

Minutes

Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 7 May 2007

*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*



TABLE OF CONTENTS

Item	Page No.
PRESENT	2
APOLOGIES / LEAVE OF ABSENCE	2
DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST.....	3
CONFIRMATION OF MINUTES.....	3
ENVIRONMENTAL SERVICES DIVISION.....	3
Environmental Services Division Report No. 25 29 Edgecliffe Esplanade, Seaforth - DA74/07	3
Environmental Services Division Report No. 23 21 Eurobin Avenue, Manly - DA264/06	8
Environmental Services Division Report No. 24 Lot 15, 2 Castle Rock Crescent, Balgowlah - DA510/05 82A Review	10
Environmental Services Division Report No. 26 85-87 Lauderdale Avenue, Fairlight - DA570/06	12
Environmental Services Division Report No. 27 Development Applications Currently being Processed.....	15
Environmental Services Division Report No. 28 Appeal List for May 2007	16

TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:

The Land Use Management Committee, having met at 7:48pm on Monday 7 May 2007, 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 Pedersen
Councillor B Aird
Councillor S Cant
Councillor P Daley
Councillor J Hay, AM
Councillor A Heasman
Councillor J Lambert, AM Chairperson who presided
Councillor R Morrison
Councillor D Murphy
Councillor M Norek

ALSO PRESENT

Henry Wong, General Manager
Stephen Clements, Divisional Manager, Environmental Services
David Stray, Manager Development Control
Elayne Becker, Minute Taker

APOLOGIES

Apologies were tendered on behalf of Councillor J Evans, for non-attendance.

MOTION (Macdonald / Aird)

That the apology received from Councillor J Evans, be accepted and leave be granted.

L21/07 RESOLVED: (Macdonald / Aird)

That the apology received from Councillor J Evans, be accepted and leave be granted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, and Norek

Against the Resolution: Nil.

LEAVE OF ABSENCE

Nil.

DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST

Nil.

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

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 2 April 2007, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

L22/07 RESOLVED: (Macdonald / Aird)

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 2 April 2007, 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, Cant, Murphy, Daley, Morrison, Pedersen, Aird, and Norek

Against the Resolution: Nil.

SUSPENSION OF STANDING ORDERS**MOTION (Macdonald / Heasman)**

That Standing Orders be **suspended** to allow for consideration of Environmental Services Division Report No.25, 29 Edgcliffe Esplanade, Seaforth - DA74/07.

L23/07 RESOLVED (Macdonald / Heasman)

That Standing Orders be **suspended** to allow for consideration of Environmental Services Division Report No.25, 29 Edgcliffe Esplanade, Seaforth - DA74/07.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, and Norek

Against the Resolution: Nil.

ENVIRONMENTAL SERVICES DIVISION

Environmental Services Division Report No. 25
29 Edgecliffe Esplanade, Seaforth - DA74/07

Application Lodged: 12 March 2007
Applicant: Moody & Doyle P/L - Lance Doyle
Owner: Gail and Frank Castellan
Estimated Cost: \$6,000
Zoning: Manly Local Environmental Plan, 1988 - Residential,
Foreshore Scenic Protection Area
Surrounding Development: mix of detached 2 - 3 storey dwellings
Heritage: Nil

