



# Manly Council

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## Minutes

### Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 9 October 2006**

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[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*

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

The Land Use Management Committee, having met at 7:39 PM on Monday 9 October 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, who presided  
Councillor S Cant  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert, AM  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

**ALSO PRESENT**

Henry Wong, General Manager  
Hugh Watson, Acting Manager Development Assessment  
Jennie Minifie, Branch Manager, Corporate Planning and Strategy  
Rachael Levey, Minute Taker  
Elayne Becker, Minute Taker

**APOLOGIES**

Apologies were tendered on behalf Councillor R Morrison, Deputy Chairperson for non-attendance.

**MOTION (Macdonald / Aird)**

That the apology received Councillor R Morrison, Deputy Chairperson be accepted and leave be granted.

**RESOLVED (Macdonald / Aird)**

That the apology received Councillor R Morrison, Deputy Chairperson be accepted and leave be granted.

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

**Against the Resolution:** Nil.

**LEAVE OF ABSENCE**

Nil.

**DECLARATIONS OF PECUNIARY INTEREST / CONFLICT OF INTEREST**

Nil.

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

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 4 September 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 4 September 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, Cant, Murphy, Daley, Pedersen, Aird, Evans and Norek

**Against the Resolution:** Nil.

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**MATTERS OF URGENCY**

Councillor Heasman raised as a Matter of Urgency, the issue of the Council tender in relation to outdoor seating. The Chairperson ruled that this was not a Matter of Urgency and would not proceed to debate.

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**CORPORATE PLANNING AND STRATEGY DIVISION**

Corporate Planning And Strategy Division Report No. 49

**Update on three key sites on North Head****SUMMARY**

The purpose of this report is to inform the Council of recent actions by the NSW and Federal Governments in respect of three key sites on North Head which form part of the proposed North Head Sanctuary.

It is proposed to convene a meeting between Council staff and other key stakeholder groups to determine a strategy to address these imminent North Head developments.

**MOTION (Pedersen / Lambert)**

That:

1. Council request the General Manager to convene a meeting to determine a strategy to address these imminent North Head developments and issues as outlined in this report.
2. The attendees at the North Head strategy meeting should include local politicians, councillors, a representative of the Sanctuary Foundation, representatives from Little Manly and Fairy Bower Precincts Community Forums, the Environment Committee and relevant Council staff.

3. Council, through the Mayor seek an urgent meeting with the NSW Premier, the Hon Morris Iemma to discuss progress towards a North Head Sanctuary.
4. Council, as a matter of some urgency, write to the Federal Minister for the Environment & Heritage the Hon Ian Campbell, bringing to his attention, concerns as to the cumulative impacts of these proposed developments and their implications for National Heritage values of the area.

**RESOLVED (Pedersen / Lambert)**

That:

1. Council request the General Manager to convene a meeting to determine a strategy to address these imminent North Head developments and issues as outlined in this report.
2. The attendees at the North Head strategy meeting should include local politicians, councillors, a representative of the Sanctuary Foundation, representatives from Little Manly and Fairy Bower Precincts Community Forums, the Environment Committee and relevant Council staff.
3. Council, through the Mayor seek an urgent meeting with the NSW Premier, the Hon Morris Iemma to discuss progress towards a North Head Sanctuary.
4. Council, as a matter of some urgency, write to the Federal Minister for the Environment & Heritage the Hon Ian Campbell, bringing to his attention, concerns as to the cumulative impacts of these proposed developments and their implications for National Heritage values of the area.

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

**Against the Resolution:** Nil.

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Corporate Planning And Strategy Division Report No. 50

**Preparation of new principal Manly LEP****SUMMARY**

In October 2004, Council resolved to undertake a review of the Manly Local Environmental Plan (LEP) 1988, accompanying Development Control Plans (DCPs) and the broader development application process and subsequently resolved to proceed with the review. The review has progressed in the context of the NSW Planning Reforms.

This report recommends that Council resolve to prepare a new principal Local Environmental Plan consistent with the Standard LEP instrument.

**MOTION (Macdonald / Evans)**

That Council:

1. Pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, prepare a new principal (comprehensive) draft Local Environmental Plan in respect of the whole Local Government Area of Manly consistent with the Standard LEP instrument;

2. Notify, pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, the Department of Planning of its decision;
3. Consult as required by Section 62 of the *Environmental and Planning Assessment Act, 1979* in the preparation of the draft Local Environmental Plan (Draft LEP) and any Local Environmental Study, with all relevant public authorities or agencies, neighbouring councils and SHOROC, and other interested parties/groups/individuals, with an interest in the draft LEP.
4. Invite any other councillors who wish to join the LEP Working Party to nominate to the General Manager.

**RESOLVED (Macdonald / Evans)**

That Council:

1. Pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, prepare a new principal (comprehensive) draft Local Environmental Plan in respect of the whole Local Government Area of Manly consistent with the Standard LEP instrument;
2. Notify, pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, the Department of Planning of its decision;
3. Consult as required by Section 62 of the *Environmental and Planning Assessment Act, 1979* in the preparation of the draft Local Environmental Plan (Draft LEP) and any Local Environmental Study, with all relevant public authorities or agencies, neighbouring councils and SHOROC, and other interested parties/groups/individuals, with an interest in the draft LEP.
4. Invite any other councillors who wish to join the LEP Working Party to nominate to the General Manager.

