

# Manly Council



## Agenda

### Ordinary Meeting

Notice is hereby given that a Ordinary Meeting of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

**Monday 15 October 2007**

Commencing at 7:30pm for the purpose of considering items included on the Agenda.

Persons in the gallery are advised that the proceedings of the meeting are being taped for the purpose of ensuring the accuracy of the Minutes. However, under the Local Government Act 1993, no other tape recording is permitted without the authority of the Council or Committee. Tape recording includes a video camera and any electronic device capable of recording speech.

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

# Seating Arrangements for Meetings

Staff      Staff      General  
                                 Manager      Chairperson      Staff      Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

**Deputy Mayor**  
Clr Mark Norek

Clr Joanna Evans

Clr Barbara Aird

Clr Brad  
Pedersen

Clr Richard  
Morrison



Clr Jean Hay AM

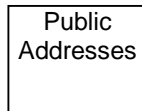
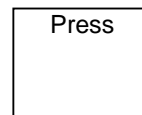
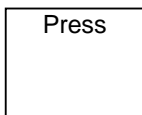
Clr Adele Heasman

Clr Dr Judy Lambert  
AM

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



## Public Gallery

**Chairperson:** The Mayor, Dr Peter Macdonald  
**Deputy Chairperson:** Deputy Mayor Clr Mark Norek

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**CLOSED SESSION**

**\*\*\*\*\* END OF AGENDA \*\*\*\*\***

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Mayoral Minute Report No. 23  
**SUBJECT:** Support for Small Bars Legislation  
**FILE NO:**

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The Mayor will move that:

1. Council express support for the *Liquor Amendment (Small Bars and Restaurants) Bill 2007* recently submitted to the NSW Parliament by the Sydney Lord Mayor and NSW Member for Sydney, Clover Moore. This private member's bill seeks to reform the NSW Liquor Act to encourage the establishment of small, boutique licensed premises in this State.
2. Council contact the Office of the Member for Sydney and formally register the Council's support for the Bill and the campaign to make it law.
3. That a copy of this Mayoral Minute be provided to the Premier, Morris Iemma, the Opposition leader Barry O'Farrell and the Member for Manly Mr Mike Baird.

### **Background**

The Bill proposed by Clover Moore aims to make it simpler and less costly to open smaller and more intimate licensed venues particularly in the City and locations such as Manly. These would be similar to the charming small bars found in the laneways of Melbourne and Europe, in contrast to the huge barn-like pubs with 24 hour licenses which tend to encourage a different drinking culture leading to excess consumption and anti-social behaviour. These new "low impact" bars would have a limited capacity of 120 patrons and a floor area of less than 200sqm.

As Clover Moore has stated publicly "the current laws are archaic and discriminate against smaller bars and clubs. I would like to see a less complex and less expensive licensing system in NSW that would allow a range and a variety of opportunities for Sydneysiders that are available elsewhere in the world"

In Melbourne, a café owner can get a liquor license for \$567.50 which allows them to sell patrons a glass of wine without food; the equivalent license in Sydney costs \$10,500.00!

It is not surprising that this initiative has been bitterly opposed by the Australian Hotels Association which has a vested interest in protecting the rights of its licensees to be permitted to serve alcohol without food. That organization has the ear of Government and is able to influence policy no doubt as a result of the substantial donations to the major political parties. For instance, in the last 8 years, the AHA has donated in excess of \$700 000 to the Labor Party in NSW.

Manly has its own unique problems as disclosed by studies such as those conducted by the Manly After Midnight Working Group. There have been a number of measures introduced to mitigate against the impacts of late night trading and the high concentration of large pubs. This could be countered to some extent by modifying the "drinking culture" in the town through encouraging an increase in the smaller venues as contemplated in this Bill. By providing locals and visitors with a mix of late night activities in a diverse range of environments, I believe we can make Manly a more sophisticated, more attractive and more friendly late night venue.

