



Minutes

Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 4 September 2006

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TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:

The Land Use Management Committee, having met at 7:58PM on Monday 4 September 2006, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached and the recommendations made which are stated hereunder.

The decisions taken and indicated by the prefix "Resolved" as distinct from "Recommendations" made to the Council, were taken pursuant to authority delegated to this Committee vide Minutes Number 535 of 19th September, 2005.

PRESENT

His Worship, The Mayor, Councillor Dr Peter Macdonald
Deputy Mayor, Councillor B Aird
Councillor J Evans
Councillor J Hay, AM
Councillor A Heasman
Councillor J Lambert, AM Chairperson who presided
Councillor R Morrison, Deputy Chairperson
Councillor D Murphy
Councillor B Pedersen

ALSO PRESENT

Henry Wong, General Manager
David Stray, Manager Development Control
Jim Hunter, Executive Director Major Projects
Rachael Levey, Minute Taker
Elayne Becker, Minute Taker

APOLOGIES

Apologies were tendered on behalf of Councillors Cant and Daley for non-attendance.

MOTION (Macdonald / Pedersen)

That the apologies received from Councillors Cant and Daley, be accepted and leave be granted.

RESOLVED (Macdonald / Pedersen)

That the apologies received from Councillors Cant and Daley, be accepted and leave be granted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

LEAVE OF ABSENCE

Councillor Norek.

DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Name:	Item Number:	Nature of Interest:
Councillor Aird	ES No.50	Resides near the subject property.

CONFIRMATION OF MINUTES**MOTION (Macdonald / Heasman)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 7 August 2006, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

RESOLVED (Macdonald / Heasman)

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 7 August 2006, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

SUSPENSION OF STANDING ORDERS (Lambert / Macdonald)

That Standing Orders be suspended to allow for consideration of items of public interest, being: Environmental Services Division Report No.46, 36 Gurney Crescent, Seaforth; and Services Division Report No.47, 22 Seaforth Crescent, Seaforth; Services Division Report No.48, 26 Ethel Street, Balgowlah; Services Division Report No.49, 16 Cutler Road, Clontarf; Services Division Report No.50, 48 Pacific Parade, Manly; Services Division Report No.53, 2 Sydney Road, Manly.

RESOLVED (Lambert / Macdonald)

That Standing Orders be suspended to allow for consideration of items of public interest, being: Environmental Services Division Report No.46, 36 Gurney Crescent, Seaforth; and Services Division Report No.47, 22 Seaforth Crescent, Seaforth; Services Division Report No.48, 26 Ethel Street, Balgowlah; Services Division Report No.49, 16 Cutler Road, Clontarf; Services Division Report No.50, 48 Pacific Parade, Manly; Services Division Report No.53, 2 Sydney Road, Manly.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

ENVIRONMENTAL SERVICES DIVISION

Environmental Services Division Report No. 46

36 Gurney Crescent, Seaforth (DA458/04)

<u>Application Lodged:</u>	3 March 2006
<u>Applicant/Owner:</u>	A & N Kirzner
<u>Estimated Cost:</u>	\$700,000
<u>Zoning:</u>	Manly Local Environmental Plan, 1988 - Residential Within Foreshore Scenic Protection Area
<u>Surrounding Development:</u>	Two and three storey dwellings
<u>Heritage:</u>	Not applicable

SUMMARY:

1. DEVELOPMENT APPLICATION NO.458/04 FOR ERECTION OF A THREE STOREY DWELLING AND SWIMMING POOL WAS RECEIVED BY COUNCIL 15 SEPTEMBER 2004.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 8 DECEMBER 2004 AND APPROVED SUBJECT TO CONDITIONS.
4. THE PRINCIPAL CERTIFYING AUTHORITY HAS SINCE SERVED A NOTICE OF INTENTION TO ISSUE AN ORDER REQUIRING REMOVAL OF UNAUTHORISED WORKS.
5. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 TO MODIFY THE CONSENT.
6. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH NO SUBMISSIONS RECEIVED IN RESPONSE.
7. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 8 AUGUST 2006 WHERE IT WAS RECOMMENDED FOR REFUSAL.
8. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
9. A SITE INSPECTION IS RECOMMENDED.
10. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

SITE INSPECTIONS

A Site Inspection of 36 Gurney Crescent, Seaforth (Section 96 Modification) was conducted by Councillors Evans, Hay, Heasman, Lambert, Macdonald, Murphy on 4th September 2006.

