



## Minutes

### Land Use Management Committee

(Council in Committee of the Whole)

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 7 November 2005**

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

**TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:**

The Land Use Management Committee, having met at 7:38 pm on Monday 7 November 2005, 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 353 of 19<sup>th</sup> September, 2005.

**PRESENT**

His Worship, The Mayor, Councillor Dr Peter Macdonald  
Deputy Mayor Councillor B Aird  
Councillor S Cant  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert, Chairperson who presided  
Councillor R Morrison, Deputy Chairperson (arrived at 7.43pm)  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

**ALSO PRESENT**

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

**COUNCIL IN COMMITTEE OF THE WHOLE  
(MAYOR – Ex-OFFICIO)**

The meeting was opened by the Mayor, who presided over the items relating to Council in Committee of the Whole, Mayoral Minute Report No. 12 The Corso Revitalisation and Notice of Motion Report No. 35, Manly After Midnight Implementation.

**APOLOGIES**

Nil.

**LEAVE OF ABSENCE**

Nil.

**DECLARATIONS OF PECUNIARY / CONFLICT INTERESTS**

<b>Name:</b>	<b>Item Number:</b>	<b>Nature of Interest:</b>
Councillor Hay	ESD 58	Daughter is a neighbour of 2 Bower Street, Manly

*Councillor Morrison entered the Chamber at 7.43pm.*

## PUBLIC ADDRESSES

ITEM	SPEAKER
<p><b>Mayoral Minute Report No. 12</b></p> <p>The Corso Revitalisation</p> <p>Supporter</p>	<p>Mr Bob Smith 4 Belgrave Street, Manly</p>
<p><b>Notice of Motion Report No. 35</b></p> <p>Manly After Midnight Implementation</p> <p>Supporter</p>	<p>Mr Sidar Demirbag Proprietor, Ser-Bar Kebab House</p>
<p><b>Environmental Services Division Report No. 58</b></p> <p>2 Bower Street, Manly</p> <p>Supporter</p>	<p>Ms Sokee Westcott Owner 2 Bower Street, Manly</p>
<p><b>Environmental Services Division Report No. 59</b></p> <p>42 Bower Street, Manly</p> <p>Supporter</p> <p>Objector</p>	<p>Stephen Day - Owner 42 Bower St, Manly</p> <p>Mr Hugh Burns Neighbour – 45 Bower Street, Manly</p>
<p><b>Environmental Services Division Report No. 60</b></p> <p>63 Golf Parade, Manly</p> <p>Supporter</p>	<p>Mr Tim Higgins Owner – 63 Golf Parade, Manly</p>
<p><b>Environmental Services Division Report No. 61</b></p> <p>141 Balgowlah Road, Balgowlah</p> <p>Supporter</p> <p>Objector</p>	<p>Mr Alan Dorozario Owner – 141 Balgowlah Road, Balgowlah</p> <p>Mr R Wilson Neighbour – 139 Balgowlah Road, Balgowlah</p>

**MAYORAL MINUTES**

Mayoral Minute Report No. 12

**The Corso Revitalisation****MOTION (Macdonald)**

That Council note the update of the Corso Revitalisation program.

**RESOLVED: (Macdonald)**

That Council note the update of the Corso Revitalisation program.

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

**Against the Resolution:** Nil.

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**NOTICES OF MOTION**

Notice of Motion Report No. 35

**Manly After Midnight Implementation**

Councillor Brad Pedersen moved:

1. That Council acknowledge that some aspects of the implementation of the MAM Policy may require a phased and measured approach.
2. That Council note the proposed "Late Night Take Away Food Agreement" and facilitate its development and implementation.
3. That Council request that the General Manager take into account the effects and effectiveness of the proposed "Late Night Take Away Food Agreement" when exercising his statutory discretions and enforcement responsibilities in relation to compliance.

**MOTION (Pedersen / Murphy)**

1. That Council acknowledge that some aspects of the implementation of the Manly After Midnight (MAM) Policy may require a phased and measured approach.
2. That Council note the proposed "Late Night Take Away Food Agreement" and facilitate its development and implementation.
3. That Council request that the General Manager take into account the effects and effectiveness of the proposed "Late Night Take Away Food Agreement" when exercising his statutory discretions and enforcement responsibilities in relation to compliance.