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

**Against the Resolution:** Nil.

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Corporate Planning And Strategy Division Report No. 51

**Items for Brief Mention - Minutes for Adoption by Council - Special Purpose Committees and Joint Committees****1. Report:-**

In relation to surplus land at Balgowlah Boys High School, being Lots 15 and 16 DP18433, Coral Street Balgowlah, Council at its Planning and Strategy Committee meeting of 13 June 2006 resolved:

**"Part A**

*That:*

1. *The Dept of Planning be advised of the submission(s) to Draft amendment No. 74.*
2. *The Minister for Planning is requested to make the Plan pursuant to Section 70 of the Environmental Planning and Assessment Act, 1979.*

3. *The Manly Development Control Plan for the Residential Zone 2001, and its successor, be amended, pursuant to Section 74C(2)(b) of the Environmental Planning and Assessment Act, 1979 to include the land subject to LEP Amendment No. 74 in Residential Density Sub-zone 4 – 1 dwelling/300sqm of site area.*

**Part B**

*That Council advise its opposition to the sale of the property to fund the school's facilities to the NSW Premier, the Minister for Education and the Minister for Planning.*

**Part C**

*That Council appeal to the State Government to further it's obligations to provide affordable housing in the area through the use of this site."*

A response has been received from the office of the Minister for Education and Training, The Hon. Carmel Tebbutt, and can be viewed as Attachment A, for the information of councillors.

**2. Minutes of Meetings:-**

- (i) Manly LEP DCP Review Working Party - Minutes of Meeting Held on 27 July 2006.
- (ii) Manly Social Plan Implementation Committee – Minutes of Meeting Held on 15 August 2006.
- (iii) Scientific Advisory Panel – Minutes of Meeting Held on 6 September 2006.
- (iv) Landscape Management & Urban Design Committee – Minutes of Meeting Held on 13 September 2006.
- (v) Social Plan Implementation Committee – Minutes of Meeting Held on 19 September 2006.
- (vi) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.
- (vii) Heritage Committee – Minutes of Meeting Held on 6 September 2006.
- (viii) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.
- (ix) Manly LEP Review Working Party – Minutes of Meeting Held on 13 September 2006.
- (x) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

**3. The following Minutes contain recommendations of a substantial nature requiring formal Council adoption as follows:-**

- (a) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.

**Item 3.1 Environmental Levy**

Recommendation:

The Committee requests that the following resolution be reported to Council.

The Committee reports its view that Levy funds for the year 2005-6 have been separately accounted for and affirms its belief that the funds have been directed to new environmental initiatives additional to the Council's normal operational and capital budget expenditure.

Moved: Richard Hewitt. Seconded: Ray Mathieson

- (b) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.

**Item 3.2 Environmental Levy**

Recommendation:

The Committee requests that the following recommendation be reported to Council.

The Committee understands that current accounting practices are to continue and recommends the Levy web page be amended to show the following additional clause –

The only staff costs charged to the Levy are either:

- a) For staff specifically employed for a Levy project, or
- b) That proportion of Bushcare staff utilized in projects agreed by the Environment Committee to be a "new environmental initiative" additional to the Council's normal operational and capital budget expenditure.

Moved: Richard Hewitt. Seconded: Ray Mathieson

- (c) Heritage Committee – Minutes of Meeting Held on 6 September 2006.

**Item 8.1 Development Applications of Heritage Interest - Seaforth TAFE**

Recommendation:

That any future plans for the Seaforth TAFE site ensure the preservation of the historic Balgowlah-Seaforth Library building.

- (d) Heritage Committee – Minutes of Meeting Held on 6 September 2006.

**Item 9 Heritage Review**

Recommendation:

The Heritage Committee requests Council review the budget allocation for the Heritage Review to ensure a high quality consultant can be engaged to undertake one hundred percent of the work over one financial year.

- (e) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.

**Item 8.3 New Member Application**

Recommendation:

In light of the role of the Manly Sustainability Strategy in Council policy and practice, and the opportunity to recruit sustainable town planning skills the Committee recommend that Council create two new community representative positions and fill one immediately with applicant Tracy Davey who has significant town planning skills.

Moved: Richard Hewitt      Seconded: Cllr Barbara Aird

- (f) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.

**Item 8.5 Congratulations to Staff and Committee**

Recommendation:

1. That Council commend staff for the activities of winning the Keep Australia Beautiful NSW award for Sustainable Communities.
2. That Council write to KAB NSW suggesting that a short citation at the awards ceremony be announced so that benefits from their experiences can be relayed.

Moved: Cllr Barbara Aird; Seconded Keelah Lam

- (g) Manly LEP Review Working Party – Minutes of Meeting Held on 13 September 2006.

**Item 4 Invitation to Precincts to Nominate one Representative to attend the LEP Working Group**

Recommendation:

It was decided that the invitation should be extended to the Precinct Community Forums to send one member per precinct to join the LEP Working Party at future meetings regarding the LEP, and a letter is to be sent to all Precincts in this regard.

- (h) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

**Item 89/06 North Steyne, Manly – Bus Zone and Parking Restrictions**

Recommendation:

That Council implement the following parking restrictions on North Steyne north of The Corso.

