

Manly Council

Minutes

Ordinary Meeting

Held at Council Chambers, 1 Belgrave Street Manly on:

Monday 15 June 2009

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The Ordinary Meeting was held in the Council Chambers, Town Hall, Manly, on Monday 15 June 2009. The meeting commenced at 7:46pm.

PRESENT

Her Worship, The Mayor, Councillor Jean Hay AM, who presided
 Councillor B Aird
 Councillor H Burns
 Councillor L Elder
 Councillor C Griffin
 Councillor A Heasman, Deputy Mayor
 Councillor A Le Surf
 Councillor R Morrison
 Councillor D Murphy
 Councillor M Norek
 Councillor C Whitting

ALSO PRESENT

Henry Wong, General Manager
 Stephen Clements, Deputy General Manager, Executive Manager, Environmental Services
 Amanda Spalding, Deputy General Manager, Strategy and Strategic Projects
 Ross Fleming, Divisional Manager Corporate Services
 Liz Rich, Minute Taker

OPENING PRAYER

The Opening Prayer was presented by Captain Grant Kingston-Kerr.

APOLOGIES

Apologies were tendered on behalf of Councillor Macdonald for non-attendance.

MOTION (Heasman / Elder)

That the apology received from Councillor Macdonald for non-attendance be accepted and leave be granted.

65/09 **RESOLVED:** (Heasman / Elder)

That the apology received from Councillor Macdonald for non-attendance be accepted and leave be granted.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

DECLARATIONS OF PECUNIARY / CONFLICT OF INTEREST

Name	Report No.	Nature of Interest
Councillor Norek	Notice of Rescission Report No.1	Has business interest in one of areas under discussion.

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

That copies of the Minutes of the Ordinary Meeting held on Monday, 11 May 2009, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

66/09 **RESOLVED: (Heasman / LeSurf)**

That copies of the Minutes of the Ordinary Meeting held on Monday, 11 May 2009, having been furnished to each member of the Council, such Minutes be taken as read and confirmed as a true record of proceedings of such meeting.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

PUBLIC FORUM

NAME	SUBJECT/PUBLIC SPEAKERS
Richard Hewitt	More prominent signage for late-night parking in Council car parks

NOTICES OF MOTION

Notice of Motion Report No. 20

Third Party Advertising**Councillor David Murphy moved:**

That, in order that there be clarity and consistency in terms of the status of third party advertising signage, pursuant to the provisions of Manly Local Environmental Plan 1988 and Manly Development Control Plan For Advertising Signs 1993, third party advertising signage be deemed Exempt Development where such signage conforms to the definition of "commercial sign" as contained in Part E of Manly Development Control Plan For Advertising Signs 1993.

PUBLIC ADDRESSES

The following person addressed the meeting on this item:

In Support of the Recommendation: Adrienne Ryan

MOTION (Murphy / Norek)

That, in order that there be clarity and consistency in terms of the status of third party advertising signage, pursuant to the provisions of Manly Local Environmental Plan 1988 and Manly Development Control Plan For Advertising Signs 1993, third party advertising signage be deemed Exempt Development where such signage conforms to the definition of "commercial sign" as contained in Part E of Manly Development Control Plan For Advertising Signs 1993.

AMENDMENT (Burns / Griffin)

That the Manly DCP be updated to match clause 2.4.1 of the City of Sydney Signage and Advertising DCP of 2005, as follows:

2.4 General Location and design of signs

2.4.1 Signs are to be designed and located to:

- i. Be visually interesting and exhibit a high level of design quality;
- ii. Be integrated with the architecture and structure of the supporting building;
- iii. Allow the main facades of buildings between the first floor and parapet to be uncluttered and generally free of signage;
- iv. Achieve a high degree of compatibility with the architectural design of the supporting building having regard to its composition, fenestration, materials, finishes and colours, and ensure that architectural features of the buildings are not obscured;
- v. Consider existing signs on a building, site or adjoining streetscape to ensure that any new sign does not give rise to visual/and or physical clutter;
- vi. Have regard to the view of the sign and any supporting structure, cabling and conduit from all angles, including visibility from the street level and nearby higher buildings and against the skyline;
- vii. Have only a minimal projection from a building;
- viii. Not contain additional advertising promoting products or services other than the approved use of the site or premises (for example the logos or brands of products such as soft drinks, brewers, photographic films etc) irrespective of whether that product or service is sold or available on that site; and
- ix. Not be supported from, hung from or placed on other signs.

For the Amendment: Councillors Griffin, Aird and Burns

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

The Amendment was declared **LOST**.

FORESHADOWED AMENDMENT (Aird / Burns)

That the Notice of Motion be **DEFERRED** for input from Council staff and for it to also be referred to LMUD.

For the Foreshadowed Amendment: Councillors Griffin, Aird and Burns

Against the Foreshadowed Amendment: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison and Norek

The Foreshadowed Amendment was declared **LOST**.