**AMENDMENT (Evans / Lambert)**

That the matter of late night take away food establishments in relation to the Manly After Midnight policy be deferred pending a report from Council detailing the approved closing hours of all late late night take away food establishments in The Corso and surrounding area.

**For the Amendment:** Councillors Lambert and Evans.

**Against the Amendment:** Councillors Hay, Heasman, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Norek and Macdonald.

The **Amendment** was declared **Lost**.

**FORESHADOWED AMENDMENT (Murphy / Daley)**

1. That Council acknowledge that some aspects of the implementation of the Manly After Midnight (MAM) Policy may require a phased and measured approach.
2. That Council request Police and the Liquor Accord to work with late night take away premises, towards a "Late Night Food Accord".
3. That Council officers use their discretion regarding late night food outlets while the courts decide the future of hotel closing times.
4. That Council recognize that the above clauses do not conflict with the MAM Policy.
5. That Council allow late night take away premises to apply for new Development Applications consistent with clauses 1-5.

**For the Foreshadowed Amendment:** Councillors Hay, Heasman, Cant, Murphy, Daley, Morrison and Norek.

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

The **Foreshadowed Amendment** became the **Motion** and was put and declared **Carried**.

**RESOLVED: (Murphy / Daley)**

1. That Council acknowledge that some aspects of the implementation of the Manly After Midnight (MAM) Policy may require a phased and measured approach.
2. That Council request Police and the Liquor Accord to work with late night take away premises, towards a "Late Night Food Accord".
3. Council officers use their discretion regarding late night food outlets while the courts decide the future of hotel closing times.
4. That Council recognize that the above clauses do not conflict with the MAM Policy.
5. That Council allow late night take away premises to apply for new Development Applications consistent with clauses 1-5.

**For the Resolution:** Councillors Hay, Heasman, Cant, Murphy, Daley, Morrison, Pedersen and Norek.

**Against the Resolution:** Councillors Lambert, Aird, Evans, and Macdonald.

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**LAND USE MANAGEMENT**

*The Mayor vacated the Chair and Councillor Lambert resumed the Chair and presided over the Land Use Management meeting.*

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

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Tuesday 4 October 2005, 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 / Aird)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Tuesday 4 October 2005, 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 Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

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*Having previously declared an interest in Item 58, Councillor Hay left the Chamber.*

**ENVIRONMENTAL SERVICES DIVISION REPORTS**

Environmental Services Division Report No. 58

**2 Bower Street, Manly Section 96 Modification (DA304/02)**

<b><u>Application Lodged:</u></b>	18 July 2005
<b><u>Applicant:</u></b>	Sooke Wescott
<b><u>Owner:</u></b>	W & S Wescott
<b><u>Estimated Cost:</u></b>	N/A for S.96 modification of consent
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	2 and 3 storey detached dwelling houses and multi-unit buildings.
<b><u>Heritage:</u></b>	No.
<b><u>Foreshore Scenic Protection</u></b>	Yes

**SUMMARY:**

1. COUNCIL RECEIVED DEVELOPMENT APPLICATION NO.304/02 FOR ALTERATIONS AND UPPER LEVEL ADDITIONS TO THE EXISTING DWELLING ON 15 JULY 2002.
2. CONSIDERATION OF THE APPLICATION INCLUDED ISSUES REGARDING RETENTION OF A SIGNIFICANT MORETON BAY FIG TREE LOCATED ON THE NORTHERN SIDE BOUNDARY AND PARTLY ON THE ADJOINING SHELLY BEACH PARK.
3. IN SUPPORT OF THE PROPOSAL AN ARBORIST'S REPORT (TREE WISE MEN) WAS SUBMITTED BY THE THEN OWNER OF THE SITE. THIS REPORT FOUND THAT THE TREE WAS IN GOOD HEALTH, WORTHY OF RETENTION AND COULD BE SUCCESSFULLY RETAINED WITH THE ADDITIONS SUBJECT TO LOPPING OF 3 LIMBS WITHIN THE CONSTRUCTION ENVELOPE.
4. ON 27 NOVEMBER 2002 COUNCIL'S DEVELOPMENT CONTROL UNIT APPROVED THE APPLICATION WITH 7 CONDITIONS OF CONSENT RELATING TO RETENTION OF THE MORETON BAY FIG IN ACCORDANCE WITH THE ARBORIST'S RECOMMENDATIONS.
5. ON 22 JUNE 2004 AN APPLICATION WAS MADE BY THE NEW (CURRENT)