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT TO RECONSTRUCT THE LOWER GROUND LEVEL STUDY OF A TWO STOREY DWELLING CURRENTLY UNDERGOING ALTERATIONS AND UPPER LEVEL ADDITIONS (AS APPROVED UNDER DEVELOPMENT APPLICATION 28/06).
2. NOTIFICATION OF THE PROPOSAL RESULTED IN ONE SUBMISSION BEING RECEIVED.
3. ISSUES OF OBJECTION ARE SUMMARISED AS DEMOLITION AND RECONSTRUCTION WITHOUT CONSENT, IMPACT OF STUDY TO PRIVACY OF REAR GARDEN AND SWIMMING POOL, CLOSE PROXIMITY OF STUDY TO POOL, POTENTIAL OCCUPATION OF STUDY AS A FAMILY FLAT, NON-COMPLIANCE TO FSR CONTROL, AND OVERLOOKING FROM UPPER LEVELS (AS APPROVED UNDER DEVELOPMENT APPLICATION 28/06).
4. DEVELOPMENT APPLICATION 28/06 WAS APPROVED BY THE LAND AND ENVIRONMENT COURT ON 16 OCTOBER 2006, WITH THE DESIGN CONSIDERED TO SATISFY AMENITY ISSUES OF VIEW SHARING AND PRIVACY, AND SATISFACTORY IN TERMS OF ITS NON-COMPLIANT FLOOR SPACE RATIO.
5. A SECTION 96 MODIFICATION OF CONSENT TO DEVELOPMENT APPLICATION 28/06 REQUESTING SEVERAL MINOR DESIGN CHANGES WAS APPROVED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 8 FEBRUARY 2007. THE APPROVED MODIFICATIONS INCLUDED RETAINING THE WINDOW AND EXTERNAL DOOR TO THE BASEMENT STUDY.
6. THIS DEVELOPMENT APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. APPROVAL OF THE APPLICATION IS RECOMMENDED.

PUBLIC ADDRESSES

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

Against: Mr Brent Brown

In Support: Mr Lance Doyle, Applicant

SITE INSPECTIONS

A site inspection of 29 Edgecliffe Esplanade, Seaforth reconstruction of the study was conducted by Councillors Lambert, Macdonald, Murphy and Norek.

Inspection Party Recommendation:

Approval as per Staff Recommendation with draft Condition No. ANS02 altered and new Condition ANS03 added as follows:-

ANS02

The premises are to be used or occupied solely as a single dwelling house and not used for separate occupancies or a family flat.

ANS03

The door to the west elevation of the study is to be deleted with access to the study being obtained via the internal stairway, to reduce impacts on the amenity of the adjoining property to the west, plans being suitably amended prior to the issue of the Construction Certificate.

MOTION (Murphy / Norek)

That Development Application No. 74/07 for reconstruction of the study at the south-western corner of the lower ground at 29 Edgecliffe Esplanade, Seaforth be **approved** with the following conditions:

ANS01

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

ANS02

The premises are to be used or occupied solely as a single dwelling house and not used for separate occupancies or a family flat.

ANS03

The door to the west elevation of the study is to be deleted with access to the study being obtained via the internal stairway, to reduce impacts on the amenity of the adjoining property to the west, plans being suitably amended prior to the issue of the Construction Certificate.

DA1

This approval relates to drawings/plans Nos sheets 1-3 dated February 2007 and received by Council 12 March 2007.

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 \$300. 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.

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.

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.

DA048

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

DA058

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

DA357

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

DA109

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

DA111

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

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.

DA255

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

DA261

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

DA269

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

DA271

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

DA332

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

DA333

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

DA334

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

DA335

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

DA336

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

DA337

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

DA338

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

DA339

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

DA340

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

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

DA289

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

DA297

The building not being used at any future time other than for the purpose of a single dwelling-house without the prior consent of the Council.

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.

AMENDMENT (Macdonald / Aird)

That Development Application No. 74/07 for reconstruction of the study at the south-western corner of the lower ground at 29 Edgecliffe Esplanade, Seaforth be **refused** due to:

1. Overdevelopment of the site
2. It does not comply with the aims and objectives of the FSR
3. Impact in terms of noise and privacy in relation to the adjoining property
4. Due to its future potential for use as a family flat or for separate occupation and based on other non-compliances and the proposal would be inconsistent with the DCP.

For the Amendment: Councillors Macdonald, Lambert, Cant, Daley, Pedersen and Aird

Against the Amendment: Councillors Hay, Heasman, Murphy, Morrison and Norek

The **AMENDMENT** became the **MOTION** and was put

L24/07 RESOLVED: (Macdonald / Aird)

That Development Application No. 74/07 for reconstruction of the study at the south-western corner of the lower ground at 29 Edgecliffe Esplanade, Seaforth be **refused** due to:

1. Overdevelopment of the site
2. It does not comply with the aims and objectives of the FSR
3. Impact in terms of noise and privacy in relation to the adjoining property
4. Due to its future potential for use as a family flat or for separate occupation and based on other non-compliances and the proposal would be inconsistent with the DCP.