67/09 RESOLVED: (Murphy / Norek)

That, in order that there be clarity and consistency in terms of the status of third party advertising signage, pursuant to the provisions of Manly Local Environmental Plan 1988 and Manly Development Control Plan For Advertising Signs 1993, third party advertising signage be deemed Exempt Development where such signage conforms to the definition of "commercial sign" as contained in Part E of Manly Development Control Plan For Advertising Signs 1993.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison and Norek

Against the Resolution: Councillors Griffin, Aird and Burns

SUSPENSION OF STANDING ORDERS (Heasman / LeSurf)

That Standing Orders be suspended for consideration of a late Agenda item, Mayoral Minute No.6, Queen's Birthday Honours 2009; General Manager's Division Report No.13, Adoption of the 2009-

2012 Management Plan; Corporate Services Division Report No.11, Adoption of Management Plan and Budget – Fixing of Rates and Charges for 2009-2010; and Corporate Services Division Report No.12, Mayor's and Councillors' Fees – Determination of Local Government Remuneration Tribunal – 2009/2010.

68/09 **RESOLVED:** (Heasman / LeSurf)

That Standing Orders be suspended for consideration of a late Agenda item, Mayoral Minute No.6, Queen's Birthday Honours 2009; General Manager's Division Report No.13, Adoption of the 2009-2012 Management Plan; Corporate Services Division Report No.11, Adoption of Management Plan and Budget – Fixing of Rates and Charges for 2009-2010; and Corporate Services Division Report No.12, Mayor's and Councillors' Fees – Determination of Local Government Remuneration Tribunal – 2009/2010.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

MAYORAL MINUTES

Mayoral Minute Report No. 6

Queen's Birthday Honours 2009

The Mayor requests that Council formally congratulate the following residents of the Manly Local Government area who recently received awards in the Queen's Birthday Honours 2009, Orders of Australia:

Officer (AO) in the General Division:

Gregory John POCHE, Manly. For service to the community through philanthropic contributions to medical, aged care and sporting organisations, and to the freight transport industry through the introduction of innovative business practices.

Member (AM) in the General Division:

Colonel Michael Albert GRIFFIN, Manly. For service to administrative law, particularly through legal and advisory roles with the Australian Defence Force.

Adjunct Professor John Gerrard KELLY, Fairlight. For service to the community in the areas of nursing and aged care policy development, and to health care management.

Associate Professor Lynne PRESSLEY, Manly. For service to medicine, particularly cardiology, as a clinician, teacher and mentor, and to the community through the Heart Foundation.

Medal (OAM) in the General Division:

Anne Maree SMITH, Balgowlah. For service to youth through the Guiding movement.

MOTION (Hay)

That the Mayor write to the 2009 Manly LGA Queen's Birthday Honours recipients congratulating them on their awards.

69/09 **RESOLVED: (Hay)**

That the Mayor write to the 2009 Manly LGA Queen's Birthday Honours recipients congratulating them on their awards.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Norek,
Griffin, Aird and Burns

Against the Resolution: Nil.

Councillor Morrison was not in the Chamber when the voting took place.

GENERAL MANAGERS DIVISION

General Managers Division Report No. 13

Adoption of the 2009 - 2012 Management Plan

SUMMARY

The 2009 – 2012 Draft Management Plan has been exhibited for the statutory period and is submitted for adoption by Council. Public submissions are also presented to Council for consideration.

PUBLIC ADDRESSES

The following person addressed the meeting on this item:

Against the Recommendation: Richard Hewitt

MOTION (Heasman / Burns)

That Council:

1. Adopt the Manly Council Management Plan 2009/2012 and the 2009/2010 Schedule of Fees and Charges, pursuant to Section 406 and Section 610F of the *Local Government Act, 1993*; and
2. Write to the two parties who made submissions to the Management Plan, thanking them for their comments, and providing a response to the points raised by them.

70/09 **RESOLVED: (Heasman / Burns)**

That Council:

1. Adopt the Manly Council Management Plan 2009/2012 and the 2009/2010 Schedule of Fees and Charges, pursuant to Section 406 and Section 610F of the *Local Government Act, 1993*; and
2. Write to the two parties who made submissions to the Management Plan, thanking them for their comments, and providing a response to the points raised by them.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Norek,
Griffin and Burns

Against the Resolution: Nil.

Councillors Morrison and Aird were not in the Chamber when the voting took place.

CORPORATE SERVICES DIVISION

Corporate Services Division Report No. 11

Adoption of Management Plan and Budget - Fixing of Rates and Charges for 2009 - 2010**SUMMARY**

Council is required to make rates and charges following the adoption of the Management Plan for the 2009/2010 financial period.

MOTION (Heasman / Griffin)

Whereas the detailed draft Estimates of Income and Expenditure of the General Fund, for the period 1 July 2009 to 30 June 2010, were considered by Council on 5 May 2009, and having given public notice in accordance with S.405 of the Local Government Act, 1993, of the Draft Management Plan to allow public submissions on or before 9 June 2009, and whereas the Management Plan and Estimates of Income and Expenditure for the period 1 July 2009 to 30 June 2010, were adopted by Council at the meeting of 15 June 2009, and having considered any matters concerning the Management Plan in accordance with S.406 of the Local Government Act, 1993, Council hereby resolve:

1. That the draft Schedule of Fees and Charges 2009-2010 as tabled, be adopted;
2. That the 2009-2010 draft Budget as amended and tabled to the meeting be adopted;
3. That Council now make the following Rates and Charges for the year 1 July 2009 to 30 June 2010:

A Ordinary Rates

- (i) An Ordinary Rate (Residential) of **0.164575** cents in the dollar be made for the year 2009/2010 on the land value of all rateable land in the Local Government Area categorised as Residential in accordance with S.516 of the Local Government Act 1993, with a Minimum Rate in accordance with Section 548 of the Local Government Act, 1993 of **\$665.25**;
- (ii) An Ordinary Rate - Business - Manly Business Centre of **0.793116** cents in the dollar be made for the year 2009/2010 on the land value of all rateable land categorised as Business in accordance with S.518 of the Local Government Act 1993, within the centre of population defined within the Manly CBD and previously adopted by Council, as delineated on Plan Number 1/280B, with a Minimum Rate in accordance with Section 548 of the Local Government Act, 1993 of **\$869.40**;
- (iii) An Ordinary Rate – Business - Other of **0.424556** cents in the dollar be made for the year 2009/2010 on the land value of all rateable land categorised Business in accordance with S.518 of the Local Government Act 1993, within Manly other than that land within the centre of population defined in (ii) above, with a Minimum Rate in accordance with Section 548 of the Local Government Act, 1993 of **\$869.40**.