- OWNERS FOR AN EXTENSION OF THE CONSENT PERIOD, AND WAS SUBSEQUENTLY APPROVED ON 28 JUNE 2004 FOR EXTENSION UNTIL 27 NOVEMBER 2005. THE APPLICANT WAS ALSO ADVISED THAT NO FURTHER EXTENSION OF CONSENT WILL BE PERMITTED.
6. ON 1 JULY 2005 – A MEETING WAS CONDUCTED ON SITE WITH APPLICANT, COUNCIL'S PARKS COORDINATOR AND COUNCIL'S MANAGER DEVELOPMENT CONTROL. THE APPLICANT WAS ADVISED OF THE LANDSCAPE SIGNIFICANCE OF THE TREE TO THE LOCALITY, THAT ANY DESIGN MODIFICATIONS SHOULD ENSURE RETENTION OF THE TREE, AND THAT THE CONSENT WILL LAPSE ON 27 NOVEMBER 2005 (AS PREVIOUSLY ADVISED) UNLESS PHYSICAL COMMENCEMENT OF WORKS HAS TAKEN PLACE.
  7. ON 18 JULY 2005 THE SUBJECT S.96 APPLICATION FOR MODIFICATION OF CONSENT WAS SUBMITTED TO COUNCIL REQUESTING REMOVAL OF THE MORETON BAY FIG TREE AND MINOR DESIGN AMENDMENTS. LETTERS OF SUPPORT FOR REMOVAL OF THE TREE WERE PROVIDED FROM NEIGHBOURS AT NO'S 1, 3, 6, 8, 9 & 10 BOWER STREET.
  8. RECOMMENDATIONS FOR REFUSAL WERE MADE TO COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON THE BASIS OF LANDSCAPE IMPACT AND FAILING TO MAINTAIN SUBSTANTIALLY THE SAME DEVELOPMENT AS ORIGINALLY SUBMITTED TO AND APPROVED BY COUNCIL. THE DAU RESOLVED TO SUPPORT THE PROPOSAL ON GROUNDS OF POTENTIAL STRUCTURAL IMPACTS CAUSED BY THE TREE.
  9. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR LAMBERT.
  10. A SITE INSPECTION IS RECOMMENDED.
  11. THE MODIFICATION APPLICATION IS RECOMMENDED FOR APPROVAL.

## SITE INSPECTION

A site inspection of 2 Bower St, Manly was conducted by Councillors Aird, Evans, Lambert, Macdonald and Norek on Monday, 7 October 2005.

### Inspection Party Recommendation:

No recommendation.

## MOTION (Macdonald / Heasman)

That the Section 96 application to modify Consent No.304/02 for alterations and additions to the existing dwelling at No.2 Bower Street, Manly be approved with conditions 3, 4, 5 and 7 deleted, conditions 1, 49 and 50 modified and new conditions 73 and 74 be added as follows:

1. This approval relates to drawings/plans Nos.DA01-14 issue 1 dated May 2002 and received by Council on the 15<sup>th</sup> July 2002, and as amended by plans titled "Preferred Option" received by Council on the 27 November 2002, as amended by drawings /plans Nos. WD-03, 04, 07, 08, 09, 10, 11 and 19 dated June 2003 received by Council 18 July 2005.
49. Trees and shrubs not identified for removal on the approved plans and 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.

50. Precautions shall be taken when working near trees not identified for removal on the approved plans, such precautions 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.

