



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 4 June 2007

Commencing at 7:30pm 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*

Seating Arrangements for Meetings

Staff Staff General
 Manager Chairperson Staff Minute
 Taker



Mayor Dr Peter
Macdonald

Clr Mark Norek

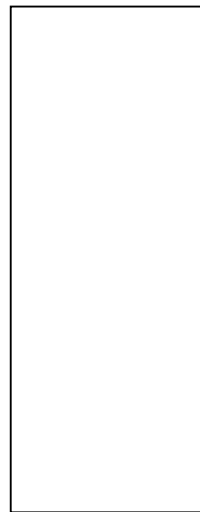
Clr Joanna Evans

Clr Barbara Aird

Deputy Mayor

Clr Brad
Pedersen

Clr Richard
Morrison



Clr Jean Hay AM

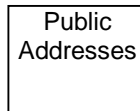
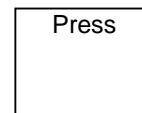
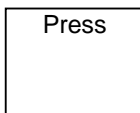
Clr Adele Heasman

Clr Dr Judy Lambert
AM

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



Public Gallery

Chairperson: Cr Judy Lambert AM
Deputy Chairperson: Cr Jo Evans

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DECLARATIONS OF INTEREST

CONFIRMATION OF MINUTES

The Land Use Management Committee of 7 MAY 2007

PUBLIC ADDRESSES

SITE INSPECTIONS

The following site inspections will take place on Monday 4 June, 2007.

31 Boyle Street, Manly	8:00am
29 Ponsonby Parade, Seaforth	8:30am
44 Ellery Parade, Seaforth	9:00am
18 Acacia Road, Seaforth	9:20am
5 Sandra Place / 26 Boronia Lane, Seaforth	9:40am
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ENVIRONMENTAL SERVICES DIVISION

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(In accordance with Clause 241 of the Local Government (General) Regulations, 2005)

CLOSED COMMITTEE ITEMS

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

Environmental Services Division Report No. 30 (Cont'd)

REPORT

Introduction

The subject site is located on the western side of Boyle Street, one allotment to the north of the intersection of Boyle Street and Sydney Road. The site has an east/west orientation and is generally rectangular in configuration with a frontage of 10.755m and a depth of 45.4m. The site has a cross fall of approximately 1.5m from south to north and an east to west fall of 3.0m. The site is currently developed with a part single and part two storey dwelling.

The application proposes demolition of the existing dwelling and erection of two (2) x two (2) storey attached dwellings with basement car parking beneath the easternmost dwelling and an open car parking space positioned at the north side of the westernmost dwelling. Vehicle access is proposed along the northern side of the site.

Proposed dwelling 1 (easternmost dwelling) comprises:

Level 0 - two car parking spaces and internal stair,

Level 1 - lounge/dining, kitchen, laundry, guest bedroom, ensuite, WC, internal stair and patio areas,

Level 2 - two bedrooms and bathroom

Proposed dwelling 2 (westernmost dwelling) comprises:

Level 0 - lounge/dining, kitchen, laundry, WC, and internal stair,

Level 1 – three bedrooms, ensuite, bathroom and internal stair

Development Control Plan Numerical Assessment

The following is an assessment of the proposal's compliance with the relevant 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	1 per 250sqm	1 per 250.4sqm	Yes (strata)
Floor space ratio	0.6:1	0.58	Yes
Floor space ratio - existing	0.25:1		Yes
Wall height North side	6.8m	7.9m	No
South side	7.1m	5.6m	Yes
Roof height	3.0m	1.1m	Yes
Setback Front	6.0m	6.0m (front wall) 4.5m (patio)	Yes Yes - consistent with adjoining
Setback Rear	8.0m	8.0m	Yes
Setback north side	2.3m	2.6m	Yes
Setback south side	1.86m	1.9m	Yes
Wall on boundary length	15.14m	26.5m	No
Wall on boundary height	3.0m	2.9m	Yes
Open space - total	55% (275qm)	55% (275qm)	Yes
Open space - soft	35% (107sqm)	56% (153sqm)	Yes
Private Open Space	18sqm per Dwelling	Dwelling 1 (21.6sqm) Dwelling 2 (102sqm)	Yes Yes
Streetscape fence height	1.5m	1.2m	Yes

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	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density	1 per 250sqm	1 per 250.4sqm	Yes (strata)
Car Parking – Residents	3	3	Yes
Excavation setback	0.9m	0.9m	Yes
Excavation depth	3.0m	2.7m	Yes
Excavation setback	0.9m	0.0m	No
Endemic trees	2	2	Yes
Shadow -adjacent open space	<1/3 rd existing sunlight access open space.	>1/3 rd (No.288 Sydney Rd)	No
- adjoining EW orientation	>2hrs living room windows from 9.00am to 3.00pm	>2hrs	Yes
- exist north facing roofs	> 10sqm	>10sqm	Yes

Applicant's Supporting Statement

The applicant submitted a statement in support of the original application, as well as a Heritage Impact Statement, Geotechnical Engineers and Traffic Engineers reports, copies of which are available for viewing on Council's file.

The applicant submitted a detailed statement in support of the review application and a separate written response to neighbours submissions. Both these documents are available for viewing on Council's file.

Submissions

The original application was notified to nearby and adjoining owners with five (5) submission received raising the following concerns:

- Inadequate area for subdivision, non compliance with minimum site area requirements of Council's DCP (Battle-axe handle should be excluded)
- No precedent for battle-axe style/townhouse style development , nor one containing three levels
- Proposal would compromise the period character, scale and streetscape
- Boyle Street characterised by single storey cottages
- Unsympathetic intrusion into heritage streetscape,
- Proposed development will tower and overpower adjacent buildings
- Asymmetric design, unsympathetic façade, dissimilar roof style and expanse of concrete driveway are incompatible with existing character
- Wall height, setbacks, overshadowing, view sharing, streetscape and parking not in conformity with Council's DCP.
- Floor space calculations do not include lower ground floor parking – basement parking description disputed.
- Privacy impacts with rear dwelling not respecting existing subdivision pattern, overlooking rear yards. Proposed elevated open space also a privacy concern.
- Two storey lopsided design totally unsympathetic to surrounding heritage items and streetscape.
- Bulky dominating development that is out of scale with neighbouring developments.

The review application was notified to nearby and adjoining property owners with six (6) submissions received raising the following concerns;

Environmental Services Division Report No. 30 (Cont'd)

- Proposed building height disrupts views, privacy and sunlight to my property.
- The setback south side is minimal, so near, so high blocking the view from my garden and living area.
- Proposal does not represent view sharing as stated in Clause 3.8 of the DCP.
- Proposal is inconsistent with the streetscape. Three storey high construction would tower over adjoining heritage listed neighbours.
- Insufficient car parking on site.
- The site is not physically large enough for two dwellings.
- Plans incorrect and misleading – “Unit building” for No.288 Sydney Road should read free standing house. “Non living rooms” adjacent to northern wall of No.288 should read living and dining areas. Shed not indicated on plans – possible breach of BCA requirements.
- Several native trees and several Jacaranda trees in the rear yard which are not indicated or considered on the council submission plans. These trees offer colour and amenity and should not be removed.
- Word “excavated area” in respect of No.288 Sydney Road is incorrect and should read “lawn”. Privacy and amenity we have from this external living area would be destroyed by the development.
- Balcony and roof of the rear building extend within the 8.0m rear setback requirement of the DCP.
- The EW slope of the site is approximately 1:10 which would allow a maximum wall height of 7.1m. Section 3.4.2 © of the DCP indicates preference for developments no greater than two storeys. Proposal exceeds both limits prescribed in this section.
- The top floor would be on level with our sunroom windows and take away any privacy that we have in our home and would take away the open aspect we now enjoy and privacy in the backyard.
- Streetscape including adjoining heritage listed workers cottages would be significantly damaged by this proposal. Streetscape is characterised by single storey period architecture. Proposal would present as double storey street frontage from southern boundary alignment and triple storey from northern boundary alignment. The form of the proposed development is undistinguishable from a townhouse development which is an affront to our adjoining heritage property.
- The proposed three level elevation would tower in an overpowering manner over the adjacent heritage building.
- The proposed forward location and three level elevation would block off attractive vista of unique cottage roof profile of No.33 Boyle St and six other similar heritage roof profiles.
- Front setback pattern of seven heritage listed buildings alternates one forward and one back. No. 31 Boyle St was setback (prior to it being demolished) behind the façade of No.31 Boyle St. Proposal does not recognise the historic setting nor does it respect the heritage setback pattern.
- The combined height and forward position would represent a severe incompatible incursion unsympathetic to the heritage streetscape.
- Proposal will impact on all of the seven heritage listed cottages.
- No.31 Boyle St should present as a single storey at the streetscape. The building is already two storey from the side elevation.
- Proposal would dominate entrance pathway and door of No.33 Boyle St.
- Proposal to move the driveway and provide unviable landscaping strip along boundary is questionable given current stone retaining wall which provides the boundary. No comment has been made as to how this can be done without impacting on heritage stone steps immediately adjacent.
- There is no detail of the proposed construction material for the proposed retaining wall adjacent to our house.
- The DA documentation seriously misleads on existing ground levels/contours/profiles along the northern boundary of the site. We ask Council to investigate this misleading information. The plans suggest that the driveway along our boundary will be cut in, while I fact it will

Environmental Services Division Report No. 30 (Cont'd)

require retaining wall up to 1.8m high adjacent to our boundary. With fence will become 3.0m high. Will cause over-bearing tunnel like entrance walkway.

- Height of building is 8.2m actual gradient is about 1 in 30 with maximum permitted wall height of 6.7m with no change in wall height from the original DA they now claim the north wall height has been reduced from 7.5m to 6.6m – while the actual is 8.2m.
- Ground floor area nominated for vehicles and parking should be included in floor space. On this basis, the maximum FSR for the site exceeds DCP allowances.
- The rear dwelling does not reflect the subdivision pattern of the area and would lead to many windows overlooking into our backyard. Would be highly detrimental to our enjoyment of what is currently a very private backyard screened by trees from distant neighbours.
- Windows in the front of the dwelling overlook our front bedroom and living room windows without suitable privacy screening.
- To elevate the outdoor area to a first floor area is also detrimental to the privacy of neighbours.
- Concern regarding noise from use of proposed driveway and car manoeuvring areas at the site near our rear bedroom (weatherboard extension).
- The proposal; does not meet DCP requirements for minimum access handle width of 4.5m and suitable landscaping areas will not be viable.
- Proposed DA would be built over a stormwater easement benefiting uphill properties, inhibiting future maintenance/replacement and lead to future drainage problems.
- Applicant has not considered pipe elevation, downstream constraints and minimum cover requirements.
- Interruption and diversion of overland stormwater flow.
- Proposed OSD tank close to our boundary potentially effecting tall tree close to the rear of our house.
- Noise from OSD pump close to our bedroom.
- Overland flow may overload proposed OSD system making it ineffective.

Precinct Community Forum Comments

The original application was referred to the Balgowlah Precinct Community Forum with the following comment received;

“The developer was not represented.

Concerns raised:

- ❖ the subdivision back/front did not have sufficient metrage as per DCP (subzone 3 1:250sqm).
- ❖ Distance to rear boundary from the building edge is too close, both the roof and the balcony are beyond this limit.
- ❖ The huge bulk of the proposed building.
- ❖ All northern view of neighbour is taken (i.e. 284 Sydney Road)
- ❖ Colorbond roof, which is proposed will cause unpleasant/uncomfortable glare.
- ❖ 290 Sydney Road – not just their car park which will be effected but their garden and northern view.

The objections were supported unanimously”

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

“Motion: that Council reject the application, as it clearly does not comply with many of the Guidelines of the Development Control Plan.”

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The review application was also referred to the Ivanhoe Park Precinct Community Forum with the following comment received;

“The Precinct was addressed by the designer and concerned residents. Motion; The Precinct strongly objects to this DA on the following basis;

- Loss of privacy to neighbours.
- Impacts on heritage aspects of other properties in the street.
- Streetscape – completely unsympathetic design showing no respect for heritage values of the area or streets.
- Loss of views to adjacent properties.
- Removal of large trees which provide screening and privacy and whose loss will add to climate change issues.
- Height and bulk of development.

The Precinct notes that Boyle Street has significant Heritage significance in the area and that any developments must be sympathetic to the heritage aspects which have been respected by most property owners in the street.

The Precinct further notes that there are three major errors on the plan that was shown to the precinct. They are;

1. Length of wall on southern boundary.
2. Overshadowing of No. 288 and 286 lots.
3. Issues relating to the title (strata/Torrens) which the Precinct ask the Council to investigate thoroughly.”

Engineers Comments

No objections subject to standard conditions.

Landscape Architects Comments

No objection subject to recommended conditions.

Building Comments

No objection subject to standard conditions.

Heritage Comments**Original proposal**

The proposal is demolish the existing dwelling and to subdivide the land into two separate allotments. Two separate dwellings are proposed. The front dwelling is to be two storeys with parking for two cars under the dwelling. The second dwelling, also two storey, will provide a car stand along the northern boundary. A courtyard will separate the two dwellings.

Description of context:

The proposed development is located on the west side of Boyle Street one allotment removed from the intersection of Boyle Street and Sydney Road and is adjacent to a listed group of single storey Federation cottages. The essential characteristics of the street are made up of houses built in the Californian Bungalow style and the Federation cottage style of the seven heritage listed cottages. All of which present to the street as single storey, unpretentious, homely quality dwellings.

Environmental Services Division Report No. 30 (Cont'd)**Assessment of Heritage Impact**

- Demolition of existing single storey cottage.

The assessment by the Applicant's Heritage Consultant that the demolition of the existing post war flat roof dwelling will not generate a negative heritage impact on the adjoining heritage listed cottage is accepted. However before it is supported further consideration is required regarding the proposed redevelopment of the site. The proposal needs to be considered in relation to the impact it may have on the significance, visual surrounds and setting of the adjacent listed single storey cottages.

- Two residential dwellings separated by a courtyard

The proposal for two dwellings is generally not considered to have a significant impact on the adjoining group of buildings. However the plans in their current form are not supported. It is considered that the proposal has been designed in isolation from its surrounding context and without due regard for the adjoining listed single storey cottages.

This can be seen by the proposed massing and two storey form of the front dwelling as well as details such as the proposed fence which is not in keeping with the character of the street.

The author of the Heritage Impact Statement has indicated that even though they were not consulted in the design development process there will be no negative impacts on the group. However the proposal is located on the high end of Boyle Street adjacent to a listed group of cottages that are single storey and in a street that contains predominantly single storey dwellings. While it can be argued that the proposal has minimized the impact on the cottages by providing a driveway between the proposed front dwelling and the adjacent cottage (at ground level only) further consideration should be given to the massing of the front dwelling and the impact the two storey proposal will have on the single storey cottages.

It is recommended that the front dwelling presents a single storey to Boyle Street and that any cantilever and second level be set well back from the front to reduce the impact of the proposed development on the heritage significance of the listed group of single storey cottages. Further consideration should also be given to the character of the street and in particular to details such as front fences etc.

Recommendation:

Recommended for refusal for the following reasons:

- The proposal will have an adverse impact on the adjacent single storey heritage listed cottages.
- The proposal has been designed in isolation from its surrounding context.

Heritage Subcommittee Comments

1. the property is immediately adjacent to a row of listed cottages (33-45 Boyle Street)
2. while there is no objections to demolition based on the heritage Impact statement (although no architect's name was identified), the proposed new building is unsympathetic to the adjacent listed properties and the streetscape and requires redesign.

Review Proposal

Further discussions were held with the designer reiterating the need to provide a design that does not impact on the single storey scale of the streetscape and that respects the adjoining form and scale of the listed buildings. – Amended plans do little to reinforce the single storey scale of the street and form of the listed buildings, recommend refusal.

Environmental Services Division Report No. 30 (Cont'd)**Planning Comments****Site and Location Description**

The subject site is located on the western side of Boyle Street, one allotment to the north of the intersection of Boyle Street and Sydney Road. The site has an east/west orientation and is generally rectangular in configuration with a frontage of 10.755m a depth of 45.4m and a total site area of 500.8sqm. The site has a cross fall of approximately 1.5m from south to north and an east west fall of approximately 3.0m. The land is currently developed with a part single part two storey dwelling.

Development in the surrounds comprises predominantly single storey dwellings to the north, part single and part two storey dwellings and two storey residential flat buildings to the south and west, with two x two storey duplex buildings on the opposite side of Boyle Street to the east.

Planning Controls & Compliance Assessment***Manly LEP 1988***

The site is located in Zone No.2 – The Residential Zone which permits dwelling houses with the consent of Council. The proposal for two dwellings on this site is permissible with the consent of Council.

LEP Clause 10 – Consideration of objectives for the residential zone

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

The proposal is for continued residential use of the site and is therefore consistent with 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.

The proposal has been assessed having regard to the relevant control plan and subject to conditions included in the Recommendation is considered satisfactory.

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

The proposal would provide variety to existing housing stock in the area and subject to recommended conditions will maintain the existing character of the immediate 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.

The proposal subject to conditions contained in the Recommendation will be acceptable in terms of its impact on the amenity of surrounding residents and the quality of the environment.

(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 includes detailed landscape planting plans which is consistent with Council's DCP requirements.

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

Not applicable.

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

Future occupants of the dwellings would utilise existing social and physical infrastructure. The increase in demand for services and facilities will be offset in part through applicable Section 94 contributions.

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

Subject to conditions contained in the Recommendation, the proposal is considered to be suitable redevelopment for the area.

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

Not applicable.

Manly DCP for the Residential Zone 2001

The proposal exhibits departures from the numeric controls of Council's Residential Development Control Plan (Amendment 1) (DCP) in regard to wall height (north side), wall on boundary length, and overshadowing.

Wall Height

The proposal exhibits a non compliance (1.1m) in respect of wall height north side. Due to the sloping nature of the site the variation to the wall height requirement (0.0m to 1.1m) occurs along 7.8m of the northern elevation. The applicant has stated that the maximum wall height is 6.6m however this appears to be based on an approximation of ground levels existing prior to earlier excavation of the site for construction of the existing dwelling. Under the definitions contained in Councils Residential Development Control Plan the ground level applicable is that existing at the time the Development Control Plan commenced exhibition (28 May 2001). The existing dwelling was constructed some time prior to 28 May 2001 and the 7.9m height described above in the Development Control Plan numeric table is accurate. It is noted that the site has a significant cross fall resulting in both proposed dwellings be well within permitted wall height on the southern side of the site. The northern elevation of the easternmost dwelling (where the variance occurs) is located 3.39m from the side boundary which is approximately 1.0m more than the 2.2m minimum side setback required under the DCP. It is noted that the adjoining dwelling to the north is single storey with a steep pitched roof. The proposal is not consistent with the height of this dwelling however further separation between the upper level of the proposed easternmost dwelling and the adjoining group of heritage listed dwellings will result in an acceptable relationship in terms of height within the streetscape. A draft condition of consent is included in the Recommendation in this regard.

Wall on Boundary

The proposal seeks to utilise DCP provisions which permit external walls to be located on the side boundary of an allotment. The proposal is to site one dwelling behind the other with screened private open space between. The proposed screen wall is an extension of the walls of both dwellings resulting in a continuous wall on the boundary of approximately 26.0m in length, which remains substantially in excess of the 15.14m maximum permitted under the DCP. The revised plans submitted with the review application address previous concerns regarding the height of the wall on the south side boundary and the height of the proposed wall on the boundary now complies with DCP requirements. It is the length of the wall on the boundary which raises concern and is not considered to comply with the aims and objectives of the DCP. It is considered that whilst it is acceptable to position the level 1 external wall of the easternmost dwelling on the south side boundary it is not acceptable to locate the external wall of level 0 of the westernmost dwelling on the south side boundary as the cumulative effects of the non compliance result in adverse impacts

Environmental Services Division Report No. 30 (Cont'd)

on the amenity of surrounding residents. In this regard the Recommendation includes a condition requiring the external wall level 0 of the westernmost dwelling to be positioned a minimum 0.9m from the south side boundary.

Overshadowing

The subject site has an east/west orientation and adjoins three residential properties to the south in Sydney Road. The subject site falls away from the Sydney Road properties, the proposal will result in overshadowing of a portion of the rear yards of Nos.284, 286 and 288 Sydney Road. Shadow diagrams submitted with the application show proposed overshadowing of the rear yard of No.286 and No.288 Sydney Road at 9.00am during the winter solstice will be greater than 1/3rd of the existing available sunlight and therefore not comply with the DCP requirements. The overshadowing is a result of the proposed development, the topography of the area and the orientation of the allotments in question. In these circumstances any reasonable development will result in overshadowing impacts and it is noted that the proposed development as recommended will comply with south side setback and height requirements of the DCP. Accordingly this aspect of the proposal is considered acceptable.

Comments on Submissions

The concerns raised in the submissions in regard to alleged non compliance with subdivision requirements of the DCP are noted however these are not valid in respect of the subject application which proposes a strata subdivision (as opposed to Torrens Title) which does not require exclusion of a battleaxe handle for purposes of site area calculations.

Concerns in respect of privacy are noted however these are not considered to warrant refusal or redesign of the proposal.

Whilst the proposal necessitates removal of three trees in the building footprint, substantial trees including the Jacaranda in the rear yard area are to be retained. The proposed landscape planting carried out in conjunction with the development will be compatible with the surrounding mix of natural and built character of the area.