B. Special Rate – Manly Business Centre Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works, including the Manly Business Centre, The Corso and the Ocean Beach Front improvements, provide services, facilities and activities of

specific benefit to the area, and are of special benefit to that portion of Manly as delineated on Plan Number 1/280A previously defined and adopted by Council, and whereas Council having adopted the Management Plan for 2009–2012, incorporating the Estimates of Income and Expenditure for the Manly Town Centre Improvements Programme, it is hereby resolved that a Special Rate - Manly Business Centre Improvements of **0.266047** cents in the dollar on the land value of all rateable land as previously defined be now made for the year 2009/2010.

- (ii) That in accordance with the provisions of Section 548 of the Local Government Act 1993, that no minimum amount of the Special Rate - Manly Business Centre Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title.

C. Special Rate – Balgowlah Business Centre Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works including the off-street car parks in Condamine Street, provide services, facilities and activities of specific benefit to the area and is of special benefit to that portion of Balgowlah delineated on Plan Number 5/005B, and whereas Council having adopted the Management Plan for 2009 - 2012, incorporating the Estimates of Income and Expenditure for the Balgowlah Business Centre Improvements Programme, it is hereby resolved that a Special Rate - Balgowlah Business Centre Improvements of **0.190593** cents in the dollar on the land value of all rateable land as previously defined be now made for the year 2009/2010.
- (ii) That in accordance with the provisions of Section 548 of the Local Government Act, 1993, it is hereby resolved that no minimum amount of the Special Rate - Balgowlah Business Centre Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title.

D Interest

In accordance with the provisions of S.566(3) of the Local Government Act 1993, Council hereby resolves to adopt the maximum interest rate as advised by the Minister for Local Government for outstanding rates, domestic waste management services and annual charges, being **9.0%** per annum in respect of accrual on a simple basis.

E Domestic Waste Management Services

In accordance with S.496 of the Local Government Act 1993, that an annual charge of **\$410.00** per annum be made for the period 1 July 2009 to 30 June 2010, for each domestic waste management service rendered to all properties categorised residential or non-rateable residential, for each once weekly 80 litre MGB (or equivalent) service.;

In accordance with S.502 of the Local Government Act 1993, that an annual charge of **\$410.00** per annum be made for the period 1 July 2009 to 30 June 2010, for each additional 80 litre domestic waste management service rendered to owner occupied single occupancy residential dwellings (excluding green waste and recycling service);

F Stormwater Management Service Charge

In accordance with the Local Government (General) Amendment (Stormwater) Regulation 2006 and Local Government Act 1993, the following annual Stormwater Management Service Charge be made and levied on all developed rateable land

categorised for rating purposes as follows:

Land categorised as Residential:	\$25.00	for a single residential dwelling
Residential strata lots:	\$12.50	for each strata unit
Residential flats, community title, tenants-in-common residential units:	\$12.50	for each flat/unit
Land categorised as Business	\$25.00	Plus an additional \$25.00 for each 350 square metres or part of 350 square metres by which the area of the parcel of land exceeds 350 square metres up to a maximum charge of \$200.00

71/09 **RESOLVED: (Heasman / Griffin)**

Whereas the detailed draft Estimates of Income and Expenditure of the General Fund, for the period 1 July 2009 to 30 June 2010, were considered by Council on 5 May 2009, and having given public notice in accordance with S.405 of the Local Government Act, 1993, of the Draft Management Plan to allow public submissions on or before 9 June 2009, and whereas the Management Plan and Estimates of Income and Expenditure for the period 1 July 2009 to 30 June 2010, were adopted by Council at the meeting of 15 June 2009, and having considered any matters concerning the Management Plan in accordance with S.406 of the Local Government Act, 1993, Council hereby resolve:

1. That the draft Schedule of Fees and Charges 2009-2010 as tabled, be adopted;
2. That the 2009-2010 draft Budget as amended and tabled to the meeting be adopted;
3. That Council now make the following Rates and Charges for the year 1 July 2009 to 30 June 2010:

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- (ii) An Ordinary Rate - Business - Manly Business Centre of **0.793116** cents in the dollar be made for the year 2009/2010 on the land value of all rateable land categorised as Business in accordance with S.518 of the Local Government Act 1993, within the centre of population defined within the Manly CBD and previously adopted by Council, as delineated on Plan Number 1/280B, with a Minimum Rate in accordance with Section 548 of the Local Government Act, 1993 of **\$869.40**;
- (iii) An Ordinary Rate – Business - Other of **0.424556** cents in the dollar be made for the year 2009/2010 on the land value of all rateable land categorised Business in accordance with S.518 of the Local Government Act 1993, within Manly other than that land within the centre of population defined in (ii) above, with a Minimum Rate in accordance with Section 548 of the Local Government Act, 1993 of **\$869.40**.