73. The Morton Bay Fig located on the northern side boundary which is to be removed, is to be replaced with the planting of a minimum of two substantial *Angophora costata* (300 litre specimens at least 3.0m in height) subject to the advice of Council Landscapers, with planting to occur in consultation with Council's Parks Co-ordinator immediately following removal of the Fig Tree.

74. That the cost of the removal of the Morton Bay Fig tree and replacement trees as well as the restoration of the park area be bourn by the applicant.

**RESOLVED: (Macdonald / Heasman)**

That the Section 96 application to modify Consent No.304/02 for alterations and additions to the existing dwelling at No.2 Bower Street, Manly be approved with conditions 3, 4, 5 and 7 deleted, conditions 1, 49 and 50 modified and new conditions 73 and 74 be added as follows:

1. This approval relates to drawings/plans Nos.DA01-14 issue 1 dated May 2002 and received by Council on the 15<sup>th</sup> July 2002, and as amended by plans titled "Preferred Option" received by Council on the 27 November 2002, as amended by drawings /plans Nos. WD-03, 04, 07, 08, 09, 10, 11 and 19 dated June 2003 received by Council 18 July 2005.

49. Trees and shrubs not identified for removal on the approved plans and 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.

50. Precautions shall be taken when working near trees not identified for removal on the approved plans, such precautions 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.

73. The Morton Bay Fig located on the northern side boundary which is to be removed, is to be replaced with the planting of a minimum of two substantial *Angophora costata* (300 litre specimens at least 3.0m in height) subject to the advice of Council Landscapers, with planting to occur in consultation with Council's Parks Co-ordinator immediately following removal of the Fig Tree.

74. That the cost of the removal of the Morton Bay Fig tree and replacement trees as well as the restoration of the park area be bourn by the applicant.



**For the Resolution:** Councillors Heasman, Cant, Murphy, Daley, Pedersen, Norek and Macdonald.

**Against the Resolution:** Councillors Lambert, Morrison, Aird and Evans.

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Environmental Services Division Report No. 59

**42 Bower Street, Manly (DA102/05)**

**Application Lodged:** 4 February 2005 (Section 82A lodged 13/07/05)

**Applicant:** Marc Biancardi

**Owner:** Sarah Day

**Estimated Cost:** 1.5M

**Zoning:** Manly Local Environmental Plan, 1988 - Residential within a Foreshore Scenic Protection Area.

**Surrounding Development:** Two and three storey dwelling houses

**Heritage:** Nil

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO.102/05 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING WAS RECEIVED ON 4 FEBRUARY 2005.
2. FOLLOWING CONSIDERATION OF THE APPLICATION BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT THE APPLICATION WAS REFUSED ON 23 MAY 2005.
3. ON 13 JULY 2005 COUNCIL RECEIVED AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.
4. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH ONE SUBMISSION RECEIVED.
5. AN APPEAL AGAINST THE REFUSAL OF 23 MAY 2005 WAS LODGED WITH THE LAND AND ENVIRONMENT COURT ON 30 AUGUST 2005 AND REMAINS PENDING.
6. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. REFUSAL OF THE APPLICATION IS RECOMMENDED.

**SITE INSPECTION**

A site inspection of 2 Bower St, Manly was conducted by Councillors Aird, Evans, Lambert, Macdonald and Norek on Monday, 7 October 2005.

**Inspection Party Recommendation:**

No recommendation.

**MOTION (Evans / Daley)**

That application for review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 in regard to Development Application No 102/05 for alterations and additions to the existing dwelling and a new swimming pool at No.42 Bower Street, Manly be refused for the following reasons:

1. The proposal is considered inconsistent with the relevant objectives of the Residential Zone under Manly Local Environmental Plan, 1988, particularly with respect to objectives (c), (d) and (e) due to excess visual bulk and scale impacts to the surrounds and a lack of

additional landscaping to mitigate these impacts.