The concerns in regard to the impact of the proposal on the existing streetscape and the heritage listed dwellings adjoining to the north is acknowledged. In order to maintain a satisfactory relationship in the streetscape is considered important to maintain a single storey presentation to the street. In this regard it is necessary to delete that portion of upper floor level (level 2) of the easternmost dwelling within 9.0m of the front boundary. A draft condition of consent is included in the Recommendation in this regard.

Concerns in respect of non compliance with Development Control Plan requirements have been noted and are discussed previously in this report.

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 Development Control Plan for the Residential Zone 2001 (Amendment 1). Subject to conditions included in the Recommendation the proposal is considered satisfactory.

Environmental Services Division Report No. 30 (Cont'd)**RECOMMENDATION**

That Deferred Commencement Consent be granted in respect of Development Application No.507/05 for demolition of the existing dwelling and erection of two dwellings with strata subdivision at No. 31 Boyle Street Balgowlah, subject to the following conditions with the consent not operating until the applicant has submitted amended plans showing;

1. The external wall level 0 of the westernmost dwelling to be positioned a minimum 0.9m from the south side boundary to comply with the setback requirements of Council's Residential Development Control Plan.
2. That portion of the upper floor level (level 2) of the easternmost dwelling within 9.0m of the front boundary is to be deleted and a hipped roof provided over that portion of level 1 within 9.0m of the front boundary, to maintain streetscape character and minimise impacts on the adjoining group of heritage listed dwellings.
3. The north side setback of the upper floor plan (level 2) of the easternmost dwelling is to be increased to 4.0m to align with the wall below, to maintain streetscape character and minimise impact on the adjoining group of heritage listed dwellings.
4. The existing Jacaranda and eucalypt trees in the rear yard area retained with minor lopping to the trees which have branch spread over the building footprint only..

Evidence of Items 1 to 4 are to be submitted within a period of three (3) months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will then operate for a period of two (2) years.

DA1

This approval relates to drawings/plans No. 714 Revision B sheets 1, 2-1, 2-2 and 3 to 9 dated October 2006 and received by Council on the 10 November 2006 and Landscape Plans LS1 and LS2 Revision B dated October 2006 and received by Council on the 10 November 2006, as amended by deferred commencement conditions above.

ANS01

Compartmentation and separation to be provided in accordance with Part C of the Building Code of Australia between the car parking and residential elements.

ANS02

The three Phoenix Roebelenii located along the right hand side of the driveway are to be retained and to also be suitably protected during the construction phase.

ANS03

Provision of a landscape plan in accordance with Council's development control plan 2001 clauses 3.2.1 and 3.2.2 prior to the issuing of a construction certificate

ANS04

The large mature and established trees located at the rear of the property are to be retained as stated by the applicant within the statement of environmental effects.

ANS05

Openings within three (3) meters of property boundaries are to be protected in accordance with part C3 of the Building Code of Australia.

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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.

DA10

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.**

DA011

All surplus vehicular crossings and/or kerb laybacks shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

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.

DA013

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 measured lengths and Relative Levels (RL) of the road centerline, kerb, and road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.

DA16

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 \$10,000. 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.

DA017

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

DA272

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 Councils property.

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 Councils Works Manager on Telephone 9976 1455 for the stone to be transported to Councils 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

Environmental Services Division Report No. 30 (Cont'd)

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 full cost is to be borne by the applicant.

DA344

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.

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.

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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.

DA47

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.

DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyors 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.

DA060

On completion of the building structure a report from a Registered Certifier 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.

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.

DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) 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

Environmental Services Division Report No. 30 (Cont'd)

Construction Certificate. The specification can be downloaded from Council's web site www.manly.nsw.gov.au free of charge or a hardcopy can be purchased from Council.

DA092

Pump systems will only be permitted for the drainage of seepage waters from basement areas.

DA95

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 works as executed plan shall be in accordance with Council's standards and specifications for stormwater drainage and onsite 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.

DA119

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.

DA120

The building being erected in Type A, construction for a Class 2 & 7a building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

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.

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.

DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the Final Occupation Certificate.

DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

Environmental Services Division Report No. 30 (Cont'd)

DA239

The felling, lopping, topping, ringbarking, willful 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.

DA247

Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.

DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

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.

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

Retaining Wall steel

Framework inspection x 2

Wet area moisture barrier

Drainage inspection

Driveway crossing/kerb layback

Landscaping inspection

Final inspection

The cost of these inspections by Council is \$2530.00 (being \$230 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 1414.

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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 \$110.

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.

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.

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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.

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".

DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, is required for the development. The amount being in accordance with Council's Section 94 Policy applicable at the time of payment prior to the issue of the Construction Certificate.

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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. 30 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 31
SUBJECT: 29 Ponsonby Parade, Seaforth - DA124/00 Section 96 Modification
FILE NO: DA124/00

Application Lodged: 20 December 2006
Applicant: R Thornton
Owner: K Vale
Estimated Cost: \$200,000
Zoning: Manly Local Environmental Plan, 1988 – Residential.
Surrounding Development: Single and two storey dwellings.
Heritage: Not applicable

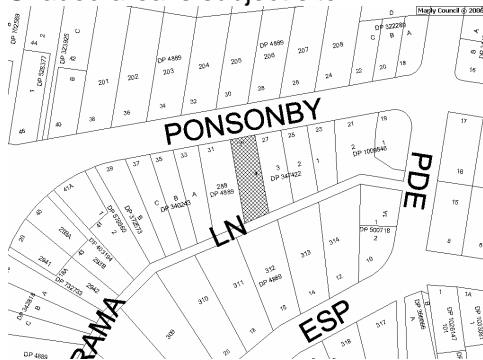
SUMMARY:

1. THE ORIGINAL DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING WAS RECEIVED BY COUNCIL 21 MARCH 2000.
2. THE ORIGINAL APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH NO SUBMISSIONS RECEIVED.
3. THE ORIGINAL APPLICATION WAS CONSIDERED BY COUNCIL DEVELOPMENT CONTROL UNIT AT ITS MEETING OF 23 MAY 2000 WHERE IT WAS APPROVED SUBJECT TO STANDARD CONDITIONS.
4. COUNCIL RECEIVED AN APPLICATION TO MODIFY THE CONSENT UNDER SECTION 96(1A) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ON 20 DECEMBER 2006.
5. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED FROM THE ADJOINING PROPERTY OWNER TO THE WEST.
6. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCILS DEVELOPMENT ASSESSMENT UNIT AT ITS MEETING OF 1 FEBRUARY 2007 WHERE IT WAS APPROVED SUBJECT TO A CONDITION REQUIRING PROVISION OF A PRIVACY SCREEN TO WEST SIDE OF LEVEL 3 TERRACE.
7. SUBSEQUENTLY IT BECAME APPARENT THAT THE DAU CONSIDERATION WAS MADE ON THE DATE OF CLOSURE OF NOTIFICATION PERIOD AND THAT A FURTHER SUBMISSION HAD BEEN RECEIVED ON THIS DATE WHICH WAS NOT CONSIDERED.
8. AT THE REQUEST OF COUNCIL THE APPLICANT AGREED TO CANCELLATION OF THE MODIFICATION APPLICATION AND THE APPLICANT HAS NOW RESUBMITTED THE APPLICATION, WHICH IS THE SUBJECT OF THIS REPORT.
9. THE CURRENT APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED FROM OWNERS OF A PROPERTY ADJACENT TO THE REAR BOUNDARY.
10. THE APPLICATION WAS CONSIDERED BY COUNCILS DEVELOPMENT ASSESSMENT UNIT AT ITS MEETING OF 15 MAY 2007 WHERE IT WAS RECOMMENDED FOR APPROVAL SUBJECT TO A CONDITION REQUIRING PROVISION OF A PRIVACY SCREEN TO THE WEST SIDE OF LEVEL 3 TERRACE.
11. THE APPLICATION IS PRESENTED TO COUNCILS LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
12. A SITE INSPECTION IS RECOMMENDED.
13. APPROVAL OF THE MODIFICATION APPLICATION IS RECOMMENDED.

Environmental Services Division Report No. 31 (Cont'd)

LOCALITY PLAN

Shaded area is subject site.

**REPORT****Introduction***Site description*

The subject site is located on the southern (low) side of Ponsonby Parade. The allotment is generally rectangular in configuration having a frontage of 15.85m, an east side boundary dimension of 48.135m, a western side boundary dimension of 51.75m and rear boundary dimension of 16.25m. The land has a slight fall from front to rear and is currently developed with a part two and part three storey dwelling. A double garage and swimming pool are located in the rear yard. The allotment adjoins residential land to each side and has its rear boundary adjoining Panorama Lane.

Proposal

The seeks to modify the approval for alterations and additions to a 3 level dwelling as follows;

1. level 1 - modify bathroom layout.
2. level 3 - reduce size of bedroom 1 by shortening wall extension to south and deleting east facing window.
3. level 3 - terrace 4 on south side reduced in depth from 3.7m to 3m.
4. level 3 - bedroom 2 relocated to western side, study and west facing window deleted.
5. level 3 - bathrooms 1 and 2 repositioned to middle of south side.
6. level 3 - metal roof over deleted bedroom 1 extension replaced with a glass roof.

Development Control Plan Numerical Assessment

The modifications being a slight reduction in floor space and generally internal in nature do not alter the level of the sites compliance with the numerical standards of the Development Control Plan.

Applicant's Supporting Statement

The applicant submitted a detailed statement of modifications with the application, a copy of which is available for viewing on Councils file.

Submissions

The current modification application was notified to nearby and adjoining property owners with one submission received from K L Clinton of 16 Edgecliffe Esplanade raising the following concerns;

Environmental Services Division Report No. 31 (Cont'd)

- Loss of privacy with particular considerations of proposed glazing and balustrades.
- Applicants statement of Environmental Effects does not mention effect on nearby and adjoining properties.
- Photo's accompanying the application are not true representations of potential effects being taken from inside whereas the proposed terrace 's southern edge is a further 4m further south.
- The loss of privacy is a concern in respect of the overlooking of rear garden areas, living, family and kitchen areas. Overlooking from the level 3 terrace 4 and the increased glazing in all the windows facing south.
- Privacy concerns arising from increase in glazing of the south side level 3 as well as an internal relocation of the rooms so that the bathrooms 1 and 2 face the rear 9towards the objector's property). The objector also is concerned about 'visual transgression' caused by the view of these windows on their family and eating areas.

A previous modification application was notified and at that time a submission was received from C Coulter of 31 Ponsonby Parade raising the following concerns;

- Upstairs terrace overlooks my existing deck and back yard giving me no privacy whatsoever.

Precinct Community Forum Comments

The modification application was referred to the Seaforth Precinct Community forum with no comment received at the time of writing this report.

Engineers Comments

No objection subject to original conditions of consent.

Building Comments

No objection subject to original conditions of consent.

Planning Comments**Section 96 Environmental Planning and Assessment Act**

Section 96 of the Environmental Planning & Assessment Act requires consideration as to whether the proposed modifications result in substantially the same development and whether they result in any increase in environmental impacts.

In terms of compliance with Council's Residential Development Control Plan, the proposed modifications result in no change to the area of open space, soft landscaping, or setback as approved, with a minor reduction in Floor Space Ratio through the reduction to bedroom 1. Being internal design modifications and having inspected the site and assessed the relationship to adjoining properties there is not considered to be any increase in amenity impacts as a result of the modifications. In particular the effects in terms of overshadowing or view sharing are assessed, and with the deletion of side facing windows, the extent of overlooking is reduced.

In summary then the proposed modifications are considered acceptable, resulting in substantially the same development with no increase in amenity or environmental impacts resulting when compared with the approved plans.

Environmental Services Division Report No. 31 (Cont'd)**Manly Local Environmental Plan 1988**

The proposed modifications are ancillary to the approval for alterations and additions to a dwelling and are permissible with consent.

Manly Local Environmental Plan 1988 Clause 10 Objectives

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

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

The application has been assessed having regard to the Manly residential development Control Plan and is considered satisfactory subject to conditions included in the Recommendation.

(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 is for continued residential use of the property and therefore complies 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 will add variety to the style of housing and maintain the overall residential character of the 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;*

Subject to conditions contained in the recommendation the proposal will not degrade the amenity of surrounding residents nor will there be any adverse impact on the quality of the environment.

(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 will not change the existing landscaped open space areas of the site.

(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;*

Not applicable.

(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;*

The 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 proposal, subject to conditions contained in the Recommendation, is considered to be suitable redevelopment for the area.

(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.*

Not applicable

Manly DCP for the Residential Zone 2001:

The proposal does not alter the level of the sites compliance with the numerical standards of the D.C.P. Concerns in respect of the DCP objectives relating to privacy are discussed below.

Environmental Services Division Report No. 31 (Cont'd)

Clause 3.10.1 of the Development Control Plan lists objectives as follows;

- a) To screen between closely spaced buildings.
- b) To mitigate direct viewing into windows from others.
- c) To provide screening to outdoor living areas.
- d) To encourage increased security between neighbours.

In relation to privacy the distance between the proposed new terrace and windows and the potential effected living areas of the neighbours property at rear (16 Edgecliffe Esplanade) are considered to significantly negate any detrimental overlooking effect. On inspection it is apparent that the views from the subject site are predominantly to Middle Harbour and are not directed into the neighbours' rear year or rear living room windows. In between the areas which are said to overlook and be overlooked exists two established and reasonably well vegetated rear garden areas and the width of the laneway. Screen planting and rear fences which currently exist separating the properties from the lane on both subject properties are also considered to provide visual separation and privacy between the two properties. Finally modifications identified in the proposed roof form in front of the modified balconies and rear windows are also considered to minimise privacy concerns having regard to the angles and distances involved.

Comments on Neighbour Submissions:

Earlier submissions from the neighbour adjoining to the west are noted on the file and raise concerns of privacy loss as a result of overlooking from the upper level rear terrace. In response to this issue it is noted that the deck was approved under Development Application No. 124/00 with no privacy screens proposed or required as a condition of consent, with trees along the dividing boundary at that time considered to provide sufficient screening. However, privacy concerns in respect of the adjoining property to the west are now considered valid and in this regard a condition is included in the recommendation requiring a 1.65m high privacy screen to be provided to the west side of the terrace at level 3.

As noted a submission was received from a nearby resident of 16 Edgecliffe Esplanade south of the subject site across rear yards and a laneway, raising concerns in respect of loss of privacy with particular considerations of proposed glazing and balustrades.

- In general the objector is concerned that his property is not mentioned in the applicants' statement of environmental effects.

Comment:

Full consideration is given to the likely effects on all adjoining properties in this assessment.

- The objector is also concerned that photo's accompanying the application are not true representations of potential effects being taken from inside whereas the proposed terrace southern edge is a further 4m south.

Comment:

Inspections have been undertaken by Council's staff to determine a true understanding of impacts with an understanding of the proposed development and from both neighbours properties and the subject site.

- The loss of privacy is a concern in respect of the overlooking to the neighbours rear garden areas, living, family and kitchen areas. The neighbour is said to be overlooked from the level 3 terrace 4 and the increased glazing in all the windows facing south. In relation to glazing the objector raises privacy concerns due to increase glazing of the south side level 3 as well as an internal relocation of the rooms so that the bathrooms 1 and 2 face the

Environmental Services Division Report No. 31 (Cont'd)

objector. The objector also is concerned about 'visual transgression' caused by the view of these windows from the neighbours' family and eating areas

Comments : Privacy issues are detailed in Planning comments.

Sydney Regional Environmental Plan (Sydney Harbour Catchment)

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) applies to this site. The SREP includes planning principles and matters for consideration relating to protection of the catchment, biodiversity and ecology, foreshores and waterways scenic quality and maintenance, protection and enhancement of views.

The proposal is considered acceptable in regard to the relevant planning principles.

EP&AA 1979 – Section 79(C)

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The application has been assessed having regard to the relevant instruments and control plans and is considered satisfactory subject to conditions contained in the recommendation. .

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposal as recommended will not result in any significant impact on the natural or built environments, nor will the proposal result in any significant effect on the social or economic conditions of the area.

- (c) *the suitability of the site for the development,*

The site is within the Residential Zone and the proposed alterations and additions to the existing dwelling are suitable development in the Zone. Subject to conditions contained in the Recommendation the site is considered to be suitable for the development.

- (d) *any submissions made in accordance with this Act or the regulations,*

The submissions received in response to notification of the application have been considered previously in this report.

- (e) *the public interest.*

Subject to conditions contained in the Recommendation, the proposal is acceptable in this regard.

Conclusion

The proposed modifications are considered to be substantially the same development as originally approved and are assessed pursuant to Section 79C of the Environmental Planning & Assessment Act. In particular the impacts of the modifications are assessed in terms of neighbours and public interest and subject to conditions contained in the Recommendation; do not result in any increase in amenity impacts in terms of privacy, overshadowing or visual impact. Consequently the modifications are considered satisfactory pursuant to the provisions of Section.96 of the Environmental Planning & Assessment Act and are recommended for approval.

Environmental Services Division Report No. 31 (Cont'd)

RECOMMENDATION

That Development Consent No. 124/00 be modified, subject to the original conditions of consent with Condition 1 modified and the addition of Condition Nos. 48 and DA267A as follows:

DA1

This approval relates to drawings/plans Nos. DA00, DA01 and DA02 dated February, 2000 and received by Council on the 21 March 2000.

Except as amended by Drawing A01, dated December 2006 and received by Council 20 December 2006.

DA48

A 1650mm high privacy screen is to be provided to the western side of the terrace at Level 3 to maintain privacy to the adjoining property, plans being suitably amended prior to the issue of Construction Certificate

DA267A

Works in connection with this Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 31 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 32
SUBJECT: 44 Ellery Parade, Seaforth - DA1230/98 82A Review of a Section 96 Modification
FILE NO: DA1230/98

Application Lodged: 23 November 2006
Applicant: G Amate
Owner: P and G Amate
Estimated Cost: \$200,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
Surrounding Development: Single and two storey detached dwellings
Heritage: Not applicable

SUMMARY:

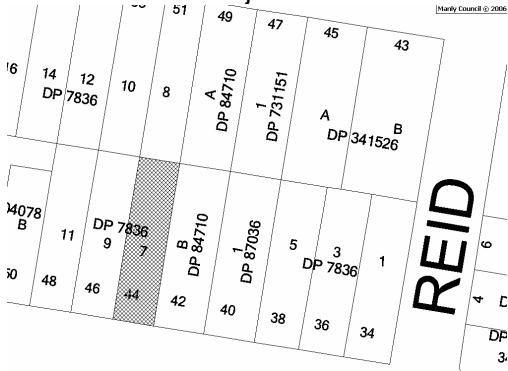
1. THE ORIGINAL APPLICATION FOR DEMOLITION OF THE EXISTING DWELLING AND ERECTION OF A NEW TWO STOREY DWELLING WAS RECEIVED BY COUNCIL 3 NOVEMBER 1998.
2. THE ORIGINAL APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
3. THE ORIGINAL APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
4. THE ORIGINAL APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT CONTROL UNIT AT ITS MEETING OF 2 FEBRUARY 1999 WHERE IT WAS APPROVED SUBJECT TO CONDITIONS INCLUDING A CONDITION REQUIRING A REAR PATIO TO BE SET BACK IN LINE WITH THE WEST ELEVATION OF THE DWELLING.
5. THE DWELLING WAS CONSTRUCTED AND AN OCCUPATION CERTIFICATE ISSUED 13 MARCH 2001.
6. ON 8 MAY 2006 COUNCIL RECEIVED REPRESENTATIONS ON BEHALF OF THE ADJOINING PROPERTY OWNER DRAWING ATTENTION TO THE FACT THAT A "ROOFED AWNING STRUCTURE" HAD BEEN ERECTED AND APPEARS TO NULLIFY THE CONDITION OF CONSENT RELATING TO SIDE SETBACK.
7. ON 28 MAY 2006 COUNCIL ISSUED A NOTICE OF INTENTION TO ISSUE AN ORDER TO REMOVE THE PERGOLA ERECTED IN THE REAR YARD OF THE SUBJECT PROPERTY.
8. ON 31 JULY 2006 COUNCIL RECEIVED AN APPLICATION UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 TO MODIFY THE ORIGINAL CONSENT BY INCLUSION OF A "VERGOLA" AND CONSTRUCTION OF A TIMBER SLATTED PRIVACY SCREEN.
9. THE SECTION 96 APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
10. THE SECTION 96 APPLICATION WAS CONSIDERED BY COUNCILS DEVELOPMENT ASSESSMENT UNIT ON 7 NOVEMBER 2006 WHERE THE APPLICATION WAS APPROVED SUBJECT TO NEW CONDITION NO. 42 REQUIRING THE "VERGOLA" TO BE SET BACK IN LINE WITH THE WESTERN FACE OF THE EXISTING PATIO AND DWELLING TO IMPROVE PRIVACY AND ENSURE CONSISTENCY WITH THE ORIGINAL CONSENT (EFFECTIVELY REQUIRING THE "VERGOLA" TO BE SET BACK 2.4M FROM THE WESTERN SIDE BOUNDARY).
11. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 SEEKING DELETION OF CONDITION NO. 42.
12. THE REVIEW APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.

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13. THE APPLICATION IS PRESENTED TO COUNCILS LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
14. A SITE INSPECTION IS RECOMMENDED.
15. THE SECTION 82A REVIEW OF DETERMINATION APPLICATION IS RECOMMENDED FOR REFUSAL.

LOCALITY PLAN

Shaded area is subject site.

**REPORT****Introduction***Site Description*

The subject site has a north/south orientation and is located on the northern (high) side of Ellery Parade six allotments removed to the west of the intersection of Reid Street and Ellery Parade. The site has a rectangular configuration with a width on 12.19m and a depth of 48.16m (area 587sqm). The land has a moderate fall from the rear to the front boundary and is currently developed with a two storey dwelling.

