This roof shall be designed so as not to exceed the roof ridge height proposed for the eastern side entry porch roof.

***Swimming Pool and Cabana***

The swimming pool is proposed within the northern front setback, fronting Edgecliffe Esplanade. The pool would have minimal amenity impacts on the western adjoining dwelling due to adequate setback provisions for visual and aural privacy. The swimming pool and cabana would have negligible impact on the streetscape due to the wide road reserve and fall of the land between the made surface of the road (Edgecliffe Esplanade) and the northern front boundary of the subject site. The swimming pool filter/pump is proposed to be located in a central location on-site and shall not create any adverse amenity impacts for the western adjoining property.

A cabana is also proposed to be located within the north western side of the front setback area with a pitched roof ridge height of RL 57.8, which is below the top of the kerb of Edgecliffe Esplanade. The proposed cabana would have minimal visual impact on the Edgecliffe Esplanade streetscape due to its low-level. Shadows cast from it onto the western adjoining property would be minor (similar to those shadows cast by a 1.8m high side fence) and are considered acceptable on planning grounds.

It is also noted here that Council's Landscape Architect has recommended a condition of consent that all existing trees located on adjacent public and private property be protected during the construction period.

***Car parking and Access***

Plans show the existing driveway access off Ashton Avenue and double garage are to remain. The proposed development also involves retention of an existing pedestrian access path from Ashton Avenue to the dwelling. No objections are raised on planning grounds with respect to carparking and access.

***Foreshore Scenic Protection Area (FSPA)***

The site is located within the Foreshore Scenic Protection Area (FSPA). Clause 17 of the Manly LEP 1988 states: *"The Council shall not grant consent to the carrying out of development unless it is satisfied that the development will not have a detrimental effect on the amenity of the Foreshore Scenic Protection Area."*

Subject to conditions included in the Recommendation, the proposed alterations and additions will not result in any adverse impacts on the visual amenity of the FSPA.

***Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005***

The site is located within the foreshore area affected by this policy. Subject to recommended conditions the proposal is considered to satisfy the relevant objectives of this SREP, such that it is considered acceptable from the perspective of visual impact and neighbour amenity. In this regard, its bulk, height and form compatible with that of neighbouring and nearby dwellings in the area.

**Environmental Services Division Report No. 18 (Cont'd)*****Overshadowing impacts***

The proposal complies with the overshadowing requirements of the DCP. Refer to the *Development Control Plan Numerical Assessment* table above.

***Family Flat***

A basement level 'family flat' is proposed to the western side of the existing double garage. The 18.8m<sup>2</sup> family flat is proposed to consist of a bathroom and a small room. No kitchen facilities are proposed on plan. Internal access to the family flat is proposed via a door to the rear of the double garage, accessing the bathroom area and then a small room. Objection is raised to the approval of this area under the definition of a 'family flat' as the proposed size, utilities, ventilation and access provisions are substandard and do not satisfy the requirements of a second dwelling. Accordingly, a condition of consent is recommended to require the no approval be granted under the definition of a family flat and that the family flat notation on the Basement Plan No.1/5 dated 30 December 2005 be removed from the plan. This floor area component can still however be approved as storage space in association with the existing dwelling.

***Excavation / Cut and Fill***

Excavation for the swimming pool within the front setback area complies with the excavation requirements of the DCP. Minor filling to build up/level the ground is proposed for a component of the garden area within the eastern side setback. This would involve an approximate fill of 200mm. Negligible planning impacts would result from the proposed fill and accordingly, no objection is raised to this minor increase in natural ground level within 900mm of the eastern side boundary. The proposed development complies with the excavation cut and fill objectives of the DCP.

**Manly Local Environmental Plan 1988 Clause 10 Objectives**

(a) *to set aside land to be used for purposes of housing and associated facilities;*

The land is currently zoned residential and developed with a dwelling; in this regard the proposal satisfies the objective.

(b) *to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

The Manly DCP for the Residential Zone 2001 has been used to assess the proposed developments consistency with this objective.

(c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;*

The proposal is considered to be consistent with the existing building type and that of the surrounding area, subject to recommended conditions.

(d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

No perceived amenity issues will result from the proposed two-storey and in-part three storey dwelling subject to recommended conditions.

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

The proposal meets DCP objectives in this regard.

(f) *to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;*

n/a

(g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

**Environmental Services Division Report No. 18 (Cont'd)**

Occupants of the dwelling will continue to utilise existing physical and social infrastructure.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

The proposed two-storey and in-part three storey dwelling is considered to be suitable redevelopment, subject to recommended conditions.

**CONCLUSION**

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979; the Manly Local Environmental Plan, 1988 and the Manly Development Control Plan for the Residential Zone 2001, Amendment 1. The proposal is subsequently recommended for **APPROVAL** subject to conditions.

**RECOMMENDATION**

That Development Application No.28/06 for alterations and additions to the existing dwelling at No.29 Edgecliffe Esplanade, Seaforth, be approved subject to the following conditions:-

**DA1**

This approval relates to drawings/plans Nos 1 to 5 submitted to council on 30 December, 2005 and Landscape ground floor plan and first floor plan submitted to Council on 30 December 2005 subject to recommendation.

**ANS01**

To reduce privacy impacts for the western adjoining property, the ground floor western facing timber deck proposed adjacent to the laundry shall be replaced by a maximum 1.5m wide side access path to be located in close proximity to the dwelling. A minimum 2m width of landscaping works (measured from the western side boundary toward the dwelling) shall run along the western side boundary adjacent to this path. An amended plan shall be submitted accordingly to Council/Accredited Certifier, **prior to the issue of the Construction Certificate.**

**ANS02**

The planter box proposed for the southern facing first floor terrace shall be deleted from plan and the balustrade shall be constructed of transparent glass and/or open-railed material to reduce the visual bulk and scale of the building and to maintain views from the adjoining property. Plans being suitably amended **prior to issue of the Construction Certificate.**

**ANS03**

Plant species selected to be planted within the southern rear setback area shall be of a species with maximum mature height of 5.7m, to maintain a reasonable share of available views. Plans being suitably amended **prior to issue of the Construction Certificate.**

**ANS04**

Plant species selected to be planted along the eastern side setback shall be of a species with maximum mature height of 5.5m, to maintain a reasonable share of available views. Plans being suitably amended **prior to issue of the Construction Certificate.**

**ANS05**

The first floor kitchen window located on the western elevation of the dwelling shall either be deleted or redesigned to a highlight window with a minimum sill level of 1.65m above floor level to minimise privacy impacts on the adjoining property. Plans being suitably amended **prior to issue of the Construction Certificate.**

**Environmental Services Division Report No. 18 (Cont'd)**

## ANS06

The eastern side planter box located off the northern facing terrace shall be deleted and replaced with a roof covering the ground floor area. This roof shall be designed so as not to exceed the roof ridge height of the eastern side entry porch roof, to reduce impacts on views from public and private land. Plans being suitably amended **prior to issue of the Construction Certificate.**

## ANS07

The external materials, finishes and colours of the development are to be non-glare and of an unobtrusive nature, compatible with the surrounding environment. Details of such finishes shall be submitted to the Council/Accredited Certifier **prior to the issue of the Construction Certificate.**

## ANS08

The proposed roof pitch is to be reduced to a maximum 23 degrees, to maintain a reasonable share of available views and reduce the apparent visual height and bulk of the building. Plans being suitably amended **prior to issue of the Construction Certificate.**

## ANS09

The fence height and level of transparency of openings in the existing front fence facing Ashton Avenue are to be generally maintained, plans being suitably notated **prior to issue of the Construction Certificate.**

## ANS10

No approval is granted for habitable use at the basement level. The family flat notation on Basement Plan No.1/5 dated 30 December 2005 shall be removed. Plans being suitably amended **prior to issue of the Construction Certificate.**

## ANS11

A minimum of three (3) endemic tree species shall be selected in accordance with these conditions of approval and planted on site in accordance with the landscaping requirement of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1.

## DA016

Pursuant to Section 97 of the Local Government Act, 1993, Council requires, prior to issue of the Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$7,500 . The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

Note: Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.

Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.

DA017 No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.

## DA342

Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.

**Environmental Services Division Report No. 18 (Cont'd)**

DA018

Details of the builder's name and licence number contracted to undertake the works shall be provided to Council/Accredited Certifier prior to issue of the Construction Certificate.

DA019

Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council /Accredited Certifier prior to issue of the Construction Certificate.

DA021

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

DA022

Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.

DA023

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

DA024

A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm. Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

DA026

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

DA031

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

DA038

A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Council/Accredited Certifier in respect of the load carrying capabilities of the existing structure to support the proposed additions prior to the issue of the Construction Certificate.

DA039

Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

**Environmental Services Division Report No. 18 (Cont'd)**

DA040

Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.

DA044

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.

DA047

A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.

DA048

The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.

DA058

An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

DA357

Four (4) copies of Architectural Drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier prior to the issue of the Construction Certificate.

DA109

All demolition is to be carried out in accordance with AS2601-2001.

DA111

Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.

DA084

Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter in accordance with Council's standards and specification for Stormwater Drainage.

DA094

Stormwater drainage from the proposed addition/extension shall be disposed of to the existing drainage system. All work shall be carried out in accordance with Council standards and specifications for stormwater drainage. Work shall be completed prior to the issue of the Occupation Certificate.

DA121

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

DA126

An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.

**Environmental Services Division Report No. 18 (Cont'd)**

DA230

No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.

DA238

All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.

DA239

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.

DA240

No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

DA348

Precautions shall be taken when working near trees to be retained including the following: - do not store harmful or bulk materials or spoil under or near trees - prevent damage to bark and root system - do not use mechanical methods to excavate within root zones - do not add or remove topsoil from under the drip line - do not compact ground under the drip line.

DA255

Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.

DA261

A sediment/erosion control plan for the site shall be submitted for approval to the Council/Accredited Certifier prior to the issue of the Construction Certificate. Implementation of the scheme shall be completed prior to commencement of any works on the site and maintained until completion of the development.

DA269

A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier prior to any building works being carried out on site.

DA270

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction then the following inspection/certification are required:-

Silt control fences

Footing inspection - trench and steel

Reinforced concrete slab

Framework inspection

Wet area moisture barrier

Fire separation works for flat drains

Drainage inspection

Landscaping inspection

Swimming pool reinforcing steel inspection

Swimming pool safety fence inspection

Final inspection

The cost of these inspections by Council is \$2420. (being \$220.00 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection



**Environmental Services Division Report No. 18 (Cont'd)**

appointments can be made by contacting the Environmental Services Division on 9976 1573 or 9976 1587.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$100.00.

**DA271**

An Occupation Certificate is to be issued by the Principal Certifying Authority prior to occupation of the development.

**DA279**

All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.

**DA283**

De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
- b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

**DA285**

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

**DA332**

The capacity and effectiveness of erosion and sediment control devices must be maintained to Council satisfaction at all times.

**DA333**

A copy of the Soil and Water Management Plan must be kept on-site at all times and made available to Council officers on request.

**DA334**

Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.

**Environmental Services Division Report No. 18 (Cont'd)**

DA335

Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.

DA336

Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.

DA337

Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

DA338

All disturbed areas shall be stabilised against erosion to Council satisfaction within 14 days of completion, and prior to removal of sediment controls.

DA339

Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council satisfaction.

DA340

The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

DA289

Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays. Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

DA300

All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.

DA301

The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.

DA302

An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.

**Environmental Services Division Report No. 18 (Cont'd)**

## DA303

The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which: (a) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and (b) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.

## DA306

All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.

## DA308

Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.

## DA314

All protective fencing and gates are to be in accordance with Australian Standard 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.

## DA315

The proposed pool gates are to be mounted so that:- (i) They are clear of any obstruction that could hold the gate open; (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and (iii) They open outwards from the pool.

## DA316

Where the latching device release, or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.

## DA318

There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises.

## DA319

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".

## DA320

Prior to issue of the Occupation Certificate, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".

## DA323

This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.

**Environmental Services Division Report No. 18 (Cont'd)**

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 18 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 19  
**SUBJECT:** 10 & 10A Addison Road, Manly  
**FILE NO:** DA342/05

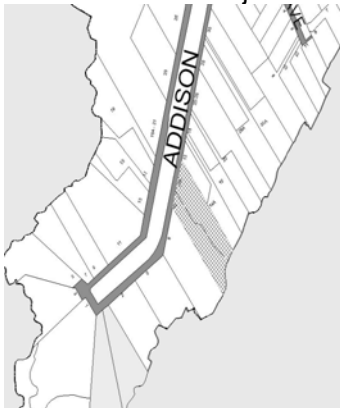
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**SUMMARY:**

1. COUNCIL RECEIVED DEVELOPMENT APPLICATION NO.342/05 ON 27 JULY 2005.
2. THE SITE IS WITHIN THE CRITICAL HABITAT OF THE LITTLE FAIRY PENGUIN AND IS ALSO SUBJECT TO THREATENED SPECIES CONSIDERATIONS IN RESPECT OF THE LONG NOSE BANDICOOT.
3. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED.
4. THE APPLICATION WAS REFERRED TO THE LITTLE MANLY PRECINCT COMMUNITY FORUM FOR COMMENT.
5. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF THE APPLICATION IS RECOMMENDED IT BEING NOTED THAT BEFORE ANY APPROVAL CAN ISSUE IT WILL BE NECESSARY FOR COUNCIL OBTAIN CONCURRENCE FROM THE DEPARTMENT OF ENVIRONMENT AND CONSERVATION (DEC) IN RESPECT OF PROPOSED CONDITIONS.

**LOCALITY PLAN**

Shaded area is subject land.

**REPORT****Introduction**

The subject site comprises two existing lots being lots 1 and 2 in DP602702 (known as No. 10 and 10A Addison Road, Manly). The site has a frontage of 30.48m to Addison Road, a northern side boundary of 69.8m, a southern side boundary of 68.38m and rear boundary MHWL adjoining Little Manly Cove. The site is generally level except for the rearmost 9.0m portion which falls steeply to MHWL. No. 10A is developed with a two storey dwelling and No.10 is currently developed with a single storey dwelling and swimming pool in the rear yard.

The proposal is to demolish the existing dwellings and erect a three storey residential flat building containing:

Basement: car parking for eleven (11) vehicles,  
Ground Floor level: three (3) x three (3) bedroom units with associated patio areas, entry lobby and lift,

**Environmental Services Division Report No. 19 (Cont'd)**

First Floor Level: two (2) three (3) bedroom units, one two (2) bedroom unit  
 Loft level: family room of the two (2) bedroom unit below.

The site is subject to Threatened Species Conservation Act 1995 in respect of Little Penguins and the Long-nosed Bandicoots.

**Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density - Sub Zone	1/250sqm	1/258sqm	Yes
Floor space ratio	0.6:1	0.59:1	Yes
Floor space ratio - existing	n/a		n/a
Wall height NE side	6.7m	6.5m - 7.0m	No
SW side	6.7m	6.8m - 6.9m	No
Roof height	3.0m	3.0m	Yes
Fence height			
Setback Front	6.0m	5.0m – 12.0m	Yes (average)
Setback Rear (Foreshore)	15.0m	15.0m	Yes
NE setback side	2.3m	2.2m – 3.0m	Yes - averaging
SW setback side	2.3m	2.2m	No
<b>Open space - total</b>	55%	70%	Yes
Open space - total	633sqm	1091sqm	Yes
Open space - soft	355	44%	Yes
Number of Endemic Trees	3	3	Yes
Private Open Space	12sqm/dwelling	>12sqm	Yes
<b>Car Parking</b>	9	9	Yes
- Visitors	2	2	Yes
Excavation	Min 0.9m side setback. Max 3.0m FFL	1.5m min 3.0m	Yes Yes

**Applicant's Supporting Statement**

The applicant submitted a detailed Statement of Environmental Effects with the application need has also submitted a response to objections received from nearby and adjoining property owners.