2. The proposal is considered an unsatisfactory form of development within the Foreshore Scenic Protection Area, pursuant to Clause 17 – Visual and aesthetic protection of certain land 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 and local foreshore areas.
3. The proposal is considered an overdevelopment of the site given that it does not comply with the Manly Development Control Plan (DCP) for the Residential Zone 2001, Amendment 1, with respect to the provisions for Floor Space Ratio, height, setback (dwelling and swimming pool) and excavation.
4. The proposal does not comply with, and is not considered to satisfy the objectives for the provisions of Floor Space Ratio, height, setback, excavation, view sharing and privacy as stated in Sections 3.3, 3.4, 3.5, 3.6, 3.8 and 3.10 of the Development Control Plan for the Residential Zone 2001, Amendment 1.
5. Pursuant to Section 79C(b) of the Environmental Planning & Assessment Act 1979, the proposal is considered to result in unreasonable built impacts to its foreshore locality in terms of excess bulk and scale, loss of iconic views and loss of privacy from neighbouring properties.
6. Pursuant to Section 79C(e) of the Environmental Planning & Assessment Act 1979, the proposal is not considered in the public interest, primarily due to its impact on the Foreshore Scenic Protection Area and amenity impacts to neighbouring properties.
7. The proposal is not considered to be alterations and additions to the existing dwelling as stated in the submitted Statement of Environmental Effects but total demolition of the existing dwelling and erection of a new three (3) storey split level dwelling house with a new swimming pool.

#### **AMENDMENT (Macdonald / Hay)**

That application for review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 in regard to Development Application No 102/05 for alterations and additions to the existing dwelling and a new swimming pool at No.42 Bower Street, Manly be approved with standard conditions in addition to submission of revised plans showing:

1. an increase in the east side first floor setback in line with the existing house for the northern portion of the proposed building;
2. an increase in the west side first floor set back of approximately 1 meter for the northern portion of the proposed building.
3. deletion of the additional car space and driveway; and
4. revision to the northern roof line and sun screen treatment generally as indicated in sketch plans submitted.

**For the Amendment:** Councillors Hay, Heasman, Cant, Murphy, Morrison, Norek and Macdonald.

**Against the Amendment:** Councillors Lambert, Daley, Pedersen, Aird and Evans.

The **Amendment** became the **Motion** and was put and declared **Carried**.

**RESOLVED: (Macdonald / Hay)**

That application for review of determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 in regard to Development Application No 102/05 for alterations and additions to the existing dwelling and a new swimming pool at No.42 Bower Street, Manly be **approved** with standard conditions in addition to submission of revised plans showing:

1. an increase in the east side first floor setback in line with the existing house for the northern portion of the proposed building;
2. an increase in the west side first floor set back of approximately 1 metre for the northern portion of the proposed building.
3. deletion of the additional car space and driveway; and
4. revision to the northern roof line and sun screen treatment generally as indicated in sketch plans submitted.

**For the Resolution:** Councillors Hay, Heasman, Cant, Murphy, Morrison, Norek and Macdonald.

**Against the Resolution:** Councillors Lambert, Daley, Pedersen, Aird and Evans.

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Environmental Services Division Report No. 60

**63 Golf Parade, Manly (DA21/05)****Application Lodged:**

8 September 2005 (Section 82A)

**Applicant:**

C Pearson for Pearson Gower and Associates P/L

**Owner:**

T and A Higgins

**Estimated Cost:**

\$230,000

**Zoning:**

Manly Local Environmental Plan, 1988 - Residential

**Surrounding Development:**

Single and two storey detached and semi detached dwellings

**Heritage:**

n/a

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO.21/05 WAS RECEIVED BY COUNCIL ON THE 20<sup>TH</sup> DECEMBER 2004.
2. ON THE 15 FEBRUARY 2005 COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ISSUED A DEFERRED COMMENCEMENT CONSENT WHICH INCLUDED A CONDITION REQUIRING A 1.0M REDUCTION IN THE REARWARD EXTENT OF THE PROPOSED ADDITIONS.
3. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT SEEKING DELETION OF THE DEFERRED COMMENCEMENT CONDITION.
4. THE S82A APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS IN ACCORDANCE WITH COUNCIL POLICY WITH NO SUBMISSIONS RECEIVED.
5. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
6. A SITE INSPECTION IS RECOMMENDED.
7. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**SITE INSPECTION**

A site inspection of 63 Golf Parade, Manly was conducted by Councillors Aird, Lambert, Macdonald and Norek on Monday, 7 October 2005.