1. Retain the existing Motorcycle Parking Zone (western side).
2. Convert the 18.0m long Taxi Zone to a Bus Zone (western side).
3. Install a new 24.0m long Taxi Zone (western side).
4. Convert the remainder of the No Stopping restrictions to No Parking (western side).
5. Convert the existing No Parking restrictions on North Steyne between Raglan St and the Corso to No Stopping (east side).

- (i) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

**Item 91/06 Victoria Parade, Manly– Temporary Bus Zone for Boxing Day 2006**

Recommendation:

1. That Council install a temporary Bus Zone, 9:00 AM to 4:00PM for Tuesday the 26 December 2006, on the northern side of Victoria Parade for a length of 40.0m.
2. Further that Council install the temporary Bus zone with 'clip-on' signs over the existing 2P Parking signage for the duration.

**MOTION (Macdonald / Cant)**

- 1.1. That Council note the response from the Office of the Minister for Education and Training in relation to Part B of the above-mentioned resolution concerning the sale of

surplus land at Balgowlah Boys High School ie:

- Once rezoning of the two parcels of land occurs the school intends to sell the properties on a competitive basis;
- The Department of Education views the properties as surplus to its requirements;
- Ninety percent of proceeds of any future sale of the properties will be returned to improve facilities at Balgowlah Boys High School with 10 percent being placed in a pool of funds for statewide distribution in accordance with State Government Policy.

- 1.2. That Council receive an update on surplus land at Balgowlah Boys High School (being Lots 15 and 16 DP18433, Coral Street Balgowlah) once feedback from the other State Government Departments is received.
2. That the recommendations of Minutes of Meetings, as listed in Item 2 above, being 2(i) to 2(x), be adopted.
3. That in relation to all matters of a substantial nature listed in Item 3 above, being 3(a) to 3(i), be adopted as per the recommendation of the Committees.

**RESOLVED (Macdonald / Cant)**

- 1.1. That Council note the response from the Office of the Minister for Education and Training in relation to Part B of the above-mentioned resolution concerning the sale of surplus land at Balgowlah Boys High School ie:
  - Once rezoning of the two parcels of land occurs the school intends to sell the properties on a competitive basis;
  - The Department of Education views the properties as surplus to its requirements;
  - Ninety percent of proceeds of any future sale of the properties will be returned to improve facilities at Balgowlah Boys High School with 10 percent being placed in a pool of funds for statewide distribution in accordance with State Government Policy.
- 1.2. That Council receive an update on surplus land at Balgowlah Boys High School (being Lots 15 and 16 DP18433, Coral Street Balgowlah) once feedback from the other State Government Departments is received.
2. That the recommendations of Minutes of Meetings, as listed in Item 2 above, being 2(i) to 2(x), be adopted.
3. That in relation to all matters of a substantial nature listed in Item 3 above, being 3(a) to 3(i), be adopted as per the recommendation of the Committees.

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

**Against the Resolution:** Nil.

*Councillor Aird vacated the chair and Councillor Lambert resumed the Chair.*

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**ENVIRONMENTAL SERVICES DIVISION**

Environmental Services Division Report No. 56

**101 Bower Street, Manly**

**Section 82A Review of Determination (DA506/04)**

**Application Lodged:** 16 June 2006

**Applicant:** Burley Katon Halliday

**Owner:** J & M Kierath

**Estimated Cost:** \$2,000,000

**Zoning:** Manly Local Environmental Plan, 1988 - Residential Within Foreshore Scenic Protection Area

**Surrounding Development:** One, Two and Three Storey Dwellings and Multi Storey Residential Flat Buildings.

**Heritage:** Yes

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO.506/04 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING RESIDENTIAL FLAT BUILDING WAS RECEIVED BY COUNCIL 30 SEPTEMBER 2004.
2. THE SITE WAS LISTED AS AN ITEM OF ENVIRONMENTAL HERITAGE UNDER SCHEDULE 4 OF THE MANLY LOCAL ENVIRONMENTAL PLAN 1988 ON 22 JULY 2005.
3. DEVELOPMENT APPLICATION NO.506/04 WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
4. DEVELOPMENT APPLICATION NO.506/04 WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 9 AUGUST 2005 AND APPROVED.
5. AN APPLICATION TO MODIFY THE CONSENT WAS RECEIVED BY COUNCIL ON 23 AUGUST 2005.
6. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED.
7. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 16 MAY 2006 WHEN THE APPLICATION WAS REFUSED.
8. AN APPLICATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 FOR REVIEW OF DETERMINATION WAS RECEIVED BY COUNCIL ON 16 JUNE 2006.
9. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH NO SUBMISSIONS RECEIVED.
10. THE APPLICATION FOR REVIEW WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 24 AUGUST 2006 WHERE REFUSAL OF THE APPLICATION WAS RECOMMENDED.
11. THE APPLICATION FOR REVIEW IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR HAY AND MACDONALD.
12. A SITE INSPECTION IS RECOMMENDED.
13. THE APPLICATION IS RECOMMENDED FOR REFUSAL

**SITE INSPECTIONS**

A Site Inspection of 101 Bower Street, Manly, 82A Review was conducted by Councillors Aird, Hay, Heasman, Lambert, Macdonald and Murphy on Monday 9 October 2006.

**Inspection Party Recommendation:**

No Recommendation.