**Mayoral Minute Report No. 23 (Cont'd)****RECOMMENDATION**

That:

1. Council express support for the *Liquor Amendment (Small Bars and Restaurants) Bill 2007* recently submitted to the NSW Parliament by the Sydney Lord Mayor and NSW Member for Sydney, Clover Moore. This private member's bill seeks to reform the NSW Liquor Act to encourage the establishment of small, boutique licensed premises in this State.
2. Council contact the Office of the Member for Sydney and formally register the Council's support for the Bill and the campaign to make it law.
3. A copy of this Mayoral Minute be provided to the Premier, Morris Iemma, the Opposition leader Barry O'Farrell and the Member for Manly Mr Mike Baird.

**ATTACHMENTS**

**AT- 1** Transcript of Clover Moore's speech to Parliament introducing the Liquor Amendment (Small Bars and Restaurants) Bill 2007 3 Pages

OM151007MM\_1

\*\*\*\*\* End of Mayoral Minute Report No. 23 \*\*\*\*\*

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Mayoral Minute Report No. 23 - Support for Small Bars Legislation

Transcript of Clover Moore's speech to Parliament introducing the Liquor Amendment (Small Bars and Restaurants) Bill 2007

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**Liquor Amendment (Small Bars and Restaurants) Bill 2007**

**LIQUOR AMENDMENT (SMALL BARS AND RESTAURANTS) BILL 2007**

Page: 2487

**Bill introduced on motion by Ms Clover Moore.**

**Agreement in Principle**

**Ms CLOVER MOORE** (Sydney) [10.11 a.m.]: I move:

That this bill be now agreed to in principle.

For too long the New South Wales night economy has been dominated by large pubs and clubs with poker machines and televised sport, and large nightclubs with loud pumping music. While these venues provide entertainment for many, growing numbers of people support an alternative night culture. The Liquor Amendment (Small Bars and Restaurants) Bill aims to encourage a new night economy that has less impact on neighbouring amenity; a night economy that is diverse and in line with other cities—Australian cities like Melbourne and Perth, and European, American and Asian cities, such as Paris, Florence, San Francisco and Shanghai. Our current liquor licensing system is more restrictive, expensive and complex than any other system in Australia. Small venues that would have less impact on the local neighbourhood either do not fit within the rigid licence categories or entrepreneurs cannot afford the exorbitant costs.

Since announcing my intention to introduce legislation to encourage smaller, lower impact, boutique style bars, my office has been inundated by responses and support. I have received letters, emails and telephone calls from residents and business people asking how they can support the bill. The facebook group We Want Funky Little Pubs in Sydney has over 4,500 members and when the *Sydney Morning Herald* ran a number of articles on liquor licensing, more than 50 people posted blogs in support of my proposed bill on day one. I refer to a couple of those blogs. Peter H said, " We need a more diverse bar scene other than booze, drunks and vomit. Come on Sydney get this city on the map for more than the Harbour and Opera House". Mat Rawnsley said, "If the line of argument that more accessible/cheaper/less restrictive liquor licences will lead to more binge-drinking is to be believed, where is the evidence? Look around the world. The few countries where binge drinking is a problem [are] generally where laws are toughest." Indeed, in today's *Sydney Morning Herald* former Prime Minister Keating said:

*The pub culture in Sydney is stultifyingly bad. It's raucous and it's noisy in the Klondike-like saloons. All that's missing is Lola Montez. The idea that you have to go into these swills to get a drink, and not in some more beguiling place, is a shame.*

Change is needed to promote tourism and business. On any night in Sydney approximately 20,000 visitors in city hotels could benefit from a quiet place to drink. As Australia's global city, Sydney is the key destination for business and "deal making". It is estimated that a third to a half of hotel guests stay in the central business district [CBD] for business and they want to be able to conduct face-to-face meetings in conducive surroundings where knowledge can be shared and decisions made.

The Sydney Chamber of Commerce supports this bill, stating, "For Sydney to grow and prosper as a

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**Mayoral Minute Report No. 23 - Support for Small Bars Legislation**

**Transcript of Clover Moore's speech to Parliament introducing the Liquor Amendment (Small Bars and Restaurants) Bill 2007**

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global city, the Sydney CBD must offer a variety of drinking venues to cater for the tastes of all patrons". The Property Council also supports this bill because it promotes vibrancy in the city encouraging work and recreation and thereby strengthening the economy.

The Property Council says that Melbourne's bar culture, which has arisen from reforms to liquor licensing last century, leaves Sydney's for dead. Indeed, Ken Morrison, chief executive officer of the Property Council, in an opinion piece in the *Sydney Morning Herald* said, "The business case for small bars in our city is really a no-brainer."