For the Resolution: Councillors Macdonald, Lambert, Cant, Daley, Pedersen and Aird

Against the Resolution: Councillors Hay, Heasman, Murphy, Morrison, and Norek

RESUMPTION OF STANDING ORDERS

MOTION (Macdonald / Heasman)

That Standing Orders be **resumed**.

L25/07 RESOLVED: (Macdonald / Heasman)

That Standing Orders be **resumed**.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, and Norek

Against the Resolution: Nil.

Environmental Services Division Report No. 23

21 Eurobin Avenue, Manly - DA264/06

Application Lodged:

Section 82A 11 January 2007

Applicant:

Anna Vaughan Architects

Owner:

A Shillington

<u>Estimated Cost:</u>	\$575,000
<u>Zoning:</u>	Residential
<u>Surrounding Development:</u>	Single and two storey residential buildings
<u>Heritage:</u>	Yes – Eurobin Ave streetscape is listed

SUMMARY:

1. THE ORIGINAL DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO THE EXISTING SINGLE STOREY DWELLING INCLUDING A NEW FIRST FLOOR LEVEL WAS RECEIVED BY COUNCIL 26 JUNE 2006.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM AND NO COMMENT RECEIVED.
4. AMENDED PLANS WERE RECEIVED 24 AUGUST 2006 AND NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
5. THE APPLICATION WAS PRESENTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING 26 SEPTEMBER 2006 WHERE IT WAS REFUSED.
6. COUNCIL RECEIVED OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 11 JANUARY 2007.
7. THE REVIEW APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
8. THE REVIEW APPLICATION WAS REFERRED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM AND NO COMMENT RECEIVED.
9. THE REVIEW APPLICATION WAS PRESENTED TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 22 MARCH 2007 WITH A RECOMMENDATION FOR REFUSAL.
10. THE REVIEW APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
11. A SITE INSPECTION IS RECOMMENDED.
12. REFUSAL OF THE APPLICATION IS RECOMMENDED.

PUBLIC ADDRESSES

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

Against: Mr James Lovell

In Support: Ms Anna Vaughan, Applicant

SITE INSPECTIONS

A site inspection of 21 Eurobin Avenue, Manly, alterations and additions including a new first floor level, was conducted by Councillors Lambert, Hay, Macdonald, Murphy and Norek.

Inspection Party Recommendation:

That consideration of the application be **Deferred** for redesign with the applicant to address issues of streetscape (roof form/pitch, roof materials and finishes and external walls materials and finishes) and excessive bulk within rear setback.

MOTION (Macdonald / Murphy)

That Development Application 264/06 for alterations and additions to dwelling house, including demolition of existing rear ground floor and garage, new ground floor extension, new first floor, new service basement and new driveway at 21 Eurobin Avenue, Manly be **deferred** for redesign with the applicant to address issues of streetscape (roof form/pitch, roof materials and finishes and external walls materials and finishes) and excessive bulk within rear setback.

AMENDMENT (Aird / Morrison)

That Development Application 264/06 for alterations and additions to dwelling house, including demolition of existing rear ground floor and garage, new ground floor extension, new first floor, new service basement and new driveway at 21 Eurobin Avenue, Manly be **refused**.

For the Amendment: Councillors Morrison, Pedersen and Aird

Against the Amendment: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, and Norek

The Amendment was declared **LOST** and the Motion was put.

L26/07 RESOLVED: (Macdonald / Murphy)

That Development Application 264/06 for alterations and additions to dwelling house, including demolition of existing rear ground floor and garage, new ground floor extension, new first floor, new service basement and new driveway at 21 Eurobin Avenue, Manly be **deferred** for redesign with the applicant to address issues of streetscape (roof form/pitch, roof materials and finishes and external walls materials and finishes) and excessive bulk within rear setback.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley and Norek