**PUBLIC ADDRESSES**

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

Owner: Mr John Kierath

**MOTION (Murphy / Macdonald)**

That the request for reconsideration of the proposed modifications to Development Application No. 506/04 for alterations & additions to the existing heritage listed building at 101, Bower Street, Manly be **approved** as submitted for the following reasons:

The application:

- Does not change the envelope
- Addresses structural adequacy problems
- Increases off street parking in an area already starved of parking as well as on street
- Addresses BCA and Strata requirements, including soundproofing between floors and fireproofing
- Ensures that this building will be restored and modified to a level that will not require further modifications in the future.

**AMENDMENT (Evans / Aird)**

That pursuant to Section 82(A) of the Environmental Planning and Assessment Act 1979, the request for reconsideration of the proposed modifications to Development Application No. 506/04 for alterations & additions to the existing heritage listed building at 101, Bower Street, Manly be refused for the following reasons:-

1. The proposed modifications are substantially different from the original development approval and therefore cannot be considered under the provisions of Section 96 (2) of the Environmental Planning and Assessment Act 1979.
2. The proposed modifications are likely to have an adverse impact on the integrity of the heritage listed item and reduce the significance of the item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
3. The proposed changes to the walls and levels of the existing heritage listed building will have an adverse impact on the heritage significance of the listed item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is likely to have an adverse impact on the natural and built environment, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with the floor space ratio requirements of the Development Control Plan for the Residential Zone 2001, Amendment 1 having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed modifications fail to comply with Clause 3.6.2 (a) - Excavation/Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
7. The proposed relocation of the on-site detention tank will require further excessive excavation and fails to comply with Clause 3.6.2 (a) - Excavation/Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

8. The proposed modifications and the submitted Heritage Statement do not address the archaeological potential of the site, pursuant to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
9. The proposal is not acceptable having regard to the submissions received, pursuant to Section 79 C (1) (e) of the Environmental Planning and Assessment Act 1979.

**For the Amendment:** Councillors Lambert, Pedersen, Aird and Evans

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

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

**RESOLVED (Murphy / Macdonald)**

That the request for reconsideration of the proposed modifications to Development Application No. 506/04 for alterations & additions to the existing heritage listed building at 101, Bower Street, Manly be **approved** as submitted for the following reasons:

The application:

- Does not change the envelope
- Addresses structural adequacy problems
- Increases off street parking in an area already starved of parking as well as on street
- Addresses BCA and Strata requirements, including soundproofing between floors and fireproofing
- Ensures that this building will be restored and modified to a level that will not require further modifications in the future.

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

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

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Environmental Services Division Report No. 57

**30 Pacific Street, Manly (DA433/05)**

**Application Lodged:** 29.9.05

**Applicant:** Fox Johnston

**Owner:** K P O'Grady and H J Howard

**Estimated Cost:** \$450,000

**Zoning:** Manly Local Environmental Plan, 1988 - Residential the Property is also on the Foreshore, Scenic Protection Area and Tourist Area

**Surrounding Development:** Residential Flat Buildings and Dwellings

**Heritage:** Pacific Street from Collingwood Street to Malvern Avenue And Sandstone Kerbs is Listed for its Street Tree Planting

**SUMMARY:**

1. DEVELOPMENT APPLICATION FOR 433/05 FOR ALTERATIONS AND ADDITIONS TO EXISTING DWELLING WAS RECEIVED BY COUNCIL ON THE 29TH SEPTEMBER 2005.
2. THE PROPOSAL IS NOTIFIED AND ONE SUBMISSION RECEIVED
3. THE APPLICATION WAS PRESENTED TO THE DEVELOPED ASSESSMENT UNIT MEETING OF THE 22ND FEBRUARY 2006 WITH A RECOMMENDATION FOR REFUSAL. HOWEVER AT THIS MEETING IT WAS DEFERRED FOR FURTHER DISCUSSIONS WITH THE APPLICANTS TO ADDRESS THE NON-COMPLIANCES.

4. THE PROPOSAL WAS SUBSEQUENTLY AMENDED AND RENOTIFIED.
5. THE REPORT WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING OF 27TH JUNE 2006 WITH A RECOMMENDATION OF DEFERRED COMMENCEMENT. HOWEVER AT THIS MEETING IT WAS DEFERRED FOR FURTHER DISCUSSION WITH THE APPLICANT REGARDING SIDE SETBACKS AND FLOOR SPACE RATIO NON-COMPLIANCE AND STREETScape COMPATIBILITY
6. THE APPLICATION IS PRESENTED TO COUNCILS AND USE MANAGEMENT COMMITTEE MEETING ON THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. REFUSAL OF THE APPLICATION IS RECOMMENDED.

### **SITE INSPECTIONS**

A Site Inspection of 30 Pacific Street, Manly, was conducted by Councillors Aird, Hay, Heasman, Lambert, Macdonald, Murphy and Norek on Monday 9 October 2006.

### **Inspection Party Recommendation:**

No Recommendation.

### **PUBLIC ADDRESSES**

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

Owner: Ms Kathleen O'Grady

### **MOTION (Evans / Macdonald)**

1. That Development Application No.433/05 at 30 Pacific Street, Manly, for alterations and a first floor addition to an existing dwelling house, including a double car parking area with a porous surface be approved with standard conditions, for the following reasons:
  - a) The quality and integrity of the design.
  - b) The redeeming environmental features of the proposal, including the use of solar energy and cross ventilation.
2. That subject to design of the car parking area, the tree located on the road reserve be replaced as advised by Council officers.