**Inspection Party Recommendation:**

That the Section 82A Review requesting deletion of deferred commencement conditions A and B be approved.

**MOTION (Macdonald / Murphy)**

That the Section 82A Review for 63 Golf Parade, Manly (DA21/05) requesting deletion of deferred commencement conditions A and B be approved.

**RESOLVED: (Macdonald / Murphy)**

That the Section 82A Review for 2 Bower St, Manly (DA21/05) requesting deletion of deferred commencement conditions A and B be approved.

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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 61

**141 Balgowlah Road, Balgowlah (DA222/05)**

<b><u>Application Lodged:</u></b>	2 June 2005
<b><u>Applicant:</u></b>	Masterton Homes Pty Ltd
<b><u>Owner:</u></b>	A Dorozario & J Alexander
<b><u>Estimated Cost:</u></b>	\$362,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	1 & 2 storey dwellings, residential units, school, golf course
<b><u>Heritage:</u></b>	Balgowlah Road – street tree planting

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO.222/05 FOR DEMOLITION OF THE EXISTING SINGLE STOREY DWELLING AND ERECTION OF 2 SEMI-DETACHED TWO STOREY DWELLINGS WAS RECEIVED BY COUNCIL ON 2 JUNE 2005.
2. THE PROPOSAL WAS NOTIFIED IN ACCORDANCE WITH COUNCIL POLICY WITH ONE SUBMISSION RECEIVED.
3. A REPORT RECOMMENDING APPROVAL OF THE APPLICATION WAS FORWARDED TO COUNCIL'S DEVELOPMENT CONTROL UNIT MEETING OF 11 AUGUST 2005 WHERE THE MATTER WAS DEFERRED PENDING RECEIPT OF ADDITIONAL INFORMATION REGARDING OVERSHADOWING IMPACTS AND JUSTIFICATION FOR REMOVAL OF A STREET TREE.
4. THE APPLICANT PROVIDED ADDITIONAL INFORMATION CONCERNING THE STREET TREE AND SHADOW IMPACT.
5. THE APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD
6. A SITE INSPECTION IS RECOMMENDED.
7. APPROVAL OF APPLICATION IS RECOMMENDED SUBJECT TO CONDITIONS RELATING TO PRIVACY AND REPLACEMENT OF THE STREET TREE.

## SITE INSPECTION

A site inspection of 141 Balgowlah Rd, Balgowlah was conducted by Councillors Aird, Lambert, Macdonald and Norek on Monday, 7 October 2005.

### Inspection Party Recommendation:

No recommendation.

### MOTION (Macdonald / Aird)

That Development Application No.222/05 for demolition of the existing dwelling and erection of two semi detached two storey dwellings and Torrens Title subdivision at 141 Balgowlah Road, Balgowlah, be **refused** for the following reasons:

The proposed building:

- breaches density provisions;
- is an overdevelopment of the site;
- is out of character with the area;
- overshadows the property to the east (139 Balgowlah Road);
- results in a loss of amenity to 139 Balgowlah Road due it's bulk.

### AMENDMENT (Norek / Morrison)

That Development Application No.222/05 for demolition of the existing dwelling and erection of two semi detached two storey dwellings and Torrens Title subdivision at 141 Balgowlah Road, Balgowlah, be **approved** subject to the air conditioning unit being moved to the rear of the building and the following conditions:

#### ANS03

The east facing window of bedroom 1 - Dwelling A is to be a highlight style window with minimum sill height 1.5m or have a fixed window or obscure glazing to a height of 1.5m above finished floor level to reduce privacy impacts on adjoining properties, plans being suitably amended prior to issue of the Construction Certificate.

#### DA1

This approval relates to drawings/plans Nos. RL600 - 1 & 4 dated 3 December 2004, and LPDA - 0563719/1 dated December 2004; and received by Council on the 23 March 2005.

#### ANS01

The existing street tree identified for removal is to be replaced with an advanced tree of same species, with planting being carried out in consultation with Council's Landscape Advisor, plans being suitably amended plan prior to issue of the Construction Certificate.