Liquor reforms introduced in Victoria in the 1990s have allowed Melbourne to fare better. Professor John Niewenhuysen, who recommended that Victoria relax its liquor laws in the 1980s, demonstrated in a recent discussion paper the economic benefits of liquor licensing reform in Victoria, including a 24.6 per cent increase in restaurant employees between 1999 and 2004, compared to a 17.7 per cent increase in New South Wales. While the number of liquor outlets increased by 96 per cent in Victoria between 1998 and 2006, compared with a 34 per cent increase in New South Wales, Professor Niewenhuysen points out that the increase has not increased per capita consumption. Victoria's growth in venues reflects a greater choice in the style and type of premises, including smaller bars, particularly in the laneways of Melbourne's central business district.

The Liquor Amendment (Small Bars and Restaurants) Bill is not about competing with big hotels; it is about creating alternatives. Recent comments by the Australian Hotels Association President, John Thorpe, indicate that laws remain restrictive, expensive and complex to protect existing hotel operators from competition, many of whom, as we all know, are political donors to major parties. Community response tells us that trust in politicians is fragile and this bill is an opportunity to demonstrate to the public that Parliament does represent the public interest. The bill is simple, working with the current framework and complements the aims of the city's Late Night Trading Development Control Plan to encourage low impact venues in the city of Sydney local government area.

The bill does two things. Firstly, it allows restaurants to supply liquor without a meal, provided that food service remains the predominant activity, and tables and chairs are available to at least 70 per cent of patrons at all times. Currently restaurants have to obtain a dine-or-drink authority to serve alcohol without meals, which can cost up to \$15,500 and still require food service to at least 70 per cent of customers at all times. Should the bill be enacted, there will be no need for restaurants to obtain a dine-or-drink authority because they will be able to serve alcohol without food. Victoria has similar provisions except seating is required for 75 per cent rather than 70 per cent of patrons; 70 per cent was chosen for New South Wales to allow a seamless transition for restaurants with existing dine-or-drink authorities.

Secondly, the bill introduces a new small bars category of licences. The small bars licence will be different to other licences because the supply of alcohol must be the predominant activity, whether or not other entertainment is provided—that is, alcohol does not have to be ancillary to any other activity. Like the small bar licence introduced in Western Australia last year, it will be limited to venues with 120 patrons or fewer, ensuring that it applies only to small, low-impact venues. Small bar licences will not permit premises to have gaming machines or be allowed to sell take-away liquor. The cost of a small bar licence will be \$500, in line with other low impact licences including restaurants, public halls and theatres.

Standard trading hours for small bars will be: 7.00 a.m. to 11.00 p.m. on Mondays to Thursdays, 7.00 a.m. to 1.00 a.m. on Fridays and Saturdays, and 10.00 a.m. to 11.00 p.m. on Sundays. On restricted trading days the standard trading hours will be noon to 10.00 p.m. On New Year's Eve small bars will be allowed to trade until 2.00 a.m. the next day. However, small bars can apply to the Licensing Court to have their trading hours extended, but the court must be satisfied that extending trading hours would not result in the frequent undue disturbance of the quiet and good order of the neighbourhood.



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**Mayoral Minute Report No. 23 - Support for Small Bars Legislation**

**Transcript of Clover Moore's speech to Parliament introducing the Liquor Amendment (Small Bars and Restaurants) Bill 2007**

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Small bars will be required to ensure toilet facilities are available for their patrons.

When the Western Australian Labor Government introduced small bar licences as part of a liquor reform package in 2006, its Minister for Racing and Gaming said in his speech that reforms were aimed at "encouraging a more vibrant, lower risk, family friendly, cafe style drinking culture", which is in line with the aims of this bill. However, the New South Wales Premier has stated publicly that he would not support the introduction of licences without social impact assessments. The Liquor Act 1982 does not require social impact assessments for nightclub licences; they are required only for hotel licences and retail off-licences, with a fee of up to \$6,600, but legal assistance can blow out costs to well beyond \$50,000 and the applicant prepares the social impact assessment, which raises questions about the independence of the assessment.