Proposal

The application seeks consent for an operable roofed pergola (trade name "vergola") structure 4.0m x 5.242m erected at the rear of the dwelling and 0.9m from the western side boundary.

History

The following is a summary of relevant records available on Council's file;

3 November 1998 Council received Development Application No1230/98 for demolition of the existing dwelling and erection of a new two storey dwelling. The application was notified to adjoining property owners with one submission received from David Liddy and Associates on behalf of Mr and Mrs Riley of No 46 Ellery Parade (adjoining to the west) raising issues of drainage, height, set back, swimming pool and retaining wall. The application was referred to the Seaforth Precinct Community Forum with comment received drawing attention to possible breach of Council's regulations in regard to height and setback.

The application was considered by Council at its Development Control Unit meeting of 2 February 1999. The staff report identified one area of numerical non compliance being the east side setback (adjacent to No42 Ellery Parade) which was considered acceptable having regard to the objectives of the Development Control Plan.

The application was approved subject to forty one (41) conditions one of which (condition No.3) was introduced by the Development Control Unit and reads as follows;

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- “3. The western side of the rear patio is to be setback in line with the western elevation of the dwelling to improve privacy, with plans notated to the satisfaction of the Principal Certifying Authority (PCA) prior to issues of the Construction Certificate.”

A further condition (condition No.6) reads as follows;

- “6. The front boundary fence is to be redesigned and modified to accommodate the location of the existing tree. In this regard the height of the fence is to be reduced to correlate to the heights of front fences on the adjacent eastern and western sites. The height of the fence is to step in accordance with the slope of the site and is not to exceed 1.5m at any point above the natural ground level. Details are to be to the satisfaction of the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.”

16 February 1999 Council received an application for a Construction Certificate which included revised plans.

1 March 1999 Council issued Construction Certificate No29/99. The Construction Certificate plans show the rear patio location revised to comply with the above conditions of Consent. It is noted that the plans show access stair and support between the patio and the western side boundary.

23 March 1999 Council received a letter from David Liddy and Associates on behalf of Mr and Mrs Riley of No 46 Ellery Parade seeking Council confirmation that “the portion of the rear porch between the wall alignment and towards the boundary was to be deleted.”

1 December 1999 Council received a request for an Occupation Certificate from the builder Castlepeak Homes.

23 December 2000 Council received a letter from David Liddy and Associates raising concerns on behalf of Mr and Mrs Riley of No46 Ellery Parade regarding an air conditioning unit installed at No 44 Ellery Parade. The complaint was investigated by Council Environmental Health officer which included taking noise assessment readings. Council's officer identified a noise nuisance and wrote to Mr and Mrs Amate on 21 February 2000.

17 March 2000 Council received a letter from the builder Castlepeak Homes discussing issues arising from Council's inspection as follows;

- “1. Planting along the western boundary
2. Issue surrounding removal of the front tree.”

The letter requests confirmation that plantings along the western boundary are satisfactory and in respect of item 2, states the tree was damaged during construction and has been removed and replaced with planting of five (5) Robinas.

29 March 2000 Council forwarded a letter to Castlepeak Homes advising of concern at the removal of the Cheese Tree and that Robinias are not suitable and are to be removed and replaced with an advanced 200 litre pot size Acmena Smithi.

10 April letter from owner P Amate advising efforts were made to save the damaged tree however it was decided to remove it as a result of the extensive damage and requesting replacement planting of a younger tree which would be allowed to grow more naturally.

19 April 2000 Council forwarded a letter to P Amate advising replacement tree is to be 100 litre pot size Lilli Pilli.

23 May 2000 inspection showed the tree had been planted however its location was unsatisfactory and would result in potential future damage to a retaining wall. Discussions concerning the appropriate relocation of the tree then took place between Council staff and P Amate.

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Site inspection by Council officer on the 6 June 2000 revealed the tree was correctly located.

15 June 2000 Council issued a letter and Prevention Notice under the Environment Operations Act 1997 requiring relocation of the air conditioning unit or enclosure with ventilated acoustic screen. The air conditioning unit was relocated under the dwelling and Council forwarded a letter to Mr and Mrs Amate advising Council considers the matter to be resolved.

An Occupation Certificate in respect of the dwelling was issued by Council 13 March 2001.

8 May 2006 Council received a letter from David Liddy and Associates on behalf of Mr and Mrs Riley advising that a roofed awning had been erected at No 44 Ellery Parade which appeared to contravene conditions of Development Consent 1230/98.

23 May 2006 Council issued a Notice of Intention to Issue an Order requiring removal of the covered pergola "erected without the prior development consent of Council".

22 June 2006 Council received a letter from Building Consultants Robert Speirs-Ferrari outlining the history of the matter, responding to neighbour objection, advising that the pergola conforms to exempt development provisions of the Local Environmental Plan and asking that the notice be cancelled. Council responded by letter of 28 June 2006 and 13 July 2006 advising the pergola was not within the exempt development definition.

3 August 2006 Council received an application under Section 96(2) to modify consent 1230/98 to include the "vergola" structure. The modification application also showed provision of a 1.7m slatted privacy screen to the western side of the structure. The application was notified to adjoining property owners with one submission received from David Liddy and Associates on behalf of Mr and Mrs Riley of 46 Ellery Parade.

The modification application was considered by Council at its Development Assessment Unit meeting of 7 November 2006 where it was approved subject to conditions including a requirement to set back the pergola in line with the western face of the existing patio and dwelling (requiring the pergola to be setback 2.4m from the west side boundary).

23 November 2006 Council received an application under Section 82A for Review of Determination. The review application offers additional landscape planting between the "vergola" and the west side boundary and sharing equal costs with neighbour for new 1.8m high boundary fence to improve privacy for neighbour.

The review application was notified to adjoining property owners with one submission received from David Liddy and Associates on behalf of Mr and Mrs Riley of 46 Ellery Parade.

The Section 82A review application was reported to Council's Development Assessment Unit meeting of 24 April where it was recommended for refusal.

Development Control Plan Numerical Assessment

The proposal will effect only the open space numeric requirements of Councils Residential Development Control Plan, as follows;

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Open space - total	55%	57%	Yes
Open space - total	308sqm	335sqm	Yes
Open space - soft	35%	62%	Yes
Open space - soft	107sqm	192sqm	Yes

Environmental Services Division Report No. 32 (Cont'd)**Applicant's Supporting Statement**

The applicant submitted a written statement in support of the application for review, a copy of which is available for viewing on Council's file.

Submissions

The review application was notified to nearby and adjoining property owners with one submission received from David Liddy and Associates on behalf of Mr and Mrs Amate of No.46 Ellery Parade raising the following concerns;

- When the original DA (1230/98) was submitted to Council, we wrote to Council on behalf of our clients raising concerns including item 3. set back, the same concerns remain applicable today;
"It is stated in the Statement of Environmental Effects that the set back to the western boundary is 1420mm. Whilst this is true of the front portion of the proposed wall, the western edge of the proposed patio has a set back of only 810mm by our calculations. Our client asks that the western edge of the proposed patio be moved back into alignment with the proposed front wall of the house and that some screening be provided along the western portion of the proposed patio to remove potential loss of privacy in our client's principal living areas.

When the application was approved at Council's Development Control Unit meeting on 2 February 1999, a condition was imposed by Council requiring the deletion of that portion of the then proposed rear porch awning, covering the area between the western alignment of the rear of the building wall and the western boundary (effectively requiring a set back from the boundary in the order of 2.4m).

The structure recently erected appears to nullify this condition by having a western alignment at the same boundary set back as that of the portion of the originally proposed awning required to be deleted by the original Development Control Unit decision.

We have viewed the current application drawings and read the Statement of Environmental effects and resubmit our clients original objection, being that their existing primary living spaces, both internal and external in the north eastern corner of their house, are adversely affected in terms of privacy, bulk and additional overshadowing, by the effects of the roof structure being located in an elevated position close to the shared boundary."

Precinct Community Forum Comments

The Section 96 application and Section 82A application were not referred to the Precinct as the proposal has no streetscape impacts.

Engineers Comments

No objection subject to standard conditions.

Building Comments

No objection subject to standard conditions.

Environmental Services Division Report No. 32 (Cont'd)**Landscape Architects Comments**

No objection subject to standard conditions and the following special condition;

- Appropriate screen planting be installed along the western boundary capable of reaching a mature height of a minimum 3.0m.

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

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

The roofed pergola structure being ancillary to the dwelling is permissible with the consent of Council.

Manly Local Environmental Plan 1988 Clause 10 Objectives

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

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

The proposal would comply with 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;*

The proposal has been assessed having regard to the Residential Development Control Plan and is considered unsatisfactory in terms of its impacts on the amenity of the adjoining property to the west.

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

The proposal would comply with this objective.

(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 proposal will result in adverse impacts on the amenity of the adjoining residents to the west and therefore does not meet this objective.

(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 Councils landscape officer and is acceptable subject to conditions.

(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;*

Not applicable

(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;*

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

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

The proposal is not considered to be suitable redevelopment due to its adverse impacts on the amenity of the adjoining property to the west.

(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.*

Not applicable

Manly DCP for the Residential Zone 2001:

The application to modify the original consent to include provision of an operable roofed pergola 0.9m from the side boundary complies with the numeric requirements of Councils Development Control Plan, however there are concerns regarding non compliance with the aims and objectives of the Development Control Plan in regard to privacy, overshadowing and setbacks as discussed below.

Construction Certificate plans show the patio 2.4m from the boundary however a stair is shown to the west side of the patio on a set back of 0.71m from the west side boundary. The stair comprises (six steps) leading to the rear yard area. This has resulted in a partly elevated path/terrace (up to approximately 0.9m above natural ground level) 0.71m from the west side boundary adjacent to the patio area. This aspect of the development was approved and accepted by Council when it issued the Occupation Certificate.

The patio and terrace are at least approximately 1500mm higher than the ground level on the rear northeastern corner of the adjoining property to the west at No 46. People standing on the patio and terrace under the pergola can see directly into the pedestrian walkway to the entrance of the dwelling on the eastern side of No 46. They also overlook directly into the entrance to the family room at the rear of No 46. Landscape plantings along the west side boundary as required by the original consent to provide privacy screening are yet to mature and are currently ineffective.

The inclusion of an operable roofed pergola over the patio and terrace area will encourage increased use of this space and result in increased privacy impacts. The proposal is not considered to comply with clause 3.7.1 objectives a), b) and c) of the Development Control Plan which are;

- a) To preserve the environmental quality and property value for existing and new residents.
- b) To minimize loss of sunlight to adjacent buildings.
- c) To maximize mid winter sunlight to windows of neighbouring living rooms and to the principal outdoor areas of adjacent properties."

The objectors have stated they feel overwhelmed by the pergola and deck when they are outside the rear of their house. It is to be noted that the application is for the roofed pergola structure only and that the patio, stairs and access terrace were previously approved. Whilst the proposed timber slats along the western edge of the deck will improve privacy between the subject site and that adjoining to the west, the solid construction adds to the visual bulk of the development and this is considered to be unsatisfactory and fails to comply with Clause 3.5.1 objective c) of the Development Control Plan which is "c). To provide equitable access to light and sunshine."

In view of the negative impacts arising it is considered that the roofed pergola structure should be located a minimum 2.4m from the side boundary and that the conditions detailed in the Section 96 determination dated 10 November 2006 should remain.

Environmental Services Division Report No. 32 (Cont'd)**EP&AA 1979 – Section 79(C)**

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The application has been considered under the provisions of the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment I.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The structure by virtue of its location and height relative to the western property boundary will result in adverse impacts on the natural and built environments. There will be no identifiable impact on social or economic conditions of the locality.

- (c) *the suitability of the site for the development,*

Due to the topography and the difference in ground level between No.44 and No.46 Ellery Parade, the site is not considered suitable for the structure.

- (d) *any submissions made in accordance with this Act or the regulations,*

One submission was received following notification of the application. The concerns raised in the submission are discussed previously in this report.

- (e) *the public interest.*

Having regard to the amenity impacts, the proposal is not considered to be in the public interest.

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 Development Control Plan for the Residential Zone 2001 (Amendment 1).

The proposal is considered to result in unsatisfactory amenity impacts on the adjoining property to the west and as such cannot be recommended for approval.

RECOMMENDATION

That the Section 82A Review of Determination application in respect of the proposed modification of Development Consent No. 1230/98 for demolition of existing dwelling and construction of new residence at 44 Ellery Parade, Seaforth be refused for the following reasons.

1. The proposal will result in adverse impacts on the amenity of the adjoining property to the west in terms of privacy and visual bulk and scale, having regard to Section 79C(1) (a) (iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.
2. The proposal does not comply with objectives 3.5.1 b) and c), 3.7.1 a) and b) and 3.10.1 a) and b) of the Manly Residential Development Control Plan, Amendment 1, having regard to Section 79C(1) (a) (iii), (b) and (d) of the Environmental Planning and Assessment Act 1979.
3. The proposal by virtue of its non compliance with the objectives of Council's Residential Development Control Plan is not considered to be in the public interest, having regard to Section 79C(1) (e) of the Environmental Planning and Assessment Act 1979.

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4. The proposal has not satisfactorily responded to the issues raised in the neighbour submission received, having regard to Section 79C(1) (d) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 32 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 33
SUBJECT: 18 Acacia Road, Seaforth - DA536/06
FILE NO: DA536/06

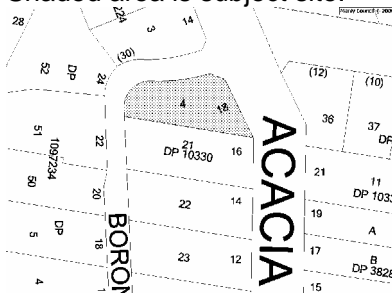
Application Lodged: 8 December, 2006
Applicant: Peter Princi Architects
Owner: Rachel and John Joseph
Estimated Cost: \$400,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
Surrounding Development: One and two storey dwelling houses
Heritage: No Heritage

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR A NEW DWELLING HOUSE AND SWIMMING POOL ON VACANT LAND
2. THE PROPOSAL WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED.
3. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
4. A SITE INSPECTION IS RECOMMENDED.
5. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

LOCALITY PLAN

Shaded area is subject site.



REPORT

Introduction

Site description:

The subject site is known as Lot 4, no. 18 Acacia Road Seaforth, and is situated on the western side of Acacia Road.

The subject site is legally identified as Lot 4 in DP 1076224. The site is irregular in shape and has a site area of 752.8m².

Presently the site is vacant. It is a new site as part of a relatively recent subdivision. The street is characterised by a mixture of old and new dwellings, predominately being 2 storeys.

Proposal:

The proposal is for a new dwelling consisting of the following:

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- Ground floor level: double garage, study, living/dining, bathroom, laundry, kitchen, meals and rumpus with a swimming pool.
- First floor level: four bedrooms, bathroom, ensuite and library.

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			
Floor space ratio	0.45:1	0.45:1	Yes
Wall height N side	6.5m	6m (house) 2.4m (garage)	Yes Yes
S side	6.5m	6.5m (garage) 2.8m (garage)	Yes Yes
Roof height	3m	<3m	Yes
Fence height	1m-1.5m/w 30% transparency	1.5m w >30% transparency	Yes
Setback Front	6m/consistency	Consistent	Yes
Setback Rear	8m	>8m	Yes
South setback side	2m (house) 0.93m (garage)	2.98m (house) 1m (garage)	Yes Yes
North setback side	2.1m	3.9m	Yes
Setback - pools			
- pools Side and Rear	1m/1.5m	500mm/1.5m	No/Yes
Open space - total	55%	68%	Yes
Open space - total	414.04m ²	511m ²	Yes
Open space - soft	35%	>35%	Yes
Open space - above ground	<25%	<25%	Yes
Car Parking – Residents	2	2	Yes
Shadow - adjacent open space	1/3	< 1/3	Yes
- adjoining EW orientation	2 hours	<2 hours	No

Applicant's Supporting Statement

A Statement of Environmental Effects was submitted with the application and is available for viewing on Council's file.

Submissions

The proposal was notified to nearby and adjoining property owners in accordance with Council Policy. Four submissions were received to the proposal from J Mitchell 5 Acacia Road Seaforth; W Smith 16 Acacia Road Seaforth; B Wong Nam 22 Boronia Lane Seaforth; and A McLean 14 Acacia Road Seaforth. The following issues were raised:

- FSR of 0.45:1 in a 0.4 zone.
- Privacy impacts to No.16 from the windows on the southern elevation and through the laundry door.
- Privacy impacts to No.16 from the first floor deck.
- Overshadowing impacts to No.16.
- Privacy impacts to No 22 Boronia Lane

Environmental Services Division Report No. 33 (Cont'd)**Precinct Community Forum Comments**

The proposal was referred to the Seaforth Precinct Community Forum for comment. The following comments were received:

The report from DA team noted that shadowing was a problem. Minimum of two hours sunlight on June 21 for living rooms at No.16 are not achieved. The Statement of Environmental Effects suggest that the majority of the rooms affected are non-living rooms and that the aspect of the block means there will always be overshadowing. An increase in side setbacks and/or reduction in house size would provide a solution.

The Floor Space Ratio is incorrect. The street address is in sub-zone 7 (FSR 0.4:1). Applicants claim that a Council Planner has accepted an Floor Space Ratio of 0.45:1 which applies to adjacent sub-zone 5. It is clear that land was acquired in the knowledge of sub-zone 7 Floor Space Ratio and should therefore be maintained.

Motion: That Seaforth precinct has discussed this application and advises Council of community comments as follows:

1. That Precinct strongly requests Council to apply and preserve the Floor Space Ratio for that site and avoid creating a precedent.
2. That Council requests the applicants to consider options for reducing the impact of shadowing on the adjoining property (16 Acacia Road)

Engineers Comments

No objections subject to standard conditions.

Building Comments

No objections subject to standard conditions.

Landscaping Comments

No objections subject to standard conditions.

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

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

Manly Local Environmental Plan 1988 Clause 10 Objectives

The following comments are made in regard to the objectives for the Residential Zone as stated in Clause 10 of the Manly Local Environmental Plan 1988;

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

The proposal would ensure that the subject site is used for the purposes of housing.

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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;*

The proposal has been assessed against the provisions of Manly Development Control Plan for the Residential Zone 2001.

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

It is considered that the proposed dwelling house is consistent with the surrounding development of the 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 the design of the proposal does not unreasonably degrade from the amenity of surrounding residents or the quality of the existing environment.

- (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 landscaping provision has been assessed 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;*

It is considered that the proposal is compatible and consistent with the character of surrounding development.

- (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;*

The proposal is for a new dwelling house on a vacant block of land. As such, Section 94 contributions are applicable.

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

Not applicable to this application.

- (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.*

Not applicable to this application.

Manly DCP for the Residential Zone 2001:**Floor Space Ratio**

The proposal is in fact in density sub-zone 5, which has a maximum Floor Space Ratio control of 0.45:1. As such the proposal would comply with the maximum permissible Floor Space Ratio.

Setbacks

It is noted that the subject site is located on a corner allotment. In this instance it is considered appropriate to use the street to which the house is addressed as the front setback. Having considered the setbacks in this regard, the proposed dwelling house would comply with the setback provisions as prescribed in the Development Control Plan.

It is noted that the proposed swimming pool would not comply with the requirement for the setback of the concourse from the southern side boundary. The Development Control Plan requires that

Environmental Services Division Report No. 33 (Cont'd)

this setback should be 1m, however a setback of only 500mm is provided. A condition of consent is recommended which would require the swimming pool to comply with the Development Control Plan. Furthermore, a condition of consent is recommended requiring the pool filter to be centrally located and suitably housed in order to ensure the aural privacy of adjoining residents.

Overshadowing

It is noted that objection has been received concerning overshadowing of windows to No 16 Acacia Road. No 16 has an east-west orientation, as such the Development Control Plan provides that the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 2 hours from 9:00am – 3:00pm on 21 June.

The windows of most concern are the three north-facing windows located at the ground floor level. These are windows to living areas. It is noted that as a result of the proposed dwelling house, two of the three windows will be overshadowed for virtually the whole period between 9:00am and 3:00pm on June 21. The other remaining window will experience no overshadowing at 9:00am, be half overshadowed at 12 noon and would be completely overshadowed by 3:00pm.

Despite the above mentioned overshadowing, attention is also paid to the significant side setback non-compliance of No 16. The objectors northern wall is approximately 8.2m high, which in accordance with the Development Control Plan would require a side setback of 2.7m, however the side setback to the northern boundary is only 1m. With this in mind, it would be very difficult to erect a dwelling house without impacting upon sunlight access to the northern windows of No 16.

In view of the above, it is considered that the overshadowing, in general, is not unreasonable or unacceptable upon No 16. However, it is noted that there is provision to lessen the impact by moving the proposed dwelling house as a whole 1m to the north. This is considered to be reasonable and would have no adverse impacts upon the streetscape. A condition of consent is recommended with regard to this amendment.

Streetscape

It is considered that the proposal is consistent with the surrounding properties and would not appear to be visually bulky or dominant as viewed from the streetscape. In this regard, no objection is raised concerning the impact on the streetscape.

Privacy and Security

It is noted there has been objections concerning privacy impacts from both 22 Boronia Lane and 16 Acacia Road. With regard to the privacy objections from 22 Boronia Lane, there is a distance of approximately 30 metres from the proposed dwelling and the objector's dwelling. This is considered to be an adequate degree of separation to mitigate privacy concerns.