### **RESOLVED (Evans / Macdonald)**

1. That Development Application No.433/05 at 30 Pacific Street, Manly, for alterations and a first floor addition to an existing dwelling house, including a double car parking area with a porous surface be approved with standard conditions, for the following reasons:
  - a) The quality and integrity of the design.
  - b) The redeeming environmental features of the proposal, including the use of solar energy and cross ventilation.
2. That subject to design of the car parking area, the tree located on the road reserve be replaced as advised by Council officers.

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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 58

**96 Seaforth Crescent, Seaforth**

**Section 82A Review of Determination (DA326/05)**

**Application Lodged:** 27 February 2006

**Applicant/Owner:** D Verschoor

**Estimated Cost:** \$600,000

**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
Manly Residential Development Control Plan 2001,  
Amendment 1 Sub Zone: 7  
Within Foreshore Scenic Protection Area

**Surrounding Development:** Two and three storey dwellings

**Heritage:** n/a

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO. 326/05 FOR DEMOLITION OF THE EXISTING DWELLING AND ERECTION OF A NEW THREE STOREY DWELLING WITH DOUBLE GARAGE AND SWIMMING POOL WAS RECEIVED BY COUNCIL ON 12 JULY 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 12 JANUARY 2006 WHERE THE APPLICATION WAS REFUSED.
4. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979. THE APPLICATION FORM REVIEW INCLUDED REVISED PLANS.
5. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
6. THE APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
7. THE CURRENT PROPOSAL EXHIBITS A NUMBER OF NON COMPLIANCES WITH COUNCIL'S RESIDENTIAL DCP AND IS CONSIDERED TO IMPACT ADVERSELY ON AMENITY OF ADJOINING RESIDENTS.
8. THE APPLICATION IS PRESENTED TO LAND USE MANGEMENT COMMITTEE BY COUNCILLOR MACDONALD.
9. RECOMMENDED FOR A SITE INSPECTION.
10. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**SITE INSPECTIONS**

A site Inspection of 96 Seaview Crescent, Seaforth, 82A Review was conducted by Councillors Heasman, Lambert, Macdonald, Murphy and Norek on Monday 9 October 2006.

**Inspection Party Recommendation:**

No Recommendation.

**PUBLIC ADDRESSES**

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

Against: Mr Richard Fabricious

Owner: Mr David Verschoor

**MOTION (Norek / Aird)**

That Development Application No.326/05 for demolition of the existing dwelling and erection of a new three storey dwelling with double garage under, swimming pool and associated landscaping at No.96 Seaforth Crescent Seaforth be **refused** for the following reasons;

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of the Seaforth Crescent streetscape as a result of its excessive bulk and scale, having regard to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979.
3. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
4. The proposed development would be an overdevelopment of the site, and would create an undesirable precedent for the future character of development along Seaforth Crescent, Seaforth, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. Reasons for refusal should be advised to the applicant with regard to loss of view corridor for the property to the rear and the design of the roof and overall height.

**AMENDMENT (Murphy / Heasman)**

That Development Application No.326/05 for demolition of the existing dwelling and erection of a new three storey dwelling with double garage under, swimming pool and associated landscaping at No.96 Seaforth Crescent Seaforth be deferred to allow further consideration of the design with regard to the roof line, FSR and also the amenity issues of the rear neighbour, including view sharing. This may be addressed by additional excavation and side setbacks on upper floors.

**For the Amendment:** Councillors Heasman and Murphy

**Against the Amendment:** Councillors Macdonald, Hay, Lambert, Cant, Daley, Pedersen, Aird, Evans and Norek

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

**RESOLVED (Norek / Aird)**

That Development Application No.326/05 for demolition of the existing dwelling and erection of a new three storey dwelling with double garage under, swimming pool and associated landscaping at No.96 Seaforth Crescent Seaforth be **refused** for the following reasons;

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of the Seaforth Crescent streetscape as a result of its

excessive bulk and scale, having regard to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979.

3. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
4. The proposed development would be an overdevelopment of the site, and would create an undesirable precedent for the future character of development along Seaforth Crescent, Seaforth, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

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

**Against the Resolution:** Councillors Heasman and Murphy

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Environmental Services Division Report No. 59

**30 Castle Circuit, Seaforth Section 96 Modification (DA230/05)**

**Application Lodged:** 5 June 2006  
**Applicant:** Oppidan Homes  
**Owner:** R & L Anton  
**Estimated Cost:** \$1,7000,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
 Manly Residential Development Control Plan 2001,  
 Amendment 1 Sub Zone: 7  
 Within the Foreshore protection area.  
**Surrounding Development:** Single and two storey dwellings.  
**Heritage:** Not applicable.