B. Special Rate – Manly Business Centre Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works, including the Manly Business Centre, The Corso and

the Ocean Beach Front improvements, provide services, facilities and activities of specific benefit to the area, and are of special benefit to that portion of Manly as delineated on Plan Number 1/280A previously defined and adopted by Council, and whereas Council having adopted the Management Plan for 2009–2012, incorporating the Estimates of Income and Expenditure for the Manly Town Centre Improvements Programme, it is hereby resolved that a Special Rate - Manly Business Centre Improvements of **0.266047** cents in the dollar on the land value of all rateable land as previously defined be now made for the year 2009/2010.

- (ii) That in accordance with the provisions of Section 548 of the Local Government Act 1993, that no minimum amount of the Special Rate - Manly Business Centre Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title.

C. Special Rate – Balgowlah Business Centre Improvements

- (i) That whereas the Council is of the opinion that the provision of on-going and proposed capital and maintenance works including the off-street car parks in Condamine Street, provide services, facilities and activities of specific benefit to the area and is of special benefit to that portion of Balgowlah delineated on Plan Number 5/005B, and whereas Council having adopted the Management Plan for 2009 - 2012, incorporating the Estimates of Income and Expenditure for the Balgowlah Business Centre Improvements Programme, it is hereby resolved that a Special Rate - Balgowlah Business Centre Improvements of **0.190593** cents in the dollar on the land value of all rateable land as previously defined be now made for the year 2009/2010.
- (ii) That in accordance with the provisions of Section 548 of the Local Government Act, 1993, it is hereby resolved that no minimum amount of the Special Rate - Balgowlah Business Centre Improvements shall be levied in respect of any separate parcel of land, including strata title lots and dwellings under company title.

D Interest

In accordance with the provisions of S.566(3) of the Local Government Act 1993, Council hereby resolves to adopt the maximum interest rate as advised by the Minister for Local Government for outstanding rates, domestic waste management services and annual charges, being **9.0%** per annum in respect of accrual on a simple basis.

E Domestic Waste Management Services

In accordance with S.496 of the Local Government Act 1993, that an annual charge of **\$410.00** per annum be made for the period 1 July 2009 to 30 June 2010, for each domestic waste management service rendered to all properties categorised residential or non-rateable residential, for each once weekly 80 litre MGB (or equivalent) service.;

In accordance with S.502 of the Local Government Act 1993, that an annual charge of **\$410.00** per annum be made for the period 1 July 2009 to 30 June 2010, for each additional 80 litre domestic waste management service rendered to owner occupied single occupancy residential dwellings (excluding green waste and recycling service);

F Stormwater Management Service Charge

In accordance with the Local Government (General) Amendment (Stormwater) Regulation 2006 and Local Government Act 1993, the following annual Stormwater

Management Service Charge be made and levied on all developed rateable land categorised for rating purposes as follows:

Land categorised as Residential:	\$25.00	for a single residential dwelling
Residential strata lots:	\$12.50	for each strata unit
Residential flats, community title, tenants-in-common residential units:	\$12.50	for each flat/unit
Land categorised as Business	\$25.00	Plus an additional \$25.00 for each 350 square metres or part of 350 square metres by which the area of the parcel of land exceeds 350 square metres up to a maximum charge of \$200.00

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Norek, Griffin and Burns

Against the Resolution: Nil.

Councillors Morrison and Aird were not in the Chamber when the voting took place.

Corporate Services Division Report No. 12

Mayors' and Councillors' Fees - Determination of Local Government Remuneration Tribunal - 2009/2010

SUMMARY

The Local Government Remuneration Tribunal has handed down its Report for 2009/2010 regarding the Category of Councils, and the fees payable to the Mayor and Councillors as from 1 July 2009.

MOTION (Burns / Heasman)

That Council reaffirm its previous policy adopted in July 1998, that pursuant to s.248 and 249 of the Local Government Act, 1993, Council set the Mayor and Councillor remuneration fees for the period 1 July 2009 to 30 June 2010 at the maximum level determined by the Local Government Remuneration Tribunal, with the following fees to apply:

Mayoral Allowance - \$33,840

Councillors Fees - \$15,500

72/09 **RESOLVED: (Burns / Heasman)**

That Council reaffirm its previous policy adopted in July 1998, that pursuant to s.248 and 249 of the Local Government Act, 1993, Council set the Mayor and Councillor remuneration fees for the period 1 July 2009 to 30 June 2010 at the maximum level determined by the Local Government Remuneration Tribunal, with the following fees to apply:

Mayoral Allowance - \$33,840

Councillors Fees - \$15,500

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Norek, Griffin and Burns

Against the Resolution: Nil.

Councillors Morrison and Aird were not in the Chamber when the voting took place.

RESUMPTION OF STANDING ORDERS (Griffin / Burns)

That Standing Orders be resumed.

73/09 **RESOLVED: (Griffin / Burns)**

That Standing Orders be resumed.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Councillor Norek left the Chamber at 9.45pm, having earlier declared a Conflict of Interest in the following item.

NOTICES OF RESCISSION

Notice of Rescission Report No. 1

Notice of Motion Report No. 17 - Conflicts of Use within Council Reserves

Councillor Barbara Aird, Councillor Cathy Griffin, and Councillor Peter Macdonald will move:

That the Council's decision of 11 May 2009 being Item 17 in respect of Conflicts of Use within Council Reserves be and is hereby rescinded.