A number of privacy concerns from No 16 have been raised. Firstly, concern is raised with the south facing windows and glass block panels on the first floor level. These windows/panels all serve the bathroom/ensuite and as such would not pose any unreasonable privacy impact. It is considered reasonable, in order to primarily protect the privacy of the proposed dwelling house, that these windows have obscure glazing to 1600mm. A condition of consent is recommended requiring this.

Secondly, concern is raised with regard to the laundry door, steps and landing. It considered unreasonable to delete the laundry door to offset privacy concerns, however a condition of consent is recommend so that the landing is not elevated above the existing ground level.

Environmental Services Division Report No. 33 (Cont'd)

Thirdly, concern is raised regarding the ground floor windows on the southern elevation. It is noted that the windows in question provide light and ventilation to the garage, study, bathroom and a laundry. There is a rumpus room to the rear, however this does not include any windows that face the south. These rooms are not high intensity living areas and as such the proposal considered acceptable in this regard.

Fourthly, concern is raised with regard to the first floor deck at the western end due to overlooking of private open space. This is considered to be a valid concern and a condition of consent is recommended requiring a 1.7m high privacy screen to be erected along the southern side of the balcony.

Swimming Pools

The proposal would not comply with the setback requirement for the concourse from the side boundary. A condition of consent is recommended which requires the pool to be moved 500mm to the north, so that it provides a side setback of 1m to the concourse and therefore comply with the Development Control Plan.

Sydney Regional Environmental Plan (Sydney Harbour Catchment)

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) applies to this site. The SREP includes planning principles and matters for consideration relating to protection of the catchment, biodiversity and ecology, foreshores and waterways scenic quality and maintenance, protection and enhancement of views.

The proposal is considered acceptable in regard to the relevant planning principles.

EP&AA 1979 – Section 79(C)

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed against the provisions of Manly Local Environmental Plan 1988 and Manly Development Control Plan for the Residential Zone 2001 and is considered satisfactory.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

It is considered the proposed would not have a detrimental impact upon the natural or built environment, nor would there be any adverse social or economic impacts.

- (c) *the suitability of the site for the development,*

It is considered the site is suitable for the proposed development.

- (d) *any submissions made in accordance with this Act or the regulations,*

The proposal was notified in accordance with Council policy, with a number of submissions received. These submission have been discussed in the report.

- (e) *the public interest.*

It is considered the proposal is in the public interest.

Environmental Services Division Report No. 33 (Cont'd)**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 Development Control Plan for the Residential Zone 2001 (Amendment 1). The proposal is considered to be satisfactory subject to conditions contained in the Recommendation

RECOMMENDATION

THAT Development Application 536/06 for construction of a two (2) storey dwelling and swimming pool at 18 Acacia Road, Seaforth be approved subject to the following conditions.

DA1

This approval relates to drawings/plans Nos. DA01 – DA03, DA05, DA06, DA10 – DA11 dated November 2006 received by Council on the 8 December 2006; DA12 dated November 2006 received by Council on the 19 December 2006; DA04, DA09, dated September 2006; received by Council on the 8 December 2006; DA07 dated February 2007, DA08 Issue B dated March 2007 received by Council on the and Landscape Plan 07-11 received by Council on the 8 December 2006.

ANS01

The dwelling house and attached garage is to be located in its entirety one (1) metre to the north in order to reduce overshadowing of the adjacent dwelling, plans being suitably amended prior to the issue of the Construction Certificate.

ANS02

The windows on the southern elevation at the first floor level are to be obscure/translucent up to a height of 1.6m above floor level in order to ensure privacy, plans being suitably amended prior to the issue of the Construction Certificate.

ANS03

The laundry door is to be provided with a 1m x 1m landing and the stairs redirected to the west (rear) to maintain privacy to the adjoining property, plans being suitably amended prior to the issue of the Construction Certificate.

ANS04

A privacy screen to a height of 1.7m is to be erected along the southern edge of the deck to Bedroom 1 on the first floor, plans being suitably amended prior to the issue of the Construction Certificate.

ANS05

The swimming is to be moved 500mm to the north in order to ensure compliance with the Development Control Plan (DCP), plans being suitably amended prior to the issue of the Construction Certificate.

ANS06

The swimming pool filter is to be centrally located and suitably housed in order to ensure aural privacy to surrounding residents. Details are to be provided prior to the issue of the Construction Certificate.

ANS07

The selected certifying authority is to be provided with full documentation proving compliance with BASIX prior to the issue of the Occupation Certificate.

Environmental Services Division Report No. 33 (Cont'd)

ANS08

The works are to comply with the recommendations of the Bush Fire Report by Fire Base Consulting dated 4 November 2006.

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. 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. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property.

DA011

All surplus vehicular crossings and/or kerb laybacks shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

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 Councils Works Manager on Telephone 9976 1455 for the stone to be transported to Councils 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.

Environmental Services Division Report No. 33 (Cont'd)

DA343

Any adjustment to the public utility service is to be carried out in compliance with their standards and the full 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.

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.

Environmental Services Division Report No. 33 (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.

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.

DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyors 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.

DA060

On completion of the building structure a report from a Registered Certifier 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.

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.

DA077

An approved water interceptor shall be provided within the property, across the driveway at the property boundary, and all stormwaters shall be conveyed by underground pipe to Council's street gutter to the satisfaction of the Principal Certifying Authority.

DA087

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 a suitably qualified 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

DA088

A system of Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) 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 free of charge or a hardcopy can be purchased from Council.

Environmental Services Division Report No. 33 (Cont'd)

DA095

A copy of the approved Onsite Stormwater Detention (OSD) or Onsite Stormwater Retention (OSR) plan showing Work as Executed (WAE) 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 Management 2003.

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.

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.

DA237

All healthy trees and shrubs identified for retention on the plan must be:

- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
- (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.

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.

DA247

Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.

DA346

Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

Environmental Services Division Report No. 33 (Cont'd)

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.

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.

DA264

All materials on site or being delivered to the site shall generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 shall be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

DA265

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.

DA267

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

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
- Pier holes inspection
- Reinforced concrete slab
- Framework inspection
- Wet area moisture barrier
- Drainage inspection
- Landscaping inspection
- Swimming pool reinforcing steel inspection
- Swimming pool safety fence inspection prior to filling
- Final inspection

The cost of these inspections by Council is \$2,300 (being \$230 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 1414.

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 \$110.

DA271

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

Environmental Services Division Report No. 33 (Cont'd)

DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, is required for the development. The amount being in accordance with Councils Section 94 Policy applicable at the time of payment **prior to the issue of the Construction Certificate / the release of subdivision plans for registration / or at the time prior to release of Development Consent where no works are involved.**

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.

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.

Environmental Services Division Report No. 33 (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. 33 (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.

DA310

No water shall be placed in the swimming pool until the required protective fencing has been inspected and approved by Council.

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 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.

Environmental Services Division Report No. 33 (Cont'd)

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 33 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 34
SUBJECT: 5 Sandra Place / 26 Boronia Lane, Seaforth - DA259/06
FILE NO: DA259/06

Application Lodged: 30 May 2006
Applicant: Stan Symonds
Owner: Alexander Campbell
Estimated Cost: \$300,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
 Manly Residential Development Control Plan 2001,
 Amendment 1 Sub Zone: 7
 Within the Foreshore protection Area: Yes

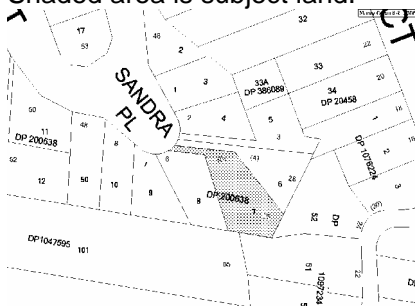
Surrounding Development: Residential
Heritage: Currently a Potential Heritage Item and undergoing assessment.

SUMMARY:

1. DEVELOPMENT APPLICATION 259/06 FOR DEMOLITION OF GARAGE AND ERECTION OF NEW STRUCTURE CONTAINING PARKING, FAMILY/ENTERTAINING AREA, BEDROOMS, BATHROOM BAR/KITCHENETTE AND DECKS WAS LODGED 30 MAY 2006.
2. SOME MATERIAL WAS MISSING FROM THE APPLICATION AND SHADOW DIAGRAMS SHOWING SHADOWS ON 31 RIGNOLD STREET WERE RECEIVED ON 23 JUNE 2006; FURTHER MATERIAL WAS RECEIVED ON 11 SEPTEMBER 2006 REGARDING THE RIGHT-OF-WAY; A RESPONSE TO OBJECTIONS RECEIVED ON 15 AUGUST 2006; ADDITIONAL DOCUMENTATION ON 10 NOVEMBER 2006 REGARDING RIGHT-OF-WAY, THE SUB-DIVISION AND THE AREA CALCULATIONS AND FURTHER MATERIAL ON AREA CALCULATIONS OF THE EXISTING DWELLING ON 22 NOVEMBER 2006.
3. THE PROPOSAL AS ORIGINALLY RECEIVED PLUS ADDITIONAL SHADOW MATERIAL WAS NOTIFIED TO ALL NEIGHBOURING PROPERTIES AND TWO LETTERS OF OBJECTION TO THE DEVELOPMENT WERE RECEIVED.
4. THE APPLICATION WAS ALSO REFERRED TO SEAFORTH PRECINCT COMMUNITY FORUM WITH NO COMMENTS RECEIVED.
5. THE APPLICATION WAS RECOMMENDED FOR REFUSAL.
6. THE APPLICANT REQUESTED AN OPPORTUNITY TO ADDRESS CONCERNS AND SUBMITTED A REVISED SUBMISSION ON 15 MARCH 2007.
7. THE APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR NOREK.
8. A SITE INSPECTION IS RECOMMENDED.
9. FOLLOWING ASSESSMENT OF THE REVISED SUBMISSION, THE APPLICATION IS STILL RECOMMENDED FOR REFUSAL.

LOCALITY PLAN:

Shaded area is subject land.



Environmental Services Division Report No. 34 (Cont'd)

REPORT

INTRODUCTION:Site description:

The site is located east of Boronia Lane, via a driveway across Planning NSW-owned land. The site originally had the address 5 Sandra Place, but following an application to subdivide and an application for right of way, was offered the new address when re-numbering occurred following the relocation of Boronia Lane.

The site has a northwest-southeast orientation.

The site is legally described as Lot 7, DP 200638.

The site slopes from southeast to northwest and quite steeply for the north-western part. Total site area of the existing Lot 7 has been calculated as 973.8m².

The site is developed with two separate dwellings approved under previous dual occupancy legislation.

Proposal:

Development approval is sought for demolition of garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom bar/kitchenette and decks as follows:

- New double garage and double carport, amended to single carport;
- New dwelling of two bedrooms, family/living room, bathroom, bar/kitchenette;
- Roof-top deck reduced from full deck with perimeter planting; to planting and small service area;
- Additional paving, removal of trees and landscaping.

Mainly DCP for the Residential Zone 2001 Numerical Assessment:

The following numerical is an assessment of the proposal's compliance with the numerical standards of the DCP. Where a variation is proposed to the standards, an assessment is included in the Planning Comments. The assessment deals with the plans received by Council on 15 March 2007.

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density	1 dwelling/ 750 m ²	2 dwellings/ 750 m ²	No
Floor space ratio – original	0.4:1 max	0.44:1 300.9m ²	No
Floor space ratio – amended	0.4:1 max	0.39: 1 265.31m ² [121.9m ² garage & new dwelling]	Yes
Wall height - North-East	7.2m	5.0 - 6.6 m	Yes
Wall height - South-West	7.0m	5.6 - 7.35 m	No
Roof height - Parapet	1.0m	1.0 m	Yes
Setback side - North-East	2.2 m	1.8 m	No
Setback side - South-West	2.4 m	2.1 m	No
Front setback	6.0m	35m	Yes

Environmental Services Division Report No. 34 (Cont'd)

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
			(Sandra Place)
Rear setback	8m	1.8m	No
Open space - Total	70%	84% 569.3m ²	Yes
Open space - Soft	50% 236.92 m ²	101% 479.6 m ²	Yes
Open space - Private	18m ²	>18m ²	Yes
Endemic Trees	3	3	Yes
Car Parking - Residents	2	3-4	Yes
Shadow - adjoining northwest-southeast orientation	> 3 hrs sunlight retained	> 3 hrs retained to front and rear living areas	Yes

Applicant's Supporting Statement

In support of the application the applicant has submitted a Statement of Environmental Effects. This is available for viewing on Comments file.

In response to the submissions, the applicant has submitted a written response and a copy of this is available for viewing on Comments file.

NOTIFICATIONS:The Original Application

The original application was notified from 3 July 2006 to 17 July 2006 and two submissions were received from A McLean (Topp) of 14 Acacia Road Seaforth; and from P Batey of 22 Boronia Lane (formerly 31 Rignold Street) Seaforth.

The following issues were raised:

- Concern re entertainment deck on roof with potential for noisy parties – already claimed there was a problem with that – *the applicants claim one party only.*
- Potential second dwelling – *only proposed Lot 10 was shown*
- Dual occupancy
- Garage should be built at Sandra Place not Boronia Lane which is small and narrow – *no driveway constructed from Sandra Place*
- The application is not just garaging but a free-standing dwelling with a larger floor area than the original house and greatly increases the density of the property.
- Objects to any Floor Space Ratio higher than 0.4:1
- The proposed development impinges on our privacy by bringing their entertainment areas not only in close proximity to our sleeping and bathroom areas, but provides visual intrusion in these areas.
- The roof-top entertainment area allows visual access to our ground and first floor bathrooms and bedrooms.
- The proposed retaining wall to be built on the boundary has no provision for drainage water run off from both the proposed Right-Of-Way and the open area which will result in stormwater discharge directly into our property.
- No screening from south-western window to provide visual and acoustic screening.
- No fire assessment report provided – *one had been provided and the Rural Fire Service stipulated conditions.*

Environmental Services Division Report No. 34 (Cont'd)

- 6m setback should be required

The applicant responded and the response is on file.

The Amended Application

The amended application was notified from 13 March 2007 to 27 March 2007 and two submissions were received from A McLean (Topp) of 14 Acacia Road Seaforth; and from P Batey of 22 Boronia Lane (formerly 31 Rignold Street) Seaforth.

- Roof top entertainment area... would be a direct visual intrusion into our ground floor bedrooms and 1st floor en suite. Noise generated from, any roof top entertainment will not only affect us but also existing neighbours at 28 Boronia Lane and future neighbours at 24 Boronia Lane.
- Water run-off onto our property.... retaining wallsetback from the common boundary and provision be made for drainage so that any runoff is taken away from our boundary.
- We see these proposed plans as a third dwelling ... question link. Both the existing dwelling and the proposed development have bedrooms, bathroom, entertainment areas and kitchen areas. They are two distinct residences regardless of whether there is a covered walkway or "link".
- We do not have rooftop entertainment, our Floor Space Ratio is less than 0.28:1, we have a fully enclosed hallway between the living areas and all bedrooms and bathrooms which are in the extension. We have only one kitchen area located in the existing building.
- Object strongly to the entertainment deck. The entertainment roof would oversee other residences in the area and create unnecessary noise which travels significantly from the foreshore to those behind them...
- I cannot understand how this new dwelling could not be conceived to be broken up as a battleaxe in future years.

Precinct Community Forum Comments:

The application was referred to the Seaforth Precinct Community Forum for comment from 3 July 2006 until 31 July 2006. The following comments were received:

- Seaforth Precinct has received the submission and has no comment to make.

Engineer's Comments:

No objections subject to the inclusion of recommended conditions.

Building Comments:

No objections to the proposed new Class 1(a) dwelling from a building point of view, subject to the inclusion of recommended conditions.

Landscape Comments:

The proposal identifies a group of African olives (*Olea Africana*) located along the North-eastern boundary. The trees are approximately 2.5m in height and in poor condition. No objection to their removal subject to replacement endemic screening as proposed. A further African olive located within southern rear of the boundary approximately 4.0m in height in reasonable condition. No objection to removal.

Recommendation that appropriate screening consisting of endemic species of plant material be installed along the north eastern boundary adjacent to the proposed development.

Environmental Services Division Report No. 34 (Cont'd)

Standard conditions to also apply.

Rural Fire Service:

Based upon an assessment of the plans and documentation received for the proposal, the New South Wales Rural Fire Service, in respect to bush fire matters, provides the advice that the development should have the following conditions:

1. Construction shall comply with AS3959-1999 Level 3 'Construction of Buildings in bushfire prone areas'.
2. The entire property shall be managed as an 'Inner protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
3. Timber decking proposed for the rear of the property shall be constructed from a level 3 fire resistant species timber identified within New South Wales Rural Fire Service Development Control note 001, available from the Rural Fire Service website.

PLANNING COMMENTS

A pre-DA meeting was held prior to submission of this application on 13 February 2006 with a Senior Planner.

Development History:

- The original house was designed by the applicant Stan Symonds in 1962 and built in 1963, known as 5 Sandra Place.
- In 1994 Application (DA550/94) was made for dual occupancy and subdivision. This was approved 9 June 1995. The second dwelling was proposed for the front portion of the block and became known as 5A Sandra Place. It was a dwelling of approximately 70m².
- The subdivision was never finalised due to the original dwelling's vehicular access remaining unbuilt. The reason was partly blamed on a rock fall and the driveway/garage was not built. N^o 5 was to have a right of way through N^o 5A. The western boundary of N^o 5 adjoined Rignold Street (unformed). Consequently the linen plans were never released and the site remains as a single lot, Lot 7 DP 200638.
- The subdivision showed the existing lot size as 976.2m² with proposed Lot 10, DP 200638 being 296.9m² and proposed Lot 11 thus being 679.3m².
- At some point, the owners of 5 Sandra Place began to access their property through RTA (now Planning NSW) -owned land to the rear, originally known as Lot 52 of the same DP.
- In 2005 Boronia Lane and Rignold Street were altered. The portion of Rignold Street adjoining Lot 7 was sold off. This left the proposed Lot 11 as a potentially land-locked site.
- Lot 52 was reduced and reconfigured as Lot 52 DP1097234.
- Negotiations began to formalise a right-of-way access for the owner of 5 Sandra Place. They stalled in mid 1998 correspondence continued and negotiations recently resumed with a Deed for Sale of Right of Access being signed between The Minister for Planning and Alexander Campbell on 13 July 2006 for the sum of \$20,000. This has not been finalised, due to additional works undertaken by Planning NSW.
- The applicant said he had been advised by the Owner that the right of way had been signed.
- July 2006, allocation of a new street number was made and the property became known as 26 Boronia Lane; however the development application has been made in the original address of 5 Sandra Place.
- As part of the checking of this application, the Deposited Plan was checked and the area given was 28 ½ perches, converted to 720.8m². This is a discrepancy of 255.4m².
- Council's Corporate Planning staff prepared a plan based on the original DP dimensions and ascertained an error had been made on the original DP. The area calculated was 973.8m² (or 38 ½ perches). Calculations have been based on the Council figure.

Environmental Services Division Report No. 34 (Cont'd)Manly LEP 1988:

The site is located in Zone No.2 - The Residential Zone which permits dwelling houses with the consent of Council.

The proposed Demolition of garage/carport and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom, bar/kitchenette and decks is permissible with consent in the zone, however, the proposal is considered unsatisfactory in response to the relevant objectives of the zone, with adverse amenity impacts to neighbouring properties identified in terms of overlooking, visual bulk and proximity to boundaries.

Foreshore Scenic Protection Area

The site is also located within the Foreshore Scenic Protection Area.

The proposal will increase the bulk or scale of the existing development.

The applicant has submitted photographs showing the minor impact of the existing house/s. The proposal includes removal and/or removal of some canopy of a number of trees to accommodate the new dwelling. This would remove much of the existing tree setting.

Whilst the existing dwellings are not highly visible, the removal of trees and the loss of tree canopy backdrop of the existing main house in addition to the new being located above the existing house, near the top of the ridge at the point would result in the development being readily visible from the foreshores / waterways of Middle Harbour.

Consequently the proposal is considered an unacceptable form of development.

Manly Local Environment Plan 1988 - Clause 10 Objectives

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.

(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 Development Control Plan for the Residential Zone 2001 Amendment 1 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 nature of the proposed new structure containing parking, family/entertaining area, bedrooms, bathroom, bar/kitchenette and decks with the appearance and potential for a third dwelling is not 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;

The design of the new structure containing parking, family/entertaining area, bedrooms, bathroom, bar/kitchenette and decks is not considered to maintain acceptable levels of neighbour's amenity in terms of privacy 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;

The proposal has been reviewed by Council's Landscape Officer.

Environmental Services Division Report No. 34 (Cont'd)

(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;*

The proposal maintains the residential use of the site; however it has the appearance of a second dwelling (on the proposed sub-divided site) and a potential third dwelling on the existing site which is contrary to the density provisions of the Development Control Plan for the Residential Zone.

(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;*

The proposal presented as alterations and addition to an existing dwelling 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 demolition of garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom bar/kitchenette and decks are not considered to complement the site, and do not respond to its form, slope and surrounds – particularly in view of the potential heritage listing of the existing dwelling.

(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.*

Not applicable.

Manly DCP for the Residential Zone 2001:Residential Density and Subdivision

The site is located in Sub-Zone 7 where the permissible density is 1 dwelling per 750m² of site area. This increases to 950m² (between 1 in 6 and 1 in 4 site slope) and to 1150m² for greater than 1 in 4 site-slope. The existing original site (Lot 7) is 973.8m². The site slope is approximately 1 in 4.8 or greater [not including the access to Sandra Place], therefore under the 2001 Development Control Plan Amendment 1, a minimum site area of 950m² would be required.