**Submissions**

Notification of the application to nearby and adjoining property owners resulted in a total of four submissions being received with one of the submissions from Consultants representing two adjoining owners who have also made individual submissions. The submissions raise the following concerns:

- What will happen to the two large palm trees in the middle of No10 Addison Road?
- Survey out of date.
- Height levels not included in plans.
- Setback from Addison Road does not comply – 5.0m with wide eave overhang results in eave setback of 3.6m.
- Loss of privacy – clear line of sight from north east to living area and rear yard space of adjoining.

**Environmental Services Division Report No. 19 (Cont'd)**

- Wide eave extends beyond allowable setback.
- Rock ledge and rock face stability (includes concern re potential damage to neighbouring buildings).
- Proposed building is out of scale with adjoining buildings at No.12 and no.14 Addison Road, visually intrusive and excessive, will dominate foreshore area a key concern of Commissioner Brown in his Land and Environment Court Judgement.
- Screens to top floor balcony should be replaced with walls to minimise overlooking of adjoining open space area.

**Precinct Community Forum Comments**

The revised DA has been located in the Precinct and we apologise to Council for mislaying it. However, the objections raised by resident Gary Stewart and others viz:

- Eaves extend 1 metre over shadow line.
- Large scale sandstone excavation with excessive vibration and the existing underpinning needs replacing.
- Adjoins critical habitat area to which constraints should apply.

Need to be addressed.

**Engineers Comments**

No objections subject to conditions.

**Building Comments**

No objections to the proposed Class 2 and 7 building subject to recommended conditions.

**Landscape Architects Comments**

Landscape planting at the rear of the property is to be 100% endemic native species. Retain and protect Cheese Tree in front yard, transplant one Phoenix palm from centre of site to the front yard under supervision of qualified Arbourist. Conditions included in the Recommendation.

**Heritage Planner's Comments**

The proposal involves the demolition of two dwellings and associated outbuildings and vegetation. These are to be replaced with a three storey residential building. The properties are located on the Little Manly Cove side of North Harbour.

The subject site is not identified as an item of environmental heritage under the Manly LEP 1988.

The site is in the vicinity of several heritage items, (Clause 19 of the LEP) which are:

- Harbour foreshore,
- Stone kerb and guttering in Addison Road,
- 1 Addison Rd (residential flat building),
- 2 Addison Rd (Mandalay Private Hospital),

The dwellings on the site are brick; stucco and tile post-war bungalows. They have been altered over the years and have no cultural significance. The site contains stonewalling on the foreshore side of the property, which is being retained. The site also contains two large Palm Trees, which are prominent in the streetscape.

**Environmental Services Division Report No. 19 (Cont'd)**

To the north of the site are two brick federation style dwellings and to the south of the site is a 3 storey residential flat building.

The North West elevation plan indicates the building having a two storey appearance on the streetscape. The scale of the development appears to be compatible with the height and scale of the adjoining buildings in the street. Landscaping along the northern boundary should be provided to provide a good screen between the federation house and the new development. Given the design and setback of the development on the streetscape frontage it is considered that the proposal will have no adverse impact on the setting of the heritage items at No.1 and 2 Addison Road. There is also considered to be no adverse impact on the stone kerb and guttering due to the distance of the site from this item.

The yard adjoining the foreshore is being retained and the building is well setback from the foreshore and in a compatible alignment with adjoining buildings. Visually it is considered that the building is compatible with adjoining contemporary buildings on the foreshore and as such there is no adverse impact on the heritage significance of the harbour foreshore.

Furthermore, the applicant has provided additional historical assessment of Sir Roden Cutler that was received on 17 May 2003 regarding his childhood home. The assessment is considered satisfactory and it is agreed that the place be recorded in accordance with the Heritage Office Guidelines and that interpretation of the site include the history and association with Sir Roden Cutler and his family be displayed in the front entry or foyer area of the new building.

Conditions are incorporated into recommendations for approval in this report.

**Heritage Committee Comments**

The Heritage Committee had commented in respect of the previous proposal as follows:

Following resident submissions regards previously unidentified heritage issue concerning historical occupation of the site by Sir Roden Cutler Council's Heritage Planner referred the development application to the Heritage Committee who advise as follows:

In light of the Sir Roden Cutler connection to the house the applicant is requested to investigate further and supplement the existing heritage report regarding the heritage significance of No. 10 Addison Road. That is to prepare a report assessing the significance of the place in accordance with the NSW Heritage Office guidelines. When this is received the application and further information is to be referred back to them. The committee would also like a full photographic archival recording of the property.

Having received and considered a further heritage report in response to the above, the Committee further advised "there was no support for a heritage listing".

**Waterways Authority Comments**

The proposal is an Integrated Development Application, the Waterways Authority has reviewed the application in relation to the granting of a permit under Part 3A of the *Rivers and Foreshores Improvement Act 1948*.

The Waterways Authority advise that a 3A Permit would be issued for the proposed development subject to general terms/conditions.



**Environmental Services Division Report No. 19 (Cont'd)****Natural Resources Comments****Background:**

A DA for the proposed development of 10/10A Addison Rd Manly was submitted in 2002. A Geotechnical Report & Flora and Fauna Assessment were submitted with the DA but were considered somewhat deficient in a number of areas and requests were made by Council for a number of issues to be addressed. Ultimately, the DA was referred to the Land and Environment Court and was eventually dismissed.

In 2004, the current DA was submitted to Council. Correspondence from the applicant's geotechnical consultant, Geotechnique Pty Ltd dated 7 July 2005 states that reports submitted with the original DA in 2002/03 (Geotechniques Reports No's 4661/1-AA dated Dec02, 4661/1-AB, dated Mar03 and 4661/1-AC dated July03) are still valid and that Geotechniques Report No. 4661/1-AB dated Mar03 would still be sight and project specific. As such, it is stipulated that all findings/recommendations detailed in the reports are still valid.

Since the submission of the DA in 2002, Council commissioned a detailed Coastline Hazard Definition Study of Little Manly to be undertaken which included a geotechnical assessment of the cliff line. Critical Habitat for Manly's population of Little Penguins was also declared at Manly Point.

Both the hazard definition study and critical habitat declaration directly impact on the subject property in as much as, the foreshore area of the subject property lies within the area defined as critical habitat and specific geotechnical hazards identified in the LMCHDS (Items 4, 5, 6 and 7) are contained within or on the boundary of the subject property.

In correspondence dated 25 September 2003 the applicant of DA 342/05, Payten Holdings Pty Ltd, was advised of the Coastline Hazard Definition Study and its relevance to their property. They were advised that hazards identified in the report were identified on the section 149(2) certificates of their property and that as the potential hazard is located on private property, the property owner is responsible for undertaking stabilisation works as recommended in the report. Similarly, all residents on Manly Point were notified of the declaration of Penguin Critical Habitat.

In January 2006, the Applicant submitted an amended SIS (Skelton, GIS Environmental Consultants Jan 06), geotechnical report (Geotechnique, Jan 30), statement from KD Hansford Structural Engineers (Jan 25) and a diagram of replacement stairs which have been assessed. Certificates of Currency of Professional Indemnities have also been provided for the Geotechnical consultant and the Civil/Structural Engineer.

**Description of Site:**

The site proposed for development is 10, 10A Addison Rd, Manly. The eastern part of the site below the cliff-top has been declared Critical Habitat (Area B) for Little Penguins (NPWS, 2002). The site consists of two residential lots that extend from Addison Rd east to the mean high water mark. A partly demolished house exists on 10a Addison and a disused house at 10 Addison Rd. Both properties contain an in-ground swimming pool, one on the cliff top and on the western side. At the eastern end of the site there is a high sandstone cliff with an access path/steps to the water located on 10a Addison. On the top of the site above the cliff line there is a glass and aluminum fence along the entire width of both properties.

**Proposed Works:**

It is proposed to replace two existing houses (10 and 10A Addison Rd) with a two-storey plus loft, block of units with a basement car park and landscaping. The pool at the south-eastern corner of the property will be retained. Works will involve demolition, excavation & construction.

**Environmental Services Division Report No. 19 (Cont'd)**

Prior to excavation and construction, recommended cliff stabilization works will be undertaken as described in geotechnical report (Geotechniques, 2006). The work will require construction of columns and piers at 3 levels of the cliff and replacement of steps leading down to the foreshore. These works are below the cliff-top and are in the area designated as Critical Habitat for the endangered population of Little Penguins that was declared in September 2003. Piers 3, 4, 5 and 6 are in a ledge that is potential roosting habitat.

**Determination**

Please find below my comments in relation to the proposed DA for 10/10A Addison Road Manly to replace two existing houses (10 and 10A Addison Rd) with a two-storey plus loft, block of units with a basement car park, landscaping works, cliff stabilisation works and replacement of existing stairs.

The SIS submitted for the proposed stabilisation works on the foreshore of 10/10A Addison Road Manly meets all requirements detailed in the DG's Requirements and addresses issues Council requested clarification of.

The proposed cliff line works are to be undertaken to stabilise the cliff, and address safety and liability issues. The proposed works are within Critical Habitat and likely to cause disturbance to Critical Habitat. As such I have provided a statement to be included in correspondence to DEC seeking concurrence for DA 342/05 should Council decide to grant consent to the works.

*The proposed DA for 10/10A Addison Road Manly: to replace two existing houses (10 and 10A Addison Rd) with a two-storey plus loft, block of units with a basement car park, landscaping works, cliff stabilisation works and replacement of existing stairs, falls within Penguin Critical Habitat and is likely to cause disturbance to Critical Habitat.*

*Council, having decided to grant consent to the development based on a requirement to stabilise the cliff, and address safety and liability issues, submits the following Consent for your consideration and request concurrence from DEC on the proposed development of 10/10A Addison Road, Manly.*

Please find below, specific requirements outlined in the submitted SIS and Geotechnical Report that I would like highlighted as conditions of consent. Please be advised that my assessment is based on site visits, a review of submitted documentation and consultation with a number of specialists. My comments/conditions outlined below should be forwarded to Jennie Minnieff and Fredrick Thinesh for consideration in terms of cliff stabilization and geoh heritage issues.

**SIS Consent Conditions as detailed in GIS Environment Consultants report of Jan 06**

- Excavation and works beyond the cliff top may only be conducted between 1 March and 30 June, outside the penguin breeding season.
- Wooden stairs on the cliff are to be replaced with similar wooden stairs, as per the Sketch in Appendix E of the SIS by Skelton, 2006, in the same location and footprint as the existing stairs. There is no approval for lighting of these stairs.
- No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas as this will discourage penguin occupation. A modest amount of low lighting is acceptable for safety purposed only.
- Lighting of the foreshore stairs is prohibited.
- The hand railing on the cliff face is to be replaced in the same location as the existing rail.
- All material that is dislodged during the works is to be carefully removed from the site
- The footprint of the cliff line underpinning piers are to be 350mm x 350mm
- NO vegetation clearing, pruning or removal is to be undertaken within the critical habitat area without firstly obtaining approval from Council and the Department of Environment & Conservation (DEC). Trimming of vegetation to maintain passage down the foreshore stairs is exempt.

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- The replacement of the glass fence and gate at the top of the cliff face is to occur between March 1 and June 30.
- A sign is to be permanently fixed to the inside of the gate at the top of the stairs on the cliff top, specifying: 'Critical Habitat for Manly's Little Penguins. Please minimize access to this area from July 1 to Feb 28. No dogs allowed. No fishing between sunset and sunrise, July 1 to Feb 28. No disturbing or approaching within 5 m of a Little Penguin or nest.' Lettering is to be at least 25mm high.
- The structure of the gate at the top of the cliff face will be modified so that it forms a closed boundary along the cliff top fence-line, restricting access to the property from the foreshore and cliffs by penguins.
- Stormwater collected on site is to be pumped to the street gutter to the west of the site.
- Prior to any construction work a qualified ecologist must inspect the site to ensure no penguins are within the disturbance area
- The site ecologist is to meet with the construction foreman to explain the restriction on works practices.
- During the penguin breeding season (July 1 to Feb 28), and one month either side, the construction site and adjacent area are to be inspected on a weekly basis by a qualified ecologist for any signs of penguins. Penguins in this colony are often found on land outside the official breeding/moulting season. If penguins are found on the site, DEC and Council must be notified immediately and appropriate actions decided by the site ecologist and Council adhered to.
- During construction the site foreman must inspect the site each day for penguins before works begin. If penguins are found, works are to cease immediately and the ecologist is to be contacted.
- The 1-page Ecological Works Protection Plan describing prohibited work practices (Appendix G of SIS, Skelton 2006) must be read by all site workers and strictly adhered to. This page is to be photocopied and handed out to all workers.
- All slurry associated with works (including all drilling) is to be contained at source and within the construction area. All slurry is to be removed off site.
- Any spilt concrete must be cleared up before it dries and removed offsite.
- All fine material that is to be dug out when digging the footings, or that may be dislodged during the works, is to be carefully removed from the site. No boulders or sandstone features are to be removed from the site.
- The design of the cliff stabilisation works must not prevent penguin access to potential habitat. Columns must be made from salt resistant bricks and mortar but may have a render finish.
- All construction access to the property will be via Addison Road. No access for materials during construction will be via Little Manly Cove. Once stabilisation works to the cliff have been completed, access to the cliff and foreshore must be restricted.
- Cat/s and or dog/s that currently live on the property should be kept indoors at night and de-sexed, if they are not already. When the current cat/s and or dog/s that live on the property no longer reside on the property they should not be replaced by new dogs or cats. Any cats kept on this property are to be kept indoors at all times or in a sealed cat run.
- Penguins and other native animals must not be fed artificial foods as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation. Feral animals such as cats not owned by the residents or foxes should never be fed or food left out where they can access it such as rubbish bins without lids or dog food bowls.
- No temporary seating or recreational equipment such as dinghies are to be stored below the cliff top.

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**Geotech Consent Conditions as detailed in Geotechniques Report of January 2006 and validated by KD Hansford Pty Ltd consulting Engineers in correspondence dated January 2006**

- The backfill material between the retaining wall along the southern boundary of No 10 and the in-ground swimming pool must be excavated to a minimum depth of 500mm and replaced with lightly compacted granular material or sand/cement mix (5% by weight) then turfed to reduce any lateral loadings on the existing wall and maintain the levelled area in the vicinity of the in-ground pool (area depicted on photo 1 of Geotechnique's Report Jan 06)
- A certificate certifying the long-term structural integrity of the retaining wall located at the cliff top behind the swimming pool must be provided from a registered structural/civil engineer prior to any construction works commencing
- New salt resistant brick piers, rendered to blend into the surrounding sandstone, are to be constructed adjacent to the existing dilapidated sandstone and brick pillar (depicted in Photos 2, 3 and 4 of Geotechnique's Report Jan 06), observed on the upper shelf down the cliff face, to support the sandstone overhang refer Figure 1.
- New salt resistant brick piers, rendered to blend into the surrounding sandstone, are to be constructed adjacent to the existing dilapidated sandstone pillar observed on the lower shelf down the cliff face (depicted in Photos 4 and 5). The locations of piers 9 and 10 are indicated on Figure 1.
- The timber steps (depicted in Photo 6) are to be replaced as they are dilapidated and in poor condition. The new stairs are to be in the same location and footprint as the existing stairs.
- Structural specification of the stairs are to be in accordance with submitted plan sketch Appendix E of SIS.
- The sandstone overhang adjacent to the timber steps (depicted in photos 6 and 7) is to be supported by salt resistant brick pillars, rendered to blend into the surrounding sandstone, as adverse fractures were noted. The suggested locations are Piers 1 and 2 and are indicated on Figure 1.
- Piers of salt resistant brick construction rendered to blend into the surrounding sandstone, are to be erected to support the overhang (upper shelf), above the timber seating bench (depicted in photos 8, 9 and 10), as the overhang could be a partially detached block. Pillars are to be erected to support the partially detached overhang (depicted in photos 16) at the common site boundary with No 14. The locations of piers 3 to 6 are indicated on Figure 1.
- Excavation/rock works are to occur between March 1 and June 30 outside of the penguins breeding season.
- Excavation will be to a maximum depth of approximately 2.5 meters below the current ground level (refer SIS, Appendix D).
- Jack hammers are not to be used on the site and rock excavation is to be carried out using rock saws to minimize disturbance from noise and vibration to Little Penguins. Saw cuts should be made along the sandstone bedrock along the side(s) of the excavation prior to ripping or grinding. Saw cuts in the excavated material, to reduce the size of excavation material, may also aid in excavation of the sandstone bedrock.
- Equipment is to be operated in short bursts only, to avoid amplification of vibration.
- The smallest appropriate equipment size should be used to limit the maximum peak particle velocity due to vibration, to 10mm/sec (AS187.2 – 1993)
- All excavations must be either retained by an engineered retaining structure, or battered. For short term unsupported cuts in fill and residual soil, to a height of about 2m, the recommended batter sloped are 1 vertical : 2 horizontal. Permanent unprotected cuts in fill material are not recommended. Sub-vertical cuts may be used in the sandstone bedrock provided they are inspected by an experienced Engineering Geologist or geotechnical engineer during construction.