Inspection Party Recommendation:

No Recommendation.

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Mr Alex Kirzner

MOTION (Macdonald / Evans)**A.**

That the application to modify Development Consent No.458/04 for Erection of a Dwelling and Swimming Pool at 36 Gurney Crescent, Seaforth be **refused** for the following reasons:

1. The proposal fails to comply with the numeric requirements and aims and objectives of Council's Development Control Plan for the Residential Zone in terms of floor space ratio, and presents excessive visual bulk and scale, having regard to Section 79C (1)(a)(iii), (b), (c), and (d) of the Environmental Planning and Assessment Act 1979.
2. The proposal does not represent substantially the same development as that currently approved and therefore cannot be considered pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.
3. The proposed modifications enable the building to be used as two separate dwellings contrary to the original consent and the density provisions of Council's Development Control Plan for the Residential Zone, having regard to Section 79C (1)(a)(iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.
4. The proposed stair access to the roof will result in excessive impacts in terms of privacy of adjoining residential land and will contribute to excessive visual bulk and scale of the building having an adverse effect on the visual quality of the Foreshore Scenic Protection Area, having regard to Section 79C (1)(a)(iii), (b), (c) and (e) of the Environmental Planning and Assessment Act 1979.

B.

That Council pursue action to have unauthorised walls and enclosures of the lower ground floor removed and have the dwelling completed in accordance with the approved plans.

AMENDMENT (Murphy / Morrison)

That the application to modify Development Consent No.458/04 for Erection of a Dwelling and Swimming Pool at 36 Gurney Crescent, Seaforth be **approved** subject to standard conditions, in addition to the removal of:

1. One kitchen and one laundry.
2. The undercroft doors to reduce FSR.
3. The stairs giving access to the roof.

For the Amendment: Councillors Heasman, Murphy and Morrison

Against the Amendment: Councillors Macdonald, Hay, Lambert, Pedersen, Aird, and Evans

The **AMENDMENT** was declared **LOST**.

RESOLVED (Macdonald / Evans)**A.**

That the application to modify Development Consent No.458/04 for Erection of a Dwelling and Swimming Pool at 36 Gurney Crescent, Seaforth be **refused** for the following reasons:

1. The proposal fails to comply with the numeric requirements and aims and objectives of Council's Development Control Plan for the Residential Zone in terms of floor space ratio, and presents excessive visual bulk and scale, having regard to Section 79C (1)(a)(iii), (b), (c), and (d) of the Environmental Planning and Assessment Act 1979.

2. The proposal does not represent substantially the same development as that currently approved and therefore cannot be considered pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.
3. The proposed modifications enable the building to be used as two separate dwellings contrary to the original consent and the density provisions of Council's Development Control Plan for the Residential Zone, having regard to Section 79C (1)(a)(iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.
4. The proposed stair access to the roof will result in excessive impacts in terms of privacy of adjoining residential land and will contribute to excessive visual bulk and scale of the building having an adverse effect on the visual quality of the Foreshore Scenic Protection Area, having regard to Section 79C (1)(a)(iii), (b), (c) and (e) of the Environmental Planning and Assessment Act 1979.

B.

That Council pursue action to have unauthorised walls and enclosures of the lower ground floor removed and have the dwelling completed in accordance with the approved plans.