MOTION (Aird / Griffin)

That the Council's decision of 11 May 2009 being Item 17 in respect of Conflicts of Use within Council Reserves be and is hereby rescinded.

For the Rescission Motion: Councillors Griffin, Aird and Burns

Against the Rescission Motion: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf and Morrison

The Rescission Motion was declared **LOST**.

Councillor Norek returned to the Chamber at 10.10pm.

GENERAL MANAGERS DIVISION

General Managers Division Report No. 14

Kimbriki Environmental Enterprises Pty Ltd - Consequential Report

SUMMARY

This report recommends certain consequential matters on the formation of Kimbriki Environmental Enterprises Pty Ltd.

MOTION (Burns / Whitting)

That, for the purposes of section 55(3) of the Local Government Act 1993, Council will not call

tenders for disposal of putrescible and non-putrescible waste because a satisfactory result would not be achieved by inviting tenders for the long-term provision of waste services to the Council, and because of the unavailability of competitive or reliable tenderers by reason of the following:

1. except for the Class 1 landfill operated by WSN at Belrose (which is scheduled to close in 2013/2014) there is no other licensed facility in the SHOROC region capable of receiving Council's putrescible and non-putrescible waste;
2. Council has received expert advice that for the duration of the proposed contract with the new company, the availability of other licensed facilities within the region capable of receiving Council's putrescible and non-putrescible waste, is limited; and
3. the long-term transportation and disposal of Council's putrescible and non-putrescible waste, out of the SHOROC region, is costly and contrary to Council's environmental, economic and social objectives.

74/09 **RESOLVED: (Burns / Whitting)**

That, for the purposes of section 55(3) of the Local Government Act 1993, Council will not call tenders for disposal of putrescible and non-putrescible waste because a satisfactory result would not be achieved by inviting tenders for the long-term provision of waste services to the Council, and because of the unavailability of competitive or reliable tenderers by reason of the following:

1. except for the Class 1 landfill operated by WSN at Belrose (which is scheduled to close in 2013/2014) there is no other licensed facility in the SHOROC region capable of receiving Council's putrescible and non-putrescible waste;
2. Council has received expert advice that for the duration of the proposed contract with the new company, the availability of other licensed facilities within the region capable of receiving Council's putrescible and non-putrescible waste, is limited; and
3. the long-term transportation and disposal of Council's putrescible and non-putrescible waste, out of the SHOROC region, is costly and contrary to Council's environmental, economic and social objectives.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin and Burns

Against the Resolution: Nil.

Councillor Aird was not in the Chamber when the voting took place.

ITEMS FOR BRIEF MENTION

Item For Brief Mention Report No. 10

Items for Brief Mention - Minutes for Adoption by Council - Special Purpose and Joint Committees

1. **Update on a new Level 5 Northern Beaches Hospital**

At the Planning and Strategy Meeting held on 1st June 2009 Council resolved [PS75/09] to receive written responses for all items arising from the Urgency Motion of 20th October 2008, being Council resolution 166/08, which stated:

166/08 **RESOLVED:** **(Aird / Heasman)**

"That:

1. *Manly Council supports the combined Medical Staff Councils of Mona Vale and Manly Hospitals in their efforts to hold the incumbent NSW State Government responsible to urgently make good its undertaking to build the long-overdue Level 5 Northern Beaches Hospital to ensure our residents receive health care of an appropriate standard.*
2. *As part of that support, Manly Council seeks an urgent meeting with the NSW State Premier, Treasurer and Health Minister prior to the upcoming November 11 mini-budget.*
3. *Council enlist the support of the local member in its actions and also a commitment from him that a future Liberal government will commit to a Level 5 Northern Beaches Hospital.*
4. *In the meantime Manly Council receives an assurance that ensures the current facilities are maintained and funded at Manly Hospital.”*

In early November 2008 Council wrote to the state government regarding its undertaking to build the long-overdue Level 5 Northern Beaches Hospital, and requesting an urgent meeting with the NSW State Premier, Treasurer and Health Minister. These letters are attached for the information of the Council (refer to Attachments 1, 2 and 3).

To date only one response has been received, this being from the Parliamentary Secretary for Health, received 7th May 2009, and attached (refer to Attachment 4). Subsequent to the receipt of this correspondence contact has been made with the Health Minister's office reiterating Council's request for a meeting.

Furthermore, and in accordance with resolution 166/08, Council wrote to the local member. A copy of this communication is attached (Attachment 5).

Council will be informed further on this matter when a response from the Premier, Treasurer or local member is received, or a meeting has been arranged between Council and the NSW state government.

It is recommended that this information be received and noted.

2. Minutes of Meetings without recommendations of a substantial nature:

- i) Sister Cities Committee – 22 April 2009

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

Community Environment Committee – 13 May 2009

Item 7 PENGUIN CRITICAL HABITAT FEDERATION POINT

Penguin Warden representative attended a Recovery Team meeting and reported that National Parks and Wildlife Service will not consider extending Critical Habitat to include Federation Point. It was noted some members of the community have indicated they will pursue the issue with the Environmental Defenders office.

Recommendation

- i. That the General Manager be requested to write to National Parks and Wild Life Service (NPWS) to seek a formal response as to the reasons why it does not consider it appropriate to extend Little Penguin Critical Habitat to include

Federation Point.