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- A conventional sump and pump system should be used to address groundwater.
- All footings must be founded on uniform materials (sandstone bedrock) to minimize the potential for differential settlement.
- A Civil/Structural Engineer must conduct follow-up inspections of the piers, after construction, to confirm adequate design, stabilisation and construction.
- Strain gauges are to be attached to the major joints on the foreshore cliff face and are to be monitored annually for movement.

**Planning Comments**

This application follows a previous development application for demolition of two dwellings and erection of a residential flat building comprising six (6) three (3) bedroom apartments. The apartments were spread over four levels with basement garaging and the lower apartment being partially below natural ground level, the next two levels containing two apartments each and a single apartment located on an upper level. The previous application was refused by Council for reasons of excessive floor space ratio, excessive bulk and scale, SEPP 65 design issues, excessive height, SREP 23 issues, appearance from the foreshore, inconsistent with intended future character of the area, privacy impacts and insufficient sunlight access for proposed apartments. The previous application was the subject of a Land & Environment Court Appeal in 2004 which was dismissed.

The current application (subject of this report) is for the demolition of two dwellings and erection of a three storey residential flat building comprising one (1) two bedroom apartment and five (5) three bedroom apartments. The proposed building is two storeys in height with the apartments are spread over three levels (apartment 4 has a 28sqm family room within the roof space) with a basement level garage for eleven (11) vehicles.

The subject site has a southeast/northwest orientation. The topography of the site is generally level with a slight 90.7m) cross fall from the southeast to the northwest side and also falls steeply in the last 7.0m adjoining the Harbour foreshore boundary. The cliff face adjoining the foreshore boundary contains natural overhanging sandstone outcrops. The stability of the cliff face has been the subject of detailed Geotechnical Engineering investigation and some stabilisation works are recommended.

As evident in the DCP compliance table the current proposal complies with the majority of the numeric requirements of Council's Residential Development Control Plan (DCP) with the exceptions being wall height for a portion of the northeast and southwest sides, setback southwest side and front setback. These variations are discussed in detail below.

The proposed wall height varies from the maximum permitted under Council's DCP by 0.2m for a 10.0m length of the south east side wall. The variance whilst minor will add to the apparent visual bulk and scale of the building and there is no justification or site constraint necessitating a variance in this instance. Accordingly a condition has been included in the Recommendation requiring the wall height to be reduced 0.2m to meet the DCP requirements. The 0.2m reduction will bring the southwest side setback into compliance with the DCP requirement.

The proposed variance to the northeast side of up to 0.5m occurs for a length of approximately 10.0m. Similarly the variance will add to the apparent visual bulk and scale of the building. The variance is partially due to the difference in site levels along the northeast side of the site with a step of 1.0m occurring half way along the northeast side elevation of the proposed building. A reduction of wall height of 0.2m is recommended to obtain closer compliance with the DCP requirements. The resulting 0.3m variance is considered acceptable having regard to the nature of the site, the relatively small section of non compliance and the satisfactory relationship to adjoining development.

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The allotment has a frontage which splays from the northeast corner at an angle of approximately 45 degrees to the south. The proposed building has an articulated front façade with setbacks varying from 5.0m – 10.0m. The existing streetscape presents a mix of front setbacks in the immediate area. Council DCP requires front setbacks to relate to corresponding setbacks of neighbouring properties. It is noted that the adjoining building to the north is setback a minimum 2.5m from the front boundary whilst the adjoining building to the south is setback a minimum 6.0m from the front boundary. As the proposed building complies on average and only a relatively small section of the building stands within 6.0m of the front boundary, the proposal is considered acceptable in respect of front setback to wall.

The proposal includes a roof design with eave/gutter overhang of 1.2m which is considered excessive and whilst giving some architectural style to the building the overhang adds unnecessary bulk and scale to the building and will result in overshadowing impacts. In this regard it is recommended that the eave/gutter overhang be a maximum 0.9m. This can be achieved without compromising the architectural merit of the proposal.

Notification of the application resulted in the receipt of submissions from adjoining and nearby property owners.

*What will happen to the two large palm trees in the middle of No10 Addison Road?*

Comment: plans show the two trees are to be removed. The trees are considered to form a part of the landscape character of the area and as such it is recommended that one of the trees be relocated to the front of the site (adjacent to Addison Road) under the supervision of a qualified arborist.

*Survey out of date.*

Comment: The survey information together with other information submitted with the application and site view is sufficient to enable proper assessment of the proposal relative to section 79C of the Environmental Planning and Assessment Act 1979.

*Height levels not included in plans.*

Comment: Plans submitted with the application show proposed levels relative to existing levels and as such are sufficient to enable proper assessment of the proposal relative to section 79C of the Environmental Planning and Assessment Act 1979.

*Setback from Addison Road does not comply – 5.0m with wide eave overhang results in eave setback of 3.6m.*

Comment: See previous comments regarding setbacks and eave overhang.

*Loss of privacy – clear line of sight from north east to living area and rear yard space of adjoining.*

Comment: The proposal provides adequate privacy between the subject building and adjoining properties. This is achieved through orientation of proposed living areas being generally toward the front or rear of the site and the placement and type of proposed window and door openings. Similarly balconies are orientated to the front or rear and privacy screening has been provided to the more critical areas.

*Wide eave extends beyond allowable setback.*

Comment: See previous comments regarding setbacks and eave overhang.

*Rock ledge and rock face stability (includes concern re potential damage to neighbouring buildings).*

Comment: It is acknowledged that there are concerns regarding stability of the cliff face. These concerns are addressed in the documentation supporting the application and concerns regarding potential damage to adjoining buildings can be addressed with standard conditions requiring submission of dilapidation reports in respect of adjoining buildings and Council land.

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*Proposed building is out of scale with adjoining buildings at No.12 and no.14 Addison Road, visually intrusive and excessive, will dominate foreshore area a key concern of Commissioner Brown in his Land and Environment Court Judgement.*

Comment: The proposal presents a smaller scale building than that previously refused by Council. The bulk and scale of the building is not out of character with buildings in the immediate area. It is acknowledged that the building is not of a similar scale to single dwellings adjoining to the north however, the nature of the proposed development is within the general parameters detailed in Council's DCP and as such the proposal is not considered unreasonable in terms of bulk scale and the appearance of the development from the Harbour.

*Screens to top floor balcony should be replaced with walls to minimise overlooking of adjoining open space area.*

Comment; The replacement of screens with walls is not considered necessary as adequate levels of privacy will be maintained between the subject building and adjoining properties. Further, additional walling will add to visual bulk and scale and is not recommended.

**Waterways Authority**

The development is defined as integrated development and as such the application was referred to Waterways Authority. The authority has responded by advising that a Part 3A Permit would be issued subject to general terms which are included in the draft conditions contained in the Recommendation.

**Foreshore Scenic Protection Area (FSPA)**

The site is located within the Foreshore Scenic Protection Area (FSPA). Clause 17 of the Manly LEP 1988 states:

*"The Council shall not grant consent to the carrying out of development unless it is satisfied that the development will not have a detrimental effect on the amenity of the Foreshore Scenic Protection Area."*

The proposal is considered to be acceptable in this regard in particular noting the scale of the building as consistent with that in the area and the articulation and architectural interest to the southeast façade.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The site is located within the foreshore area affected by this policy. The proposal is considered to satisfy the relevant objectives of this SREP, such that it is considered acceptable from the perspective of visual impact and neighbour amenity. In this regard, its bulk, height and form including the roof is compatible with that of neighbouring building to the southwest and does not dominate neighbouring dwellings to the northeast. Preservation of existing trees in the front setback area complements the setting and provides some screening when viewed from Addison Road.

**State Environmental Planning Policy No.65**

It is noted that the provisions of SEPP 65 apply to the development and in this regard the applicant has submitted a statement of design verification addressing design Principles 1-10 and the Statement of Environmental Effects includes reference to the proposal being designed having regard to the Residential Flat Design Code. The proposal is considered to be satisfactory in this regard.

**Clause 10 Objectives of the Residential Zone under the Manly LEP 1988:-**

The proposals satisfies the key objectives of the Residential Zone as follows:-

- (a) to set aside land to be used for purposes of housing and associated facilities;  
The site is zoned residential and will retain its residential use;

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(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;

Council's Residential DCP has been considered in the assessment of the proposal.

(c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;

the proposed development is considered to be compatible with the character of housing in the locality.

(d) to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;

The design of the building as conditioned is considered to maintain acceptable levels of neighbour's amenity in terms of privacy, views, overshadowing and visual impact. The quality of the environment is effectively controlled through conditions as included in the Recommendation.

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

The proposal has been reviewed by Council's Landscaping Officer as being acceptable.

(f) to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;

N/A.

(g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

Future occupants of the building will utilise existing physical and social infrastructure. The development is subject to Section 94 contributions in respect of additional demand on applicable Council facilities.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

The proposal is considered to be suitable redevelopment for the site.

(i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

N/A

**CONCLUSION:**

The proposal has been considered pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988, and the Development Control Plan for the Residential Zone 2001. From this assessment the proposal is considered a satisfactory form of development, which notwithstanding non-compliance with the DCP provision for wall height northeast side and part front setback will not result in any significant adverse amenity impacts to neighbouring properties or the public area. Accordingly the proposal is subsequently recommended for conditional approval.



**Environmental Services Division Report No. 19 (Cont'd)****RECOMMENDATION**

That upon receipt of concurrence regarding draft conditions of Consent from the Department of Environment and Conservation the application be approved as follows:

That Development application No.342/05 for demolition of two existing dwellings and erection of a three storey residential flat building containing six apartments with strata subdivision at No.10 and 10A Addison road Manly be approved subject to the following conditions:

D1 This approval relates to plans/drawings Nos. DA01, DA02, DA03, DA06 and DA07 issue D dated 20 January 2006 and received by Council 23 January 2006, DA04, DA05, DA09 and DA10 issue C dated 20 July 2005 and received by Council 27 July 2005, and Statement of Environmental Effects by Lawrence Winnacott and Associates Pty Ltd dated July 2005 received by Council 27 July 2005, schedule of Exterior Finishes by Manor House Design undated and received by Council 27 July 2005 and Landscape plan L01 issue C dated 9 January 2006 and received by Council 23 January 2006. .

ANS01 The works to which these general terms of approval apply are not to commence until such time as the NSW Maritime has issued a Part 3A Permit under the *Rivers and Foreshore Improvements Act 1948*.

ANS02 The proposed construction works are to be carried out so that:-

- (a) No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Little Manly Cove; and
- (b) No materials are likely to be carried by natural forces to the bed, shore or waters of Little Manly Cove.

ANS03 Any material that does enter Little Manly Cove must be removed immediately.

ANS04 In relation to the above, a plan to manage erosion, sediment and other pollutants at the site is to be prepared by a suitably qualified person(s). A suitable plan is to be submitted to NSW Maritime prior to a Part 3A Permit being issued.

Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater – Soils and Construction* issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.

ANS05 The erosion, sediment and pollution controls shall be installed and stabilized before commencement of site works (this does not include the works associated with the construction of the appropriate controls).

ANS06 The proposed system for erosion, sediment and pollution control is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilized and rehabilitated so that it no longer acts as a source of sediment.

ANS07 Any material that is to be stockpiled on site is to be covered and stabilised to prevent erosion or dispersal of the material.

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- ANS08 The rocky cliff on the South Eastern side of the site and the inter-tidal area is to be fully protected for the duration of the works. This includes preventing the use of any machinery, or storage of construction materials, supplies, or waste receptacles, in the area.
- ANS09 Native trees that are present on the site and adjoining land are to be retained and fully protected for the duration of the works (unless authorized for removal by Council). In particular, works are to be undertaken with regard to protection of the root zone of trees, including preventing stockpiling of materials, parking of equipment and machinery and alteration of soil levels within the root zone.
- ANS10 Any foreshore landscaping is to be comprised of locally indigenous species which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land. Though should be given to presenting species which provide a buffer between the development and the established critical habitat. Suitably prepared plans are to be provided to NSW Maritime prior to the issuing of a Part 3A Permit.
- ANS11 Detailed information on the location and design of the stormwater collection and treatment system is to be provided to NSW Maritime prior to a Part 3A Permit.
- ANS12 No works are to be undertaken on land owned by NSW Maritime (i.e. below MHWM) without the relevant approvals being granted by NSW Maritime.
- D2 Excavation and works beyond the cliff top may only be conducted between 1 March and 30 June, outside the penguin breeding season.
- D3 Wooden stairs on the cliff are to be replaced with similar wooden stairs, as per the Sketch in Appendix E of the SIS by Skelton, 2006, in the same location and footprint as the existing stairs. There is no approval for lighting of these stairs.
- D4 No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas as this will discourage penguin occupation. A modest amount of low lighting is acceptable for safety purposed only.
- D5 Lighting of the foreshore stairs is prohibited.
- D6 The hand railing on the cliff face is to be replaced in the same location as the existing rail.
- D7 All material that is dislodged during the works is to be carefully removed from the site
- D8 The footprint of the cliff line underpinning piers are to be 350mm x 350mm
- D9 NO vegetation clearing, pruning or removal is to be undertaken within the critical habitat area without firstly obtaining approval from Council and the Department of Environment & Conservation (DEC). Trimming of vegetation to maintain passage down the foreshore stairs is exempt.
- D10 The replacement of the glass fence and gate at the top of the cliff face is to occur between March 1 and June 30.
- D11 A sign is to be permanently fixed to the inside of the gate at the top of the stairs on the cliff top, specifying: 'Critical Habitat for Manly's Little Penguins. Please minimize access to this area from July 1 to Feb 28. No dogs allowed. No fishing between sunset and sunrise, July 1 to Feb 28. No disturbing or approaching within 5 m of a Little Penguin or nest.' Lettering is to be at least 25mm high.