#### ANS02

Separate drainage systems are required to be provided for each dwelling as part of the Torrens Title subdivision. Amended Hydraulic Plans are required to be submitted to this effect prior to issue of the Construction Certificate.

#### DA009

The construction of a vehicular footpath crossing is required. The design and construction shall be in accordance with the current Policy of Council. All works shall be carried out prior to the issue of Occupation Certificate.

## DA011

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

## 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.

## 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.

## 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 \$7500. 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 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.

## 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.

## DA030

No portion of the proposed building is to encroach onto a Public Road or Reserve, except as may be permitted by the Local Government Act 1993.

## DA031

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

## DA039

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

## DA040

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

## DA044

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

## DA048

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

## DA058

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

## DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.

## 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.

DA075

All driveways, carparking areas and pedestrian paths shall be surfaced and sealed. Details of treatment to these areas shall be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

DA077

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

DA109

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

DA111

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

DA084

Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Councils street gutter.

DA089

An easement is to be created through the adjoining property/properties for the disposal of stormwater runoff and services, to the requirements of Council or its delegate. The easement shall be registered prior to the issue of the Construction Certificate. All costs associated with piping, relocation and creation of easements shall be borne by the applicant.

DA091

Details of any proposed easement shall be submitted to Council. The easement shall be registered 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.

DA239

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

DA240

No tree other than on land identified for the construction of buildings and works as shown on the



building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.

DA348

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

DA255

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

DA259

All engineering works are to be completed prior to the issue of the Subdivision Certificate.

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
- Reinforced concrete slab
- Framework inspection X 2
- Wet area moisture barrier X 2
- Driveway crossing/kerb layback
- Landscaping inspection
- Final inspection

The cost of these inspections by Council is \$1980 (being \$220.00 per inspection inclusive of GST).

**Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1573 or 9976 1587.**

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

DA271

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

DA274

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

DA280

All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.

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

DA298

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

DA319

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

DA320

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

DA326

In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

DA329

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

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.

**For the Amendment:** Councillors Hay, Heasman, Murphy, Daley, Morrison and Norek.

**Against the Amendment:** Councillors Lambert, Cant, Pedersen, Aird, Evans and Macdonald.

*With the voting being equal, the Chairperson, Councillor Lambert, used her casting vote against the Amendment and declared it **Lost**.*

**RESOLVED: (Macdonald / Aird)**

That Development Application No.222/05 for demolition of the existing dwelling and erection of two semi detached two storey dwellings and Torrens Title subdivision at 141 Balgowlah Road, Balgowlah, be **refused** for the following reasons:

The proposed building:

- breaches density provisions;
- is an overdevelopment of the site;
- is out of character with the area;
- overshadows the property to the east (139 Balgowlah Road); and
- results in a loss of amenity to 139 Balgowlah Road due it's bulk.

**For the Resolution:** Councillors Lambert, Cant, Pedersen, Aird, Evans and Macdonald.

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

*With the voting being equal, the Chairperson, Councillor Lambert, used her casting vote in favour of the Motion and declared it **Carried**.*

Environmental Services Division Report No. 62

**Development Applications Being Processed During November 2005**

**SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING NOVEMBER 2005.

**MOTION (Macdonald / Heasman)**

That the information be noted.

**RESOLVED: (Macdonald / Heasman)**

That the information be noted.

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

**Against the Resolution:** Nil.

*Councillors Murphy and Morrison were not in the Chamber when the Motion was put.*

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Environmental Services Division Report No. 63

**Appeals List for November 2005**

**SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION

**MOTION (Macdonald / Evans)**

That the information be noted.

**RESOLVED: (Macdonald / Evans)**

That the information be noted.

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

**Against the Resolution:** Nil.

*Councillors Murphy and Morrison were not in the Chamber when the Motion was put.*

\*\*\*\*\*

**CLOSE**

The meeting closed at [12.18am](#).

The above minutes were confirmed at a **Land Use Management Committee** of Manly Council held on [5 December 2005](#).

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**CHAIRPERSON**

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