- ii. That the General Manager be requested to arrange for Council staff to give their professional view of the NP&WS decision via a report back to the Committee in due course.

MOTION (Aird / Heasman)

1. That the information on the correspondence between Council and the state government regarding its undertaking to build the long-overdue Level 5 Northern Beaches Hospital, and requesting an urgent meeting with the NSW State Premier, Treasurer and Health Minister, be received and noted.
2. That Council write again to the NSW State Premier and Treasurer, expressing our disappointment at their lack of response, stressing that this is an urgent issue within the local community.
3. That Council write to the local member for Manly enlisting his support in its actions and also a commitment from him that a future Liberal government will commit to a a Level 5 Northern Beaches Hospital.

75/09 **RESOLVED: (Aird / Heasman)**

1. That the information on the correspondence between Council and the state government regarding its undertaking to build the long-overdue Level 5 Northern Beaches Hospital, and requesting an urgent meeting with the NSW State Premier, Treasurer and Health Minister, be received and noted.
2. That Council write again to the NSW State Premier and Treasurer, expressing our disappointment at their lack of response, stressing that this is an urgent issue within the local community.
3. That Council write to the local member for Manly enlisting his support in its actions and also a commitment from him that a future Liberal government will commit to a a Level 5 Northern Beaches Hospital.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Griffin, Aird and Burns

Against the Resolution: Councillors Morrison and Norek

MOTION (LeSurf / Heasman)

2. That the recommendations of **Minutes of Meetings**, as listed in **item 2**, being **Sister Cities Committee**, be **adopted**.

76/09 **RESOLVED: (LeSurf / Heasman)**

2. That the recommendations of **Minutes of Meetings**, as listed in **item 2**, being **Sister Cities Committee**, be **adopted**.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

MOTION (Griffin / Heasman)

3. That the minutes of the **Community Environment Committee -13 May 2009** be **adopted**, including the following recommendations of a substantial nature:

Item 7 PENGUIN CRITICAL HABITAT FEDERATION POINT

- i. That the General Manager be requested to write to National Parks and Wild Life Service (NPWS) to seek a formal response as to the reasons why it does not consider it appropriate to extend Little Penguin Critical Habitat to include Federation Point.
- ii. That the General Manager be requested to arrange for Council staff to give their professional view of the NP&WS decision via a report back to the Committee in due course.

77/09 **RESOLVED:** **(Griffin / Heasman)**

3. That the minutes of the **Community Environment Committee -13 May 2009** be adopted, including the following recommendations of a substantial nature:

Item 7 PENGUIN CRITICAL HABITAT FEDERATION POINT

- i. That the General Manager be requested to write to National Parks and Wild Life Service (NPWS) to seek a formal response as to the reasons why it does not consider it appropriate to extend Little Penguin Critical Habitat to include Federation Point.
- ii. That the General Manager be requested to arrange for Council staff to give their professional view of the NP&WS decision via a report back to the Committee in due course.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Item For Brief Mention Report No. 11

Items for Brief Mention - Minutes for Adoption by Council - Extra Ordinary Meeting of Heritage Committee - 28 May 2009

1. The following Minutes of an Extra Ordinary Meeting contain Confidential recommendations of a substantial nature requiring formal Council adoption as follows:

Heritage Committee – 28 May 2009

Item 5 PRESENTATION BY HERITAGE PLANNER ON 28 PROPERTIES PROPOSED FOR HERITAGE LISTING AS INDIVIDUAL ITEMS

MOTION (Heasman / Burns)

1. That the minutes of the **Extra Ordinary Heritage Committee - 28 May 2009** be adopted, including the following Confidential recommendations of a substantial nature:

Item 5 PRESENTATION BY HERITAGE PLANNER ON 28 PROPERTIES PROPOSED FOR HERITAGE LISTING AS INDIVIDUAL ITEMS

78/09 **RESOLVED:** **(Heasman / Burns)**

1. That the minutes of the **Extra Ordinary Heritage Committee - 28 May 2009** be adopted, including the following Confidential recommendations of a substantial nature:

Item 5 PRESENTATION BY HERITAGE PLANNER ON 28 PROPERTIES

PROPOSED FOR HERITAGE LISTING AS INDIVIDUAL ITEMS

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

CORPORATE SERVICES DIVISION

Corporate Services Division Report No. 13

Report on Council Investments as at 30 April 2009**SUMMARY**

In accordance with clause 212 of the Local Government (General) Regulation 2005, a report setting out the details of money invested must be presented to Council on a monthly basis.

The report must also include certification as to whether or not the Investments have been made in accordance with the Act, the Regulations and Council's Investment Policy.

MOTION (Burns / LeSurf)

That the statement of Bank Balances and Investment Holdings as at 30 April, 2009 be received and noted.

79/09 **RESOLVED: (Burns / LeSurf)**

That the statement of Bank Balances and Investment Holdings as at 30 April, 2009 be received and noted.

For the Resolution: Councillors Hay, Heasman, Whitting, Murphy, LeSurf, Morrison, Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Councillor Elder was not in the Chamber when the voting took place.

Corporate Services Division Report No. 14

Council Loan Borrowing 2008/2009 - 2009/2010**SUMMARY**

1. Council's Management Plan for 2008/2009 and 2009/2010 proposes a loan borrowing of \$1 million each year for Infrastructure.
2. Council has notified the Department of Local Government its loan borrowing requirements.
3. Written quotations have been received from four financial institutions.