**SUMMARY:**

1. DEVELOPMENT APPLICATION NO. 230/05 FOR DEMOLITION OF THE EXISTING BUILDING AND ERECTION OF TWO DWELLINGS WITH LAND SUBDIVISION WAS RECEIVED BY COUNCIL 14 APRIL 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 22 DECEMBER 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 ANS02, MODIFICATION OF CONDITION ANS03, DELETION OF CONDITIONS ANS04 AND DA323 WITH MINOR MODIFICATIONS TO RELATED CONDITIONS.
5. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED (ONE FROM AND ONE ON BEHALF OF AN ADJOINING PROPERTY OWNER).
6. THE MODIFICATION APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM FOR COMMENT.
7. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 29 AUGUST 2006 WHEN IT WAS

RECOMMENDED FOR CONDITIONAL APPROVAL.

8. THE MODIFICATION 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 CONDITIONAL APPROVAL.

### SITE INSPECTIONS

A Site Inspection of 30 Castle Circuit, Seaforth, Section 96 Modification was conducted by Councillors Heasman, Lambert, Macdonald, Murphy and Norek on Monday 9 October 2006.

### Inspection Party Recommendation:

No Recommendation.

### PUBLIC ADDRESSES

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

Against: Ms Louise McDade

Applicant: Mrs Lesley Anton

### MOTION (Murphy/ Heasman)

That pursuant to Section 96 (2) Of the Environmental Planning and Assessment Act 1979, the application to modify Development Consent No. 230/05 for Demolition of existing building and erection of two (2) dwellings and land subdivision at 30, Castle Circuit, Seaforth be approved, subject to the original conditions of consent, with the deletion of Condition No. ANS 03 and modification of Condition Nos. DA1, ANS 02, ANS 04, DA26, DA59 and DA60, retention of Condition No. DA 323 and addition of Condition No. DA 274 as follows:-

#### DA1

This approval relates to drawings/plans Nos. 0091A - 02 Sheet Nos. 1 to 7 dated 5 November 2004 and received by Council on 14 April 2005; Nos 0091 - 04 Sheet Nos. 1 to 7 & 10 to 12 dated 5 November 2004 and received by Council on the 18 November 2005 and Landscape Plans Nos. A05A Sheet Nos. 1 to 3 and Nos. A05 Sheet Nos. 1 to 3, both sets dated 5 April 2004 and received by Council on 14 April 2004.

### Except as amended by

Nos. 0091 - 05 Sheet Nos. 1 to 9 dated 11 May 2006 and received by Council on the 5 June 2006.

#### ANS02

The studio above the garage on Lot 291 is to have highlight windows. Plans are to be amended accordingly, **prior to the issue of Construction Certificate**. The reason for this condition is to reduce the impact on the adjoining properties in terms of overshadowing and outlook.

#### ANS04

The proposed dwelling on the rear lot (Lot 292) is to be moved at least 1.0 metre to the east to reduce the overshadowing impact on the adjoining property to the south. Plans are to be amended accordingly, **prior to the issue of the Construction Certificate**.

#### DA26

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

## DA59

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, (as modified).

## DA60

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

## DA274

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

**AMENDMENT (Macdonald / Aird)**

That pursuant to Section 96 (2) Of the Environmental Planning and Assessment Act 1979, the application to modify Development Consent No. 230/05 for Demolition of existing building and erection of two (2) dwellings and land subdivision at 30, Castle Circuit, Seaforth be approved, subject to the original conditions of consent, with the modification of Condition Nos. DA1, ANS02, ANS03, ANS 04, DA26, DA59 and DA60, retention of Condition No. DA 323 and addition of Condition No. DA 274 as follows:-

## DA1

This approval relates to drawings/plans Nos. 0091A - 02 Sheet Nos. 1 to 7 dated 5 November 2004 and received by Council on 14 April 2005; Nos 0091 - 04 Sheet Nos. 1 to 7 & 10 to 12 dated 5 November 2004 and received by Council on the 18 November 2005 and Landscape Plans Nos. A05A Sheet Nos. 1 to 3 and Nos. A05 Sheet Nos. 1 to 3, both sets dated 5 April 2004 and received by Council on 14 April 2004.

**Except as amended by**

Nos. 0091 - 05 Sheet Nos. 1 to 9 dated 11 May 2006 and received by Council on the 5 June 2006.

## ANS02

The studio above the garage on Lot 291 is to have highlight windows. Plans are to be amended accordingly, **prior to the issue of Construction Certificate.** The reason for this condition is to reduce the impact on the adjoining properties in terms of overshadowing and outlook.

## ANS03

The proposed dwelling on the rear lot (Lot 291) is to be lowered by at least 320mm. The maximum ridge height is to be no higher than RL77.94 for the dining floor level, RL82.62 for the master bedroom level and RL85.92 for the ridge above the master bedroom level. This is to improve the views to the adjoining property and comply with Council's view sharing policy. Plans are to be amended accordingly **prior to the issue of the Construction Certificate.**

## ANS04

The proposed dwelling on the rear lot (Lot 292) is to be moved at least 1.0 metre to the east to reduce the overshadowing impact on the adjoining property to the south. Plans are to be amended accordingly, **prior to the issue of the Construction Certificate.**

## DA26

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on

the approved plans (as modified) with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

**DA59**

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, (as modified).