For the Resolution: Councillors Macdonald, Hay, Lambert, Pedersen, Aird and Evans

Against the Resolution: Councillors Heasman, Murphy, Morrison

Environmental Services Division Report No. 47

22 Seaforth Crescent, Seaforth**Section 96 Modification (DA244/04)**

Application Lodged: 18 April 2006
Applicant: L Josevski
Owner: S & K Gjakovski
Estimated Cost: \$450,000
Zoning: Manly Local Environmental Plan, 1988 - Residential Within Foreshore Scenic Protection Area
Surrounding Development: Two Storey Detached Dwellings.
Heritage: Not Applicable

SUMMARY:

1. DEVELOPMENT APPLICATION NO. 244/04 FOR DEMOLITION OF EXISTING BUILDING AND ERECTION OF A NEW TWO STOREY DWELLING WAS REFUSED BY COUNCILS DEVELOPMENT ASSESSMENT UNIT ON 22 JULY 2004.
2. COUNCIL RECEIVED AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT ON 13 AUGUST 2004.
3. THE REVIEW APPLICATION WAS APPROVED ON 9 FEBRUARY 2005.
4. A SECTION 96 MODIFICATION APPLICATION TO CHANGE THE DESCRIPTION OF THE DEVELOPMENT TO ALTERATIONS AND ADDITIONS, CHANGE BATHROOM WINDOWS, CHANGE IMPERVIOUS AREA AND DELETE REQUIREMENT FOR ON SITE DETENTION OF STORMWATER WAS LODGED 25 AUGUST 2005 AND APPROVED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 29 NOVEMBER 2005.
5. FOLLOWING RECEIPT OF REPRESENTATIONS FROM A NEARBY PROPERTY OWNER, COUNCILS COMPLIANCE OFFICERS ISSUED AN ORDER TO REMOVE OR MODIFY THE WORKS BY REDUCING THE HEIGHT OF THE RIDGE LEVEL TO THAT SHOWN IN THE APPROVED PLANS.
6. ON 18 MAY 2006 COUNCIL RECEIVED THE CURRENT SECTION 96

MODIFICATION APPLICATION REQUESTING AMENDMENT TO RIDGE HEIGHTS, CONVERSION OF ARBITRARY RL'S TO AHD LEVELS AND REMOVAL OF CONDITION 14 WHICH REQUIRES WORKS TO BE STRICTLY IN ACCORDANCE WITH REDUCED LEVELS SHOWN ON THE APPROVED PLANS WITH CERTIFICATION OF SUCH BEING SUBMITTED TO THE PRINCIPAL CERTIFYING AUTHORITY DURING CONSTRUCTION.

7. THE CURRENT SECTION 96 MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
8. THE CURRENT SECTION 96 MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 15 AUGUST 2006 WHERE THE APPLICATION WAS RECOMMENDED FOR REFUSAL.
9. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MORRISON.
10. A SITE INSPECTION IS RECOMMENDED.
11. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

SITE INSPECTIONS

A Site Inspection of 22 Seaforth Crescent, Seaforth (Section 96 Modification) was conducted by Councillors Evans, Hay, Heasman, Lambert, Macdonald, Murphy on 4th September 2006.

Inspection Party Recommendation:

No Recommendation.

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Ms Lena Josevski

MOTION (Murphy / Morrison)

That the application to modify Development Consent No. 244/04 for Alterations and Additions to the Dwelling at No. 22 Seaforth Crescent Seaforth be **approved** subject to standard conditions.

AMENDMENT (Lambert / Evans)

That the application to modify Development Consent No. 244/04 for Alterations and Additions to the Dwelling at No. 22 Seaforth Crescent Seaforth be **approved** subject to standard conditions and the lowering of the height of the Atrium by 500mm.

For the Amendment: Councillors Lambert, Aird and Evans

Against the Amendment: Councillors Macdonald, Hay, Heasman, Murphy, Morrison and Pedersen

The **AMENDMENT** was declared **LOST**.