In any case, a subdivision and detached dual occupancy was approved in 1995, however subdivision has not yet taken place due to difficulties in constructing the driveway. No driveway from Sandra Place currently exists.

Heritage Impact:

The original Hardy house has been assessed as a potential Heritage Item of Architectural significance. The second, smaller Campbell/Pate house is considered complementary.

It is considered that since the original house is designed in the round as a sculptural element, it should continue to be viewed in the round. The naturalistic setting is an important component of that. The relationship of the existing second dwelling and the space in between is also important.

Further, it is considered the proposal will dominate the existing structure by being two storey, elevated at a higher ground level and of a more vertical form than the original house with its curved concrete shell roof.

The proposal imposes on the curtilage of the original house, which is considered detrimental to the original house, its "place" and its setting.

The nature of the house and its setting alludes to the early development of this part of Seaforth. The site had a covenant when sold to Mr Douglas Hardy, a television cameraman, which appeared to prohibit suburban development; including banning paling fences, privys, fibro walls and roofing.

Environmental Services Division Report No. 34 (Cont'd)

Also prohibited were removing earth, stone, gravel or trees apart from what was necessary for house construction or occupant safety. It can be extrapolated that the bushland setting was considered very important to the aesthetics of the area, and to be maintained.

It is considered the proposal will be detrimental to the architectural heritage of the original house, which in the assessing officer's opinion is an extraordinary and unique house in a beautiful setting. Council is aware other examples of the Architect Stan Symonds' work are being lost or irretrievably altered. This example is a fine one; largely intact and in original condition.

Open Space – Roof Terrace

Clause 3.2.2(g) of the Residential Development Control Plan says if an applicant can demonstrate there will be no loss of amenity to adjoining residents, up to 25% of the open space can be provided above ground level by means of ... roof gardens ...providing these areas are not enclosed. It is considered the roof terrace will afford opportunities for overlooking surrounding properties.

In the B4 Definitions: Soft open space includes fixed masonry planter boxes with a minimum soil depth of 900mm. The proposed soil depth is 400mm which raises concerns regarding the maintenance and longevity of planting in this area.

The proposal includes a roof garden which will require regular maintenance and fencing/balustrade would be necessary for safety. It could still be used for entertaining.

The roof terrace cannot be supported resulting in adverse privacy impacts on adjoining properties.

Building Height:

The amended proposal's heights are unchanged and thus still non-compliant.

On the south-western side the wall height exceeds the allowable by 0.35m and the parapet roof allowance by 0.2m (although a roof terrace) to make an overall non-compliance of 0.55m.

Rear Setbacks:

the setback requirement is 8 metres. The proposal's setback is 1.8m to the first floor and 1.5m at the closest point to the rounded pergola, which does not comply.

Side Setbacks:

The side setbacks are insufficient on both sides with 1.1m setback on the north-eastern side of the pergola and 1.8m to the closest point of the first floor of the building. The south-western setback should be 2.4m and is 2.1m at the closest point.

Privacy & Security:

The layout of the first floor with balcony and windows overlooking the N^o 22 new extension (under construction next door) will impact on the adjoining residents' privacy. The roof terrace will impact on other properties in the area. The soil depth is insufficient and long-term maintenance is a potential issue.

Parking & Access:

The vehicular entry on the proposal is shown as the full width of the boundary, however the Department of Planning (previously DIPNR) application and subsequent photographs for the driveway shows only half that, with a semi-circle of natural ground between entry to N^o 26 and N^o

Environmental Services Division Report No. 34 (Cont'd)

28 (4 Sandra Place). The proposed on site parking would require the infill of that area with more paving on the adjoining property. This would require further negotiation with Planning New South Wales or the new owners, once the property is sold. There are already problems with stormwater drainage which Planning New South Wales has sought to address with on-site detention.

Stormwater Disposal & Retaining Walls:

Neighbours have expressed concern regarding stormwater overland flow from the retaining wall on the south-western boundary, affecting their new extension etc. Retaining walls on the side boundary are not permitted and require a 900mm setback.

Sydney Regional Environmental Plan (Sydney Harbour Catchment)

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) applies to this site. The SREP includes planning principles and matters for consideration relating to protection of the catchment, biodiversity and ecology, foreshores and waterways scenic quality and maintenance, protection and enhancement of views.

With the exception of concerns relating to scenic quality the proposal is generally acceptable in regard to the relevant planning principles.

Section 79(C) of the Environmental Planning and Assessment Act 1979

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The impacts of the proposed demolition of garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom, bar/kitchenette and decks have been considered and will result in significant negative effects on the locality and also on the architectural heritage value of the original Hardy House.

- (c) *the suitability of the site for the development,*

The site is within the Residential zone and is currently developed with two dwelling houses and as such the proposed demolition of garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom bar/kitchenette and decks is considered an unsuitable development.

- (d) *any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with two submissions received.

- (e) *the public interest.*

The proposal is not considered to be in the public interest.

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 Amendment 1.

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From this assessment the proposed demolition of garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom, bar/kitchenette and decks is an unsuitable form of development and refusal is recommended:

RECOMMENDATION

That Development Application 259/06 for a demolition of an existing garage and erection of new structure containing parking, family/entertaining area, bedrooms, bathroom bar/kitchenette and decks at 5 Sandra Place, Seaforth (aka) 26 Boronia Lane, Seaforth be refused for the following reasons:

1. The proposed addition is not connected to the existing dwelling and is capable of being used as a separate dwelling, contrary to the provisions of the Manly Local Environmental Plan 1988 and the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
2. The proposal has adverse impacts on the original dwelling which is of architectural significance and has potential to be listed as a Heritage item having regard to Section 79C(1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
3. The proposed roof terrace would adversely affect the amenity and privacy of the adjoining residents, pursuant to the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, [Clause 3.22 (g)], having regard to Section 79C(1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
4. The proposal is considered an unsatisfactory form of development within the Foreshore Scenic Protection Area pursuant to Clause 17 of the Manly Local Environmental Plan 1988 on grounds of excessive visual bulk and scale and increased cumulative visual impacts as viewed from the waterways; particularly from Middle Harbour.
5. The proposal does not comply with the required rear Boundary Setback of the Manly Development Control Plan for the Residential zone 2001, Amendment 1, (Clause 3.5) having regard to Section 79C(1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is considered to degrade the amenity of the adjoining residents and adversely impact on the adjoining and surrounding properties in terms of privacy, bulk and visual impact. It is inconsistent with Clause 10, objective (d) of Zone 2 - the Residential Zone, under the Manly Local Environment Plan 1988, with the specific objectives of Section A5 (c); and Clause 3.10 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979.
7. The proposal is unacceptable in view of the submissions received, pursuant to Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979.
8. The proposal is not considered to be in the public interest, pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 34 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 35
SUBJECT: 14 Boronia Lane, Seaforth - DA341/06
FILE NO: DA341/06

Application Lodged: 8 August 2006
Applicant: Grande Homes
Owner: Quanhui Xue and Yeting Wang
Estimated Cost: \$350,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
Surrounding Development: Vacant land and one and two storey dwelling houses
Heritage: no heritage

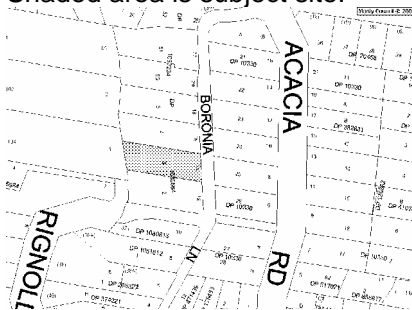
SUMMARY:

1. DEVELOPMENT APPLICATION 341/06 FOR A TWO-STOREY DWELLING HOUSE ON VACANT LAND WAS RECEIVED BY COUNCIL 8 AUGUST 2006.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH 21 SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM FOR COMMENT.
4. THE APPLICATION WAS CONSIDERED BY COUNCILS DEVELOPMENT ASSESSMENT UNIT MEETING OF 14 NOVEMBER 2006 WHERE IT WAS RECOMMENDED FOR REFUSAL.
5. THE APPLICANT REQUESTED AN OPPORTUNITY TO AMEND THE PROPOSAL AND SUBMITTED REVISED PLANS ON 8 FEBRUARY 2007.
6. THE REVISED PLANS WERE NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH 15 SUBMISSIONS RECEIVED.
7. THE APPLICATION WAS CONSIDERED BY COUNCILS DEVELOPEMNT ASSESSMENT UNIT AT ITS MEETING OF 3 MAY 2007 WHERE IT WAS RECOMMENDED FOR APPROVAL.
8. THIS APPLICATION IS PRESENTED TO COUNCILS LAND USE MANAGEMENT COMMITTEE AT THE REQUEST OF COUNCILLOR MACDONALD.
9. A SITE INSPECTION IS RECOMMENDED.
10. APPROVAL OF THE APPLICATION IS RECOMMENDED.

SUMMARY:

LOCALITY PLAN

Shaded area is subject site.



Environmental Services Division Report No. 35 (Cont'd)

REPORT**Introduction**Site description

The site is located on the western side of Boronia Lane, is rectangular in configuration and has an east-west orientation. The site is legally described as Lot 3, DP 1085664.

The site slopes from front of the property to the rear with a total fall of approximately 9.5m. The property is 16.15m wide at the front and 19.61m wide at the rear with side boundaries being 52.06m to the south and 54.395 to the north. Total site area is 1021.9m². The site is currently vacant.

Proposal

The application proposes erection of a two storey dwelling comprising;
Ground floor level – entry, lounge room, study, kitchen, family room, dining area, laundry, powder room and double garage.

First floor level – four bedrooms, rumpus/living room, bathroom and ensuite.

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	1 dwelling/ 750 m ²	1 dwelling/ 1022 m ²	Yes
Floor space ratio	0.4:1 max	0.47:1	No
Wall height - North	6.5m	6.1 m	Yes
Wall height - South	6.5m	6.35 m	Yes
Roof height	3.0m	2.0 m	Yes
Fence height	1.5m / 30% transparent	1.2 m/ >30% transparent	Yes
Setback side - North	2.03 m	3.11 m	Yes
Setback side - South	2.12 m	2.5 m	Yes
Rear setback	8.0m	25 m	Yes
Open space - Total	70%	79.24%	Yes
Open space - Total	715.4 m ²	809.85 m ²	Yes
Open space - Soft	50%	69.96%	Yes
Open space - Soft	357.7 m ²	715 m ²	Yes
Car Parking - Residents	2	2	Yes
Shadow - adjoining	> 2 hrs sunlight retained	> 2 hrs retained to front and rear living areas	Yes
Excavation	3m depth max	<3 m	Yes

SubmissionsThe Original Application

The original application was notified from 17/8/06 to 31/8/06 and 21 submissions were received from R Whittaker The Stone House Clavering Road Seaforth;

Environmental Services Division Report No. 35 (Cont'd)

D and C Meehan 11 Castle Circuit Seaforth; M Rawlinson 31 Castle Circuit Seaforth; W Moynham 8 Acacia Road Seaforth; P Batey 20 Boronia Avenue Seaforth; A G Pines 6 Callicoma Avenue Seaforth; G Lucas 7 Acacia Road Seaforth; C Keeble 18 Boronia Lane Seaforth; S and L Skykes 8 Callicoma Road Seaforth; A McLean 14 Acacia Road Seaforth; C Pate and A Campbell 26 Boronia Lane Seaforth; D and M Law 4 Acacia Road Seaforth; L A McDade 32 Castle Circuit Seaforth; J D Armstrong 2 Acacia Road Seaforth; G L Reid 6 Acacia Road Seaforth; G Keeble 12 Acacia Road Seaforth; D Parle 15 Acacia Road Seaforth; B Wong Nam 22 Boronia Lane Seaforth; W Fitzpatrick 28 Boronia Lane Seaforth; A Reynolds 10 Acacia Road Seaforth and J Mitchell 14 Boronia Lane Seaforth.

The following issues were raised:

- Excluding the Foreshore Scenic Protection, the maximum house size that the applicant is entitled to construct is 290 sqm under a Floor Space Ratio of 0.4:1. The applicant is seeking to construct a house of 367 sqm, a 26.5% increase on the maximum permitted.
- The development proposal submitted is extremely bulky with strong vertical proportions, an eclectic mix of architectural styles with no language of roof form or parapets. It is inconsistent with the prevailing building form, character and style which is dominated by single storey weatherboard cottages.
- The proposed development fails to comply with the Development Control Plan objectives for fitting into the natural environment.
- Should Council approve this proposal, it would invite the owners of adjoining vacant lots (10, 12, 16, 18, 20 and 24) to seek developments that similarly contravene Council's controls.
- The masonry retaining wall on the western boundary and the rainwater tank are not permitted within the restricted zone.
- The height of construction would greatly impact on loss of views from 10 Acacia Road
- Footpath crossing to construction is not shown on plans
- The proposed development is not in keeping with the bushland setting and of other houses in the street. Nos. 2, 4, 6 and 22 Boronia Lane are predominantly single storey developments. This allows view sharing for houses in Acacia Road. In contrast this is a huge two storey development, with pitched roof, one metre from each side boundary.
- 12 Boronia Lane has yet to lodge a Development Application and due to the size and bulk of this development overshadowing on the southern side is excessive. There are also privacy issues for neighbours on both sides.
- Residents in Acacia Road would experience significant view loss.
- The property has many significant gum trees - many are to be removed.
- It is requested that height templates be erected on the property.

Amended Application

Subsequent to the recommendation for refusal of the original application amended plans were lodged. These plans were renotified with 15 letters of objection received from R Whitaker 18 Clavering Road Seaforth; Mr Y Ko and Ms X Zou 12 Boronia Lane Seaforth; A Reynolds 10 Acacia Road Seaforth; W Moynham 8 Acacia Road Seaforth; W and J Armstrong 2 Acacia Road Seaforth; D Cordner 14 Callicoma Road Seaforth; S and L Sykes 8 Callicoma Road Seaforth; A Lucas 7 Acacia Road Seaforth; A McLean 14 Acacia Road Seaforth; J Mitchell 5 Acacia Road Seaforth; L McDade 32 Castle Circuit Seaforth; P Batey 22 Boronia Lane Seaforth; W. Fitzpatrick 28 Boronia Lane Seaforth; G.L. Reid 6 Acacia Road; B Wong Nam 22 Boronia Lane Seaforth; G Goodsch 1 Clavering Road Seaforth.

The following issues were raised:

- By excluding the Bushland Protection Area, the maximum house size that the applicant is entitled to construct is 290m² under an Floor Space Ratio of 0.4:1. The applicant is seeking to construct a home that is 17% over the permitted maximum.

Environmental Services Division Report No. 35 (Cont'd)

- The proposed development does not fit into the natural bushland environment and will have a negative impact on the streetscape of Boronia Lane, which is predominately single storey dwellings set well back from the street.
- The proposed development will impact adversely on future developments including loss of privacy, solar access and general amenity.
- Existing residences to the east, including those on both the eastern and western side of Acacia Road, will experience a loss of views.
- The proposed development does not allow for view sharing for properties to the south.
- The proposed masonry retaining wall on the western and the rainwater tank are proposed to be located within the Bushland Protection Area. Neither is a permissible use within the protection area.
- The development will result in the loss of a significant number of large gum trees.
- Should Council approve this proposal, it will invite the owners of adjoining vacant lots (10, 12, 16, 18, 20 and 24 Boronia Lane) to seek developments that similarly contravene Council's planning controls.
- Privacy concerns to 12 Boronia Lane from first floor windows.

Precinct Community Forum Comments:

The application was referred to the Seaforth Precinct Community Forum with no comments received at the time of writing this report.

Engineer's Comments:

No objections subject to recommended conditions.

Building Comments:

No objections subject to recommended conditions.

Landscape Comments:

No objections subject to recommended conditions.

NSW Rural Fire Service Referral

The NSW Rural Fire Service raised no objections to the proposal subject to the imposition of the following conditions:

1. Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.
2. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.
3. Access shall comply with section 4.3.2 Planning for Bushfire Protection 2001.
4. All fencing shall be constructed from non-combustible materials.
5. The entire property shall be managed as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001. Areas where the land has a slope of greater than 18 degrees will be required to be landscaped (eg terracing) to allow the property to be maintained.
6. The northern, western and southern elevations of the proposed dwelling shall be constructed to comply with Level 3 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.
7. Remaining elevations of the proposed dwelling shall comply with Level 2 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.

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8. To aid in fire fighting activities, pedestrian access to the rear of the property shall be maintained as all times.
9. The proposed dwelling shall be sited as per drawing title: Site Plan, issue A prepared by Grande Homes Pty Ltd dated 2 February 2007.

PLANNING COMMENTSDevelopment History:

At the pre-DA meeting was held on 1/6/06 when the applicant was advised of the following specific issues:

- o The FSR would not comply
- o The building wall height should be a maximum of 6.5m
- o Roof pitch should be a maximum of 22.5 degrees for a tile roof.
- o The front fencing should be to a maximum of 1.5 metres with 30% transparency

The application was considered by Councils Development Assessment Unit on 14 November 2006, where it was recommended for refusal. The applicant requested an opportunity to amend the proposal and submitted plans on 8 February 2007 which made the following changes:

- o The Gross Floor Area reduced from 367m² to 343m², a reduction of 24m².
- o The side setbacks to comply with the Development Control Plan.
- o The building height is reduced by 450mm overall. The ground floor RL has changed from 75.2 to 75.05 and ground floor height is changed from 3030mm to 2730mm. This totals a reduction in height of 150mm plus 300mm = 450mm resulting in proposed wall height complying with the Development Control Plan.

Manly LEP 1988:

The site is located in Zone No.2 - The Residential Zone which permits dwelling houses with the consent of Council.

The proposed new dwelling house is permissible with consent in the zone. The proposal is considered satisfactory in response to the relevant objectives of the zone, with no significant adverse amenity impacts to neighbouring properties identified in terms of excess overlooking, overshadowing, view loss and visual bulk.

Foreshore Scenic Protection Area

Clause 17 of Manly Local Environmental Plan 1988 provides that 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.

It is noted that the proposed dwelling house would only be partially visible from the harbour due to its location and screening offered by existing vegetation. It is considered that the amended plans have addressed concerns to an extent that the proposal would not have a detrimental impact upon the Foreshore Scenic Protection Area.

Manly Local Environment Plan 1988 - Clause 10 Objectives

- 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.

Environmental Services Division Report No. 35 (Cont'd)

(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 Development Control Plan for the Residential Zone 2001 Amendment 1 and Amendment 2 has been considered in the assessment of the proposal. On this basis, the proposal is recommended for approval.

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

The proposed new dwelling house 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;*

The design of the new dwelling house is considered to provide 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;*

The proposal has been reviewed by Council's Landscape Officer as being acceptable, subject to condition.

(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;*

Not applicable.

(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;*

The proposal will result in an increase in demand on services and facilities. In order to meet these needs Section 94 contributions are applicable.

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

The proposed new dwelling house is considered to complement the site and is suitable given the context of surrounding development and the controls stipulated in the Development Control Plan.

(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.*

Not applicable.

Manly Development Control Plan for the Residential Zone 2001:**Floor Space Ratio:**

The subject site is located within the density sub-zone 7 with the Development Control Plan permitting a maximum permissible Floor Space Ratio of 0.4:1. Although the site is 1,022 sqm in size, as a consequence of Amendment 2 made to the Development Control Plan, the area included in the 'restriction as to user' as indicated on the site survey is to be excluded from the site area for the purposes of calculating floor space and results in a reduced site area of 728.2 sqm when calculating Floor Space Ratio.

The total gross floor area of the proposal is 343.03 sqm. When taking into consideration Amendment 1 of the Development Control Plan, this would equate to an Floor Space Ratio of 0.47:1, which is a non-compliance of 51.75 sqm. In assessing this non-compliance, it is necessary to refer to the relevant objectives for Floor Space Ratio, which include the following:

Environmental Services Division Report No. 35 (Cont'd)

- to control the bulk of buildings
- to ensure the scale of development does not obscure important landscape features
- to be consistent with the existing and desired character of the residential areas
- to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development as well as the proposed development
- to provide sunlight access to private open spaces within the development and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings

It is considered that in general the proposal is consistent with the objectives for Floor Space Ratio. Issues regarding the amenity of neighbours are considered under the relevant sub-heading below. In relation to bulk, it is considered that Floor Space Ratio non-compliance *per se* is not sufficient to conclude that there is unacceptable bulk. Attention is drawn to the fact that as a result of the amended plans the proposal would now comply with the wall height and side setback controls, which strongly govern the perception of visual bulk of the building. As such, it is considered that the proposal is acceptable and consistent with the objectives for Floor Space Ratio.

Furthermore, attention is given to the revised Development Control Plan for the Residential Zone (at the time of receiving the amended plans, the Draft Manly Development Control Plan for the Residential Zone 2006). This revised Development Control Plan alters the definition for gross floor area. As a consequence of the new definition, the Floor Space Ratio is reduced from 0.47:1 to 0.37:1 and therefore complies.

Overshadowing:

The proposal will result in a degree of overshadowing of the adjoining property to the south No.12 Boronia Lane. The extent of overshadowing is not unreasonable taking into account the east/west orientation of both the subject site and No.12 Boronia Lane. Shadow diagrams submitted with the application show the open space area between the dwelling at No.12 Boronia Lane and the north side boundary of No.12 (which includes a swimming pool) would be overshadowed at the 9:00am, 12:00 noon and 3:00pm periods, however when assessing the remaining open space area of No.12 Boronia Lane which has full sunlight access, it is apparent that the proposal conforms with the Development Control Plan requirements. Further, it is noted that both the proposed wall height and side setback comply with the Development Control Plan requirements.