Against the Resolution: Councillors Morrison, Pedersen, and Aird

Environmental Services Division Report No. 24

Lot 15, 2 Castle Rock Crescent, Balgowlah - DA510/05

82A Review

<u>Application Lodged:</u>	2 November 2006
<u>Applicant:</u>	Caroline Pidcock Architects
<u>Owner:</u>	G L Reed
<u>Estimated Cost:</u>	\$650,000
<u>Zoning:</u>	Manly Local Environmental Plan, 1988 - Residential Within Foreshore scenic Protection Area
<u>Surrounding Development:</u>	Two storey detached dwellings
<u>Heritage:</u>	Not applicable

SUMMARY:

1. THE ORIGINAL APPLICATION FOR DEMOLITION OF THE DWELLING ON LOTS 14A AND 15 AND ERECTION OF A NEW TWO STOREY DWELLING AND DETACHED GARAGE AND SWIMMING POOL ON LOT 15 WAS RECEIVED BY COUNCIL ON 8 NOVEMBER 2005.
2. THE APPLICATION WAS NOTIFIED TO ADJOINING AND NEARBY PROPERTY OWNERS WITH FIVE (5) SUBMISSIONS RECEIVED.

3. THE APPLICATION WAS REFERRED TO THE BALGOWLAH HEIGHTS PRECINCT COMMUNITY FORUM COMMITTEE WITH COMMENTS RECEIVED.
4. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 15 AUGUST WHERE IT WAS REFUSED.
5. ON 2 NOVEMBER 2006 COUNCIL RECEIVED AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.
6. THE REVIEW APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR (4) SUBMISSIONS RECEIVED.
7. THE REVIEW APPLICATION WAS REFERRED TO THE BALGOWLAH HEIGHTS PRECINCT COMMUNITY FORUM FOR COMMENT.
8. THE PROPOSAL SEEKS A SUBSTANTIAL VARIATION TO THE SIDE AND SETBACK REQUIREMENTS OF THE RESIDENTIAL DCP WHICH WOULD RESULT IN ADVERSE AMENITY IMPACTS ON ADJOINING PROPERTIES.
9. THIS APPLICATION IS BEING PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
10. A SITE INSPECTION IS RECOMMENDED.
11. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

PUBLIC ADDRESSES

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

Against: Mr Michael Pender

In Support: Ms Caroline Pidcock, Applicant

SITE INSPECTIONS

A site inspection of Lot 15, 2 Castle Rock Crescent, Balgowlah, 82A Review was conducted by Councillors Lambert, Macdonald, and Murphy.

Inspection Party Recommendation:

No Recommendation

MOTION (Murphy / Morrison)

That:

1. Development Application for demolition of the dwelling on lots 14a and 15 and erection of a new two storey dwelling and detached garage and swimming pool at Lot 15, 2 Castle Rock Crescent, Seaforth be **deferred** pending a redesign to allow for the building to be closer in compliance with the rear setback and east side setback as well as wall height. This may include moving the building further forward.
2. The roof garden access and safety be addressed in the redesign.
3. Privacy concerns should be reassessed after the final envelope of the building is decided.

L27/07 RESOLVED: (Murphy / Morrison)

That:

1. Development Application for demolition of the dwelling on lots 14a and 15 and erection of a new two storey dwelling and detached garage and swimming pool at Lot 15, 2 Castle Rock

Crescent, Seaforth be **deferred** pending a redesign to allow for the building to be closer in compliance with the rear setback and east side setback as well as wall height. This may include moving the building further forward.

2. The roof garden access and safety be addressed in the redesign.
3. Privacy concerns should be reassessed after the final envelope of the building is decided.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, and Norek

Against the Resolution: Nil.

Councillor Morrison retired from the Chamber at 10.05pm

Environmental Services Division Report No. 26

85-87 Lauderdale Avenue, Fairlight - DA570/06

Application Lodged: 22 Dec 2006

Applicant: Susan Rothwell

Owner: RJC Developments; Clodene Pty Ltd; Delbant Pty Ltd;
Susan Rothwell Investments Pty Ltd

Estimated Cost: \$450,000 [additional work only]

Zoning: Manly Local Environmental Plan, 1988 - Residential
Manly Residential Development Control Plan 2001,
Amendment 1 Sub Zone: 3
Within the Foreshore protection Area: Yes and directly
adjoining the Manly Scenic Walkway