RESOLVED (Murphy / Morrison)

That the application to modify Development Consent No. 244/04 for Alterations and Additions to the Dwelling at No. 22 Seaforth Crescent Seaforth be **approved** subject to standard conditions.

For the Resolution: Councillors Macdonald, Hay, Heasman, Murphy, Morrison and Pedersen

Against the Resolution: Councillors Lambert, Aird and Evans

Environmental Services Division Report No. 48

26 Ethel Street, Balgowlah (DA121/05)

<u>Application Lodged:</u>	10 April 2006
<u>Applicant/Owner:</u>	H S Brigden
<u>Estimated Cost:</u>	\$350,000
<u>Zoning:</u>	Manly Local Environmental Plan, 1988 - Residential
<u>Surrounding Development:</u>	One and two storey dwellings
<u>Heritage:</u>	Not applicable

SUMMARY:

1. DEVELOPMENT APPLICATION NO.121/05 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING INCLUDING A NEW FIRST FLOOR LEVEL WAS RECEIVED BY COUNCIL 1 MARCH 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 21 JULY 2005 AND APPROVED SUBJECT TO CONDITIONS
4. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 TO MODIFY THE CONSENT BY DELETION OF CONDITION NO.5.
5. THE MODIFICATION APPLICATION WAS NOTIFIED TO ADJOINING AND NEARBY PROPERTY OWNERS WITH NO SUBMISSIONS RECEIVED.
6. THE MODIFICATION APPLICATION WAS REPORTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 15 AUGUST 2006 WHERE IT WAS RECOMMENDED FOR REFUSAL.
7. THE MODIFICATION APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
8. A SITE INSPECTION IS RECOMMENDED.
9. REFUSAL OF THE APPLICATION IS RECOMMENDED.

SITE INSPECTIONS

A Site Inspection of 26 Ethel Street, Balgowlah was conducted by Councillors Evans, Hay, Heasman, Lambert, Macdonald, Murphy on 4th September 2006.

Inspection Party Recommendation:

Approval with Condition No. 5 amended to read as follows:-

5. The eave and gutter overhang to the east side of the proposed first floor addition is to be a maximum 400mm to reduce amenity impacts on the adjoining property, plans to be suitably amended prior to the issue of the Construction Certificate.

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Mr Harry Brigden

MOTION (Hay / Macdonald)

That the application to modify Development Consent No. 121/05 for Alterations and Additions to the Existing Dwelling at No.26 Ethel street Balgowlah be **approved** with condition 5. amended to

read as follows:-

5. The eave and gutter overhang to the east side of the proposed first floor addition is to be a maximum 400mm to reduce amenity impacts on the adjoining property, plans to be suitably amended prior to the issue of the Construction Certificate.

RESOLVED (Hay / Macdonald)

That the application to modify Development Consent No. 121/05 for Alterations and Additions to the Existing Dwelling at No.26 Ethel street Balgowlah be approved with condition 5. amended to read as follows:-

5. The eave and gutter overhang to the east side of the proposed first floor addition is to be a maximum 400mm to reduce amenity impacts on the adjoining property, plans to be suitably amended prior to the issue of the Construction Certificate.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

Environmental Services Division Report No. 49

16 Cutler Road, Clontarf

Section 96 Modification (DA17/05)

<u>Application Lodged:</u>	28 April 2006
<u>Applicant:</u>	K R Nash & Associates Pty Ltd
<u>Owner:</u>	C & S Bowhill
<u>Estimated Cost:</u>	\$150,000
<u>Zoning:</u>	Manly Local Environmental Plan, 1988 - Residential Within Foreshore Scenic Protection Area
<u>Surrounding Development:</u>	Two Storey Dwellings
<u>Heritage:</u>	Not Applicable

SUMMARY:

1. DEVELOPMENT APPLICATION NO.17/05 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING INCLUDING ADDITIONS AT FIRST FLOOR LEVEL WAS RECEIVED BY COUNCIL 17 DECEMBER 2004.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 26 APRIL 2005 AND APPROVED SUBJECT TO CONDITIONS.
4. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION UNDER SECTION 96 TO MODIFY THE CONSENT BY DELETING CONDITION 2.
5. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
6. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 15 AUGUST WHERE THE APPLICATION WAS RECOMMENDED FOR APPROVAL.
7. THE MODIFICATION APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
8. A SITE INSPECTION IS RECOMMENDED.
9. APPROVAL OF THE APPLICATION IS RECOMMENDED.

SITE INSPECTIONS

A Site Inspection of 16 Cutler Road, Contarf was conducted by Councillors Hay, Heasman, Lambert, Macdonald, Murphy on 4th September 2006.

Inspection Party Recommendation

Approval as per staff recommendation with draft Condition No. 36 amended as follows:-

36. Provision of a 1.65m translucent glass privacy screen to the northern end of the ground floor deck, to maintain visual privacy between the subject property and the adjoining property to the north, plans being suitably amended prior to the issue of the Construction Certificate.

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Mr Kerry Nash

MOTION (Hay / Macdonald)

That Development Consent No.17/05 for alterations and additions to the existing dwelling including first floor level extensions and alteration to roofline be modified with Condition 1 amended, Condition No. 2 deleted and the addition of new condition No.36 as follows;

1. This approval relates to drawings/plans Nos. DA01 – DA08 dated 11 August 2004 and received by Council 17 December 2004, except as amended by drawings/plans Nos. DA04B and DA07B dated 17 April 2006 and received by Council 28 April 2006.
2. Deleted

36. Provision of a 1.65m high privacy screen to the northern end of the ground floor deck, to maintain visual privacy between the subject property and the adjoining property to the north. That plans are suitably amended and submitted to Council for concurrence prior to issue of the Construction Certificate.

RESOLVED (Hay / Macdonald)

That Development Consent No.17/05 for alterations and additions to the existing dwelling including first floor level extensions and alteration to roofline be modified with Condition 1 amended, Condition No. 2 deleted and the addition of new condition No.36 as follows;

1. This approval relates to drawings/plans Nos. DA01 – DA08 dated 11 August 2004 and received by Council 17 December 2004, except as amended by drawings/plans Nos. DA04B and DA07B dated 17 April 2006 and received by Council 28 April 2006.
2. Deleted

36. Provision of a 1.65m high privacy screen to the northern end of the ground floor deck, to maintain visual privacy between the subject property and the adjoining property to the north. That plans are suitably amended and submitted to Council for concurrence prior to issue of the Construction Certificate.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Aird and Evans

Against the Resolution: Nil.

Councillor Pedersen was not in the Chamber when the Motion was put

Councillor Aird having previously declared an interest in Item 50 left the Chamber at 9.47pm.

Environmental Services Division Report No. 50

48 Pacific Parade, Manly (DA229/06)

Application Lodged: 6 June 2006
Applicant: Manuel Talbert
Owner: Tracey Talbert
Estimated Cost: \$250,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
Surrounding Development: Residential
Heritage: Yes stone kerbs and street trees in Pacific Street

SUMMARY:

1. THIS IS A PROPOSAL FOR ALTERATIONS AND FIRST-FLOOR ADDITIONS TO AN EXISTING SEMI DETACHED DWELLING.
2. THE PROPOSAL WAS NOTIFIED TO THE ADJACENT NEIGHBOURS AND THE PRECINCT, AND NO SUBMISSIONS RECEIVED.
3. THE PROPOSAL HAS NON-COMPLIANCES IN RELATION TO THE DEVELOPMENT CONTROL PLAN.
4. THE PROPOSAL RECEIVED ADVERSE COMMENTS FROM THE HERITAGE COMMITTEE AND COUNCIL'S HERITAGE ADVISER.
5. THE APPLICATION WAS CONSIDERED BY THE DEVELOPMENT ASSESSMENT UNIT MEETING ON 22ND AUGUST 2006 WHERE IT WAS RECOMMENDED FOR REFUSAL.
6. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLORS HAY AND MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. REFUSAL OF THE APPLICATION IS RECOMMENDED.