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- D12 The structure of the gate at the top of the cliff face will be modified so that it forms a closed boundary along the cliff top fence-line, restricting access to the property from the foreshore and cliffs by penguins.
- D13 Stormwater collected on site is to be pumped to the street gutter to the west of the site.
- D14 Prior to any construction work a qualified ecologist must inspect the site to ensure no penguins are within the disturbance area.
- D15 The site ecologist is to meet with the construction foreman to explain the restriction on works practices.
- D16 During the penguin breeding season (July 1 to Feb 28), and one month either side, the construction site and adjacent area are to be inspected on a weekly basis by a qualified ecologist for any signs of penguins. Penguins in this colony are often found on land outside the official breeding/moulting season. If penguins are found on the site, DEC and Council must be notified immediately and appropriate actions decided by the site ecologist and Council adhered to.
- D17 During construction the site foreman must inspect the site each day for penguins before works begin. If penguins are found, works are to cease immediately and the ecologist is to be contacted.
- D18 The 1-page Ecological Works Protection Plan describing prohibited work practices (Appendix G of SIS, Skelton 2006) must be read by all site workers and strictly adhered to. This page is to be photocopied and handed out to all workers.
- D19 All slurry associated with works (including all drilling) is to be contained at source and within the construction area. All slurry is to be removed off site.
- D20 Any spilt concrete must be cleared up before it dries and removed offsite.
- D21 All fine material that is to be dug out when digging the footings, or that may be dislodged during the works, is to be carefully removed from the site. No boulders or sandstone features are to be removed from the site.
- D22 The design of the cliff stabilisation works must not prevent penguin access to potential habitat. Columns must be made from salt resistant bricks and mortar but may have a render finish.
- D23 All construction access to the property will be via Addison Road. No access for materials during construction will be via Little Manly Cove. Once stabilisation works to the cliff have been completed, access to the cliff and foreshore must be restricted.
- D24 Cat/s and or dog/s that currently live on the property should be kept indoors at night and de-sexed, if they are not already. When the current cat/s and or dog/s that live on the property no longer reside on the property they should not be replaced by new dogs or cats. Any cats kept on this property are to be kept indoors at all times or in a sealed cat run.
- D25 Penguins and other native animals must not be fed artificial foods as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation. Feral animals such as cats not owned by the residents or foxes should never be fed or food left out where they can access it such as rubbish bins without lids or dog food bowls.

**Environmental Services Division Report No. 19 (Cont'd)**

- D26 No temporary seating or recreational equipment such as dinghies are to be stored below the cliff top.
- D27 Compliance with Geotechnical Consent Conditions as detailed in Geotechniques Report of Jan 06 and validated by KD Hansford Pty Ltd consulting Engineers in correspondence dated Jan 06.
- D28 The backfill material between the retaining wall along the southern boundary of No 10 and the in-ground swimming pool must be excavated to a minimum depth of 500mm and replaced with lightly compacted granular material or sand/cement mix (5% by weight) then turfed to reduce any lateral loadings on the existing wall and maintain the levelled area in the vicinity of the in-ground pool (area depicted on photo 1 of Geotechnique's Report Jan 06)
- D29 A certificate certifying the long-term structural integrity of the retaining wall located at the cliff top behind the swimming pool must be provided from a registered structural/civil engineer prior to any construction works commencing
- D30 New salt resistant brick piers, rendered to blend into the surrounding sandstone, are to be constructed adjacent to the existing dilapidated sandstone and brick pillar (depicted in Photos 2, 3 and 4 of Geotechnique's Report Jan 06), observed on the
- D31 New salt resistant brick piers, rendered to blend into the surrounding sandstone, are to be constructed adjacent to the existing dilapidated sandstone pillar observed on the lower shelf down the cliff face (depicted in Photos 4 and 5). The locations of piers 9 and 10 are indicated on Figure 1.
- D32 The timber steps (depicted in Photo 6) are to be replaced as they are dilapidated and in poor condition. The new stairs are to be in the same location and footprint as the existing stairs.
- D33 Structural specification of the stairs are to be in accordance with submitted plan sketch Appendix E of SIS.
- D34 The sandstone overhang adjacent to the timber steps (depicted in photos 6 and 7) is to be supported by salt resistant brick pillars, rendered to blend into the surrounding sandstone, as adverse fractures were noted. The suggested locations are Piers 1 and 2 and are indicated on Figure 1.
- D35 Piers of salt resistant brick construction rendered to blend into the surrounding sandstone, are to be erected to support the overhang (upper shelf), above the timber seating bench (depicted in photos 8, 9 and 10), as the overhang could be a partially detached block. Pillars are to be erected to support the partially detached overhang (depicted in photos 16) at the common site boundary with No 14. The locations of piers 3 to 6 are indicated on Figure 1.
- D36 Excavation/rock works are to occur between March1 and June 30 outside of the penguins breeding season.
- D37 Excavation will be to a maximum depth of approximately 2.5 meters below the current ground level (refer SIS, Appendix D).
- D38 Jack hammers are not to be used on the site and rock excavation is to be carried out using rock saws to minimize disturbance from noise and vibration to Little Penguins. Saw cuts should be made along the sandstone bedrock along the side(s) of the excavation prior to

**Environmental Services Division Report No. 19 (Cont'd)**

- ripping or grinding. Saw cuts in the excavated material, to reduce the size of excavation material, may also aid in excavation of the sandstone bedrock.
- D39 Equipment is to be operated in short bursts only, to avoid amplification of vibration.
- D40 The smallest appropriate equipment size should be used to limit the maximum peak particle velocity due to vibration, to 10mm/sec (AS187.2 – 1993)
- D41 All excavations must be either retained by an engineered retaining structure, or battered. For short term unsupported cuts in fill and residual soil, to a height of about 2m, the recommended batter sloped are 1 vertical : 2 horizontal. Permanent unprotected cuts in fill material are not recommended. Sub-vertical cuts may be used in the sandstone bedrock provided they are inspected by an experienced Engineering Geologist or geotechnical engineer during construction.
- D42 A conventional sump and pump system should be used to address groundwater.
- D43 All footings must be founded on uniform materials (sandstone bedrock) to minimize the potential for differential settlement.
- D44 A Civil/Structural Engineer must conduct follow-up inspections of the piers, after construction, to confirm adequate design, stabilisation and construction.
- D45 Strain gauges are to be attached to the major joints on the foreshore cliff face and are to be monitored annually for movement.
- D46 The landscape plan is to be amended to show retention of the Cheese tree in the front yard and relocation of one of the Phoenix canariensis to the front yard area within the site. Transplanting being undertaken under the supervision of a qualified arborist. Landscape plans being amended accordingly prior to issue of the Construction certificate. Transplanted palm on the site must be provided with demonstrated post maintenance and certified reports by an Arborist for twelve (12) months to the satisfaction of the Principal Certifying Authority.
- D47 The wall height of the proposed building (existing ground level to underside of eaves) is to be reduced by 0.2m such that the eave level in the south-eastern portion of the building is RL 20.3, plans being suitably amended prior to issue of the Construction Certificate.
- D48 The applicant is to provide a photographic record in accordance with the NSW Heritage Office Guidelines for Photographic Recording or Heritage Sites, Buildings and Structures of the existing buildings and landscaping on the two sites. The provision of a complete Statement of Heritage Impact and Assessment is to be provided with the Photographic Record and submitted to Council. This record is to be submitted to Council prior to issue of the Construction Certificate.
- D49 An interpretation of the history of the site and association with Sir Roden Cutler and his family, plus the dwelling is to be provided by a qualified Heritage Consultant and displayed in the front entry or foyer area of the new building. A copy of the display material is to be provided to Council in both A4 or A3 format. Details of this display are to be submitted to Council prior to issue of the Construction Certificate.
- D50 Submission of a Construction Management Plan incorporating the requirements of this consent prior to issue of the Construction Certificate.
- D51 The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

**Environmental Services Division Report No. 19 (Cont'd)**

- D52 The applicant is to notify Council at least 48 hours before commencement of works on any Council road so as to enable Council to supervise the carrying out of the works.
- D53 Pursuant to Section 97 of the Local Government Act, 1993, Council requires, prior to issue of the Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$30,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.
- Note: Should Council property adjoining the site be defective e.g., cracked footpath, broken kerb etc., this shall be reported in writing to Council, at least 7 days prior to the commencement of any work on site.
- Note: Where Council is not the principal certifying authority, refund of the trust fund deposit will also be dependant upon receipt of a final occupation certificate by the Principal Certifying Authority and infrastructure inspection by Council.
- D54 No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
- D55 Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
- D56 Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
- D57 Details of the builder's name and licence number contracted to undertake the works shall be provided to Council prior to issue of the Construction Certificate.
- D58 Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
- D59 A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.
- D60 All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
- D61 Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

**Environmental Services Division Report No. 19 (Cont'd)**

- D62 Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- D63 Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
- D64 The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
- D65 A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
- D66 Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
- D67 An adequate security fence, is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.
- D68 Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.
- D69 On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.
- D70 Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application/prior to the issue of the Construction Certificate.
- D71 The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- D72 All demolition is to be carried out in accordance with AS2601-1991.
- D73 The building being erected in Type A construction for a Class 2 and 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
- D74 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- D75 All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
- D76 The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.

**Environmental Services Division Report No. 19 (Cont'd)**

- D77 No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
- D78 Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is being provided.
- D79 A qualified Landscape Consultant shall be retained for the duration of the construction of the development and upon the satisfactory completion of the landscaping work and prior to the issue of an Occupation Certificate, submit to the Principal Certifying Authority a Certificate of Practical Completion stating that the work has been carried out in accordance with the approved Landscape Plan and that a maintenance program has been established.
- D80 Precautions shall be taken when working near trees to be retained including the following:-
- do not store harmful or bulk materials or spoil under or near trees;
  - prevent damage to bark and root system;
  - do not use mechanical methods to excavate within root zones;
  - do not add or remove topsoil from under the drip line; do not compact ground under the drip line.
- D81 Prior to the commencement of any works on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
- D82 Prior to the issue of the Construction Certificate, the applicant shall submit details of protective hoardings, fences, and lighting which are to be provided during demolition, excavation and building works in accordance with the requirements of the Department of Industrial Relations, Construction Safety Act and the WorkCover Authority.
- D83 Once commenced the development hereby permitted shall only be continued in accordance with the conditions of approval and to the satisfaction of the Principal Certifying Authority.
- D84 A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority prior to any building works being carried out on site.
- D85 An Occupation Certificate is to be issued by the Principal Certifying Authority prior to occupation of the development.
- D86 Payment of Section 94 contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, the amount being calculated as per Council's Section 94 Plan at the time of payment, prior to issue of the Construction Certificate.
- D87 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Co-Ordinator, for details see the Sydney Water Web Site [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.
- D88 Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-Ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building driveway or landscape design. The Notice of Requirement is to be provided to the Private Certifying Authority prior to the issue of the



**Environmental Services Division Report No. 19 (Cont'd)**

- Construction Certificate.
- D89 The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.
- D90 This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
- D91 All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.
- D92 All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
- D93 The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.
- D94 The measures must include:-  
(i) siltation fencing;  
(ii) protection of the public stormwater system; and  
(iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
- D95 All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.
- D96 The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
- D97 An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
- D98 The swimming pool is to be surrounded by a child-resistant barrier in accordance with the swimming Pools Act and Regulations 1992 which:  
(iv) separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and  
(v) is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standard.
- D99 All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.
- D100 No water shall be placed in the swimming pool until the required protective fencing has been inspected and approved by Council.
- D101 The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
- D102 Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

**Environmental Services Division Report No. 19 (Cont'd)**

- D103 A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund Deposit prior to the issue of the Construction Certificate.
- D104 The construction of a vehicular footpath crossing is required. The design and construction shall be in accordance with Council's Policy. All works shall be carried out prior to the issue of Occupation Certificate.
- D105 The construction of a kerb layback is required. The design and construction shall be in accordance with Council's Policy. All works shall be carried out prior to the issue of Occupation Certificate.
- D106 The driveway/access ramp grades, access and car parking facilities shall comply with the Australian Standard for Off-Street Parking AS2890.1-2004 or later editions.
- D107 A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.
- D108 The Heritage listed stone kerb is to be removed without damaging it and contact is to be made with Council's Manager, Civic Services, for the stone to be transported to Council's Depot.
- D109 Separate application shall be made to Council's Infrastructure Division for approval to complete, to Council's standards and specifications, works on Council property. This shall include vehicular crossings, footpaths, drainage works, kerb and guttering, brick paving, restorations and any miscellaneous works. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property. Applicant to notify Council at least 48 hrs before commencement of works to allow Council to supervise/inspect works.
- D110 Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
- D111 The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
- D112 Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
- D113 A detailed stormwater management plan shall be prepared to fully comply with Council's "Specification for on-site Stormwater Management 2003" and shall be submitted with the Construction Certificate application. The stormwater management plan shall be prepared by an experienced Chartered Civil Engineer. The principal Council/Accredited Certifier shall ensure that the design complies with the above said specification prior to the issue of a Construction Certificate.
- D114 A system of onsite stormwater detention shall be provided within the property in accordance with Council's "Specification for on-site stormwater management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Council/Accredited Certifier prior to the issue of the Construction Certificate.

The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

**Environmental Services Division Report No. 19 (Cont'd)**

- D115 Pump systems will only be permitted for the drainage of seepage waters from basement areas.
- D116 A positive covenant in respect of the installation and maintenance of onsite detention works is required to be imposed over the area of the site affected by onsite detention and/or pump system prior to the issue of the Occupation Certificate for the building and prior to the release of the trust fund deposit.
- D117 A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

- D118 The reconstruction and/or construction of footpath paving and any associated works along all areas of the site fronting {insert street name/s}. These works shall be carried out prior to the issue of the occupation certificate by a licensed construction contractor, at the applicant's expense and shall be in accordance with Council's Specification for Civil Infrastructure Works and Paving Design Guide.
- D119 The pedestrian footpaths and pavements in the streets surrounding the proposed development shall be constructed as per Manly Council's Paving Design guidelines dated February 2002. a detailed design showing the above details shall be submitted with the application for Construction Certificate and shall be approved by the Principal Certifying authority prior to the issue of the Construction Certificate.
- D120 Excavation adjacent to the road boundary shall be adequately shored to support the roadway and all improvements and services within the road reserve. Protective fencing shall be provided to ensure the safety of the public.
- D121 No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- D122 Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
- D123 A qualified Landscape Consultant shall be retained for the duration of the construction of the development and upon the satisfactory completion of the landscaping work and prior to the issue of an Occupation Certificate, submit to the Principal Certifying Authority a Certificate of Practical Completion stating that the work has been carried out in accordance with the approved Landscape Plan and that a maintenance program has been established.

D124

1. The applicant shall lodge a Hoarding Application with Council for any protective hoardings, fences and lighting which are to be provided during demolition, excavation and building works. The Hoarding Application is to be submitted to Council with the appropriate fee, prior to any works on site or prior to the issue of the Construction Certificate.
2. All hoardings must be in accordance with Council's Hoarding Application Form and must comply with the requirements of the Department of Industrial Relations, Construction Safety Act, the WorkCover Authority and relevant Australian Standard.

Note: On corner properties, particular attention is to be given to the provision of adequate

**Environmental Services Division Report No. 19 (Cont'd)**

- sight distances.
3. The hoarding shall be in place prior to the commencement of works on the site.
  4. Trees which are affected by the hoarding and located outside the boundaries of the allotment are not to be cut, trimmed or removed without the prior approval of Council.
  5. The hoarding shall be removed immediately at the applicant's expense, if any of these conditions are not fully complied with.
  6. All hoardings must be lit between the hours of sunset and sunrise. Lights are to be erected at intervals of not greater than 5.0 metres for the length of the hoarding. The applicant shall keep the hoarding presentable to the public for the whole of the time it is erected. There shall be no catch points or protrusions likely to cause injury or damage to the public from the hoarding. The hoarding shall be constructed of demountable timber frame sections lined with a smooth face material, and painted with an approved white paint which shall not wash or rub off.
- D125 Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
- D126 Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- D127 Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- D128 Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 19 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 20  
**SUBJECT:** 51 Whistler Street, Manly Section 96 Modification  
**FILE NO:** DA252/05

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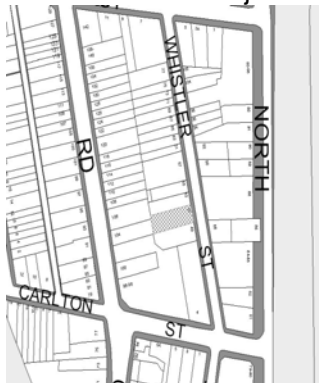
**Application Lodged:** 14 November 2005  
**Applicant:** Ryoho Yoga  
**Owner:** The Knights of the Round Table Pty Ltd  
**Estimated Cost:** \$0  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential the property is also the foreshore scenic protection area and in the tourist zone  
**Surrounding Development:** residential units and dwellings  
**Heritage:** The property is Heritage listed under Amendment 50 to the Manly LEP 1988 gazetted on the 26.10.01

### **SUMMARY:**

1. DEVELOPED CONSENT WAS GRANTED FOR USE OF THE PREMISES AS A YOGA CENTRE THE DATE OF ENDORSEMENT OF THE CONSENT BEING 2 SEPTEMBER 2005. THIS CONSENT CONTAINED A REQUIREMENT THAT THERE BE NO CLASSES ON SUNDAY
2. THE APPLICANT SUBMITTED A REQUEST FOR MODIFICATION OF DETAILS OF DEVELOPMENT CONSENT UNDER SECTION 96(2), ASKING THAT COUNCIL MODIFY THE CONDITIONS TO ENABLE OPERATIONS ON SUNDAY.
3. THE APPLICATION WAS NOTIFIED AND OBJECTIONS RECEIVED
4. THE REPORT WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT ON THE 30TH OF JUNE 2006 WITH A RECOMMENDATION FOR APPROVAL
5. THE DEVELOPMENT ASSESSMENT UNIT RECOMMENDED THAT THE HOURS OF OPERATION ON SUNDAY THE 8 A.M. TO 1 P.M.
6. THE APPLICATION IS PRESENTED TO COUNCILS' LAND USE MANAGEMENT COMMITTEE AT THE REQUEST OF COUNCILLOR MACDONALD
7. A SITE INSPECTION IS RECOMMENDED.
8. APPROVAL OF THE APPLICATION IS RECOMMENDED.