Surrounding Development: Residential Flat Buildings

Heritage: Landscape Heritage: Esplanade Park/ Manly Scenic Walkway

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR A FIFTH APARTMENT (APARTMENT E) AT BASEMENT LEVEL, EXCAVATION; CHANGES TO CAR PARK; ENCLOSURE OF LIFT LOBBY AND ENTRY TO APARTMENT E; CHANGES TO WINDOW LOCATIONS ON UPPER FLOORS; CHANGES TO LAUDERDALE AVENUE PEDESTRIAN ENTRY AND STAIRS; SOUTHERN BOUNDARY RETAINING WALLS, FENCING, LEVELLING AND FILL OF THE GARDEN AREAS; ADDITION OF TIMBER PERGOLAS TO FIRST FLOOR SOUTHERN TERRACES.
2. THE PROPOSAL WAS NOTIFIED TO ALL NEIGHBOURING PROPERTIES AND THREE (3) LETTERS OF OBJECTION TO THE DEVELOPMENT WERE RECEIVED.
3. THE APPLICATION WAS ALSO REFERRED TO FAIRLIGHT PRECINCT COMMUNITY FORUM AND COMMENTS WERE RECEIVED.
4. THE APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR NOREK.
5. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

PUBLIC ADDRESSES

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

In Support: Ms Susan Rothwell, Applicant

SITE INSPECTIONS

A site inspection of 85-87 Lauderdale Avenue, Fairlight- proposal for fifth apartment (E) at

basement level, was conducted by Councillors Lambert, Hay, Macdonald, Murphy and Norek.

Inspection Party Recommendation:

Refusal as per Staff Recommendation

MOTION (Macdonald / Murphy)

That Development Application 570/06 for alterations and additions to an approved residential flat building with basement car parking at 85-87 Lauderdale Avenue, Fairlight be **refused** for the following reasons.

1. The proposal does not comply with the Floor Space Ratio (FSR) requirements of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
2. The proposal will result in an overdevelopment of the site and present excessive bulk and scale when viewed from adjoining and nearby public land and the Harbour, having regard to Section 79C(1)(a)(iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.
3. The proposal would lead to a reduction in the extent of landscaping across the rear of the building facing the view, which would lead to exposure to view of the additional bulk in terms of a three-storey building when seen from the water, North Harbour Reserve, and Wellings Reserve; and will have an adverse effect on the Foreshore Scenic Protection Area as well as the heritage listed Esplanade Park, having regard to Section 79C(1)(a)(i)(b) and (e) of the Environmental Planning and Assessment Act 1979.
4. Wall heights exceed that allowed under Clause 3.4 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1 and result in adverse impacts on the amenity of adjoining and nearby properties, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
5. The proposed development results in excessive excavation of the basement area by excavating to within 700mm of the boundary; and by excavating more than 3m to incorporate basement car parking and in the excessive excavation required to incorporate the additional apartment in contravention of Clause 3.6 of 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.
6. Natural ground lines are not maintained on the southern boundary with the Esplanade Park as required by Clause 3.6 of 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.
7. Natural topography is not respected by leveling the south-western portion of the site, contrary to the provisions of Clause 3.6 of 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.
8. The heights of retaining walls exceed that allowed in Clause 3.6 of 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.
9. The proposal has not had regard to the provisions of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979.

10. The proposed height of the building and pergolas will result in adverse impacts on the amenity of nearby properties in terms of view loss and visual bulk and scale, having regard to Section 79C(1) (a) (iii), (b) , (d) and (e) of the Environmental Planning and Assessment Act 1979.
11. The additional apartment proposed will result in an unacceptable increase in traffic movement over the road reserve which currently provides shared driveway to the subject site and that adjoining to the west, pedestrian pathway and shared path for the East-West cycle link. This increase in vehicular movement will have an unacceptable adverse impact on pedestrian safety, having regard to section 79C(1) (e) of the Environmental Planning and assessment Act 1979..
12. The proposal will result in the loss of significant rock outcrop contrary to the provisions of Clause 3.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, requiring the preservation of important landscape features, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
13. The proposed car-parking layout and maneuvering arrangements are unsatisfactory and not in conformity with AS2890.1-1993.
14. The proposed development is not in the public interest, having regard to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

L28/07 RESOLVED: (Macdonald / Murphy)

That Development Application 570/06 for alterations and additions to an approved residential flat building with basement car parking at 85-87 Lauderdale Avenue, Fairlight be **refused** for the following reasons.