View Sharing:

Concern has been raised by objectors in regards to view access disruption. Most notably, performance criteria a) requires that variations to the numeric requirements of the Development Control Plan will only be considered where they do not result in further view loss from neighbouring properties.

A site inspection was undertaken after the applicant erected building templates. No's 6, 8 and 10 Acacia Road were considered the properties most likely to be effected in terms of view sharing and as such were assessed on site inspection. The following observations were made:

No. 6 Acacia Road: Upon site inspection, the resident stated that he did not have concerns with the proposal at No. 14 Boronia Lane, however it was noted that there would be no substantial loss of views as a result of the application.

No. 8 Acacia Road: This site is directly across the road from the subject site. Currently, in the location where the proposed dwelling house is to be erected, the residents of the No. 8 Acacia Road look directly onto trees on the subject site. It is considered, that should the proposed dwelling be erected, the residents of No. 8 Acacia Road would still have access to views of the city skyline in addition to general panoramic views. As such the proposal is considered acceptable in terms of its impacts on views from No.8 Acacia Road.

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No. 10 Acacia Road: Based on site inspection, it is considered that the proposal would not unreasonably obstruct views. Whilst looking towards the panoramic city skyline from No. 10 Acacia Road, the proposal would have very little, if any, impact upon the view.

Streetscape:

Performance Criteria i)a) provides that the building height at the street frontage should maintain a compatible scale with adjacent development, whilst having regard to the existing height controls. It is noted that the site adjoining to the south is currently being developed with a two storey dwelling as are other sites in the immediate vicinity to the north and south of the subject site. The proposal meets wall height and setback provisions of the Development Control Plan and is considered to be compatible with the character of development in the locality.

Comment on Objections:

Concerns in respect of visual privacy to the adjoining property to the south (No. 12 Boronia Lane) are considered valid and in particular potential overlooking from the proposed first floor level which has windows serving the Master Bedroom and ensuite. As these windows face south and the Master Bedroom and ensuite have other windows facing east and west respectively, it is considered appropriate to require the south facing windows in the Master Bedroom and ensuite are to be glazed with translucent glass to a minimum height of 1.65m above finished floor level. A condition in this regard is included in the Recommendation.

Other issues raised in the submissions are discussed previously in this report.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Sydney Regional Environmental Plan (Sydney Harbour Catchment) applies to this site. The SREP includes planning principles and matters for consideration relating to protection of the catchment, biodiversity and ecology, foreshores and waterways scenic quality and maintenance, protection and enhancement of views.

The proposal is considered acceptable in regard to the relevant planning principles.

Section 79(C) of the Environmental Planning and Assessment Act 1979

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1 and Amendment 2 and Draft Development Control Plan for the Residential Zone 2006 and is considered satisfactory.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The impacts of the proposed new dwelling house have been considered and, subject to the recommended conditions, will not result in any significant negative effects on the locality.

- (c) *the suitability of the site for the development,*
The site is considered suitable for the proposed development.

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(d) *any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with 21 submissions initially received. The proposal was revised and renotified with 15 submissions received. The matters raised in the submissions have been discussed previously in this report.

(e) *the public interest.*

The proposal is considered to be acceptable in this regard.

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 Development Control Plan for the Residential Zone 2001 (Amendment 1).

RECOMMENDATION

That Development Application No. 341/06 for a two (2) storey dwelling house on vacant land at 14 Boronia Lane be approved subject to the following conditions.

DA1

This approval relates to drawings/plans Project 2060701 Nos. Sheets 1-9 Issue A dated 2 February 2007 and received by Council on the 8 February 2007.

ANS01

To avoid intrusions upon the area within the building restriction line, the masonry retaining wall is to be deleted and the rainwater tank is to be located outside of the building restriction area. Details are to be provided prior to the issue of the Construction Certificate.

ANS02

Roofing shall be gutterless or have leafless guttering and valleys are to be screened to prevent the build up of flammable material.

ANS03

Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.

ANS04

Access shall comply with Section 4.3.2 Planning for Bushfire Protection 2001.

ANS05

All fencing shall be constructed from non-combustible materials.

ANS06

The entire property shall be managed as an 'Inner Protection Area' as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001. Areas where the land has a slope of greater than 18 degrees will be required to be landscaped (eg terracing) to allow the property to be maintained.

ANS07

The northern, western and southern elevations of the proposed dwelling shall be constructed to comply with Level 3 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.

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ANS08

Remaining elevations of the proposed dwelling shall comply with Level 2 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.

ANS09

To aid in fire fighting activities, pedestrian access to the rear of the property shall be maintained as all times.

ANS10

The proposed dwelling shall be sited as per drawing title: Site Plan, issue A prepared by Grande Homes Pty Ltd dated 2 February 2007.

ANS11

Prior to the issue of any Occupation Certificate full documentation is to be provided to the selected Certifying Authority proving compliance with BASIX.

ANS12

The following trees must be retained and protect during construction:-

- Two (2) Angophora costata on the northern side of the site; and
- One (1) Eucalyptus piperita at the rear of the site.

ANS13

The south facing windows in the Master Bedroom and ensuite are to be glazed with translucent glass to a minimum height of 1.65m above finished floor level, plans being suitably notated prior to the 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. 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. Applications shall be made a minimum of twenty-eight (28) days prior to commencement of proposed works on Council's property.

DA011

All surplus vehicular crossings and/or kerb laybacks shall be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

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.

DA013

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 measured lengths and 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.

DA014

No portion of the proposed building or works, including gates and doors during opening and closing operations are to encroach upon any road reserve or other public land.

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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.

DA343

Any adjustment to the public utility service is to be carried out in compliance with their standards and the full 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.

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.

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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.

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.

DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyors 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.

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DA060

On completion of the building structure a report from a Registered Certifier 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.

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.

DA087

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 a suitably qualified 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

DA097

Any work shall not prohibit or divert any natural overland flow of water.

DA101

The proposed structure/s to be located clear of the existing Council easement. A certificate from a Registered Surveyor is to be submitted to Council verifying the location of the structure/s after footings have been poured and before the construction of any walls.

DA102

Special footings will be required where the proposed/existing structure is adjacent to a drainage easement. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary. A suitably qualified Structural Engineer shall issue a compliance certificate for the special footings referred to above to the Principal Certifying Authority. The footings shall be designed and approved Prior to the Issue of the Construction 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.

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.

DA236

Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 12 months from the date of practical completion of the building is to be provided to the Principal Certifying Authority prior to issue of the Final Occupation Certificate.

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.

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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.

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.

DA264

All materials on site or being delivered to the site shall generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 shall be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

DA265

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.

DA267

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

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

Pier holes inspection

OSD steel inspection

Landscaping inspection

Final inspection

Environmental Services Division Report No. 35 (Cont'd)

The cost of these inspections by Council is \$2300. (being \$230 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 1414.

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 \$110.

DA271

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

DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, is required for the development. The amount being in accordance with Councils Section 94 Policy applicable at the time of payment **prior to the issue of the Construction Certificate / the release of subdivision plans for registration / or at the time prior to release of Development Consent where no works are involved.**

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.

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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.

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.

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***** End of Environmental Services Division Report No. 35 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 36
SUBJECT: 11 The Corso, Manly - DA47/06
FILE NO: DA47/06

PREVIOUS ITEMS: ESD78/06 - 11 The Corso, Manly - Ordinary Meeting - 18 December 2006

Application Lodged: 24 January 2006 (Original) 6 October 2006 (Amended) & 26 March 2007 (Amended)
Applicant: Estia Pty Ltd
Owner: Estia Pty Ltd & N Coombes
Estimated Cost: \$550,00.00
Zoning: Manly Local Environmental Plan, 1988 - Business & Within the Foreshore Scenic Protection Area
Surrounding Development: Shops and commercial premises
Heritage: Within the Town Centre Conservation Area

SUMMARY:

1. ORIGINAL DEVELOPMENT CONSENT WAS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING INCLUDING RENOVATION TO EXISTING SHOPFRONT, CONVERSION OF EXISTING FIRST FLOOR OFFICE TO RESIDENTIAL UNIT, CONSTRUCTION OF TWO (2) NEW UNITS AND NEW SHOP FACING MARKET LANE.
2. THIS APPLICATION WAS REPORTED TO COUNCIL ON 3 JULY 2006, WHERE IT WAS RESOLVED TO DEFER THE CONSIDERATION OF THE APPLICATION.
3. THE APPLICATION WAS AGAIN REPORTED AND DISCUSSED AT THE LAND USE MANAGEMENT COMMITTEE MEETING OF 7 AUGUST 2006. COUNCIL RESOLVED TO DEFER THE APPLICATION FOR THE APPLICANT TO REDESIGN THE BUILDING WITH THE AIM OF REPLACING THE PROPOSED RESIDENTIAL SPACE WITH COMMERCIAL SPACE AND OTHER DESIGN ISSUES.
4. THE APPLICANT SUBMITTED AMENDED PLANS ON 6 OCTOBER 2006 WHICH SOUGHT APPROVAL FOR ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING INCLUDING RENOVATION TO EXISTING SHOPFRONTS, RENOVATION TO THE EXISTING FIRST FLOOR OFFICE, CONSTRUCTION OF A NEW OFFICE ABOVE THE EXISTING SHOP FACING MARKET LANE AND TWO (2) NEW UNITS ABOVE THE NEW OFFICE SPACE.
5. THE APPLICANT WAS REMINDED OF COUNCIL'S RESOLUTION OF 7 AUGUST 2006 REGARDING REPLACEMENT OF RESIDENTIAL SPACE WITH COMMERCIAL SPACE ON 6 DECEMBER 2006 AND A WRITTEN RESPONSE WAS RECEIVED ON 7 DECEMBER 2006.
6. COUNCIL AT ITS ORDINARY MEETING OF 18 DECEMBER 2006 RESOLVED TO DEFER THE APPLICATION FOR THE APPLICANT TO SUBMIT A SEPP 1 OBJECTION UNDER THE E P & A ACT, FOR COUNCIL'S CONSIDERATION AND ADDRESS ISSUES UNDER RELEVANT CODES AND THE DISABILITY AND DISCRIMINATION ACT 1992.
7. THE APPLICANT HAS NOW SUBMITTED AMENDED PLANS ON 26 MARCH 2007 IN RESPONSE TO COUNCIL'S RESOLUTION.
8. THE APPLICATION IS STILL RECOMMENDED FOR REFUSAL

Environmental Services Division Report No. 36 (Cont'd)

LOCALITY PLAN

Shaded area is subject site.

**REPORT****Introduction**

Development Consent is sought for the alterations and additions to the existing building at No.11, The Corso. The proposal is to demolish majority of the internal walls, except for the stair access to the upper level from The Corso and a dividing wall of the current vitamin shop at the ground floor level and the stair enclosure and a small office at the first floor level. The amended proposal (dated 26 March 2007) consists of the following:-

- Two (2) retail outlets on the Ground Floor level - one facing The Corso and the other facing the Market Lane. Each shop is provided with toilets and tea preparation area. The shop facing The Corso is provided with internal access to the Market Lane. A garbage area (one for commercial and one for residential) is provided beyond the proposed stairs from the Market Lane to the first floor level. A bike storage area is proposed under the new stairs. Two (2) sets of stairs are proposed to the upper levels - one (1) from the front (existing) and the other from the Market Lane end.
- The first floor level is to consist of the existing office (RL 9.310) facing The Corso and extensions to this office to the rear. A new two (2) bedroom unit (RL 9.310) is proposed facing Market Lane with access from the Market Lane. This unit is provided with a light well towards the centre of the building and a terrace facing Market Lane.
- The second floor level is to consist of a two (2) bedroom unit (RL 12.410) with access from the rear staircase off Market Lane. This unit is provided with a 2.5 x 3.0 m deck towards the centre of the building and an open terrace facing Market Lane.
- The proposal is to retain the existing roof for the front section of the building and provide the Air-conditioning plant equipments in the central section and provide a new low pitched metal deck roof with a flat section in the middle.

Background

Council at its Land Use Management Committee meeting of the 7 August 2006 resolved:

- “1. That Development Application no. 47/06 for alterations and additions to an existing building including three (3) new residential units on two (2) levels, at 11, The Corso, Manly be **deferred** to allow redesign of the building with the aim of replacing the proposed residential space with commercial space. The redesign should include consideration of the following:

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- a) The possibility of including a lift to comply with the Access Code and the Building Code of Australia;
 - b) The provision of an adequate garbage space; and
 - c) Refinement of the heritage façade regarding the shopfronts on The Corso.
2. That the Applicant prepare a report of feasibility of underground parking at 7-11 The Corso.
 3. That the Heritage Sub-Committee review and make comments on the redesign prior to Council reconsidering the Development Application.”

The applicant submitted amended plans on the 6 October 2006 in response to the deferral of the item by the Land Use Management Committee meeting of 7 August 2006. The applicant was advised (by e-mail) that the amended proposal did not address all the issues raised by Council resolution. The applicant responded on 7 December as follows:-

- “1. A major component of the proposed redevelopment relating to residential space has been replaced with commercial space. Based on the debate between the Councillors at the meeting of 7th August 2006 which included support for residential units it is considered that this aspect of the resolution has been addressed;
2. The Building Code of Australia and Council Development Control plan for access do not require a lift in a building of this nature. The resolution of 7th August 2006 referred to the possibility of including a lift. The original Council report in respect of this application did not refer to any requirement relating to a lift. I consider that this issue has been addressed.
3. Amended plans provided for additional garbage space. There has been no indication from Council's waste services to me (or to my architect) as to what size is required in order that this can be considered. In any event if the amended garbage area is considered too small perhaps a condition can be imposed on any approval relating to this development;
4. The size of the building and foundation material of the site preclude underground parking. This application is in respect of number 11 The Corso Manly and not 7-11. This issue was addressed in the written submission by my architect Robert Shea & Associates dated 25th September 2006. Please advise what further details you require.
5. Amended plans and redesign have addressed the issue relating to heritage facade regarding the shop fronts on The Corso. There were no comments either in Council's own report in respect of this application or at the meeting of 7th August 2006 in respect of the Market Lane facade. The resolution of 7th August 2006 did not refer to the Market Lane facade.

Under the circumstances we request that the amended plans be considered by the elected Councillors at a December meeting.”

The amended application was considered at the Ordinary Meeting of 18 December 2006 and Council resolved as follows:

“That Development Application (DA 47/06), 11 The Corso, Manly, for alterations and additions to an existing building including three (3) new residential units on two (2) levels, be deferred for the applicant to submit a SEPP 1 objection under Environmental Planning & Assessment Act, for Council's consideration and address access issues under relevant codes and the Disability and Discrimination Act 1992.”

The applicant has now submitted amended plans on 26 March 2007 in response to the Council resolution and the current assessment is based on the amended plans.

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 within the Planning Comments.

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Site Area: 217.0m ²	Permitted/Required	Proposed	Complies
Floor space ratio	2.5 : 1.0 (2:1 Residential max)	2.28: 1.0 (1.36:1 Residential)	Yes
Floor space ratio - existing	2.5:1	1.58 : 1 (No residential)	Yes
Building height	10.0 metres	9.84 – 12.04m (The Corso) 9.5m (Market Lane)	Yes (Existing) Yes
Setback Front	Nil	Nil	Yes
Setback Rear	Nil	Nil	Yes
Side setbacks	Nil	Nil	Yes
Car Parking – Residents	5 spaces (Retail) 2 spaces (Res)	0 spaces 0 spaces	No No

Applicant's Supporting Statement

In support of the amended application the applicant has submitted the following:

- A State Environmental Planning Policy (SEPP) No. 1 objection prepared by N Coombes. The SEPP No. 1 objection relates to the non-provision of car parking spaces in relation to the residential development.
- Letter from Robert J Shea & Associates, Architects detailing the amendments.

Submissions

The amended plans (dated 26 March 2007) were re-notified and no submissions were received.

Precinct Community Forum Comments

The amended plans were referred to The Corso Precinct Community Forum for comments. Council has not received any comments till the time of preparing this report.

Building Comments

No objections to the proposed amendments. Previous conditions stated for the original plans still apply.

Heritage Comments

If approval is recommended the following conditions are required:

1. An archival quality photographic record is to be made of the affected buildings (exterior and interior) in accordance with the relevant guidelines of the NSW Heritage Office and submitted to Council **prior to issue of the construction certificate**. The archive material is to include a copy of the development application plans which includes the existing floor plan and elevations (A4 size) and a copy of the Heritage Impact Statement. The photographs are to be in black and white and colour and referenced to the plans of the existing. The photographic record and the black and white negatives are to be submitted in an A4 format in an appropriate folder and when received will be lodged with the Manly Local Studies Library.
2. During the demolition process an experienced conservator/heritage advisor is to have a 'watching brief' and be provided with full access to the site. The conservator/heritage advisor is to be authorised by the applicant to respond directly to Council if during demolition works additional original fabric is found. This evidence is to be professionally recorded and assessed and submitted to Council.

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3. The applicant is to commission experienced tradesperson (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works
4. The proposed works are to be carried out in a manner that minimizes demolition, alterations, new penetrations/fixing or irreversible damage to the significant fabric of the existing building which is listed as a Heritage Item. Particular care shall be taken to minimize damage to the significant fabric of the building during the carrying out of the internal fitout and any electrical or plumbing works
5. All proposed new material should be selected to ensure the heritage significance of the item is maintained. The design details and finishes of the proposed new works are to be respectful and sympathetic to the heritage significance of the item and the Conservation Area, **whilst being identified as new**
6. An external colour and finishes schedule shall be submitted to Council and approved **prior to issue of the Construction Certificate** and is to be appropriate to the age and architectural style of the item
7. A separate development application must be submitted for any proposed signs which are either externally fitted or applied for the approval of Council prior to the erection or display of any such signs

Heritage Sub-Committee Comments

The following are the comments from the Heritage Sub-Committee from the meeting of 1 November 2006:-

1. The Committee is concerned at the potential loss of heritage fabric within this important building;
2. The site has important historical associations with the Purves family who appear to have been the builders and first owners of this building and the adjacent listed Purves Bakery (Purves ownership 1903 – 1951);
3. The committee continues to oppose the enforced provision of parking under the existing Corso building;
4. Opportunity should be taken to reinstate traditional awnings, as recommended for Nos 15-19, The Corso (the Committee supports reinstatement of traditional awnings on this section of The Corso, Whistler Street to Ivanhoe Hotel); and
5. The proposed Market Lane façade will significantly detract from the proposed upgrading of the Market Lane Precinct.

Further comments from **Heritage Sub-committee** dated 4 April 2007 were received. The comments are as follows:

1. Taken together, these Development Applications Nos. (47/06, 89/07 & 90/07) represent very substantial proposed changes to the heritage character of The Corso.
2. A detailed presentation to the whole Heritage Committee is required
3. This Committee also recommends the appointment of an independent heritage consultant to consider these very significant Development Applications, and the conduct of extensive community consultation on their heritage and other implications (similar to the consultants for the Coles site).
4. Copies of the Statement of Heritage Impact for both Development Applications should be lodged with the Local Studies, Manly Library

Waste Services Comments:

No objection to the amended plans as separate garbage rooms (Commercial & Residential) are now in place in the amended plans.

Environmental Services Division Report No. 36 (Cont'd)**Planning Comments**

Council at its Land Use Management Committee meeting of the 7 August 2006 resolved:

- “1. That Development Application no. 47/06 for alterations and additions to an existing building including three (3) new residential units on two (2) levels, at 11, The Corso, Manly be **deferred** to allow redesign of the building with the aim of replacing the proposed residential space with commercial space. The redesign should include consideration of the following:
 - a) The possibility of including a lift to comply with the Access Code and the Building Code of Australia;
 - b) The provision of an adequate garbage space; and
 - c) Refinement of the heritage façade regarding the shopfronts on The Corso.
2. That the Applicant prepare a report of feasibility of underground parking at 7-11 The Corso.
3. That the Heritage Sub-Committee review and make comments on the redesign prior to Council reconsidering the Development Application.”

The applicant submitted amended plans on the 6 October 2006 in response to the deferral and Council considered this amended application at its Ordinary meeting of 18 December 2006. Council after deliberating on the matter resolved as follows:

“That Development Application (DA 47/06), 11 The Corso, Manly, for alterations and additions to an existing building including three (3) new residential units on two (2) levels, be **deferred** for the applicant to submit a SEPP 1 objection under Environmental Planning & Assessment Act, for Council's consideration and address access issues under relevant codes and the Disability and Discrimination Act 1992.”

The applicant has now submitted amended plans on 26 March 2007 in response to the Council resolution and the current assessment is based on the amended plans.

The Site

The subject property is located on the north-western side of The Corso and the nearest cross-street being Whistler Street. The site has a dual street frontage with the rear fronting on to Market Lane. The site is legally described as Lot 1, DP 216273.

The site is regular in shape and has a site frontage of 7.24metres to The Corso and a depth of 31.47 metres, resulting in total site area of 217.00 square metres. The site is relatively flat with a gentle slope towards the rear. The site is currently occupied by a part single storey and part two storey building. The ground floor level of the existing building is currently occupied by a health food shop facing The Corso and a Laundromat facing the Market Lane. The part upper floor is occupied by an office.