### **LOCALITY PLAN**

Shaded area is subject land.



## **REPORT**

### **Introduction**

The existing premises at 51 Whistler Street consists of a substantial two-storey building originally constructed and used as a Masonic Hall. The building was used for many years for Yoga classes

**Environmental Services Division Report No. 20 (Cont'd)**

however, with a change of ownership it was discovered that there was no consent for this use taking place. The Council sent out correspondence concerning the unauthorised use of the premises and requesting submission of a development application. A development application was submitted to Council and approved subject to conditions, including-

ANS02. The hours of operation are not to exceed 7:00 a.m. to 9:00 p.m. Monday to Friday; 8:00 a.m. to 6:00 p.m. Saturday; and no classes on Sunday.

This current application is for modification of details of development consent under section 96(2) to allow for Sunday Yoga classes.

**Applicant's Supporting Statement**

In support of the request the applicant made a detailed submission a copy of which is appended. The following submission of objections the applicant put forward a response to these which is appended.

**Submissions**

Notification of the proposal resulted in 2 submissions objecting to the proposal and 25 submissions in favour, comments supporting both are listed below:

**OBJECTIONS**

- I am opposed to removal of any of the clauses of the operation of the business of the use was only approved on the ground those clause are included.
- I live at 49 Whistler Street my bedroom window is about five metres away from the Yoga center. I am disturbed by heavy forceful breathing, as well as shouting and loud counting, loud noise from clapping the body with hands. New mothers classes of eight to 19 newborn babies often crying their hearts out.
- For more than two years I have asked them to close windows as this is very noisy, but instead got back verbal abuse and physical threats.
- It keeps operating Sunday and more than five classes per day in total disregard of Council regulations.
- Residents parking problems associated with the attendance
- I am opposed to the commercial usage. This area is zoned residential. The commercial use, was only allowed because the building was Heritage listed. Even if Council considers Yoga recreational use. It has to be considered in conjunction with the commercial use of the ground floor. To me it is also a commercial use.
- Please give local residents, some respite from the constant coming and going. .
- I also disputed the claim that 90% of their attendees live locally and walk. Most attendees I see arrive in cars
- The building is close to 53 Whistler Street and attendees have to walk down the side to get to the outside toilet at the back of the building.
- It has been operating without Council permission for 8/9 years, had to be forced to lodge a DA and now to comply with conditions.
- I question whether they have any intention of comply with class sizes, especially on the weekend.
- They have ignored requests from both sides to tone down the early-morning classes and close windows etc. I fail to see why they should be allowed to run 2 classes on Sunday as they are allowed to run five classes on Saturdays.

**Environmental Services Division Report No. 20 (Cont'd)****IN FAVOUR**

- I used to enjoy being able to do Yoga at 6 a.m. or 6.30am before dropping my child to day care. 7 a.m. classes are too late.
- I find it hard to believe that there is a noise complaint.
- The benefits certainly outweigh any negatives.
- This is an incredibly quiet and composed environment. The teacher speaks no more loudly than someone having a quiet chat.
- The change of timetable from 6 to 7 a.m. means that for working people 7 a.m. is too late to do an hour Ryoho and get to work on time. This is being made impossible, because of the most ridiculous claims
- The classes midweek have been pushed to seven and the Sunday classes called off, which means many current clients are no longer able to attend classes.
- I am shocked to hear anyone would find the classes are noisy or cause disturbances. Whistler Street is by no means a quiet street. I used to live at number 57.
- I value the work of the centre and have seen many people suffering pain gain relief after attending the classes.
- The Yoga centre and the people behind it are improving the quality of life of many people. I trust that the Council decision will be a fair one.
- These classes are quiet and peaceful. There is no music singing shouting or noise, the loudest sound would be people exhaled. I am at a loss to think people claimed noise disturbance
- I am disappointed that early-morning class has been closed down due to fairly questionable assertion of noise.
- Has the assertion of noise been objectively measured and confirmed. Even if we assume that one person giving instruction causes some noise surely this has to be considered against the advantage to dozens of Manly residents.
- A further blow has been the closure of morning classes at 8 AM on Sunday, and the assertion that clients block the streets. Could the people who visit the seafront be the source of this problem?
- I ask Council to reconsider the decision to stop early-morning classes during the week and allow classes on Sunday's so that the people will benefit from Yoga.
- As we all lead very busy lives the Sunday classes is an ideal time to take time out to enjoy a healthy yoga class. I request that the Sunday classes be reinstated as soon as possible.
- Do you think after a lesson of enforcing inner calm and stress relief the participants will shout and scream and do wheel spins in their cars in Whistler St.
- The weekend classes are important to provide relaxation and balance to the stressful working environment of a noisy office
- Do not let Sunday classes cancel.
- Most of the clients are locals who walk or bike to Yoga and often go to breakfast at the local cafes or have their kids in nippers at the beach in which case they would be around the area anyway.
- I work on the opposite side of the city and Sunday morning is the only time I can do the activity I love and benefit from
- We do Yoga, not martial arts or boxing or gymnastics.
- I have had my car keyed while at Yoga There are bad elements in the area it is not the Yoga people.
- How could one Yoga centre with its peaceful mindful healthy patrons cause more disturbances than everyone else enjoying the weekend?
- We are immediate neighbours, and I regularly use the Sunday classes for relaxation.
- The lack of car spaces on Whistler Street is related to people visiting the beach. Yoga visitors who drive will only occupy a space for one hour as opposed to most visitors who stay over one hour having Sunday breakfast at the beach, watching nippers or surfing.

**Environmental Services Division Report No. 20 (Cont'd)**

- The Yoga people have made several concessions already leading to many classes being cancelled. It would be a loss to many, should they be forced to cancel further classes.
- We were very saddened and quite shocked to find that the Sunday classes have been stopped by Council as a result of local complaint.
- I am in support of ensuring that Yoga devotees and the public in general are brought to awareness to be extra quiet on Sunday, but closure is totally unwarranted.
- I wish to extend my anger and disappointment with Manly Council regarding its handling of the yoga classes. I demand to know who on the Council is driving this attempt to push our yoga classes out.
- It is devastating to see that you are trying to stop classes that have been running for years. Apparently citing noise as the primary driver.
- Unfortunately for the residents that choose to buy in Whistler Street it is and always has been very heavily used especially now that you have paid parking at the beach.
- I am writing in support of the Ryoho Yoga being able to operate two classes 8 to 10 a.m. on Sunday morning.
- As a full-time work and mother of 2 I appreciate being able to attend this Yoga centre on weekends but we're not there all day only two hours in the morning.
- Please allow the community to reap the benefits of Ryoho.
- It is my understanding the viability of the centre, which provides valuable health and community benefits to many is being placed in further jeopardy by the opposition of just two self motivated individuals.
- Yoga is more than a well-established form of exercise based on the philosophy of peaceful co-existence but a holistic experience that benefits the body, mind and spirit.
- In my regular attending the centre I have never experienced anything other than peaceful and compassionate interaction between caring individuals.
- Please supply exact details of the complaint lodged and over what time the offences were alleged to have taken place.
- Presumably, since there is to be a financial penalty. There must be a clear policy directive act, guidance Ordinance or piece of legislation that has been breached, could details be provided.
- In the event that prescribed conditions have been breached. Please provide factual details in relation to the breaches and over what period.
- Details of any independent or objective assessment of the adverse impact of the noise intrusion.
- Any environmental impact statement prepared by the Council in relation to the claims made
- Whether if I and my partner were to move into premises lower down Whistler Street and lodge a similar complaint about the noise from gospel singing in praise of God emanating from the church at 8 a.m. on Sunday morning, would the Council take similar draconian action to uphold my elitist position?
- In my experience the classes are not noisy or loud as the purpose of the Yoga is to focus ones attention on the breath and the posture.
- I find the noise levels outside in the street are of more disturbances than anything I experience whilst in the peace and tranquility inside the Yoga centre.
- The use has been operating for a number of years. As regular attendees of the 10 a.m. Sunday class for the last three years there has been no change in the way the class has operated.
- Yoga is a passive healthy activity, with no music or noise from participants. The only voice during the class is from the Yoga teacher.
- If the primary complaint concerns noise from the yoga instructor. We challenge Council to determine that this would have any significant impact on neighbouring properties.
- If the complaint is more general relating to street noise. It appears to be launched at an easy target. This is a busy part of Manly it is close to North Steyne Surf Club and on Sunday mornings, nippers and other beach events are popular as well as three restaurants within a few minutes walk.



**Environmental Services Division Report No. 20 (Cont'd)**

- The building is obviously zoned commercial use any neighbour would be aware of that zoning when they chose to live in the street.
- I often walk up the stairs to my yoga class wondering if it's actually on as there is not a peep coming from the classroom.
- I ask you to visit the street on Sunday to observe for yourself. There is really no reason for the complaint.
- It is high time the minority of our community are not pandered to, to spoil simple things like going to yoga class.
- Although I don't attend the morning class that has been moved from 6.30 to 7 a.m. I am sure most people who did this class can no longer attend because of work commitments.
- I have attended classes for nearly two years, and depending on commitments attend to between three to five classes per week and go to the early morning classes. On the occasions when I have been running late it has always concerned me that class may be cancelled because the classes are conducted in such a quiet manner.
- People who attended these classes are all aware of other people value the opportunity to participate in such classes and are unlikely to creating unnecessary disturbances, whether arriving and leaving classes.
- Since the early morning classes have been moved to 7 a.m. it is noticeable how noisy Whistler Street is at the conclusion of the class. There are a lot of commuters walking along talking on mobiles walkers joggers and many surfers and swimmers looking for somewhere to parking and the never-ending construction noise.
- I am sympathetic to the Whistler Street community. Our first home was on the corner of Carlton and Whistler Streets. Despite a six-foot high fence there were constant disturbances as Whistler Street is very narrow and houses are built close to the street and are susceptible to noise.
- May I suggest Council erects signs at the ends of Whistler Street, drawing attention to the fact it is a residential street and the residents deserve the right to some peace and quiet. This would enable everyone to coexist
- During the year, the class the participants are not allowed to speak in order to allow an atmosphere of meditation and focus on the exercises they are performing. There is no music used and the whole scene is remarkably quiet for a group activities.
- Yoga teacher  
I started coming to Ryoho when I was quite sick. I can't tell you how much it changed my life. The whole family benefited from my massive improvements, and I ended up doing the teachers training course. Please come to the centre and see how little noise it makes. Parking is tricky on Sunday mornings, but this is largely due to nippers at Manly, North Steyne, and Queenscliff.

**Precinct Community Forum Comments**

The application was considered by the Ocean Beach Precinct meeting of the 13th December 2005 and the following comments were received by Council.

"This operation continues to be a problem with residents. Sunday trading must not be considered as this business is not resident friendly in a residential zoning."

**Planning Comments**

Development consent was granted to use the premises for a Yoga centre, the date endorsement being 2.9.05. This consent was subject to limitations that.

"The maximum number of attendees per class is not to exceed 12".

"The hours of operation are not to exceed 7 a.m. - 9 p.m. Monday to Friday, and 8.00 a.m. - 6.00 p.m. Saturday and no classes on Sunday."

"The maximum number of classes per day shall not exceed five."

**Environmental Services Division Report No. 20 (Cont'd)**

On the 15th November 2005 Council issued a notice of intention to issue an order. Pointing out that the applicant is to comply with condition of consent that referred to no classes on Sunday.

The applicant submitted a request for modification of details of development consent under section 96(2) of the Environmental Planning and Assessment Act 1979. The request is that they be allowed to continue their classes on Sunday. In the submission they have pointed out that the centre operated for nine years until the present owner purchased the property and that in all these years there has not been a single complaint against the operation.

As can be seen from the above Council has received two letters of objection concerning the level of noise caused by the classes. However, Council has also received a great deal of letters in support of the classes referring to the benefits gained by attendance. A visit to the 7 a.m. class revealed that while there was counting and description of the exercises by the instructor as well as heavy breathing taking place during the exercises, as referred to by the objectors, that this was barely audible outside the building with the windows open. The noise that predominated was that of traffic in Pittwater Road, as well as the background noise of the sea. While at the premises a security alarm went off associated with the main office use on the lower level of the building however, this was the only noise that could be described as being objectionable.

Section 96 (2) of the Environmental Planning and Assessment Act 1979, states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."

With regards to the above it is considered that the proposed modification to the original consent, is substantially the same development as the original development that has been consented to. The modification requested was notified in accordance with Council's DCP for Notification, and submissions received. The submissions received were both against and in favour of the development and an assessment of the application on-site revealed that the objections were not sufficient to warrant refusal of the modification. Part of the background consideration of this application is that the use has taken place for a number of years, and that it was a change of ownership of the property that resulted in a development application being submitted for Council's approval. This development application did not include reference to Sunday trading, and given the objections received at the time it was not permitted. Now that the site has been visited during

**Environmental Services Division Report No. 20 (Cont'd)**

class it is seen that the level of noise generated by the Yoga classes is such that it is barely audible outside the building and that it is concluded that Sunday trading should be permitted.

**Clause 10 Objectives**

(a) *to set aside land to be used for purposes of housing and associated facilities;*

This is a proposal for use of part of the building for Yoga classes on Sunday. Council previously granted consent to use the top story of the building for classes. However, it prohibited classes on Sunday. The applicant refers to the use of the premises for Yoga classes in the past however, no previous consent could be found. The current consent was granted on the basis that it was a "recreation facility" and is permissible in the residential zone with Council consent. In relation to this objective of the residential zone. It is considered that recreational facilities are an "associated facility" for the residential area and that it is appropriate to house such facilities within the general residential area, thereby avoiding unnecessary transportation costs. Therefore it is considered that this proposal meets this objective.

(b) *to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

This proposal is for expansion of a land-use within an existing building and this objective does not apply.

(c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;*

This proposal is within the existing Heritage listed building, and maintains the existing character of the residential area.

(d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

It is considered that, notwithstanding the objections received the level of noise generated by the use of the premises is acceptable in this residential area and does not degrade the amenity of the surrounding residents or the existing quality of the environment. This objective is met

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

This objective does not apply.

(f) *to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;*

This development occupies a Heritage listed building that was formerly a Masonic Hall. The original development application put constraint on the operation and did not allow any classes on Sunday. The current application requests that Council allow the classes to occur on Sunday, and following a site visit. It is evident that the use is compatible with the residential area and does not cause unacceptable noise. It is also agreed to that any vehicles associated with the proposed activity can form part of the overall carpark situation in the neighbourhood and does not warrant special consideration. It is considered that this objective is met.