**DA60**

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

**DA274**

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

**For the Amendment:** Councillors Macdonald, Lambert, Pedersen and Aird

**Against the Amendment:** Councillors Hay, Heasman, Cant, Murphy, Daley, Evans and Norek

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

**RESOLVED (Murphy/ Heasman)**

That pursuant to Section 96 (2) Of the Environmental Planning and Assessment Act 1979, the application to modify Development Consent No. 230/05 for Demolition of existing building and erection of two (2) dwellings and land subdivision at 30, Castle Circuit, Seaforth be approved, subject to the original conditions of consent, with the deletion of Condition No. ANS 03 and modification of Condition Nos. DA1, ANS02, ANS 04, DA26, DA59 and DA60, retention of Condition No. DA 323 and addition of Condition No. DA 274 as follows:-

**DA1**

This approval relates to drawings/plans Nos. 0091A - 02 Sheet Nos. 1 to 7 dated 5 November 2004 and received by Council on 14 April 2005; Nos 0091 - 04 Sheet Nos. 1 to 7 & 10 to 12 dated 5 November 2004 and received by Council on the 18 November 2005 and Landscape Plans Nos. A05A Sheet Nos. 1 to 3 and Nos. A05 Sheet Nos. 1 to 3, both sets dated 5 April 2004 and received by Council on 14 April 2004.

**Except as amended by**

Nos. 0091 - 05 Sheet Nos. 1 to 9 dated 11 May 2006 and received by Council on the 5 June 2006.

**ANS02**

The studio above the garage on Lot 291 is to have highlight windows. Plans are to be amended accordingly, **prior to the issue of Construction Certificate.** The reason for this condition is to reduce the impact on the adjoining properties in terms of overshadowing and outlook.

**ANS04**

The proposed dwelling on the rear lot (Lot 292) is to be moved at least 1.0 metre to the east to reduce the overshadowing impact on the adjoining property to the south. Plans are to be amended accordingly, **prior to the issue of the Construction Certificate.**

**DA26**

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

DA59

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, (as modified).

DA60

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

DA274

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

**For the Resolution:** Councillors Hay, Heasman, Cant, Murphy, Daley, Evans and Norek

**Against the Resolution:** Councillors Macdonald, Lambert, Pedersen and Aird

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Environmental Services Division Report No. 60

**33 Belgrave Street, Manly (DA64/79)**

**Application Lodged:** 21 July 2006

**Applicant:** J Arissian

**Owner:** C & R Patronis

**Estimated Cost:** N/A

**Zoning:** Manly Local Environmental Plan, 1988 - Business

**Surrounding Development:** Multi storey mixed commercial and residential

**Heritage:** N/A

**SUMMARY:**

1. THE SECTION 96 APPLICATION SEEKS CHANGE OF TRADING HOURS FROM 10.00AM - 12.00 MIDNIGHT TO 7.00AM – 12.00 MIDNIGHT MONDAY TO THURSDAY, 7.00AM - 3.00AM FRIDAY TO SATURDAY AND 7.00AM – 2.00AM SUNDAY.
2. THE EXISTING SHOP IS SUBJECT OF CONSENT NO.64/79 FOR "TAKE AWAY PIZZA PARLOUR".
3. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED, THREE IN SUPPORT OF THE APPLICATION AND ONE OPPOSED.
4. THE DEVELOPMENT ASSESSMENT UNIT DOES NOT SUPPORT THE CHANGE OF OPERATING HOURS PROPOSED HOWEVER A 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 IMPLEMENT AND MAINTAIN SUITABLE MEASURES TO MINIMISE ANTI SOCIAL BEHAVIOUR OF PEOPLE ATTRACTED TO THE LOCATION OF THE PREMISES.
5. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLORS MURPHY AND PEDERSEN.
6. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

**PUBLIC ADDRESSES**

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

Applicant: Mr Jirair Arissian

**MOTION (Pedersen / Macdonald)**

That the application to modify Development Application No.64/79 by extending trading hours at No.33 Belgrave Street, Manly be approved subject to the original conditions of consent and new conditions as follows;

4. The hours of operation not to exceed 7:00am to 12:00 midnight Monday to Thursday, and 7:00am to 1:00am (next day) Friday, Saturday and Sunday without the prior consent of Council.
5. Unless revoked by a resolution of Council, trading between the hours of 1:00am and 3:00am Friday and Saturday and public holidays, and between the hours of 1am and 2am Sunday, (The General Manager will also specify an interim time period after closing time in which the front doors are closed to further customers but existing customers within the premises are served) will 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 footpath area for at least two (2) shopfronts on either side of the property.
  - The Deed of Agreement is to be renewed every 12 months by administrative arrangement.
  - The noise breakout level from the premises when measured at the nearest habitable room to be no greater than L90 +5db(A).
6. 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 above. The Accord is to focus on seeking agreed strategies regarding security cooperation, litter control and to better communicate expectations between the proprietors vis-à-vis the Council and the Police.
7. That at any future date in which the pub opening hours are reduced in Manly that the premises will immediately be required to reduce their opening hours to ensure they always close before all the pubs close.