The Amended Proposal

The amended proposal dated 23 March 2007 includes the following:

- Two (2) retail outlets revamped on the Ground Floor level - one facing The Corso and the other facing the Market Lane. Each shop is provided with toilets and tea preparation area. The shop facing The Corso is provided with internal access to the Market Lane. A garbage area (one for commercial and one for residential) is provided beyond the proposed stairs from the Market Lane to the first floor level. A bike storage area is proposed under the new

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- stairs. Two (2) sets of stairs are proposed to the upper levels - one (1) from the front (existing) and the other from the Market Lane end.
- The first floor level is to consist of the existing office (RL 9.310) facing The Corso and extensions to this office to the rear. A new two (2) bedroom unit (RL 9.310) is proposed facing Market Lane with access from the Market Lane. This unit is provided with a light well towards the centre of the building and a terrace facing Market Lane.
 - The second floor level is to consist of a two (2) bedroom unit (RL 12.410) with access from the rear staircase off Market Lane. This unit is provided with a 2.5 x 3.0 m deck towards the centre of the building and an open terrace facing Market Lane.
 - The proposal is to retain the existing roof for the front section of the building and provide the Air-conditioning plant equipments in the central section and provide a new low pitched metal deck roof with a flat section in the middle.

Surrounding Developments

The subject site is located on the north-western side of The Corso. The buildings in The Corso within the vicinity of the site are a mix of two to three storey buildings containing retail shops on the ground floor level and commercial uses /restaurant above. The property at the corner of The Corso and Whistler Street (No. 1 The Corso) is three storey brick building and has residential units above the business uses on the ground floor. The property immediately to the north-east of the subject property (No. 13, The Corso) is a two storey building with a retail business above. The property to the south-west is developed is a two storey building with shops and an arcade at the ground floor level and a restaurant at the first floor level. None of the adjoining properties have any form of parking on site.

Zoning

The subject property is located within Zone No.3 - Business under Manly Local Environmental Plan 1988. The proposed use is permissible, with Council consent.

The provisions of the Manly Development Control Plan (DCP) for the Business Zone 1989, Amendment 4, Development Control Plan for The Corso and Development Control Plan for Waste Minimisation and Management 2000 applies to this development.

The subject property is within The Town Centre Conservation Area and also within the Foreshore Scenic Protection Area under the Manly Local Environmental Plan 1988.

The subject site is within the 10m maximum building height area and the maximum permissible floor space ratio is 2.5:1, with the floor space ratio of the residential use not to exceed 2:1.

Floor Space Ratio

The maximum permissible floor space ratio for the subject site is 2.5:1. The calculated floor space ratio (FSR), as calculated from the submitted drawings, is 2.28:1.0. The floor space ratio of the residential component is 1.36:1. The existing Floor Space Ratio of the existing building is 1.58:1. The proposed development complies with the floor space ratio provision of the Development Control Plan.

Building Height

The maximum height specified in the Maximum Building Height map of the Development Control Plan is 10 metres. The proposal generally complies with this requirement of the Development Control Plan. The proposal provides for a wall height of 9.50 metres to the Market Lane frontage. No change is proposed to the wall height of 9.84 metres to The Corso frontage, which also has an existing peak on that frontage of 12.04 metres.

Environmental Services Division Report No. 36 (Cont'd)Setbacks

Clause 1.3 - Setbacks of the Development Control Plan for the Business Zone 1989 Amendment 4 states as follows:-

"All buildings shall be constructed to the public road and side boundaries of the allotment except where:

1. An alternative setback is identified on the townscape and opportunities maps; or,
2. The applicant can demonstrate to the satisfaction of the Council that an alternative setback will not conflict with overall townscape objectives, reduce the general availability of retail frontage or remove weather protection for pedestrians;
3. The stipulated setback would be undesirable in terms of the amenity of any residential uses existing on adjoining land or proposed for inclusion in the development (in which cases the principles of the Council's Development Control Plan for the Residential Zone will apply)."

The proposed development extends right up to the road frontages and the side boundaries in accordance with the Development Control Plan. However, it is to be noted that the second floor level contain residential uses and that the adjacent proposal (DA 48/06) contained residential accommodation on the upper levels. Site inspection has revealed that the adjacent property (No. 7- 9, The Corso) currently has an office type use on the upper level. This application (DA 48/06) was refused by Council on 1 June 2006.

Carparking

Clause 1.5 of the Development Control Plan for the Business Zone, 1989, Amendment 4 states that carparking is to be provided at the rate of 1 space per two bedroom dwelling and for the retail section carparking required to be provided is one (1) space per 40m² of gross floor area. The total number of carparking required for the proposed development is 7 spaces, being 5 for the retail/office use and two (2) spaces for the residential component. However, the Development Control Plan further notes that in respect of parking for all uses other than dwelling, tourist accommodation and backpacker accommodation, a maximum of 50% only of car parking spaces required is permitted to be provided on-site, with the remainder being provided by way of contribution in accordance the Council's Section 94 Contributions Plan.

In relation to carparking, the site currently has no carparking provided. The proposal is to reformat the existing retail floor space on the ground level. In accordance with the Development Control Plan, it is noted that only 50% of the carparking spaces required are permitted to be provided on site. As well as this the Development Control Plan makes reference to whether provision of carparking would interfere with the retail frontage of the development. In this respect the property does have two street frontages, one to The Corso and the other to Market Lane, so that provision of carparking on site would not detract retail frontage. In such circumstances Council can consider the merits of not requiring carparking associated for the re-formatted retail floor space. The other aspect of this development in relation to carparking is the provision for the two (2) x two bedroom units on the site, which in accordance with the Model Provisions of the Environmental Planning & Assessment Regulation and as adopted by Manly Local Environmental Plan, require one space per unit. The development does not provide any carparking on site and there is no dispensation given in the Development Control Plan/Local Environmental Plan for carparking in relation to unit developments.

The applicant has submitted a detailed report (with the original application) from a Traffic Consultant outlining the merits of the site and suggesting that it is appropriate to not require any carparking for this development, given the low carparking rates in the Central Business District. The public transport is provided and which aims at low car ownership of apartments in Manly. It is considered that this argument is contrary to the basic philosophy contained in the Development

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Control Plan which requires that residential uses are not to be provided if carparking is unable to be provided on site. It should be noted that although the proposal complies with the required floor space ratio of the Development Control Plan, the development is more visible from the Market Lane and creates a bulk to the development. There is no reason why limited additional commercial floor space, could not be provided at the new levels, thereby providing for the normal office functions of the Town Centre and at the same time avoiding the conflict with the development control plan in relation to provision of residential carparking. It is considered that the arguments put forward by the applicant to overcome the principle contained in the development control plan which was developed with the knowledge of the accessibility and transport options in the town centre, are not valid and therefore not supported.

In relation to the model provisions it is noted that the applicant has submitted an objection under SEPP 1 relating to the lack of carparking. The justification provided includes: (i) existing building provides no carparking (similar to other buildings in The Corso), (ii) site has excellent access to public transport – bus, taxi and ferry, being 100m of each mode (key argument), (iii) promotes government initiatives in relation to urban consolidation and promotes public transport, (iv) does not result in any adverse traffic and parking impact and (v) consistent with the objectives for the Business Zone.

The variation to the standards cannot be supported. As stated in the original report to Council, it is very rare for the residents of a two bedroom accommodation not to have ownership of a car unless the units are used as short term accommodation. Short term accommodation if not managed in a proper manner leads to potential social problems in the Central Business District. The proposal is not consistent with the objectives of the Business Development Control Plan where Residential Flat Buildings are permitted only if the applicant can comply with the provisions of the Development Control Plan which includes carparking on site. It is true that the existing building does not have carparking on site but the existing uses are of two shops and an office all business use and not residential as proposed.

Development Control Plan for The Corso

The site is subject to the Development Control Plan for The Corso, adopted by Council on 19 December 2005. This document states that The Corso is an important Manly public space and its listing as an item of heritage significance is for the whole Street, the public roadway and each property with frontage thereto. Some individual buildings in the street are also listed separately in The Corso and the subject property is located within the Town Centre Conservation Area. These listings place responsibility on Council and individual building owners and applicants to maintain the significance of The Corso Conservation Area. Clauses 18, 19 and 21 of the Manly Local Environmental Plan 1988 must be considered in relation to any development of this site. This application was considered by Council's heritage consultant, as well as Heritage committee and these comments are noted above.

In relation to the specific provisions in this development control plan it is noted that existing street facades including all original detailing are particularly important and are to be maintained. In this regard it is to be noted that the Council's Heritage Adviser is satisfied with the changes proposed to The Corso frontage.

The Development Control Plan for The Corso talks about the impact of development on rear laneways and this regard this site backs onto Market Lane. The applicant relates the proposed development to the three-storey building on the corner of Whistler Street and The Corso. However, they fail to recognise that currently the single storey section of this building and the adjoining buildings, all form a harmonious streetscape to the rear of the site facing Market Lane. The increased bulk from the existing to a three-storey building on this rear lane will be exaggerated in comparison to the adjacent developments.

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The proposed development does not fall within the ambit of State Environmental Planning Policy (SEPP) No. 65 - Design Quality of Residential Flat Development being three (3) storeys in height and having two (2) units, two (2) shops and one (1) office space.

One of the main objectives of the Business Zone under the Manly Local Environmental Plan 1988 is to provide for and encourage the development and expansion of business activities which will contribute to the economic growth and employment opportunities within the Manly Council area. In this regard the applicant fails to achieve the objective as it proposes to add two (2) residential units. It would be more appropriate to add commercial spaces in a location such as the subject site. Council has currently re-vamped The Corso to make it attractive for businesses and customers and in view of the works undertaken and the money being spent on the project, the proposal to provide residential units goes against the Council's long-term view of The Corso. Although Council's Local Environmental Plan 1988 permits residential flat buildings within the Business Zone, it is to be noted that this is not the correct location for a residential flat building. Further, as per the Development Control Plan for the Business Zone and the Environmental Planning and Assessment Model Provisions, 1980, as adopted by Manly Local Environmental Plan one (1) carparking space is required per unit. The proposal provides for no parking on the site. As discussed above, there is no dispensation given in the Development Control Plan/Local Environmental Plan for carparking in relation to unit development.

The application has identified separate residential and retail garbage areas on the ground floor level. Council Waste Services have indicated that the area provided is acceptable. The application has, however, not indicated any loading/unloading facilities for the re-vamped retail premises. On a positive note, the amended plans (26 March 2007) have revived the ramp for people with disabilities for the shop premises facing The Corso.

Another point to note is that residential units close to night clubs and hotels are always a contentious issue. Council regularly receives complaints from residents residing in the Central Business District regarding noise and anti-social behaviour from the late night venues. The proposal to bring in residential developments close to late venues is therefore not considered to be a positive development.

Manly Local Environmental Plan 1988:

The site is in zone No 3 – Business Zone which permits commercial activities (offices), shops (retail) and residential flat buildings (2 or more dwellings), with the consent of Council.

The proposal provides for two (2) shops on the ground floor level, one (1) new two bedroom dwelling, retain the existing office on the first floor level facing The Corso and one (1) two bedroom unit on the second floor level and is therefore permissible with Council consent.

In this regard, it is to be noted that Clause 3 (1) (b) – Aims and Objectives of the Manly Local Environmental Plan (LEP), 1988 states that one of the main aims & objectives of the LEP is:-

“to give the Council greater responsibility for environmental planning by creating only broad controls in this plan and leaving more detailed local environmental planning provisions in the development control plans provided by Council”.

The Development Control Plan for the Business Zone 1989 Amendment 5 details all the requirements for the subject site. The Development Control Plan for The Corso adopted by Council on 19 December 2005 also applies to the site.

Manly Local Environmental Plan 1988 Clause 10 Objectives

The proposal's compliance with the Clause 10 objectives - Business Zone of the Manly Local Environmental Plan, 1988 are stated as follows:-

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- (a) *to provide for and encourage the development and expansion of business activities which will contribute to the economic growth and employment opportunities within the Manly Council area;*

The proposed development will retain the existing retail businesses on the ground floor level, retain the existing office on the first floor level facing The Corso, construct a new first floor above the shop facing the Market lane and use it for a two (2) bedroom unit and erect a new second floor over the new two bedroom residential unit to provide for another two (2) bedroom residential units on the second level facing the rear (Market Lane). The proposal does not fully encourage expansion or provide for business, except at one level, within the Business Zone. The two new levels added, facing the Market Lane, are entirely devoted to residential use – this is not considered to be satisfactory.

- (b) *to accommodate retail, commercial and professional services in established locations in the residential neighbourhoods where such development is compatible with the amenity of the surrounding areas;*

The subject site is located on land that is zoned Business and therefore not applicable to this application.

- (c) *to ensure there is adequate provision for car parking in future development in the business areas; and*

The application does not make any provision for parking within the subject building and relies on the availability of parking on Council carparks in the vicinity.

- (d) *to minimize conflicts between pedestrians and vehicular movement systems within the business areas.*

The proposal is to retain two shops on the ground floor level and therefore would not lead to any conflict between pedestrians and vehicular movement systems.

Environmental Planning and Assessment Act (EP&AA),1979 – Section 79(C) Heads of Consideration:

The proposal has been considered under the relevant Heads of Consideration of the Environmental Planning and Assessment Act 1979 and these are addressed as follows:-

- (a) *the provisions of:*
 (i) *any environmental planning instrument*
 (ii) *any draft environmental planning instrument*
 (iii) *any development control plan*
 (iv) *the regulations*

The proposal has been assessed under the provisions of Section 79C of the Environmental Planning & Assessment Act 1979, Manly Local Environmental Plan 1988, Council's Development Control Plan for the Business Zone, 1989, Amendment 5 and the Development Control Plan for The Corso. In this instance it is considered that the application is not satisfactory and therefore recommended for refusal.

- b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposed development will have an adverse impact on the Business Zone as it will include residential within the Business Zone, by introducing residential units. It would be more beneficial if commercial spaces were included in place of residential. Further, the bulk of the proposal to the Market Lane frontage is considered to be detrimental to the streetscape.

- (c) *the suitability of the site for the development,*

It is considered that the proposal is not satisfactory in that it does not provide the necessary carparking spaces as required and creates an undesirable bulk to the Market Lane.

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(d) *any submissions made in accordance with this Act or the regulations,*

In response to the notification of the amended plans dated 26 March 2007, Council received no submissions. One (1) submission was received to the previous amendment and the concerns raised were addressed within the planning comments in the report to Council dated 18 December 2006.

(e) *the public interest.*

The proposal is not in the public interest as it does not increase the available commercial area in the Central Business District and introduce more residential without the provision of carparking spaces.

Clause 17 - Visual and aesthetic protection of certain land

Clause 17 of the Manly Local Environmental Plan 1988 states that 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. In this regard it is considered that the subject development will not directly have an impact on the amenity of the foreshore scenic protection area but will not enhance Market Lane streetscape.

Previous Resolutions of Council

With regards to the previous resolution of Council dated 7 August 2006 relating to the subject application, the following was noted:-

1. The applicant proposes two (2) shops on the ground floor level; two office spaces on the first floor level, of which the one facing The Corso is existing; and two (2) residential units on the second floor level. This is in contravention of Council resolution which required the replacement of the residential spaces with commercial spaces. The applicant has achieved only half of what was requested by Council.
2. The Council requested the possibility of including a lift to comply with the Council's Development Control Plan for Access & the Building Code of Australia. Clause 1.6 states that access in accordance with AS1428.2 shall be required to the main entrance and to the relevant floors of all residential buildings if it is proposed to use part of the building for an office, shop or other commercial use which would be open to the public. Clause 1.7 states that access in accordance with AS 1428.2 shall be required to a principal entrance and to public areas in existing buildings or developments if it is proposed to carry out a substantial intensification of use or if it is proposed to carry out substantial alterations. In no case alterations should result in a decrease in access. Further the applicant should be aware of the provision of access to new or modified developments is required and can be regarded as discriminatory taking into consideration the Disability Discrimination Act, 1992.

The amended proposal indicates changes to the existing shop front to The Corso. Currently the shop is provided with a ramp for access, the amended proposal provides for two (2) steps thereby taking away the accessibility to the current shop. This is totally unsatisfactory from an access point of view.

3. Council requested adequate garbage space to the development – the amended plans provided falls short of the required garbage. Comment from Council's Waste Services notes that the garbage area provided is too small.
4. The applicant has tried to address the issue of the feasibility of underground parking. The applicant states that the size of the building and foundation materials of the site preclude underground parking. This is the main reason why residential units are not feasible on the site. The applicant can provide for commercial units and pay the Section 94 contributions for

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the non-provision of carparking on site. There is no provision for Section 94 contribution for residential developments. In this regard, Council's Manager for Customer Service and Special Projects comments in the original application is to be noted which states as follows:-

"The DA proposal does not incorporate any on site parking and the applicant is seeking Council consideration for a "reduction in Council's normal car parking requirements, particularly for the residential component". This is a matter for planning assessment, however the applicant is suggesting that Council could perhaps include a condition of consent currently being imposed by other Sydney Councils whereby the individual units in the development would be sold with the owners acknowledging that they would not be entitled to participate in Council's Permit Parking Schemes is not Manly Council policy.

The imposition of such a development consent condition, withdrawing eligibility to participate in the Council's permit parking schemes, is not in line with the current assessment criteria used to determine whether a property is eligible for a parking permit nor with the philosophy behind the permit schemes. Council does not currently restrict the access to permits based on the amount of parking provided on site and any change to the parking permit criteria needs to be made by Council resolution or policy and not on a site by site basis by Development Application approval."

5. Heritage Sub-Committee has made comments on the amended development. The committee has raised concerns at the potential loss of heritage fabric within this important building. Further, the committee has raised concern regarding the proposed Market Lane façade that will significantly detract from the proposed upgrading of the Market Lane Precinct.

With regards to the resolution of Council dated 18 December 2006 relating to the subject application, the following is to be noted:

1. The applicant has submitted a SEPP No.1 objection justifying the application in relation to carparking on site. As discussed earlier in the report this request for variation to carparking requirement is unsatisfactory and is not acceptable.
2. The applicant has tried to address the access issues by deleting the new office spaces and replacing with a residential unit. However, the applicant fails to address the issue of access and adaptable housing required for residential flat buildings.

In view of the above, it is considered that the application cannot be recommended for approval as the applicant has not addressed the issues raised by Council (resolution) at its meeting of 7 August 2006 and 18 December 2007 and non-compliance with the parking requirements of the Development Control Plan.

However, it can be concluded that the best way forward for the re-development of the site would be to delete the second floor level containing the residential unit and convert the new first floor level facing the Market Lane into commercial office. The development would then be compatible with the adjoining properties and streetscape and in compliance with the Urban Design Guidelines 2002 for the Town Centre. This would also address the concerns of the Heritage Sub –committee relating to the streetscape and carparking on site.

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 Business 1989, Amendment 4, Development Control Plan for The Corso, 2005 and the Building Code of Australia. It is considered that the proposal is unsatisfactory in that it introduces

Environmental Services Division Report No. 36 (Cont'd)

residential component in the Manly Central Business District and does not provide for the required carparking for the proposed residential units. The proposal is therefore recommended for refusal.

RECOMMENDATION

That Development Application no. 47/06 for alterations and additions to an existing building including three (3) new residential units on two (2) levels, at 11, The Corso, Manly be refused for the following reasons:-

1. The proposal is an overdevelopment of a small site. The proposal provides for two (2), shops, one (1) office and two (2) units on a site having a total area of 217sq.m, without any provision for parking on the site. This is contrary to the objectives of the Business Zone under the Manly Local Environmental Plan 1988, having regard to Section 79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposal does not provide any carparking on site associated with the retail, office or the residential uses proposed on site as required by the Manly Development Control Plan for the Business Zone 1989 Amendment 5, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
3. The applicant has submitted as an objection under SEPP 1, in relation to the lack of carparking provided on site associated with the proposed units and this is not considered to be acceptable, having regard to the Manly Local Environmental Plan LEP 1988 and Section 79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979.
4. The proposed development has not provided access to the revamped commercial and residential uses as required by Council's Development Control Plan for Access and Australian Standard (AS) 1428.2 and AS 4299 - Adaptable Housing, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposal has not had any regard to the Manly Town Centre Urban Design Guidelines 2002. The proposal is contrary to the area guidelines which requires new buildings and additions to relate to the scale, form and expression of the existing smaller buildings, having regard to Section 79C(1) (a) (iii) and (c) of the Environmental Planning and Assessment Act 1979.
6. The proposal for residential development close to late night venues will lead to a conflict in terms of noise and activity, having regard to Section 79C(1) (c) of the Environmental Planning and Assessment Act 1979.
7. The proposal is not in the public interest having regard to Section 79C(1) (e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 36 *****

TO: Land Use Management Committee - 4 June 2007
REPORT: Environmental Services Division Report No. 37
SUBJECT: Development Applications Currently Being Processed During June 2007
FILE NO:

SUMMARY

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING MAY 2007.

REPORT

Applications currently with Council's Development Assessment team for consideration of determination.