(g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand,;*

This proposal is for expansion of the existing hours of operation for the existing Yoga classes to include Sunday, and does not put additional demands on the provision of services and facilities in the area but rather provides an additional recreational facility for the local residents.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

This objective does not apply.

**Environmental Services Division Report No. 20 (Cont'd)**

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

This objective does not apply.

**CONCLUSION:**

The proposal has been considered pursuant to Section 79C and 96(2) of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988 and the Development Control Plan for the Residential Zone 2001. The proposal is subsequently recommended for Approval.

**RECOMMENDATION**

That Development Application 252/05 for use of the first floor of 51 Whistler St. Manly for a Yoga teaching centre be modified by deletion of condition number ANS02 and replacement with the following new condition;

ANS02.

The hours of operation shall not exceed 7:00 a.m. to 9:00 p.m. Monday to Friday, 8:00 a.m. to 6:00 p.m. Saturday and 8:00 a.m. to 1:00 p.m. Sunday.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 20 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 21  
**SUBJECT:** 56 Alexander Street, Manly  
**FILE NO:** DA342/05

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**Application Lodged:** 12 January 2006  
**Applicant:** P Gilet c/o Mudge property Services  
**Owner:** Mrs M W Gilet  
**Estimated Cost:** \$0  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Residential  
**Heritage:** Alexander Street as listed for its street tree planting

### **SUMMARY:**

1. THIS IS A PROPOSAL FOR A TWO LOT SUBDIVISION OF THE EXISTING LOT CONTAINING TWO RESIDENCES.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH SUBMISSIONS RECEIVED.
3. THE PROPOSAL DOES NOT COMPLY WITH COUNCIL'S DEVELOPMENT CONTROL PLAN AND CHANGES ARE SUGGESTED IN ORDER TO OVERCOME THESE CRITICISMS.
4. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR LAMBERT.
5. A SITE INSPECTION IS RECOMMENDED.
6. APPROVAL OF THE APPLICATION IS RECOMMENDED SUBJECT TO DETAILED CONDITIONS.

### **LOCALITY PLAN**

Shaded area is subject land.



## **REPORT**

### **Introduction**

This is a proposal for Torrens title subdivision of the existing parcel of land into two lots. The existing lot contains the original dwelling, as well as a relatively new dwelling fronting onto Rolfe Street, approved in development application 1177/98.

### **Development Control Plan Numerical Assessment**

The following is an assessment of the proposal's compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

## Environmental Services Division Report No. 21 (Cont'd)

<b>Lot 56</b>	<b>Permitted/ Required</b>	<b>Proposed</b>	<b>Complies Yes/No</b>
Density - Sub Zone 3	250 sq m	322.5 sq m	Yes
Floor space ratio	0.6:1	0.49:1	Yes
Setback Rear	8.0 m	2.0 m	No
Open space - total	55%	41%	No
Open space - total	177.4 sq m	132 sq m	No
Open space - soft	35%	20%	No
Private Open Space	18 sq m	60 sq m	Yes
Car Parking – Residents	2	1	No
Density - Sub Zone 3	250sq m	224.8sq m	No
Floor space ratio	0.6:1	0.82:1	No
Setback Rear	8.0 m	6.8 m	No
Open space - total	55%	42%	No
Open space - total	124 sq m	94 sq m	No
Open space - soft	35%	66%	Yes
Private Open Space	18 sq m	82 sq m	Yes
Car Parking – Residents	2	2	Yes

**Applicant's Supporting Statement**

In support of the proposal the applicant submitted a Statement of Environmental Effects. Following questions from Council staff and addendum was also submitted to Council.

**Submissions**

Notification of the application to nearby and adjoining property owners resulted in a total of five submissions being received, the following concerns were raised:

- The proposal does not comply with the minimum land area requirement. The rear two-storey residence occupies an area of 224.8 square metres less than 90% of Council's minimum this is despite the fact that this building was constructed with no setback from Rolfe Street or side boundaries.
- The idea that a dispensation could be granted because of an already existing building is against Council policy and could lead to a flood of similar applications.
- The proposed car space at the Alexander Street frontage would be built over a 10 in. ceramic sewer pipe boundary trap and inspection vent located one metre from the Alexander St boundary and one metre from the boundary with number 54. The sewer system serves 4 residences the two residents is a 56 and semidetached residences at 54 and 52. Access to the sewer pipe through the inspection vent is essential in case of blockage by tree roots.
- Entry to the car space would be across the Alexander St footpath and would be partly hidden by the high brick front walls of 54 and 56 a clear traffic hazard to pedestrians, particularly children.
- The car space will impact badly on the Heritage streetscape of Alexander Street.
- There are no services in Rolfe Street, so that there will be problems with easements through to Alexander Street. In particular stormwater pipes run from the Council verge in Rolfe Street past both buildings to a small collection pit at the front of number 56. Two pipes run under the Alexander Street, footpath to the base of Council gutter gully in front of number 58. Rubbish collecting in this gully could cause blockage and stormwater backup into the front of number 56.
- The submission with the DA state that any environmental impacts have been addressed in the earlier development. The DA 1177/90 it was approved in spite of many major objections and the failure of the application to comply with several very significant DA standards, ignoring the standards has destroyed any privacy in the rear spaces of number

**Environmental Services Division Report No. 21 (Cont'd)**

- 54 and 58 cause severe flooding to garage/carports of the rear of 52 and 54 even in medium rainfall and has resulted in significantly more overshadowing than predicted.
- Lot 57 is smaller than the minimum area of 250 square metres.
  - Neither lot 56 or 57, achieve the minimum required open space.
  - Neither lot 56 or 57, achieve the floor space ratio requirement.
  - Neither lot 56 or 57, achieve the minimum setback.
  - Number 56 has only one car space where two spaces are the minimum.
  - The subdivision should be rejected on non-compliance with the residential DCP.
  - The existing double garage and granny flat to the Rolfe Street end of the block has no setback to the Street, and on both side boundaries for most of its length. This would be unsuitable for separate title.
  - The land size is unsuitable for separate title.
  - We are concerned about what future redevelopment may occur on the Alexander Street end of the block as the old weatherboard house is only in fair condition and is currently tenanted.
  - We understand the dwellings do not meet minimal setback requirements.
  - Given the divisive nature of subdivision it is of concern that the plans state "dimensions and areas are subject to final survey". Surely the final accurate plan should be submitted before Council can assess an inappropriate attempt at subdivision.
  - A petition with 112 names was raised to object to the original second dwelling built on this property in 1999. The owner stated the second dwelling was a granny flat. On the second vote following a rescission motion, to avoid Land and Environment Court action Councillors voted in favour. Consequently, the primary house has been turned into short stay/backpacker accommodation with accompanying noise complaints.
  - The smaller lot will not meet the 250 square metre criteria. Despite the attempt to push the small lot boundary into the weatherboard house rear wall.
  - The smaller dwelling does not meet minimal setback requirements.
  - The approval of the second dwelling was approved as a granny flat as the owner's required extra living space for their family.
  - The application was disallowed by the previous Council being cited as the worst kind of development for Manly.
  - The application was resubmitted after new Council elections in 1998, and despite failing to meet the requirements of the DCP plus generating huge local community opposition, including the assertion that this was subdivision by stealth. It was approved by vote along party lines.
  - As some sort of appeasement at the time of approval, it was stated the subdivision of the property would never be allowed.
  - The new dwelling is far from a granny flat owners have moved from the front house to the rear house and are letting out the original dwelling.
  - They now want subdivision, even if Manly Council rejects the application it is more likely than not, they would win in the Land Environment Court.
  - What might the owners do after that? They would sell both properties at a handsome profit and moved somewhere quieter with less intensive development. The local community is the loser.
  - I am tired of investigating details as to whether or not these sorts of applications comply with the DCP. In the end objections based on compliance seemed to count for naught.
  - The only comment I would make is the provision of off street parking in front of the Alexander Street property will also account for naught. It will provide off street parking to one vehicle and remove on Street parking of one vehicle in an area that is already under intense parking pressure with unresolved issues about Rolfe Street parking there will be no net gain.
  - In conclusion, we trust that Councillors, who were sitting at the time of the approval of the building will stay true to their word to reject to subdivision request outright.

**Environmental Services Division Report No. 21 (Cont'd)****Precinct Community Forum Comments**

No precinct comments received at the time of writing this report.

**Engineers Comments**

No objection or engineering conditions.

**Building Comments**

No objections to the proposed subdivision. No building conditions

**Landscape Architects Comments**

No trees identified on plan for removal. No objection to the proposal as no trees have been identified for removal

**Planning Comments**

This is an application for Torrens title subdivision of the parcel of land containing two dwellings into two lots. The line of subdivision proposed creates a lot fronting Alexander Street of 332.5 square metres, and a lot facing Rolfe Street of 224.8 square metres. In this locality, the minimum lot size permitted under the DCP is 250 square metres, so that the proposed lot facing Rolfe Street is undersized. This proposed small lot also results in a floor space ratio of the existing two-storey dwelling on the site being excessive. Council's figure is 0.72:1 and the applicants figure being 0.82:1 in an area where 0.6:1 is the development control plan requirement.

The floor space ratio of the existing original house facing Alexander Street is 0.49:1 on the proposed lot of 332.5 square metres. It appears that the proposed line of subdivision is related more to creating a separation between the existing dwelling, and the new back boundary than consideration of Council's development control plan. It is obvious that the original dwelling at number 56 has been allowed to deteriorate, and it appears likely that an application would be made for reconstruction/additions/redevelopment of this dwelling so that it is more appropriate to consider a subdivision in terms of Council's development control plan so that the future potential of the subdivided lot is not out of proportion with other lots in the area and the lot facing Rolfe street is not used as an example of overdevelopment.

If the proposed line of subdivision were adjusted so that proposed lot 57 has the minimum lot size of 250 square metres the floor space ratio of the existing rear dwelling would be 0.65:1, which while still higher than the 0.6:1 is not nearly as extreme as the application proposed by the applicant. The lot fronting Alexander Street would be reduced to 317.3 square metres so that its floor space ratio would be 0.54:1 which complies. In order to achieve this site area proposed lot 57 would have to be increased from 18.4 metres to 20.5 metres deep which is approximately on the line of the gutter of the porch across the rear of the dwelling fronting Alexander Street. In this regard, it is noted that in order to comply with the Building Code of Australia this rear porch of the original house would have to be removed. A condition to this effect is recommended.

It should be noted that by requesting such a relocation of the proposed boundary, the setback of the Rolfe Street dwelling from the rear boundary would be 8.9 metres and result in 45% landscaped open space. The rear setback would be more than the 8 metres standard however the amount of open space on site is still under the 55% requirement.

The original dwelling facing Alexander Street would lack open space and setback to the rear boundary. However, as noted above, it is considered that this dwelling would be the subject of redevelopment in the near future, and it these aspects could be improved at that stage.



**Environmental Services Division Report No. 21 (Cont'd)**

The proposed subdivision design indicates a new car parking space with access of Alexander Street, forward of the building line. It is considered that this proposed car parking space is inappropriate in the Alexander Street, streetscape and it should not be approved. It is also noted that this would not result in any net gain of car parking in the neighbourhood and is not supported

**The proposal's compliance with Clause 10 Objectives of the Residential Zone under the Manly LEP 1988 are addressed as follows:-**

The proposal is considered in terms of the key objectives of the Residential Zone as follows:-

(a) *to set aside land to be used for purposes of housing and associated facilities;*

This is a proposal for subdivision so that this objective does not apply

(b) *to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

The proposal does not comply with a number of the controls in the development control plan and does not meet this objective. It is suggested that the small lot be increased in area to the minimum size in terms of the development control plan and that this would then reduce the floor space ratio, and increase the amount of landscaped open space on this site. It is further considered that the original house will be up for redevelopment shortly and that floor space ratio setbacks and landscaped open space etc, would-be considered at that time. It is considered that by imposing conditions along this line that the development will then meet the development control plan and fit in with the intended future of this area.

(c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;*

While it can be argued that the proposed subdivision will not have an effect on the existing character of the residential area and that the proposal complies with this objective, the concern is that the subdivision will create potential for future development on the Alexander Street lot beyond that that is expected, so that the line of subdivision should comply with the area requirement in Council's development control plan.

(d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

This is a proposal for subdivision so that this objective does not apply.

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

This is a proposal for subdivision so that this objective does not apply.

(f) *to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;*

This objective does not apply.

(g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

Due to the nature of this application this objective does not apply. A condition has been included in the recommendation requiring confirmation from Sydney Water that water services are provided to each lot.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

This is a proposal for subdivision so that this objective does not apply

**Environmental Services Division Report No. 21 (Cont'd)**

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

This objective does not apply

**CONCLUSION:**

The proposal has been considered pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988, the Development Control Plan for the Residential Zone 2001, Amendment 1 and the Building Code of Australia. The proposal is subsequently recommended for approval on the basis that the line of subdivision is brought into compliance with the site area requirement of the DCP.

**RECOMMENDATION**

That Development Application No. 43/06 for Land Subdivision into two (2) Lots at 56 Alexander Street, Manly be approved subject to the following conditions:-

**DA1**

This approval relates to Plan of Proposed Subdivision Drawing No. 7459/11/05 dated 20 December 2005 and 7459/12/05 dated 21 December 2005 and received by Council on the 12 January 2006.

**ANS01**

The proposed parking space off Alexander Street is to be deleted from the plan to preserve the amenity of the Street.

**ANS02**

The plan is to be amended to give a site area of 250 sq metres for proposed lot 57 and the plans are to be amended accordingly prior to the submission of the linen plan

**ANS03**

The rear of the existing dwelling facing Alexander Street is to be demolished prior to the signing of the linen plan of subdivision in order to comply with the Building Code of Australia

**DA267**

Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.

**DA276**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site [www.sydneywater.com.au/customer/urbanindex](http://www.sydneywater.com.au/customer/urbanindex) or telephone 13 20 92. Following application a **Notice of Requirements** will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

**DA356**

All electrical and telecommunication services to the site are to be provided by underground cabling, with the plans notated prior to the issue of the Construction Certificate.

**DA298**

Approval of the application to Land Subdivision of the subject property is subject to the lodgement of a Subdivision Certificate application and payment of the appropriate fee.

**Environmental Services Division Report No. 21 (Cont'd)**

DA323

This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 21 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Environmental Services Division Report No. 22  
**SUBJECT:** Development Applications Currently Being Processed  
**FILE NO:**

### SUMMARY

Development Applications Currently Being Processed During May 2006.

### REPORT

The following applications are currently with Council's Development Assessment for determination.