**AMENDMENT (Heasman / Murphy)**

That the application to modify Development Application No.64/79 by extending trading hours at No.33 Belgrave Street, Manly be approved subject to the original conditions of consent and new conditions as follows;

4. The hours of operation not to exceed 7:00am to 12:00 midnight Monday to Thursday, and 7:00am to 1:00am (next day) Friday, Saturday and Sunday without the prior consent of Council.
5. Unless revoked by a resolution of Council, trading between the hours of 1:00am and 4:00am

Friday and Saturday and public holidays, and between the hours of 1am and 3am Sunday, (The General Manager will also specify an interim time period after closing time in which the front doors are closed to further customers but existing customers within the premises are served) will 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 footpath area for at least two (2) shopfronts on either side of the property.
  - The Deed of Agreement is to be renewed every 12 months by administrative arrangement.
  - The noise breakout level from the premises when measured at the nearest habitable room to be no greater than L90 +5db(A).
6. 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 above. The Accord is to focus on seeking agreed strategies regarding security cooperation, litter control and to better communicate expectations between the proprietors vis-à-vis the Council and the Police.
7. That at any future date in which the pub opening hours are reduced in Manly that the premises will immediately be required to reduce their opening hours to ensure they always close before all the pubs close.

**For the Amendment:** Councillors Heasman, Daley, and Murphy

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

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

#### **FORESHADOWED AMENDMENT (Norek / Murphy)**

That the application to modify Development Application No.64/79 by extending trading hours at No.33 Belgrave Street, Manly be approved subject to the original conditions of consent and new conditions as follows;

4. The hours of operation not to exceed of 1.00am and 4:00am Friday and Saturday and public holidays, and between the hours of 1am and 3am Sunday, (The General Manager will also specify an interim time period after closing time in which the front doors are closed to further customers but existing customers within the premises are served) will be permitted provided the following conditions are adhered to:-
- 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 noise breakout level from the premises when measured at the nearest habitable room to be no greater than L90 +5db(A).
5. 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 above. The Accord is to focus on seeking agreed strategies regarding security cooperation and to better communicate expectations between the proprietors vis-à-vis the Council and the Police.

6. That at any future date in which the pub opening hours are reduced in Manly that the premises will immediately be required to reduce their opening hours to ensure they always close before all the pubs close.

**For the Foreshadowed Amendment:**

Councillors Murphy and Norek

**Against the Foreshadowed Amendment:**

Councillors Macdonald, Hay, Heasman, Lambert, Cant, Daley, Pedersen, Aird and Evans

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

**RESOLVED (Pedersen / Macdonald)**

That the application to modify Development Application No.64/79 by extending trading hours at No.33 Belgrave Street, Manly be approved subject to the original conditions of consent and new conditions as follows;

4. The hours of operation not to exceed 7:00am to 12:00 midnight Monday to Thursday, and 7:00am to 1:00am (next day) Friday, Saturday and Sunday without the prior consent of Council.
5. Unless revoked by a resolution of Council, trading between the hours of 1:00am and 3:00am Friday and Saturday and public holidays, and between the hours of 1am and 2am Sunday, (The General Manager will also specify an interim time period after closing time in which the front doors are closed to further customers but existing customers within the premises are served) will 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 footpath area for at least two (2) shopfronts on either side of the property.
  - The Deed of Agreement is to be renewed every 12 months by administrative arrangement.
  - The noise breakout level from the premises when measured at the nearest habitable room to be no greater than L90 +5db(A).
6. 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 above. The Accord is to focus on seeking agreed strategies regarding security cooperation, litter control and to better communicate expectations between the proprietors vis-à-vis the Council and the Police.
7. That at any future date in which the pub opening hours are reduced in Manly that the premises will immediately be required to reduce their opening hours to ensure they always close before all the pubs close.

**For the Resolution:**

Councillors Macdonald, Hay, Heasman, Lambert, Cant, Murphy, Daley, Pedersen, Aird and Evans

**Against the Resolution:** Councillor Norek

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Environmental Services Division Report No. 61

**DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED  
SUMMARY**

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING OCTOBER, 2006.

**MOTION (Macdonald / Heasman)**

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

**RESOLVED (Macdonald / Heasman)**

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

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

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 62

**Appeals List for October 2006**

**MOTION (Macdonald / Murphy)**

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

**RESOLVED (Macdonald / Murphy)**

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

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

**Against the Resolution:** Nil.

**CONFIDENTIAL COMMITTEE OF THE WHOLE**

***General Managers Division***

***Tenders – Corso Upgrade – Contract for the Catenary Lighting System***

*It is recommended that the council resolve into closed session with the press and public excluded to allow consideration of these items, as provided for under Section 10A(2) (d) of the Local Government Act, 1993, on the grounds that the report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

The Chairperson asked if any members of the public gallery objected to the matter being heard in Closed Session.

It is noted that no representations were received from the public gallery.

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

**Against the Resolution:** Nil.

**PROCEDURAL MOTION (Aird / Macdonald)**

That the meeting move into Closed Session to consider General Managers Division Report  
Tenders – Corso Upgrade – Contract for the Catenary Lighting System.

**RESOLVED (Aird / Macdonald)**

That the meeting move into Closed Session to consider General Managers Division Report  
Tenders – Corso Upgrade – Contract for the Catenary Lighting System.

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

**Against the Resolution:** Nil.

**OPEN COUNCIL RESUMED**

Upon resuming into Open Council, the General Manager advised the meeting of the following  
resolutions made in Closed Session:

**RESOLVED (Aird / Macdonald)**

That Council proceed as resolved in Closed session of Council.

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

**Against the Resolution:** Councillor Norek

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**CLOSE**

The meeting closed at 11.34pm

The above minutes were confirmed at a **Land Use Management Committee** of Manly Council  
held on 6 November 2006.

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**CHAIRPERSON**

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