When the Western Australian Government was preparing to reform liquor licensing, it commissioned the Allen Consulting Group to report on the effectiveness of liquor licensing in other Australian jurisdictions. The report stated that according to the New South Wales Department of Gaming and Racing the quality of social impact assessments was generally poor and the quality and availability of research material made the process difficult for both applicants and assessors. The purpose and value of the social impact assessment is questionable. Is it designed to protect communities from the adverse social impacts of licensed premises? The New South Wales Police Force argues it needs increased police powers to enforce conditions of licences to reduce impacts from venues. It says that current fines of \$5,000 or \$10,000 do not deter large venues, which can cause serious problems for police and distress for neighbouring residents. Or is this complex process designed to make it difficult for new players to enter the market? Is it designed to discourage entrepreneurs from providing alternatives?

The Liquor Amendment (Small Bars and Restaurants) Bill does not require social impact assessments for small bars, just as social impact assessments are not required for restaurants. Small bars will not have gaming machines or sell takeaway liquor. Limiting the clientele to a maximum of 120 people will enable the responsible service of alcohol to be better managed. Small bars, however, will require development approval from the local consent authority, which will provide a more open, accountable, independent and comprehensive process than social impact assessments. Development applications will be assessed in the context of planning controls. Small bars in the City of Sydney local government area, for example, would be assessed in the context of our Late Night Trading Premises Development Control Plan, which aims to manage the impacts of late-night premises on neighbourhood amenity, while encouraging vibrancy and diversity. Affected residents are notified of development applications and given the opportunity to make submissions. They can also address council committees before a final decision is made. Development applications for small bars would include conditions to minimise amenity impacts.

The Liquor Amendment (Small Bars and Restaurants) Bill is a simple bill that works within the current process of the current Liquor Act 1982 and maintains the Licensing Court's role of granting licences. Liquor licensing is complex and major reform is needed. Since announcing my intention to introduce the bill, I have been contacted by applicants for many types of licences who are finding the process expensive and inhibitive. If the Government does not introduce long-awaited changes, I am considering a second stage of reform involving a different liquor licensing process in line with other jurisdictions. The community believes that the current liquor licensing fails to allow the diversity in late-night trading that they as consumers demand and they want the Liquor Amendment (Small Bars and Restaurants) Bill to pass. In his paper, Professor Nieuwenhuysen wrote:

*One of the great strengths of the Victorian liquor and hospitality industry, which could be emulated in New South Wales, is its diversity, and the ability of licensees to identify and respond to the changing needs and expectations of the market—whether as a traditional pub/hotel; as a*

**Mayoral Minute Report No. 23 - Support for Small Bars Legislation**

**Transcript of Clover Moore's speech to Parliament introducing the Liquor Amendment (Small Bars and Restaurants) Bill 2007**

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*vibrant gaming venue with a range of associated dining, lounge, entertainment or bar facilities; or as a café/bar or lounge responding to more eclectic market opportunities. The concentration of European style facilities is especially evident in the CBD and its cosmopolitan street culture, which has proved so popular with Melbournians and made it a mecca for tourists and visitors. It remains to be seen if New South Wales will make the changes necessary to secure the reforms required.*

This bill provides the Parliament with the opportunity to make these changes. I commend the bill to the House.

**Debate adjourned on motion by Mr Joseph Tripodi and set down as an order of the day for a future day.**

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Mayoral Minute Report No. 24  
**SUBJECT:** Human Rights Torch Relay  
**FILE NO:**

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The Mayor will move that:

1. Manly Council acknowledge the arrival of the Human Rights Torch Relay at Manly Wharf on Saturday October 27<sup>th</sup> 2007
2. Councillors, staff and members of the community be invited to join the walk through Manly
3. Council offer any reasonable logistical assistance to the organizers of the Torch Relay

### **Background**

My office has been informed that the International Human Rights Torch Relay will be coming to Sydney in late October. After its procession through the Sydney CBD, the torch will then travel to Manly on Saturday October 27<sup>th</sup>. The organisers of the event have officially approached me to seek my assistance with the Manly leg of the torch's journey.