DA#	Date Rec by Council	Site Address	Proposal	Target Date	DEL DAU LUM
DA319/03	16-Jul-03	14 Kempbridge Avenue	Alterations and Additions	Awaiting Information	
DA525/03	20-Oct-03	22 Wentworth Street	Change of Use	Awaiting Information	
DA587/02	03-May-05	14 Reddall Street	Section 96 Modification	Awaiting Information	
DA507/04	21-Sep-05	23 Francis Street	Section 96 Modification	23-May-06	DAU
DA423/05	29-Sep-05	59 Ethel Street	Erection of Mixed Use Development	Awaiting Information	
DA463/05	30-Sep-05	31 Victoria Parade	Alts & Adds to RFB & New Upper Floor	02-May-06	DAU
DA426/05	01-Oct-05	43 Bower Street	Alterations & Additions	25-May-06	DAU
DA456/05	18-Oct-05	43 Addison Road	Alts & Adds, Carport, Pool and Landscaping	25-May-06	DAU
DA474/05	19-Oct-05	55 Eurobin Avenue	Alts & Adds to RFB (duplex)	09-May-06	DAU
DA450/05	20-Oct-05	2 Beatty Street	Inclinorator	25-May-06	DAU
DA466/05	20-Oct-05	421 Sydney Road	Demolition & Erection of Duplex RFB	11-May-06	DAU
DA428/05	21-Oct-05	7 Pacific Parade	Demolition & Erection of new Dwelling, Parking & Pool	Awaiting Information	
DA51/06	28-Oct-05	36 Eurobin Avenue	Alterations & Additions	09-May-06	DAU
DA506/05	06-Nov-05	3 Pacific Parade	Alterations & Additions to Residential Flat Building	Awaiting Information	
DA485/05	08-Nov-05	46-48 East Esplanade	Retail, Office & Commercial Premises	Awaiting Information	DAU
DA176/04	18-Nov-05	2 Moore Street	Section 96 Modification	23-May-06	DAU
DA518/05	30-Nov-05	151 Darley Road Lot 9	3 Storey Dwelling & Pool	11-May-06	DAU
DA519/05	30-Nov-05	151 Darley Road Lot 10	3 Storey Dwelling & Pool	11-May-06	DAU
DA520/05	30-Nov-05	151 Darley Road Lot 11	3 Storey Dwelling & Pool	11-May-06	DAU
DA521/05	30-Nov-05	151 Darley Road Lot 12	3 Storey Dwelling & Pool	11-May-06	DAU
DA506/04	02-Dec-05	101 Bower Street	Section 96 Modification	09-May-06	DAU

## Environmental Services Division Report No. 22 (Cont'd)

DA350/05	05-Dec-05	92 Bower Street	Section 96 Modification	18-May-06	DAU
DA517/05	05-Dec-05	7-9 Golf Parade	Alts & Adds to Semi-detached	23-May-06	DAU
DA524/05	06-Dec-05	2/447-449 Sydney Road	Change of Use	Awaiting Information	
DA547/05	09-Dec-05	6 Geddes Street	Alterations & Additions	02-May-06	DAU
DA536/05	12-Dec-05	133-136 North Steyne	Demolition of Buildings	27-Jun-06	DAU
DA548/05	13-Dec-05	7A Alan Avenue	Alts & Adds & Relocate Pool	30-May-06	DAU
DA552/05	15-Dec-05	20 Magarra Place	Demolition & New Attached Dual Occupancy plus Pools	25-May-06	DAU
DA20/06	19-Dec-05	23 Collingwood Street	Alterations & Additions	Awaiting Information	
DA29/06	19-Dec-05	6/6-8 Lawrence Street	Alts & Adds, Balcony & Stairs	25-May-06	DAU
DA15/06	20-Dec-05	34 Hilltop Crescent	Double Carport	18-May-06	DEL
DA504/04	20-Dec-05	2 Smith Street	Section 82A Review	Awaiting Information	DAU
DA27/06	21-Dec-05	88 Woodland Street	Alterations & Additions & Pool & Fence	Awaiting Information	
DA16/06	23-Dec-05	20/74-78 The Corso	Fitout Commercial Use	30-May-06	DAU
DA26/06	03-Jan-06	42-44 Beatrice Street	Alterations & Additions & Pool & Relocate driveway	28-May-06	DAU
DA278/05	03-Jan-06	42 North Steyne	Section 82A Review	23-May-06	DAU
DA24/06	04-Jan-06	91 Gurney Crescent	Alts & Adds, Deck & Retaining Walls	09-May-06	DAU
DA267/05	04-Jan-06	112 Sydney Road	Section 96 Modification	30-May-06	DAU
DA354/05	04-Jan-06	2 Coral Street	Section 82A Review	25-May-06	DAU
DA274/04	10-Jan-06	Castle Circuit	Amended Plans	Awaiting Information	
DA38/06	13-Jan-06	65 Whistler Street	Alterations & Additions	09-May-06	DAU
DA41/06	13-Jan-06	3 Seaview Street	Alterations, Garage & 1st Floor Addition	04-May-06	DAU
DA264/03	16-Jan-06	4 Krui Street	Section 96 Modification	04-May-06	DAU
DA45/06	18-Jan-06	41 Castle Circuit	House, Carport & Pool	25-May-06	DAU
DA59/06	20-Jan-06	26 Moore Street	Alts & Adds, Garage and Pool	11-May-06	DAU
DA60/06	21-Jan-06	16 Jellicoe Street	Demolition & Erection of Duplex RFB	Awaiting Information	
DA48/06	23-Jan-06	7-9 The Corso	Alts & Adds to RFB & Commercial	04-May-06	DAU
DA47/06	24-Jan-06	11 The Corso	Alts & Adds to RFB & Front Awning	25-May-06	DAU
DA77/06	26-Jan-06	127 Seaforth Crescent	Landstand Carparking	04-May-06	DEL
DA56/06	27-Jan-06	133-136 North Steyne	Demolition & RFB with Basement Parking & Strata Subdivision	Awaiting Information	

## Environmental Services Division Report No. 22 (Cont'd)

DA372/05	30-Jan-06	11 Fairlight Crescent	Section 96 Modification	Awaiting Information	
DA434/03	01-Feb-06	5 Brighton Street	Section 96 Modification	23-May-06	DAU
DA494/01	02-Feb-06	19 Bellevue Street	Section 96 Modification	30-May-06	DAU
DA616/99	02-Feb-06	1 Jenner Street	Section 96 Modification	11-May-06	DAU
DA65/06	08-Feb-06	21 Woodland Street	Demolition & new Dwelling and Pool	11-May-06	DAU
DA595/00	14-Feb-06	54 Lauderdale Avenue	Section 96 Modification	Awaiting Information	
DA82/06	14-Feb-06	1/16 Quinton Road	Alts & Adds, Deck and Carport	Awaiting Information	
DA365/02	21-Feb-06	62 Osborne Street	Section 96 Modification	Awaiting Information	
DA87/06	24-Feb-06	67 Collingwood Street	Change of Use	Awaiting Information	
DA90/06	24-Feb-06	92 Bower Street	3 Lot Subdivision	Awaiting Information	
DA92/06	24-Feb-06	87 Castle Circuit	Inclinitor	18-May-06	DEL
DA96/06	02-Mar-06	3 Kamiri Street	Alts & Adds, Carport & Pool	25-May-06	DAU
DA382/04	03-Mar-06	33 Beatty Street	Section 96 Modification	Awaiting Information	
DA213/04	14-Mar-06	33-37 Ethel Street	Section 96 Modification	25-May-06	DAU
DA100/06	15-Mar-06	37 Beatty Street	Erection of Decks	25-May-06	DAU
DA42/06	15-Mar-06	85 Birkley Road	Alterations & Additions	04-May-06	DEL
DA430/05	23-Sep-06	Stuart Street/ Carey Street	Remedial Works, Groundwater Collection, Drains & Tanks	18-May-06	DAU

The following applications are currently with Council's Lodgment & Quality Assurance being advertised, notified or referred to appropriate parties.

- 595/2000** 54 Lauderdale Av, FAIRLIGHT 2094  
Section 96 to modify approved Demolition and Construction of Two (2) New Dwellings including Strata Subdivision
- 256/2002** 112 Addison Rd, MANLY 2095  
Section 96 Modification to delete conditions 3 to allow carport
- 2/2003** 565 Sydney Rd, SEAFORTH 2092  
Sec. 96 Mod. to modify DA02/03 in respect of internal dividing walls
- 395/2003** 12 Fairy Bower Rd, MANLY 2095  
Section 96 to modify DA 395/03
- 444/2003** 7 Brighton St, BALGOWLAH 2093  
Sec.96 Modification in relation to first and second floor balconies
- 576/2003** 535-537 Sydney Rd, SEAFORTH 2092  
Section 96 Modification to condition ANS02

**Environmental Services Division Report No. 22 (Cont'd)**

- 35/2004** 8 The Corso, MANLY 2095  
Section 96 Application to modify conditions A1-A5
- 62/2004** 151 Darley Rd, MANLY 2095  
Section 96 to Modify approved 44 Apartments & 16 Townhouses on land known as Precincts 3 & 12 of St Patrick's Estate
- 450/2004** 69 Woodland St, BALGOWLAH 2093  
Section 96 to modify two windows on the northern elevation
- 456/2004** 3 Richmond Rd, SEAFORTH 2092  
Section 96 to modify DA 456/04
- 458/2004** 36 Gurney Cr, SEAFORTH 2092  
AMENDED PLANS- S96 to modify the lower ground lvl & stair to roof
- 482/2004** 106 Darley Rd, MANLY 2095  
St Pats Est-New RFB(16 units) & 22 dwls & subdiv. Entry via Osborne Rd
- 48/2005** 1 Ponsonby Pde, SEAFORTH 2092  
Section 96 to modify window
- 87/2005** 92 Griffiths St, FAIRLIGHT 2094  
Section 96 Modification to modify DA 87/05
- 121/2005** 26 Ethel St, SEAFORTH 2092  
Section 96 to modify approved Alterations & Additions to Dwelling
- 150/2005** 2 Waratah St, BALGOWLAH 2093  
Section 96 to modify DA 150/05
- 168/2005** 215 Condamine St, BALGOWLAH 2093  
S96 mod- to modify conditions 32 & 33 (part A); conditions 13(vi) (part B) & correct description of section 80(4) consent.
- 169/2005** 20 George St, MANLY 2095  
Section 96 to modify DA 169/05
- 216/2005** 241-243 Sydney Rd, FAIRLIGHT 2094  
Section 96 to modify the approved Reconfiguration of shops to one shop, shop parking and boundary adjustment
- 277/2005** 439 Sydney Rd, BALGOWLAH 2093  
Section 82A Review to refused Alterations and Additions to existing Service Station to include Carwash and Cafe
- 292/2005** 107 Frenchs Forest Rd, SEAFORTH 2092  
S96 to modify conditions DA247 in respect of section 94 contributions

**Environmental Services Division Report No. 22 (Cont'd)**

- 316/2005** 37 Lauderdale Av, FAIRLIGHT 2094  
Section 96 to modify approved Dwelling, Pool, Parking and Landscaping
- 333/2005** 2 Lombard St, BALGOWLAH 2093  
S96 to modify DA 333/05 in respect of the rear laundry
- 350/2005** 92 Bower St, MANLY 2095  
Alts & Adds to existing RFB (LEC Approval)
- 367/2005** 20 Ernest St, BALGOWLAH 2093  
Section 96 to modify approved Alts & Adds to Dwelling and Subdivision
- 396/2005** 13A Alan Av, SEAFORTH 2092  
Section 96 to modify approved Alts & Adds to dwelling being Carport and 1st Floor Addition
- 402/2005** Wharves and Jetties, MANLY 2095  
Section 82A Review of Determination - Erection of Signage
- 423/2005** 59 Ethel St, SEAFORTH 2092  
Amended Plans - New 3 Storey mixed use development with ground floor retail/ commercial and seven residential units and basement parking.
- 465/2005** 49 Stuart St, MANLY 2095  
Section 96 - to modify approved Alterations & Additions to Unit 2 including replace & relocate windows & construct new side entry porch
- 497/2005** 30 Upper Beach St, BALGOWLAH 2093  
Section 96 to modify DA 497/05 in respect of balustrades
- 516/2005** 8 Brighton St, BALGOWLAH 2093  
Alterations & Additions to the existing Dwelling house
- 549/2005** 13 Lewis St, BALGOWLAH 2093  
Alterations & additions to an existing dwelling & new swimming pool
- 553/2005** 10 Kempbridge Av, SEAFORTH 2092  
Alteration & Additions to Dwelling including new carport & front fence
- 28/2006** 29 Edgecliffe Esp, SEAFORTH 2092  
Alterations & Additions to Dwelling including 1st floor, pool & cabana
- 72/2006** 29 Bungalow Av, BALGOWLAH 2093  
Section 96 to modify the approved Alterations and Additions to Dwelling
- 73/2006** 5 Seaview St, BALGOWLAH 2093  
Alterations & Additions to Dwelling including 1st Floor and pool
- 81/2006** 90 Griffiths St, FAIRLIGHT 2094  
Alterations & Additions to an existing dwelling



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**Environmental Services Division Report No. 22 (Cont'd)**

- 85/2006** 164 Pittwater Rd, MANLY 2095  
Alts & Adds to dwelling including new floor addition
- 88/2006** 150 Darley Rd, MANLY 2095  
Extension of Intensive Care Unit of Manly Hospital
- 91/2006** 44 Dudley St, BALGOWLAH 2093  
Erection of two (2) attached dwellings
- 93/2006** 35 Wanganella St, BALGOWLAH 2093  
Alts & Adds to an existing dwelling and new carport
- 94/2006** 9 Sangrado St, SEAFORTH 2092  
Alterations & Additions to existing dwelling including new garage
- 95/2006** 243 Pittwater Rd, MANLY 2095  
Change of Use to Shop & Alterations & Additions to existing premises
- 97/2006** 17 Redman St, SEAFORTH 2092  
Alts & Adds to existing dwelling including new first floor
- 98/2006** 5 Ernest St, BALGOWLAH 2093  
Alterations & Additions to Dwelling including garage, rumpus and pool
- 99/2006** 75 The Corso, MANLY 2095  
Reconstruction of corner octagonal turret for water proofing purposes
- 101/2006** 197 Condamine St, BALGOWLAH 2093  
Demolish, Excavate & Erect Buildings comprising of 2 Supermarkets,  
40 Specialist Retail Shop, 270 Dwelling Units, Parking and  
Landscaping
- 103/2006** 52 Balgowlah Rd, BALGOWLAH 2093  
Alterations & Additions to an existing premises
- 104/2006** 26 La Perouse St, FAIRLIGHT 2094  
Erection of a Carport
- 105/2006** 62 Osborne Rd, MANLY 2095  
Unit 1- Alts & Adds to existing RFB to convert a rear window to door  
& steps
- 106/2006** 2A Battle Bvd, SEAFORTH 2092  
Alterations & Additions to an existing Dwelling and carport
- 107/2006** 19 Maretimo St, BALGOWLAH 2093  
Erection of Swimming Pool , Deck and Pergola

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**Environmental Services Division Report No. 22 (Cont'd)**

- 108/2006** 77 Ellery Pde, SEAFORTH 2092  
Alterations & Additions to an existing dwelling
- 109/2006** 53 Bungaloe Av, BALGOWLAH 2093  
Erection of swimming pool, deck, stairs and walls
- 110/2006** 1A Bolingbroke Pde, FAIRLIGHT 2094  
Unit 2 - Alterations & Additions to existing Dwelling
- 111/2006** 90 Griffiths St, FAIRLIGHT 2094  
Erection of swimming pool & deck
- 112/2006** 9-15 Central Av, MANLY 2095  
Erection of security gate and fencing
- 113/2006** 14 Victoria Pde, MANLY 2095  
Remedial works to a RFB including replacement of ballustrades
- 114/2006** 53 Ethel St, SEAFORTH 2092  
Unit 1- Occupation for retail fitout
- 115/2006** 58 Seaview St, BALGOWLAH 2093  
Alts & Adds to an existing semi detached dwelling
- 116/2006** 33 Arthur St, FAIRLIGHT 2094  
Rebuilding retaining wall and new fencing
- 117/2006** 2 West Prm, MANLY 2095  
Occupation of premises for wholesale & display of surfing clothes & footwear
- 118/2006** 17 Rosedale Av, FAIRLIGHT 2094  
Erection of new garage and swimming pool
- 119/2006** 71 Gordon St, CLONTARF 2093  
Alts & Adds to an existing dwelling house and garage
- 120/2006** 11 Ocean Rd, MANLY 2095  
Alterations & Additions to Dwelling and garage
- 121/2006** 10 Clifford Av, FAIRLIGHT 2094  
Demolition & Erection of dwelling house, garage & landscaping
- 122/2006** 32 Hilltop Cr, FAIRLIGHT 2094  
Alterations & Additions to existing dwelling
- 123/2006** 44 Francis St, FAIRLIGHT 2094  
Strata Subdivision