SITE INSPECTIONS

A Site Inspection of 48 Pacific Parade, Manly was conducted by Councillors Hay, Heasman, Lambert, Macdonald on 4th September 2006.

Inspection Party Recommendation

No Recommendation

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Mr Gordon Edgar

MOTION (Hay / Heasman)

That Development Application 229/06 for alterations and additions to the existing semi-detached dwelling at 48 Pacific Parade, Manly be **approved** subject to standard conditions and the retention of the side windows, chimney, internal wall nibs as recommended by the Heritage Committee.

AMENDMENT (Evans / Lambert)

That Development Application 229/06 for alterations and additions to the existing semi-detached dwelling at 48 Pacific Parade Manly be subject to **deferred commencement** approval on the condition that the proposed balcony at the front of the building be removed such that the extension sits behind the ridge line of the building.

For the Amendment: Councillors Lambert, Pedersen and Evans

Against the Amendment: Councillors Macdonald, Hay, Heasman, Murphy, and Morrison.

The **AMENDMENT** was declared **LOST**.

RESOLVED (HAY / HEASMAN)

That Development Application 229/06 for alterations and additions to the existing semi-detached dwelling at 48 Pacific Parade, Manly be **approved** subject to standard conditions and the retention of the side windows, chimney, internal wall nibs as recommended by the Heritage Committee.

For the Resolution: Councillors Macdonald, Hay, Heasman, Murphy and Morrison

Against the Resolution: Councillors Lambert, Pedersen, and Evans

Councillor Aird returned to the Chamber at 10.25pm.

Environmental Services Division Report No. 53, (& Environmental Services Division Report No. 51 & Environmental Services Division Report No. 52)

2 Sydney Road, Manly
Section 96 Modification (135/95)

<u>Application Lodged:</u>	25/7/2006
<u>Applicant:</u>	Zuberde Demirbag
<u>Owner:</u>	Thousand Miles Pty Ltd
<u>Estimated Cost:</u>	N/A
<u>Zoning:</u>	Manly Local Environmental Plan, 1988 – Business Zone
<u>Surrounding Development:</u>	2 – 3 storey commercial – shops, offices, cafes
<u>Heritage:</u>	The Corso and its associated development are listed

SUMMARY:

1. THIS SECTION 96 APPLICATION FOR MODIFICATION OF CONSENT SEEKS EXTENSION OF APPROVED TRADING HOURS OF THE TAKEAWAY FOOD SHOP FROM 8AM-12AM TO 4:00AM (MONDAY – THURSDAY), 4:30AM (FRIDAY & SATURDAY) AND 1:00AM (SUNDAY).
2. THE EXISTING PREMISES IS THE SUBJECT OF AN APPROVAL FROM 1995 FOR A TAKEAWAY FOOD SHOP. APPROVED HOURS WERE 8AM – 12AM / MIDNIGHT.
3. IN RECENT YEARS IT HAS BEEN REPORTED THAT TRADING IS CONTINUING UNTIL 4:30AM.
4. ASSESSMENT OF THE DA RESULTED IN RECOMMENDATIONS FOR REFUSAL TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT CITING INCONSISTENCY WITH COUNCIL'S DCP FOR LATE NIGHT VENUES.
5. THE DAU DOES NOT SUPPORT THE PROPOSED HOURS HOWEVER SOME COMPROMISE IS RECOMMENDED PERMITTING EXTENSION OF TRADING HOURS UNTIL 3:00AM SUBJECT TO THE APPLICANT SIGNING A DEED OF AGREEMENT BETWEEN THE APPLICANT AND COUNCIL REQUIRING THE APPLICANT TO IMPLEMENT AND MAINTAIN SUITABLE MEASURES TO MINIMISE ANTI SOCIAL