In 2001, when the International Olympic Committee awarded Beijing the 2008 Olympic Games, it did so with the expectation that China would improve its human rights record. However, with the 2008 Games fast approaching, Amnesty International, Reporters without Borders, Human Rights Watch and many others, including the UN, are reporting a litany of ongoing and increasing human rights violations in China, including the widely reported persecution of Falun Gong practitioners.

China's present leaders have much at stake in making the 2008 Games a success and I believe it's our duty to put human rights on the agenda while China is listening.

In an effort to focus the world's attention squarely on this important issue, more than 35 countries are participating in the **Human Rights Torch Relay**. The first flame of the relay was lit in Athens, Greece, on 9th August 2007. The Torch is now in Europe and will travel to five continents to finish in Asia in 2008. Australia is set to receive the Torch on 27th October 2007 in Sydney.

None of us can truly say we enjoy our Human Rights while they are denied to others. There is a reason they are called universal – put simply, if they are denied to one, then they are denied to us all.

The Burmese Democracy leader Aung San Suu Kyi knows first hand the value of true universal human rights. In a rare public statement she once said, "Please use your freedom to promote ours." Here in Manly we are lucky to enjoy rights and liberties denied to so many others. This relay provides us with a chance to use those rights and liberties to advocate for those who can't.

### **RECOMMENDATION**

I therefore move that:

1. Manly Council acknowledge the arrival of the Human Rights Torch Relay at Manly Wharf on Saturday October 27<sup>th</sup> 2007
2. Councillors, staff and members of the community be invited to join the walk through Manly
3. Council offer any reasonable logistical assistance to the organizers of the Torch Relay

**Mayoral Minute Report No. 24 (Cont'd)**

**ATTACHMENTS**

There are no attachments for this report.

OM151007MM\_2

\*\*\*\*\* End of Mayoral Minute Report No. 24 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Mayoral Minute Report No. 25  
**SUBJECT:** Honouring Stuart Entwistle  
**FILE NO:**

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The Mayor will move that:

Council provide a public bench in Edwin Street, Fairlight with an appropriate plaque commemorating the community spirit and love of life that was constantly demonstrated by the late Stuart Entwistle.

### **Background**

This year marks five years since the sad passing of former Fairlight resident Stuart Entwistle and twenty years since he famously won the World Longboard Championship here on our very own Manly beach.

"Twizzel" as he was affectionately known to his friends and family was a Manly boy through and through becoming an icon of our local surfing community. Stuart's love of the surf was apparent to all who met him and even when he was diagnosed with severe melanoma in 1999, he was still competing actively and winning tournaments.

Stuart was also renowned for his sense of community spirit. He gave generously of his time and energy to help many good causes, including the Starlight "Make a Wish" foundation and the Cancer Council of Australia. Stuart's warm personality and sense of fun enabled him to rally other people to worthwhile causes and support community projects. He was one of the original organisers of the Edwin Street Christmas lights, encouraging his neighbours to get together, have some fun and spread some festive spirit. To this day, the tradition continues, a loving testament from a community to the memory of a dear friend and neighbour.

In 2001 Stuart received the Australia Day Sportsman Citizen Award and in January 2002, just a week before he died, his contributions to our community were recognised when he was named as Manly's Australia Day Citizen of the Year.

Stuart divided his time between his sporting commitments in the surf and his community commitments at home in Edwin Street. A plaque has been laid at the beachfront in recognition of his surfing achievements, providing an opportunity for friends and peers, and those that aspired to be like him to reflect on his significant contributions and achievements. I believe it would provide a sense of symmetry for a similar permanent commemoration to be on display in Edwin Street where friends, family and neighbours can come to remember a man with a big heart and a true sense of community spirit.

### **RECOMMENDATION**

I therefore recommend that Council provide a public bench in Edwin Street, Fairlight with an appropriate plaque commemorating the community spirit and love of life that was constantly demonstrated by the late Stuart Entwistle.

### **ATTACHMENTS**

There are no attachments for this report.