**Environmental Services Division Report No. 22 (Cont'd)**

- 125/2006** 16 Quinton Rd, MANLY 2095  
Unit 2- Alts & Adds to dwelling & replacement of carport
- 126/2006** 61 Peacock St, SEAFORTH 2092  
Alts & Adds to existing dwelling and new deck, fencing & driveway
- 127/2006** 67 Seaforth Cr, SEAFORTH 2092  
Demolition, new dwelling house,garage,inclinator & landscaping
- 128/2006** 1 Scales Pde, BALGOWLAH HEIGHTS 2093  
Erection of Vergola
- 129/2006** 24 Malvern Av, MANLY 2095  
Land Subdivision to create two (2) new lots
- 130/2006** 12 Jamieson Av, FAIRLIGHT 2094  
Alterations & Additions to an existing dwelling
- 131/2006** 6 Victoria Pde, MANLY 2095  
Alts & Adds to an existing Residential Flat Building
- 132/2006** 9 Sydney Rd, MANLY 2095  
Wall Signage
- 133/2006** 18 Augusta Rd, MANLY 2095  
Alts & adds to existing dwelling including new garage
- 134/2006** 33 Macmillan St, SEAFORTH 2092  
Excavation and constrction of ,Swimming Pool, landscaping and deck
- 135/2006** 2 Abernethy St, SEAFORTH 2092  
Land Subdivision and erection of a dwelling house
- 136/2006** 563 Sydney Rd, SEAFORTH 2092  
Occupation of existing commercial premises for gymnasium - Shop 6
- 137/2006** 14 Jenner St, SEAFORTH 2092  
Alterations & Additions to Dwelling including facade, entry path,  
timber pergola and new balustrading
- 138/2006** 84 Seaforth Cr, SEAFORTH 2092  
Alterations & Additions to an existing Dwelling
- 139/2006** 69-73 New St, BALGOWLAH 2093  
Occupation of Commerical premises for a Beauty Salon
- 140/2006** 24 Darley Rd, MANLY 2095  
Occupation of existing shop and alterations including signage
- 141/2006** 194 Pittwater Rd, MANLY 2095  
Change of use from takeaway to cafe incl.new signage & outdoor seating

**Environmental Services Division Report No. 22 (Cont'd)**

- 142/2006** 104 Whistler St, MANLY 2095  
Alts & Adds to an existing dwelling
- 143/2006** 151 Darley Rd, MANLY 2095  
Subdivision to create a new lot covering precincts 3 and 12
- 144/2006** 151 Darley Rd, MANLY 2095  
Staged Strata Subdivision
- 145/2006** 360 Sydney Rd, BALGOWLAH 2093  
Occupation (temporary) for purposes of TAB, fitout & Signage
- 146/2006** 5 Francis St, FAIRLIGHT 2094  
Alterations & Additions to an Dwelling House and Swimming Pool
- 147/2006** 21 Cliff St, MANLY 2095  
Alts & Adds to an existing dwelling
- 148/2006** 10 Benelong St, SEAFORTH 2092  
Alterations & Additions to an existing Dwelling including Deck

**RECOMMENDATION**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 22 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006

**REPORT:** Environmental Services Division Report No. 23

**SUBJECT:** Appeals List for May 2006

**FILE NO:**

### SUMMARY

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

### REPORT

Application	L&E Appeal Reference	House #	Address	Date Appeal Lodged	Solicitor Company	Current Status
DA222/05	10102/06	141	Balgowlah Road, BALGOWLAH	10/02/06	Pike Pike & Fenwick	Hearing 16/06/06
DA273/04	10949/05	20	Denison Street, MANLY	17/08/05	Abbott Tout	Hearing 02/05/06
DA428/06	10108/06	29	Edgecliffe Esplanade SEAFORTH	15/02/06	Pike Pike & Fenwick	Callover 03/05/06
DA87/96	10624/05	5,93-95	North Steyne, MANLY	07/06/05	Abbott Tout	Judgment Pending
DA10/01	11025/05	118	North Steyne, MANLY	27/06/05	Abbott Tout	Hearing 29-30/05/06
DA28/06	40998/05	15	Richmond Road	3/12/2004	Abbott Tout	Callover 05/05/06
DA335/05	11451/05	51	Seaforth Cres, SEAFORTH	13/12/05	Pike Pike & Fenwick	Judgment Pending
DA267/05	10167/06	112	Sydney Road, FAIRLIGHT	13/03/06	Abbott Tout	Hearing 04/05/06
DA92/05	11565/05	27	The Corso, MANLY	3/01/06	Abbott Tout	Hearing 01/05/06
DA433/99	11050/04	27-29	Victoria Parade, MANLY		Abbott Tout	Hearing dates reserved
DA187/03	10202/06	66B	Ponsonby Parade	22/03/06	Abbott Tout	Hearing Dates Pending
DA159/05	10913/05	2A	Woodland Street, Balgowlah Heights	05/08/05	Abbott Tout	Hearing 2/06/06
DA37/05	10832/05	11	Benelong Street	01/08/05	Abbott Tout	Callover 24/05/06
DA572/04	10833/05	8	Yatama Street	01/08/05	Abbott Tout	Callover 24/05/06
DA159/05	10913/05	2A	Woodland Street	05/08/05	Abbott Tout	Hearing 02/06/06
DA272/05	11213/05	107	Frenchs Forest Road	17/10/05	Pike Pike & Fenwick	Callover 24/05/06
DA222/05	10102/06	141	Balgowlah Road	10.02.06	Pike Pike & Fenwick	Hearing 16/06/06

**Environmental Services Division Report No. 23 (Cont'd)**

DA267/05	10167/06	112-114	Sydney Road		Abbott Tout	Callover 04/05/06
DA403/05	10254/06	85-87	Lauderdale Avenue	30/03/06		Callover 16/05/06
	41044/06	243-259	Pittwater Road		Abbott Tout	Callover 16/06/06
DA250/04	10321/06	51	Stuart Street	21/04/06		Callover 26/05/06

2005-2006 Budget	\$420,000	
Expenditure to date		\$535,870
Reimbursements		<u>\$174,000</u>
Net expenditure		\$361,870

**RECOMMENDATION**

That the information be noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Environmental Services Division Report No. 23 \*\*\*\*\*

**TO:** Land Use Management Committee - 1 May 2006  
**REPORT:** Human Services And Facilities Division Report No. 1  
**SUBJECT:** Manly Food and Wine Festival  
**FILE NO:**

**SUMMARY:**

1. THE MANLY FOOD & WINE WORKING PARTY HAS MADE A NUMBER OF CHANGES TO THE FORMAT AND CONDITIONS FOR THE 2006 FESTIVAL ON 3<sup>RD</sup> AND 4<sup>TH</sup> JUNE 2006.
2. THE MAIN OBJECTIVES WERE TO SHOWCASE LOCAL RESTAURANTS BY PROVIDING A 'TASTE' OF QUALITY CUISINE, ENCOURAGE REPEAT VISITS AND LIMIT THE NUMBER OF TAKEAWAY FOODSTALLS TO REDUCE WASTE.
3. THE FESTIVAL WILL BE EXPANDED TO INCLUDE THE WHOLE OF THE MANLY CBD, WITH FOUR PRECINCTS – MANLY WHARF, THE CORSO PEDESTRIAN MALL, OCEAN BEACHFRONT, COUNCIL CHAMBER FORECOURT AND BELGRAVE STREET
4. WINERIES WILL SERVE 60ML TASTES OF WINE IN A GLASS WINE GLASS HELD IN A STRAP HOLDER
5. THE CURRENT STATUS OF THE FESTIVAL IS DETAILED IN THE REPORT.

**REPORT****Background:**

The Food & Wine Working Party, is chaired by the Mayor, and comprises Councillors, Manly Chamber of Commerce, community and waste representatives, agreed to consider a new format for the Food & Wine Festival 2006 at the meeting on 25<sup>th</sup> October 2005.

After several meetings, it was agreed that the objectives for the Food & Wine Festival 2006 are:

- To showcase Manly's fine restaurants and encourage repeat visits by providing a 'taste' of their best contemporary and varied cuisine
- To expand the Festival area and provide food and wine for purchase throughout the Manly CBD , rather than just on the Ocean beachfront
- To reduce waste by reducing the number of takeaway stalls
- To encourage the development of mutually beneficial partnerships between participating restaurants and wineries

The format and conditions of the current and previous Food & Wine Festivals are tabled below:

	<b>Current</b>	<b>Previous</b>	<b>Notes</b>
<b>Area</b>	5 Precincts: <ul style="list-style-type: none"> <li>• Manly Wharf</li> <li>• The Corso Pedestrian Mall</li> <li>• Ocean Beachfront</li> <li>• Council Forecourt and Belgrave Street</li> <li>• Rialto Square</li> </ul>	Ocean Beachfront	Reduced to 4 Precincts, due to Rialto Square advising that they are not participating
<b>Format</b>	<ul style="list-style-type: none"> <li>• 5 Takeaway stalls in The Corso only</li> <li>• Extended outdoor dining Ocean Beach restaurants and Manly Wharf Bavarian Café</li> <li>• 4 Restaurants in Council Forecourt providing outdoor dining, tables &amp; chairs</li> </ul>	17 Takeaway stalls on Ocean beachfront	Restaurant licences do not cover serving 150gram portions of food; therefore serving size needs to be increased.  Restaurant licences

## Human Services And Facilities Division Report No. 1 (Cont'd)

	<ul style="list-style-type: none"> <li>No wine stalls, takeaway food stalls or extended dining areas in road closure from the Corso entrance to Raglan Street, North Steyne</li> <li>19 wineries spread through the 5 precincts (<i>reduced to 18 wineries in 4 precincts due to Rialto Square not participating</i>).</li> </ul>	19 Wineries on Ocean beachfront	do not cover one-off special events and extended outdoor dining. Council not prepared to cover restaurants in their Liquor Licence due to indemnity issues.
<b>Conditions</b>	<ul style="list-style-type: none"> <li>Only open to Manly CBD restaurants</li> <li>Tasting portions of up to 150g to be served by restaurants and takeaway food stalls</li> <li>The 60ml wine servings in glass wine glasses in holder purchased from the winery stalls cannot be consumed in the extended dining areas of participating restaurants</li> </ul>	<ul style="list-style-type: none"> <li>Open to all Manly restaurants</li> <li>No portion control, serving size up to individual takeaway stalls</li> <li>120ml wine served in polycarbonate wine glasses from winery stalls on the Ocean Beachfront</li> </ul>	Tasting portions of up to 150grams not allowed under Restaurant Liquor Licence conditions; has to be a substantial serving of food
<b>Hours of Operation</b>	<p>Restaurants with extended outdoor dining: 11.30am – 11pm Sat 3 June 11.30am – 5pm Sunday 4 June</p> <p>Takeaway stalls in Corso: 11.30am – 5pm Saturday and Sunday</p>	11.30am – 5pm Saturday and Sunday	11pm closing of Forecourt outside dining area to be reviewed by Food and Wine Working Party
<b>Entertainment</b>	<ul style="list-style-type: none"> <li>Roving bands throughout Festival area</li> <li>Static entertainment on South Steyne promenade and Corso Amphitheatre</li> </ul>	<ul style="list-style-type: none"> <li>Static entertainment on South Steyne promenade and Corso Amphitheatre</li> <li>Static entertainment on North Steyne promenade</li> </ul>	
<b>Charges: Council</b>	<p>Fees for wineries: \$3,900</p> <p>Fees for restaurants: tables and chairs: \$20 incl. GST per table; \$10 incl. GST per chair per day</p> <p>Fees: Takeaway Stallholders: \$1815 inc. GST</p>	<p>Fees for wineries: \$4,620</p> <p>Fees for restaurants – n/a</p> <p>Fees: Takeaway Stallholders: \$1815 inc. GST</p>	Fees for wineries reduced from \$4,629 inc GST to \$3,900 inc GST to encourage participation by wineries due to their reluctance to accept smaller serving size of 60ml
<b>Charges: Food</b>	<p>Extended dining: up to \$10 incl. GST per serving</p> <p>Takeaway stalls: up to \$12 incl. GST per serving including \$2 for refundable plate (\$1 refund)</p>	Stallholders charged up to \$8 or \$10 including \$2 for refundable plate, incl. GST (\$1 refund)	



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<b>Charges: Wine</b>	\$5 incl. GST for glass held in a strap holder for safety reasons  \$2 incl. GST for 60ml serving of wine	\$3 incl. GST for a 120ml wine polycarbonate goblet  \$4 incl. GST for a 120ml serving of wine	
<b>Utensils</b>	Takeaway stalls to use environmentally friendly, reusable plates provided, plus corn starch cutlery. Washed by Council contractor/hotel  Restaurants to use their own cutlery, glasses and crockery and be responsible for their washing	Takeaway stalls to use environmentally friendly reusable plates provided, plus corn starch cutlery. Washed by Council contractor/hotels	

**Current status:**

Restaurants and wineries were invited to participate in the Food & Wine Festival on 3<sup>rd</sup> and 4<sup>th</sup> June 2006. The new format and conditions were clearly set out, with maps indicating the available sites at each location, for wineries and food stalls. The closing date for applications to participate was the 4<sup>th</sup> April 2006 for wineries and 20<sup>th</sup> April 2006 for the restaurants.

**Liquor Licence Conditions:**

Prior to sending out the Application and conditions form, the following step were taken:

- At the Working Party meeting, Manly Chamber of Commerce requested that their representative be given the opportunity to discuss all these conditions (which included the condition that each Restaurant ensure that it met the Liquor Licence conditions for additional extended dining), with the Restaurants, prior to the official mail out.
- The Working Party agreed to the Chamber representative’s request to clarify all conditions with restaurants.
- Chamber of Commerce subsequently, advised Council that they were now in agreement for the conditions to be mailed to the restaurants.
- Council proceeded to mail the application form which included the conditions for participation in the event.

Council, in following through with the restaurant regarding the conditions of participation, has been established:

- That restaurant operators are not permitted to extend their Liquor Licence in outdoor dining areas for special events.
- Additionally, it has been established that Liquor Licence conditions for restaurants (as opposed to Hotels) state that restaurants have to serve a substantial portion of food, not just a ‘taste, therefore the proposed condition of 150grams per serving is not permitted.
- Hotel Liquor Licences are permitted to have extended outside dining areas for special events with a substantial meal being served, if approved by Council.

These issues need to be resolved before the event can proceed in this new format and an Extraordinary Meeting of the Food & Wine Working Party has been called to address the issue.

**Human Services And Facilities Division Report No. 1 (Cont'd)**Wineries

To date, 17 wineries have responded to the invitation to participate (from a potential of 18 sites), and have indicated that they will be participating this year. In previous years, due to the demand, participating wineries were selected by a random draw. The random draw will not be necessary this year.

Restaurants offering extended dining

Prior to establishing the requirements for a Liquor Licence extension for a special event, three Ocean beachfront restaurants on South Steyne confirmed their acceptance to participate.

Manly Wharf area

The Bavarian Café indicated their interest in participating subject to Council gaining a valid Liquor Licence to cover their operations in an extended area.

Council Forecourt area

Of the four available sites at this location, International College of Management and the Manly Pacific Hotel, Sydney have accepted to participate to date. These two organizations hold a Hotel Liquor Licence.

Rialto Square

Restaurants in this location have declined to participate this year.

Takeaway Stalls in The Corso:

To date we have acceptances from six restaurants for the five available sites at this location, they will go into a random draw.

**Manly Food & Wine Working Party**

An extraordinary meeting of the Food and Wine Working Party will be convened on Tuesday 2<sup>nd</sup> May 2006, to discuss and resolve the following issues:

1. Liquor Licence conditions for restaurants who wish to participate with additional extended dining area.
2. Council's inability to cover the Liquor Licence for additional outdoor dining for restaurants due to public liability issues.
3. Trading hours on Saturday 3<sup>rd</sup> June 2006, for the extended dining areas only, to be extended from 5pm to 11.00pm.

**RECOMMENDATION:**

That this report be received and noted.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Human Services And Facilities Division Report No. 1 \*\*\*\*\* .