1. The proposal does not comply with the Floor Space Ratio (FSR) requirements of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1)(a)(iii) and (c) of the Environmental Planning and Assessment Act 1979.
2. The proposal will result in an overdevelopment of the site and present excessive bulk and scale when viewed from adjoining and nearby public land and the Harbour, having regard to Section 79C(1)(a)(iii), (b) and (e) of the Environmental Planning and Assessment Act 1979.
3. The proposal would lead to a reduction in the extent of landscaping across the rear of the building facing the view, which would lead to exposure to view of the additional bulk in terms of a three-storey building when seen from the water, North Harbour Reserve, and Wellings Reserve; and will have an adverse effect on the Foreshore Scenic Protection Area as well as the heritage listed Esplanade Park, having regard to Section 79C(1)(a)(i)(b) and (e) of the Environmental Planning and Assessment Act 1979.
4. Wall heights exceed that allowed under Clause 3.4 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1 and result in adverse impacts on the amenity of adjoining and nearby properties, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
5. The proposed development results in excessive excavation of the basement area by excavating to within 700mm of the boundary; and by excavating more than 3m to incorporate basement car parking and in the excessive excavation required to incorporate the additional apartment in contravention of Clause 3.6 of 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.

6. Natural ground lines are not maintained on the southern boundary with the Esplanade Park as required by Clause 3.6 of 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.
7. Natural topography is not respected by leveling the south-western portion of the site, contrary to the provisions of Clause 3.6 of 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.
8. The heights of retaining walls exceed that allowed in Clause 3.6 of 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.
9. The proposal has not had regard to the provisions of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development pursuant to Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979.
10. The proposed height of the building and pergolas will result in adverse impacts on the amenity of nearby properties in terms of view loss and visual bulk and scale, having regard to Section 79C(1) (a) (iii), (b) , (d) and (e) of the Environmental Planning and Assessment Act 1979.
11. The additional apartment proposed will result in an unacceptable increase in traffic movement over the road reserve which currently provides shared driveway to the subject site and that adjoining to the west, pedestrian pathway and shared path for the East-West cycle link. This increase in vehicular movement will have an unacceptable adverse impact on pedestrian safety, having regard to section 79C(1) (e) of the Environmental Planning and assessment Act 1979..
12. The proposal will result in the loss of significant rock outcrop contrary to the provisions of Clause 3.2 of the Manly Development Control Plan for the Residential Zone 2001, Amendment 1, requiring the preservation of important landscape features, having regard to Section 79C (1)(a)(iii), (b) and (c) of the Environmental Planning and Assessment Act 1979.
13. The proposed car-parking layout and maneuvering arrangements are unsatisfactory and not in conformity with AS2890.1-1993.
14. The proposed development is not in the public interest, having regard to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Pedersen, Aird, and Norek
Against the Resolution: Nil.

Environmental Services Division Report No. 27

Development Applications Currently being Processed.

SUMMARY

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING MAY 2007.

MOTION (Macdonald / Heasman)

That Development Applications currently being processed during May 2007 be noted.

L29/07 RESOLVED: (Macdonald / Heasman)

That Development Applications currently being processed during May 2007 be noted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Pedersen, Aird, and Norek

Against the Resolution: Nil.

Environmental Services Division Report No. 28

Appeal List for May 2007**SUMMARY**

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

MOTION (Macdonald / Murphy)

That the List of Appeals received and their current status be noted.

L30/07 RESOLVED: (Macdonald / Murphy)

That the List of Appeals received and their current status be noted.

For the Resolution: Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Pedersen, Aird, and Norek

Against the Resolution: Nil.

CLOSE

The meeting closed at 10.35pm

The above minutes were confirmed at an **Land Use Management Committee** of Manly Council held on 4 June 2007.

CHAIRPERSON

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