OM151007MM\_3

\*\*\*\*\* End of Mayoral Minute Report No. 25 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Notice of Motion Report No. 18  
**SUBJECT:** Proposed Redevelopment of the Seaforth TAFE Site, Adjacent Land and Roadways  
**FILE NO:**

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Councillor Morrison will move:

1. That Council staff prepare an assessment of the redevelopment proposal that:
  - a. Is based on the information and diagrams prepared by Allen Jack + Cottier that were prepared as part of the public consultation process, and any information that has since been provided, or can be extrapolated from any agreed modifications, such as proposed height reductions;
  - b. Quantifies the additional net area of public land that will become the property of the developers;
  - c. Assess the net gain/loss of existing on-street car parking;
  - d. Quantifies, in actual measurement and in percentage form, the degree of compliance and/or non-compliance of the proposal in terms of the following DCP controls that currently apply to the Seaforth business area:
    - i. Site coverage
    - ii. Setbacks
    - iii. Landscaped open space
    - iv. Height
    - v. Total floor space ratio;
    - vi. Required off-street car parking; and
2. That Council staff be advised that:
  - a. Scenarios for alternative results can be used; eg if rooms in the roof are permitted;
  - b. The use of explanatory notes for any assumptions is encouraged; and
  - c. Council acknowledges that the result be an approximation only.

### **Background**

This is the biggest redevelopment proposal for Seaforth in memory, and the scale of the proposal is such that, if it is approved, it will have enormous impact on the existing character and amenity of the precinct.

It is essential that council and the community understand how much land, how many on-street car parking spaces, and which and how much of the DCP controls are proposed to be traded in return for the fitting out of a village square and the provision of a community hall, before any in-principle decision is made.

If the redevelopment is subsequently approved, the information provided in this report will provide council, council staff and the community with terms of reference for the assessment of the actual development applications that will ensue.

### **RECOMMENDATION**

1. That Council staff prepare an assessment of the redevelopment proposal that:
  - a. Is based on the information and diagrams prepared by Allen Jack + Cottier that were prepared as part of the public consultation process, and any information that has since

**Notice of Motion Report No. 18 (Cont'd)**

- been provided, or can be extrapolated from any agreed modifications, such as proposed height reductions;
- b. Quantifies the additional net area of public land that will become the property of the developers;
  - c. Assess the net gain/loss of existing on-street car parking;
  - d. Quantifies, in actual measurement and in percentage form, the degree of compliance and/or non-compliance of the proposal in terms of the following DCP controls that currently apply to the Seaforth business area:
    - i. Site coverage
    - ii. Setbacks
    - iii. Landscaped open space
    - iv. Height
    - v. Total floor space ratio
    - vi. Required off-street car parking; and
3. That Council staff be advised that:
- a. Scenarios for alternative results can be used; eg if rooms in the roof are permitted;
  - b. The use of explanatory notes for any assumptions is encouraged; and
  - c. Council acknowledges that the result be an approximation only.

**ATTACHMENTS**

There are no attachments for this report.

OM151007NM\_1

\*\*\*\*\* End of Notice of Motion Report No. 18 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Notice of Motion Report No. 19  
**SUBJECT:** The Alcohol Industry and Political Donations  
**FILE NO:**

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Councillor Pedersen will move:

That Council convene a public forum "The alcohol industry and political donations"  
– *under the influence?*

### **Background**

Over recent weeks there has been an ongoing debate in the metropolitan media regarding alcohol industry donations and policy decisions by the State government in particular.

The alcohol industry is the second biggest donor group after the development lobby. There is a growing public perception that public policy outcomes are being improperly influenced by the huge donations from the alcohol industry. These policy decisions are increasingly seen as having seriously negative impacts on our society. The impacts of some of these policies have been directly felt in Manly.

The alcohol industry has often tried to dismiss its critics as prohibitionists or "wowsers". The fact is that nobody wants to go back to the 6 o'clock swill or prohibition. Alcohol is here to stay. What the critics of the alcohol industry simply want is a balanced policy framework to give the greatest benefit to the community. At present we are getting public policy being driven by a form of legalised bribery.

It is time to encourage a public debate on legislative reform options such as a ban on alcohol industry donations or to at least ensure proper transparency so the public can know who is donating to whom, and how much.

### **RECOMMENDATION**

That Council convene a public forum "The alcohol industry and political donations"  
– *under the influence?*

### **ATTACHMENTS**

There are no attachments for this report.

OM151007NM\_2

\*\*\*\*\* End of Notice of Motion Report No. 19 \*\*\*\*\*



**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Notice of Motion Report No. 20  
**SUBJECT:** Amalgamation of Council Committees  
**FILE NO:**

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Councillor Norek will move:

That Council investigate and prepare a report on the feasibility of reducing by amalgamation 50% of Councils community committees.