- BEHAVIOUR OF PEOPLE ATTRACTED TO THE LOCATION OF THE PREMISES.
6. THE MODIFICATION APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF THE GENERAL MANAGER AND COUNCILLOR LAMBERT.
 7. THE MODIFICATION APPLICATION IS RECOMMENDED FOR APPROVAL SUBJECT TO DEED OF AGREEMENT AND OTHER CONDITIONS.

PUBLIC ADDRESSES

The following person addressed the meeting in relation to this item:

Applicant: Mr Sirdar Demirbag

MOTION (Macdonald / Aird)

That the application to modify Development Consent No.135/95 be approved, subject to original conditions of consent with Condition Nos. 14, 15 and 16 added as follows:

14. The hours of operation not to exceed 9:00am to 1:00am (next day) Monday to Sunday, without the prior consent of Council.
15. That a **Deed of Agreement** be entered into, between the applicant/Proprietor and Council, encompassing the following:-
 1. Security Cameras must be installed to operate 24 hours, both inside and outside, the premises. The cameras are to be installed in consultation with Council. Signage advising patrons of the cameras shall be installed in at least three (3) prominent positions.
 2. The applicant/proprietor shall be responsible for the cleanliness of the areas at least to the centerline of the road and at least two (2) shop fronts on either side of the property.
 3. One security personnel shall be on-duty between the hours of 11:00am and 1:00am (next day).

AMENDMENT (Pedersen / Morrison)

1. That this DA be deferred for discussion on the Late Night Food Accord.
2. That the General Manager immediately initiate a "Late Night Food Accord" constituted of late night traders, Manly Police, the executive of the Corso precinct community forum or their representatives, interested Councillors and the General Manager's staff appointees.
3. That Council acknowledges that some aspects of the implementation of the Manly After Midnight (MAM) Policy may require a phased and measured approach.
4. The Accord is to focus on seeking strategies regarding security cooperation, security cameras, litter control and to better communicate expectations between the proprietors vis-à-vis the Council and the Police.
5. The Accord is to report back to Council its recommendations within one month.
6. That Council acknowledges the General Manager's opinion that "The only variation that may be acceptable to the existing 1:00am closing time is if the applicant agrees to enter into a Deed of Agreement with Council requiring the applicant to implement and maintain controls to minimise anti-social behavior of patrons and others attracted to the location of the premises."
7. That Council recognizes that the above clauses do not conflict with the MAM Policy.

8. That Council seek legal advice from Ian Ellis Jones regarding the wording of any Accord recommendation to ensure that resolution does not unnecessarily weaken Council's legal position regarding the MAM Policy.

For the Amendment: Councillors Morrison and Pedersen

Against the Amendment: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Aird and Evans

The **AMENDMENT** was declared **LOST**.

FORESHADOWED AMENDMENT (Murphy / Heasman)

That the application to modify Development Consent No.135/95 be **approved**, subject to original conditions of consent with Condition Nos. 14, 15 and 16 added as follows:

14. The hours of operation not to exceed 9:00am to 3:00am (next day) Monday to Sunday, without the prior consent of Council.
15. Trading between the hours of 1:00am and 3:45am (Friday and Saturday only) may be permitted provided an annual **Deed of Agreement** is entered into, between the applicant/Proprietor and Council, encompassing the following:-
- Security Cameras must be installed to operate 24 hours, both inside and outside, the premises. The cameras are to be installed in consultation with Council. Signage advising patrons of the cameras shall be installed in at least three (3) prominent positions.
 - The applicant/proprietor shall be responsible for the cleanliness of the areas at least to the centerline of the road and at least two (2) shop fronts on either side of the property.
 - A common security radio frequency is to be implemented by Council and/or Relevant Authority. The applicant's security personnel must utilize the common frequency to communicate with the other security arrangements in The Corso.
 - The Deed of Agreement is to be renewed every 12 months.
16. The applicant/proprietor will be required to be a signatory to the **Manly Late Night Food Accord, 2006**, to be established to manage the requirements of this Deed, referred to in Condition No. 2, above.