MOTION (Morrison / LeSurf)

1. That Council accept the loan offer from the Commonwealth Bank fixed for ten (10) years, for a loan of \$2,000,000 subject to its rate remaining the most competitive at draw-down, and subject to the General Managers satisfaction of the terms and conditions of the loan documentation.
2. That the General Manager be authorised to execute all necessary loan documentation

under the Common Seal of Council.

80/09 **RESOLVED: (Morrison / LeSurf)**

1. That Council accept the loan offer from the Commonwealth Bank fixed for ten (10) years, for a loan of \$2,000,000 subject to its rate remaining the most competitive at draw-down, and subject to the General Managers satisfaction of the terms and conditions of the loan documentation.
2. That the General Manager be authorised to execute all necessary loan documentation under the Common Seal of Council.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

HUMAN SERVICES AND FACILITIES DIVISION

Human Services And Facilities Division Report No. 2

Saturdays at Sunset Program

SUMMARY

The Saturdays at Sunset program was established in response to the Venue Management Plan adopted by Council in June 2008, requiring the General Manager to implement an Events Strategy. The aim of the events strategy was to engage the community in the enjoyment of Manly by creating interesting, engaging atmosphere in a family friendly environment early in the evenings; and to change the perception of the community that Manly is an unsafe place in the evening.

This report has been prepared in response to questions raised by Councillor Griffin at the Ordinary Meeting of 9 February 2009.

MOTION (Griffin / Heasman)

That the Saturdays at Sunset Program report be received and noted.

81/09 **RESOLVED: (Griffin / Heasman)**

That the Saturdays at Sunset Program report be received and noted.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin and Burns

Against the Resolution: Nil.

Councillor Aird was not in the Chamber when the voting took place.

QUESTIONS WITHOUT NOTICE

QWN48/09 Councillor Whitting - Follow-up to more prominent signage at Manly Lagoon

As a follow-up to last month's Question Without Notice on more prominent signage at

Manly Lagoon, where are we at with producing the signs?

At the request of the Mayor, the Deputy General Manager advised that Council staff have met with Warringah officials, the wording for the signs has been approved, and the signs are currently being made and should be completed shortly.

QWN49/09 Councillor Whitting - Progress on Alcohol Free Zones

What action has taken place so far regarding my first motion at this Council to address the Alcohol Free Zones (AFZ), and can a report be completed and circulated at the next Council meeting?

At the request of the Mayor, the Deputy General Manager advised that the rangers are now endorsed to confiscate alcohol in Alcohol Free Zones. Additional signs have been made to be erected in AFZs, and the Deputy General Manager will take it on notice as to how close we are to installing them.

Councillor Whitting then asked about part 2 of his original motion which was to begin a Community AFZ Education campaign. Can we initiate that, and can it be included in the report?

At the request of the Mayor, the Deputy General Manager advised that it could be initiated and included in the Report.

QWN50/09 Councillor Murphy - What constitutes a commercial building in Manly's DCP?

Reference is made in a Manly Development Control Plan to a "commercial building". What exactly is a commercial building, as no definition is given?

At the request of the Mayor, the Deputy General Manager advised that he would take that question on notice.

QWN51/09 Councillor Murphy - Water seepage on S bends near Fairlight shops

Can we have a date when we might expect the water seepage on the S bends just past Fairlight shops on Sydney Road to be fixed by the owners of the new townhouse development?

At the request of the Mayor, the Deputy General Manager advised that he would take that question on notice.

QWN52/09 Councillor Morrison - New legislation on S94 contributions

With regard to the new State Government policy of S94 contributions not exceeding \$20,000/lot, does this mean that this is the maximum S94 contribution payable for any lot, be it residential or commercial?

At the request of the Mayor, the Deputy General Manager advised that that is correct.

Councillor Morrison then asked if this was the current situation in Manly?

The Deputy General Manager advised that this system has not yet been introduced in Manly. It comes into force on 1st July. However, Manly Council has an exemption at this particular time, and has put in a submission with 28 other Councils and appeared

before a preliminary panel and the State review Panel 2 weeks ago stating the reasons why Manly charges the fees it does. The results of the panel are yet to be announced. Until that decision is made Manly Council continues to use its current policy on charging for S94 contributions.

QWN53/09 Councillor Norek - Potential parking spot adjacent to 66 North Steyne

There is a potential parking spot for motorcycles adjacent to 66 North Steyne. Currently it is a no parking area. Can the area which is half taken up by a tree be used for motorcycles?

At the request of the Mayor, the Deputy General Manager advised that he would take that question on notice.

QWN54/09 Councillor Norek - Money and staff time spent on Sister City visit to South Korea.

How much Council money and staff time in hours has been spent on the recent visit to our 2nd Sister City in South Korea by Council staff and Councillors?

At the request of the Mayor, the Deputy General Manager advised that he would take that question on notice.

QWN55/09 Councillor Griffin - Update on Joint Regional Planning Panels

I would like an update on the Joint Regional Planning Panels. Has it changed its iteration in the last couple of weeks, and how did we agree that the Deputy General Manager would be Manly Council's representative on the Panel?

At the request of the Mayor, the Deputy General Manager advised that there was another report presented today on the Joint Regional Planning Panel, outlining its procedures and rules. The General Manager has nominated the Deputy General Manager as Manly Council's representative, but there has been no state-appointed members announced as yet. The panel is due to start on 1 July.