DA#	Date Rec by Council	Site Address	Proposal	DAU DEL	Target Date
469/05	11-Nov-05	45 Gurney Crescent	82A Review	DAU	07-Jun-07
297/06	10-Jul-06	25 Fairlight Crescent	3 Storey RFB Converted to Single Dwelling	Awaiting Information	
412/06	10-Aug-06	Skiff Club - East Esp	Alterations and Additions and Extention to Disabled Ramp	Awaiting Information	
404/06	27-Sep-06	Manly Council - Library	Alterations and 3rd Floor Additions	Awaiting Information	
462/06	13-Oct-06	151 Darley Road	Construction of a New Public Access Walkway at St Pats	Awaiting Information	
466/06	16-Oct-06	42 Beatty Street	Alterations and Additions	Awaiting Information	
477/06	31-Oct-06	87 Clontarf Street	Amended Plans	DAU	21-Jun-07
499/06	06-Nov-06	12 Smith Street	Alterations and Additions, Pergola & Parking	DAU	19-Jun-07
521/06	28-Nov-06	16 Upper Gilbert St	Demolition and Construction of To Dwellings and Land Subdivision	DAU	21-Jun-07
540/06	13-Dec-06	46 The Corso	Replace pews, minor internal alts new doorway new paving glass steel canopy structure	DAU	07-Jun-07
541/06	13-Dec-06	43A Ethel Street	Demolition and Contruction 2 Dwelling Houses & Subdivision	DAU	12-Jun-07
546/06	14-Dec-06	1 & 3 - 94 Bower Street	Alterations and Additions to RFB	DAU	05-Jun-07
542/06	14-Dec-06	45 Ethel Street	Strata Subdivision	Awaiting Information	
552/06	18-Dec-06	21 Malvern Avenue	Alterations and Additions	DAU	07-Jun-07
558/06	21-Dec-06	29 Victoria Parade	Demolition and New RFB	Awaiting Information	
560/06	21-Dec-06	1/129 Bower Street	Internal Alterations	Awaiting Information	
561/06	21-Dec-06	24 Willyama Avenue	Demolition and New Dwelling & Pool	DAU	14-Jun-07
567/06	22-Dec-06	3 Brighton Street	Demolition and Construct 4 townhouses	DAU	19-Jun-07

Environmental Services Division Report No. 37 (Cont'd)

563/06	22-Dec-06	210-214 Pittwater	Alterations and Additions	DAU	26-Jun-07
566/06	22-Dec-06	62 Curban Street	Alterations and Additions	DAU	05-Jun-07
4/07	11-Jan-07	5 Scales Parade	Alterations and Additions	DAU	14-Jun-07
1/07	14-Jan-07	12 Baltic Street	Alterations and 1st Floor Additions	DAU	12-Jun-07
16/07	19-Jan-07	61 New Street	Alterations and Additions	DAU	14-Jun-07
17/07	19-Jan-07	7 Abernethy Street	Extension of Existing Deck	DAU	21-Jun-07
18/07	22-Jan-07	11 Scales Parade	Alterations and Additions	DAU	14-Jun-07
27/07	31-Jan-07	120 Bower Street	Demolition and New RFB	DAU	03-Jul-07
33/07	03-Feb-07	59 New Street	Demolition and New Dwelling	DAU	28-Jun-07
30/07	05-Feb-07	34 Addison Road	Shutters on Existing Balcony	DAU	07-Jun-07
35/07	07-Feb-07	31 Grandview Grove	Alterations and Additions	DAU	26-Jun-07
37/07	08-Feb-07	29 Jamieson Avenue	Demolition & New Garage & Front Fence	DAU	05-Jun-07
40/07	12-Feb-07	16 Amiens Road	Alterations and Additions	DAU	26-Jun-07
38/07	12-Feb-07	92 Beatrice Street	New Dwelling	DAU	12-Jun-07
41/07	12-Feb-07	33 White Street	Alterations and Additions	DAU	28-Jun-07
348/05	16-Feb-07	28 Cliff Street	Section 96 Modification	DAU	12-Jun-07
51/07	22-Feb-07	4 Craig Avenue	Alterations and Additions to RFB	DAU	06-Jun-07
52/07	22-Feb-07	38 Birkley Road	Alterations and Additions & Pool	DAU	14-Jun-07
46/07	23-Feb-07	8 Valley Road	Alterations and Additions	DAU	21-Jun-07
53/07	23-Feb-07	14 Hill Street	New Onsite Vehicular Hardstand	DAU	19-Jun-07
55/07	26-Feb-07	2 Bundoon Lane	Demolition and Two New Dwellings & Land Subdivision	DAU	12/07/2007
231/06	26-Feb-07	31 The Corso	Amended Plans	DAU	28-Jun-07
57/07	28-Feb-07	32 Woodland Street	Alterations and Additions & Pergola	DAU	02-Aug-07
56/07	28-Feb-07	96 Griffiths Street	Land Subdivision to Create 2 New Lots		05-Jul-07
15/98	28-Feb-07	Skiff Club - East Esplanade	Section 96 Modification	DAU	26-Jun-07
69/07	02-Mar-07	53-55 The Corso	New Under Awning Signage	DAU	07-Jun-07
66/07	02-Mar-07	11-27 Wentworth Street	Store Room in Existing Parking Area	DAU	02-Aug-07
514/03	02-Mar-07	45 Seaview Street	Section 96 Modification	DAU	07-Jun-07
71/07	05-Mar-07	5 Fromelles Avenue	Demolition & New Dwelling	DAU	14-Jun-07
70/07	06-Mar-07	11 Eurobin Avenue	Convert Duplex to Single Dwelling	DAU	14-Jun-07
68/07	06-Mar-07	6 Phillip Avenue	New Rear Deck and Stairway	DAU	07-Jun-07
72/07	07-Mar-07	75 Upper Beach Street	Alterations and Additions	DAU	07-Jun-07
64/07	12-Mar-07	40 Gurney Crescent	New Dwelling and Pool	DAU	17-Jul-07
261/06	12-Mar-07	4 Kangaroo Street	Section 96 Modification	DAU	28-Jun-07
80/07	14-Mar-07	412 Sydney Road	Alterations and Additions	DAU	05-Jun-07
79/07	15-Mar-07	18 Boronia Lane	New Dwelling & Pool	DAU	26-Jun-07
553/05	15-Mar-07	10 Kempbridge Avenue	Section 96 Modification	DAU	21-Jun-07

Environmental Services Division Report No. 37 (Cont'd)

75/07	15-Mar-07	44 Pacific Parade	Alterations and Additions	DAU	21-Jun-07
84/07	16-Mar-07	96 Seaforth Crescent	Demolition and New Dwelling & Pool	DAU	07-Jun-07
81/07	16-Mar-07	17 Redman Street	Alterations and Additions	DAU	28-Jun-07
82/07	16-Mar-07	51 Golf Parade	Alterations and Additions	DAU	05-Jul-07
90/07	16-Mar-07	19-27 The Corso	Alterations and Additions to Extend into Adjoining Properties	DAU	03-Jul-07
85/07	19-Mar-07	41D Castle Circuit	New Dwelling and Pool	DAU	19-Jul-07
201/02	20-Mar-07	87 Bower Street	Section 96 Modification	DEL	26-Jun-07
106/05	22-Mar-07	387 Sydney Road	Section 96 Modification	DAU	19-Jun-07
91/07	22-Mar-07	35 New Street	Amended Plans	DAU	19-Jul-07
92/07	26-Mar-07	38-42 The Corso	Alterations and Additions to Retail Premises	Awaiting Information	
95/07	26-Mar-07	13 Castle Circuit	New Dwelling	DAU	14-Jun-07
94/07	26-Mar-07	120 Griffiths Street	Land Subdivision to Create 2 New Lots	DAU	26-Jul-07
359/06	28-Mar-07	1 North Harbour Street	Section 96 Modification	DAU	14-Jun-07
97/07	28-Mar-07	13 Kanangra Crescent	New Dwelling and Pool	DAU	28-Jun-07
100/07	29-Mar-07	95 Castle Circuit	New Balcony and Garage	DAU	12-Jun-07
103/07	30-Mar-07	12 Rosedale Avenue	Alterations and Additions	DAU	19-Jul-07
101/07	30-Mar-07	50 Upper Clifford Avenue	Alterations and Additions	DAU	05-Jun-07
104/07	02-Apr-07	69 Boyle Street	New Deck at Rear	DEL	01-Aug-07
236/06	03-Apr-07	159 Woodland Street	Section 96 Modification	DAU	14-Jun-07
110/07	04-Apr-07	14 Ellery Parade	Demolition, New Dwelling and Pool	DAU	26-Jun-07
111/07	04-Apr-07	39 Lauderdale Avenue	New Balconies at Rear of RFB	DAU	28-Jun-07
108/07	04-Apr-07	31 Cutler Road	Alterations and Additions	DAU	12-Jun-07
109/07	04-Apr-07	42 Radio Avenue	Alterations and Additions	DAU	19-Jun-07
114/07	05-Apr-07	15 Scales Parade	Alterations and Additions, New Garage with Storey Under	DAU	14-Jun-07
619/01	10-Apr-07	447-449 Sydney Road	Section 96 Modification	Awaiting Information	
392/06	11-Apr-07	4 Camera Street	Amended Plans	DAU	07-Jun-07
116/07	11-Apr-07	22 Jackson Street	Demolition, New Dwelling and Pool	DAU	02-Aug-07
117/07	12-Apr-07	48 Rosedale Avenue	Alterations and Additions	DAU	21-Jun-07
555/00	13-Apr-07	28 Castle Circuit	Section 96 Modification	DAU	24-Jul-07
118/06	13-Apr-07	17 Rosedale Avenue	Double Garage and Pool	DAU	05-Jun-07
119/07	13-Apr-07	29-33 Pittwater Road	Alterations to Internal and Carparking	DAU	26-Jun-07
120/07	16-Apr-07	447-449 Sydney Road	Unit 12, Convert to Commercial Space	Awaiting Information	
121/07	17-Apr-07	202 Sydney Road	Alterations and Additions to RFB	DAU	28-Jun-07
127/06	18-Apr-07	67 Seaforth Crescent	Amended Plans	Awaiting Information	
127/07	19-Apr-07	25 Eurobin Avenue	Carport, Cabana, Storeroom, Deck and Fence	DAU	26-Jun-07
129/07	23-Apr-07	14 Illuka Avenue	Demolish, and Construct New Dwelling and Pool	DAU	26-Jul-07

Environmental Services Division Report No. 37 (Cont'd)

131/07	24-Apr-07	42 Quinton Road	Alterations and Additions	DAU	26-Jul-07
89/07	24-Apr-07	15-23 The Corso	Retail, Commercial, Bottle shop & Hotel Accommodation	DAU	03-Jul-07
137/07	27-Apr-07	10 Fisher Street	Alterations and Additions and Pool	DAU	02-Aug-07
341/03	30-Apr-07	4 West Street	Section 96 Modification	DAU	28-Jun-07
144/07	02-May-07	26 Malvern Avenue	Vehicular Hardstand and Landscaping	DAU	14-Jun-07
96/06	10-May-07	3 Kamiri Street	Section 96 Modification	DAU	14-Jun-07
3/07	16-May-07	5 Carlton Street	Alterations and First Floor Addition	DAU	05-Jun-07
168/07	18-May-07	13 Victoria Parade	Change of Use and Fitout for Music Tuition and Office	DAU	07-Jun-07
89/03	24-Jul-07	10 High Street	Section 96 Modification	DAU	14-Jun-07

Applications that are currently with Council's Lodgment and Quality Assurance being notified, advertised or referred to external parties.

124/2000 29 Ponsonby Parade, SEAFORTH 2092
Dwelling

35/2004 8 The Corso, MANLY 2095
Section 96 to modify approved Demolition of existing buildings and construction of a Coles Supermarket, Retail Shops and Residential Apartments

231/2006 31 The Corso, MANLY 2095
AMENDED PLANS - Alteration to the Ivanhoe Hotel and Part of 29-35 The Corso for Extension of Hotel Use

78/2007 2 Bower Street, MANLY 2095
Alterations & Additions to Dwelling and new swimming pool

316/2005 37 Lauderdale Avenue, FAIRLIGHT 2094
Section 96 Modification

320/2005 24 Hogan Street, BALGOWLAH 2093
Section 96 Modification

123/2007 9 Adrian Place, BALGOWLAH HEIGHTS 2093
Construction of new Dwelling house and garage

124/2007 16 Bower Street, MANLY 2095
Alterations & Additions to the existing Dwelling including new deck and demolition of rear shed

128/2007 8 Coral Street, BALGOWLAH 2093
Construction of new Dwelling house

Environmental Services Division Report No. 37 (Cont'd)

130/2007 393-397 Sydney Road, BALGOWLAH 2093
Alterations and Additions to commercial building including one (1) additional residential unit

132/2007 33 West Street, BALGOWLAH 2093
Alterations & Additions to Dwelling house including an additional floor level and new swimming pool

135/2007 89 Gurney Crescent, SEAFORTH 2092
Construction of carport, new side access stair and enlarged north-facing window

136/2007 26 Austin Street, FAIRLIGHT 2094
Alterations and Additions to an existing dwelling house including new first floor level

139/2007 19 Crescent Street, FAIRLIGHT 2094
Alterations & Additions to semi detached dwelling including new first floor, rear deck and front fence

126/2004 26 Richmond Road, SEAFORTH 2092
Section 96 application to modify DA: 126/04 in respect of the removal of planter box and associated works

141/2007 35 Bungaloe Avenue, BALGOWLAH 2093
Demolition and Construction of new Dwelling house

140/2007 8 Ocean Road, MANLY 2095
Extend existing deck of unit 6 on the eastern side

142/2007 South Steyne, MANLY 2095
Occupation of existing premises for the purpose of a kiosk and associated signage

143/2007 21 Seaforth Crescent, SEAFORTH 2092
Alterations & Additions to an existing Dwelling house

149/2007 63 Golf Parade, MANLY 2095
Alterations & Additions to semi-detached Dwelling in respect of windows and doors

152/2007 20 Castle Circuit, SEAFORTH 2092
New Swimming Pool

356/1999 29 Alexander Street, MANLY 2095
Section 96 to modify approved single carport to a double carport

179/2006 32 Arthur Street, FAIRLIGHT 2094
Section 96 to modify approved demolition and construction of dwelling house

145/2007 62 Wanganella Street, BALGOWLAH 2093
Demolition and removal of swimming pool and landscaping

147/2007 33A Clontarf Street, SEAFORTH 2092
Alterations & Additions including a new 'conservatory' room

Environmental Services Division Report No. 37 (Cont'd)

- 148/2007 30 Wakehurst Parkway, SEAFORTH 2092
New dwelling house
- 150/2007 8 Stuart Street, MANLY 2095
Alterations & Additions to Dwelling including Heritage renovations
- 153/2007 45 Beatrice Street, BALGOWLAH HEIGHTS 2093
Occupation of approved basement garage area for habitable rooms (media room and studio)
- 154/2007 78 Condamine Street, BALGOWLAH 2093
New shed at rear
- 155/2007 1-7 Sydney Road, MANLY 2095
Alterations and Additions to existing take away food shop including new exhaust system, new indoor eating and revised operating hours
- 37/2004 51 Whistler Street, MANLY 2095
Section 96 to modify approved Ground floor office fitout, Use of the Ground Floor Level for Office Purposes and Restoration of the Facade
- 142/2004 17 Peacock Street, SEAFORTH 2092
Section 96 to modify approved Alterations & Additions including New First Floor and Carport
- 74/2006 8 Seaview Street, BALGOWLAH 2093
Section 96 to modify DA 74/06 by deleting conditions ANS01 & ANS02 in respect of deck and window amendments
- 156/2007 4 Clarence Street, BALGOWLAH 2093
Construction of new balcony
- 157/2007 6 Baltic Street, FAIRLIGHT 2094
New rear balcony and stairs
- 158/2007 57 The Corso, MANLY 2095
Alterations and additions to existing shop fitout and facade
- 159/2007 6 New Street, BALGOWLAH 2093
Demolition and construction of a new Dwelling house
- 160/2007 76 Pittwater Road, MANLY 2095
Alterations and Additions to an existing dwelling including a First Floor Addition
- 161/2007 22 Jenner Street, SEAFORTH 2092
New swimming pool and landscaping
- 241/2006 61 Beatrice Street, BALGOWLAH HEIGHTS 2093
Section 96 to modify approved DA241/06 in respect of the pool location
- 162/2007 74 Cutler Road, CLONTARF 2093
Alterations & Additions to Dwelling house
- 283/2006 27 Cutler Road, CLONTARF 2093
Section 96 to modify approved Construction of two (2) storey Dwelling with double garage and swimming pool

Environmental Services Division Report No. 37 (Cont'd)

- 440/2006 60 Beatrice Street, BALGOWLAH HEIGHTS 2093
Section 96 to modify approved Alterations & Additions to existing one and two storey Dwelling
- 499/2006 12 Smith Street, MANLY 2095
AMENDED PLANS - Alterations & Additions to rear of dwelling & new pergola/ parking enclosure
- 564/2006 39 Stuart Street, MANLY 2095
Unit 2 - Section 96 application to modify conditions AN02 and plans in respect of proposed awning/pergolas
- 595/1999 34 The Crescent, FAIRLIGHT 2094
Section 96 to modify approved additions to residential dwelling
- 456/2005 43 Addison Road, MANLY 2095
AMENDED PLANS - Alts & Adds to existing dwelling incl. carport, pool and landscaping
- 235/2006 52 Wanganella Street, BALGOWLAH 2093
AMENDED PLANS-Demolish Parish House, erect Teaching and Administration Building & Alterations and Additions to existing St Cecilia's Catholic School
- 163/2007 2 Old Sydney Road, SEAFORTH 2092
Demolition and construction of a new dwelling house
- 164/2007 31 Radio Avenue, BALGOWLAH 2093
Excavation and new swimming pool
- 166/2007 50 Condamine Street, BALGOWLAH 2093
Demolition and construction of a dwelling house and swimming pool
- 305/2006 26 High Street, MANLY 2095
Section 96 application to modify conditions and plans in respect of the rear setback and privacy wall
- 167/2007 24 Monash Circuit, CLONTARF 2093
Alterations & Additions to an existing dwelling house, garage and swimming pool
- 168/2007 13 Victoria Parade, MANLY 2095
Occupation of existing Office premises for a music tuition and office- Unit 18
- 169/2007 33 Pine Street, MANLY 2095
Alterations & Additions to semi-detached Dwelling including ground floor alterations and addition of a first floor
- 170/2007 10 Coral Street, BALGOWLAH 2093
New dwelling house
- 171/2007 30 Gordon Street, CLONTARF 2093
Front balcony and pergola
- 172/2007 37 Lauderdale Avenue, FAIRLIGHT 2094
Carport

Environmental Services Division Report No. 37 (Cont'd)

- 173/2007 5 Wanganella Street, BALGOWLAH 2093
Alterations & Additions to Dwelling including additional first floor area
- 638/2001 2A Woodland Street, BALGOWLAH 2093
Section 96 to modify the height of vegetations
- 174/2007 68 Seaforth Circuit, SEAFORTH 2092
Alterations & Additions to Dwelling
- 175/2007 48 Peronne Avenue, CLONTARF 2093
Carspace
- 176/2007 15 Phillip Avenue, SEAFORTH 2092
Carport
- 177/2007 13 Golf Parade, MANLY 2095
Alterations & Additions to Dwelling
- 288/2003 26 Jamieson Avenue, FAIRLIGHT 2094
Section 96 to modify approved First Floor Addition and Alterations & Additions
- 178/2007 5 Daintrey Street, FAIRLIGHT 2094
Alterations & Additions to Dwelling
- 179/2007 31 Judith Street, SEAFORTH 2092
Alterations & Additions to Dwelling
- 180/2007 360 Sydney Road, BALGOWLAH 2093
Alterations and Additions to an existing premises to extend the current use as a marketing/
demonstration suite for apartment sales
- 181/2007 5 Gourlay Avenue, BALGOWLAH 2093
Swimming Pool and new timber deck
- 182/2007 49 Lewis Street, BALGOWLAH 2093
Alterations & Additions to Dwelling
- 183/2007 60 Bower Street, MANLY 2095
Alterations and Additions to Unit 2 of the existing Residential Flat
Building
- 184/2007 29 Ponsonby Parade, SEAFORTH 2092
Extend the existing double garage by one (1) metre towards the laneway
- 185/2007 29 Gordon Street, CLONTARF 2093
Alterations & Additions to Dwelling
- 397/2006 50 East Esplanade, MANLY 2095
Section 96 Modification
- 186/2007 9 Bolingbroke Parade, FAIRLIGHT 2094
Alterations & Additions to Dwelling

Environmental Services Division Report No. 37 (Cont'd)

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. 37 *****

TO: Land Use Management Committee - 4 June 2007

REPORT: Environmental Services Division Report No. 38

SUBJECT: Appeals List for June 2007

FILE NO:

SUMMARY

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION.

REPORT

DA#	L&E Appeal Reference	House #	Address	Date Appeal Lodged	Solicitor Company	Current Status
DA538/04	10859/06	51	Wood Street, Manly	15/09/06	Pike Pike & Fenwick	Judgement reserved 25/05/07
DA280/06	11008/06	11-13	The Crescent, Manly	25/10/06	Pike Pike & Fenwick	Dismissed 21/03/07
DA314/06	11073/06	110-114	Bower Street, Manly	10/11/06	Pike Pike & Fenwick	Callover 08/06/07
DA389/05	11102/06	9	Smith Street, Manly	28/11/06	Home Wilkinson Lowry	Callover 15/06/07
DA458/06	10168/07	10	Quinton Road, Manly	02/04/07	Home Wilkinson Lowry	Callover 15/06/07
DA64/07	10365/07	38	Gurney Crescent, Seaforth	01/05/07	Pike Pike & Fenwick	Callover 13/06/07
DA84/07	10404/07	96	Seaforth Crescent, Seaforth	16/05/07	Pike Pike & Fenwick	Callover 20/06/07
DA619/01	10097/02	447-449	Sydney Road, Balgowlah	01/05/07	Home Wilkinson Lowry	Discontinued 29/05/07
DA570/06	10420/07	85-87	Lauderdale Avenue, Fairlight	10/05/07	Home Wilkinson Lowry	Callover 21/06/07

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. 38 *****