For the Foreshadowed Amendment: Councillors Hay, Heasman, Murphy and Morrison

Against the Foreshadowed Amendment: Councillors Macdonald, Lambert, Pedersen, Aird and Evans

The **FORESHADOWED AMENDMENT** was declared **LOST** and the Motion was put.

For the Motion: Councillors Macdonald, Lambert, Aird and Evans

Against the Motion: Councillors Hay, Heasman, Murphy, Morrison and Pedersen

The **MOTION** was declared **LOST**.

General Manager's Note: The matter was UNRESOLVED.

RECOMMITAL MOTION (PEDERSEN / MORRISON)

That Items 51 & 52 be recommitted for further consideration.

For the Recommital Motion: Councillors Murphy, Morrison and Pedersen

Against the Recommital Motion: Councillors Macdonald, Hay, Heasman, Lambert, Aird and Evans

The **MOTION** was declared **LOST**.

PROCEDURAL MOTION (Evans / Heasman)

That given the Environmental Services Division Report No. 51, 96 The Corso, Manly and Environmental Services Division Report No. 52, 102 The Corso, Manly are similar in every respect to DA135/95, 2 Sydney Road, Manly, that the debate in 2 Sydney Road be the debate in the applications for 96 The Corso, Manly and 102 The Corso, Manly.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

General Manager's Note: The matters were UNRESOLVED.

RESUMPTION OF STANDING ORDERS (Lambert / Macdonald)

That Standing Orders be resumed.

RESOLVED (Hay / Heasman)

That Standing Orders be resumed.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

GENERAL MANAGERS DIVISION

General Managers Division Report No. 24

Seaforth (Former) TAFE Site - Progress Update**SUMMARY**

- A Progress Report was submitted to Council at its Planning and Strategy Committee Meeting on 14th August, 2006.
- That report gave notice to Council that a meeting of the Community Reference Group was to take place on 17th August, 2006 to consider the Report commissioned by Council from Gabrielle Morrish (GMU Design) in relation to Draft Urban Design Guidelines for the Seaforth site.
- The recommendations of the Community Reference Group are set out in the report hereunder.

MOTION (Macdonald / Murphy)

That the matter be **deferred** for a period of one week in order to:

1. provide Councillors an opportunity to analyse the Morrish report.
2. enable Council to commission a preliminary financial report to be brought back to Council for further consideration.

RESOLVED (Macdonald / Murphy)

That the matter be **deferred** for a period of one week in order to:

1. provide Councillors an opportunity to analyse the Morrish report.
2. enable Council to commission a preliminary financial report to be brought back to Council for further consideration.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

Environmental Services Division Report No. 54

Development Applications Currently Being Processed**SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING SEPTEMBER, 2006.

MOTION (Morrison / Murphy)

That the development applications currently being processed during September, 2006 be noted.

RESOLVED (Morrison / Murphy)

That the development applications currently being processed during September, 2006 be noted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

Environmental Services Division Report No. 55

Appeals List for September 2006**SUMMARY**

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

MOTION (Morrison / Murphy)

That the list of appeals received and their current status for Councillors' information be noted.

RESOLVED (Murphy / Morrison)

That the list of appeals received and their current status for Councillors' information be noted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Murphy, Morrison, Pedersen, Aird and Evans

Against the Resolution: Nil.

CLOSE

The meeting closed at 12.00 midnight.

The above Minutes were confirmed at a **Land Use Management Committee Meeting** of Manly Council held on 3 October 2006.

CHAIRPERSON

******* END OF MINUTES *******