Councillor Griffin then asked about Council's representation on the Panel again. It was her understanding that most other Councils were appointing Councillors not Council staff.

At the request of the Mayor, the General Manager advised that this Council has delegated the processing of Development Applications to the General Manager, so it stands to reason that all issues to do with the Regional Planning Panel should be through his delegation.

Councillor Griffin then asked if it was possible for the General Manager to provide Councillors with a wiring diagram of the process.

At the request of the Mayor, the General Manager advised that yes that would be possible.

QWN56/09 Councillor Aird - Review of on-street parking within Manly CBD

With regard to Council's resolution for a review of on-street parking within the CBD approximately 12 months ago, when will this be completed and reported to Council?

At the request of the Mayor, the General Manager advised that the consultant engaged to do this work has been working on it through the summer months. The draft report which was to be delivered a couple of months ago, as scheduled, was only delivered within the last week. It will be before Council very soon.

QWN57/09 Councillor Aird - Possible Purchase of Seaforth TAFE

Would the General Manager provide Councillors with a detailed report of the meeting he and the Mayor had with the Minister for Education addressing all of the points raised in Council's recent resolution on this issue?

At the request of the Mayor, the General Manager advised that he has already provided Council with a briefing on this. Even though the Department of Education at the meeting with the Minister indicated it would come back to Council very quickly, and the General Manager did suggest that Council might put forward a time payment plan to pay for the TAFE, that suggestion wasn't welcomed and Council hasn't heard from the Department or the Minister on it. Council will follow it up. The sale of education land is still to be determined as part of the budget process. Possibly Council may know more following the State Budget release on 16 June.

QWN58/09 Councillor Burns - Manly Surf Club DA

Can staff advise on the progress of the corrective erection of templates at the Manly Surf Club, particularly addressing the blade wall and the survey of the end result.

At the request of the Mayor, the Deputy General Manager advised that the templates that are there now are accurate, surveyed and accredited. However, there is a portion of the proposal, a wing, without templates and we had asked the surveyor and architect to put up the additional template/height pole for the blade wall. They didn't put it up and following a meeting they had with objectors, they have asked Council if they can not put it up for now as they are going to submit an amendment, and the blade walls may not be part of the DA. So the matter is on hold.

Councillor Burns then asked about the progress of the DA.

At the request of the Mayor, the Deputy General Manager advised that Council has given them a list of outstanding items, one of those being the additional height poles, and they have 21 days to come back to Council to address its concerns.

QWN59/09 Councillor Burns - Reclassification of 34-36 Stuart Street

Has 34-36 Stuart Street been reclassified from operational to community land? If so can we get formal confirmation, and has a plan of management been prepared for this land?

At the request of the Mayor, the General Manager advised that when Council resolved last year to move it from operational to community land, that happened instantaneously so there is no further work to be done. As far as the plan of management is concerned, the Little Manly Plan of Management has already encompassed the two properties and MOST has been advised of Council's position, that the matter is in abeyance.

CONFIDENTIAL COMMITTEE OF THE WHOLE

General Managers Division Report No. 15

Bathers' Pavilion (West Esplanade) - Manly Museum Expansion Feasibility Study

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (c) of the Local Government Act, 1993, on the grounds that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

Environmental Services Division Report No. 15

Cleaning of Public Toilets - Tender No. 05/09

It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (c) of the Local Government Act, 1993, on the grounds that the report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.

CLOSED SESSION**MOTION (Burns / Aird)**

That the meeting move into Closed Session to consider the above items.

The Mayor, Councillor Hay asked if any members of the public gallery objected to the matters being heard in Closed Session.

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

82/09 **RESOLVED:** **(Burns / Aird)**

That the meeting move into Closed Session to consider the above items.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

OPEN COUNCIL RESUMED

Upon resuming into Open Council, the General Manager advised the meeting of the decisions made in Closed Session.

General Managers Division Report No. 15

Bathers' Pavilion (West Esplanade) - Manly Museum Expansion Feasibility Study**MOTION (Burns / Heasman)**

That Council proceed as discussed in the Closed Session of Council.

83/09 **RESOLVED:** **(Burns / Heasman)**

That Council proceed as discussed in the Closed Session of Council.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

Environmental Services Division Report No. 15

Cleaning of Public Toilets - Tender No. 05/09

MOTION (LeSurf / Elder)

That:

1. Ace Contract Cleaning Pty Ltd be awarded the tender for the Cleaning of Public Toilets in Manly for three years with a three year option subject to annual CPI adjustments and satisfactory performance for the sum \$340,976 per annum excluding GST.
2. The unsuccessful Tenderers be advised accordingly.

84/09 **RESOLVED:** **(LeSurf / Elder)**

That:

1. Ace Contract Cleaning Pty Ltd be awarded the tender for the Cleaning of Public Toilets in Manly for three years with a three year option subject to annual CPI adjustments and satisfactory performance for the sum \$340,976 per annum excluding GST.
2. The unsuccessful Tenderers be advised accordingly.

For the Resolution: Councillors Hay, Elder, Heasman, Whitting, Murphy, LeSurf, Morrison,
Norek, Griffin, Aird and Burns

Against the Resolution: Nil.

CLOSE

The meeting closed at 11.36pm.

The above minutes were confirmed at an **Ordinary Meeting** of Manly Council held on 13 July 2009.

MAYOR

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