**RECOMMENDATION**

That Council investigate and prepare a report on the feasibility of reducing by amalgamation 50% of Councils community committees.

**ATTACHMENTS**

There are no attachments for this report.

OM151007NM\_4

\*\*\*\*\* End of Notice of Motion Report No. 20 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Notice of Motion Report No. 21  
**SUBJECT:** Little Manly Precinct Community Forum  
**FILE NO:**

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Councillor Lambert will move:

That Manly Council, as matter of some urgency, and in support of a Resolution of the Little Manly Precinct Community Forum passed unanimously at its meeting of 10 October 2007, write to the Federal Member for Warringah, The Hon Tony Abbott; the Federal Minister for Justice & Customs, The Hon. David Johnston; the Federal Minister for the Environment & Water Resources, The Hon. Malcolm Turnbull; the Shadow Minister for Climate Change, the Environment & Heritage, Peter Garrett; and the Shadow Minister for Justice & Customs, Arch Bevis; seeking from each of them prior to the forthcoming Federal election a commitment to review the decision for a \$21 million redevelopment and expansion of the Australian Institute of Police Management facility at Spring Cove, and in its place to request the Australian Federal Police to put to the Sydney Harbour Federation Trust, a proposal for longer-term leasing of facilities at the former School of Artillery site.

### **Background**

The Australian Federal Police, some months ago gained approval to redevelop and expand the facilities at Spring Cove until recently occupied by the Australian Federal Police.

The redevelopment, when initially proposed and during the Public Works Committee hearings in which Manly Council was a participant, was costed at approximately \$11 million. Since then the costs have escalated to \$21 million.

The site at the end of Collins Rd at Spring Cove is an integral part of both the National Heritage listed area of North Head and of the former Quarantine Station, and the Australian Government in June 2007 determined that the proposed development is a 'controlled action' requiring assessment under the provisions of the Environment Protection and Biodiversity Conservation Act 1999).

In the meantime, the AIPM has entered into short-term (1 year with a 1-year option) leasing arrangement with the Sydney Harbour Federation Trust and has moved into 4 or 5 buildings at the former School of Artillery site while the development of its own site takes place. Informal advice and observation suggests that this arrangement is generally working well.

Given major concerns about the environmental and heritage impacts of the proposed redevelopment at the Spring Cove site, and the fact that this site is an integral part of the historic value of the area, Council should support the both Little Manly community and wider heritage interests by seeking to have the current arrangement made permanent, rather than supporting the redevelopment and expansion of facilities at the Spring Cove site. In doing so, it would also be supporting considerable savings of taxpayer funds.

### **RECOMMENDATION**

That Manly Council, as matter of some urgency, and in support of a Resolution of the Little Manly Precinct Community Forum passed unanimously at its meeting of 10 October 2007, write to the Federal Member for Warringah, The Hon Tony Abbott; the Federal Minister for Justice & Customs, The Hon. David Johnston; the Federal Minister for the Environment & Water Resources, The Hon. Malcolm Turnbull; the Shadow Minister for Climate Change, the Environment & Heritage, Peter Garrett; and the Shadow Minister for Justice & Customs, Arch Bevis; seeking from each of them prior to the forthcoming Federal election a commitment to review the decision for a \$21 million redevelopment and expansion of the Australian Institute of Police Management facility at Spring

**Notice of Motion Report No. 21 (Cont'd)**

Cove, and in its place to request the Australian Federal Police to put to the Sydney Harbour Federation Trust, a proposal for longer-term leasing of facilities at the former School of Artillery site.

**ATTACHMENTS**

There are no attachments for this report.

OM151007NM\_5

\*\*\*\*\* End of Notice of Motion Report No. 21 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Item For Brief Mention Report No. 13  
**SUBJECT:** Items for Brief Mention  
**FILE NO:**

---

**1. Reports:**

**i) Consent role for Trading of Licensed Premises**

At the Ordinary Meeting of 23 April 2007, Council adopted a recommendation from the Community Safety Committee that local council's be given a consent role in the determination of licensing hours of licensing premises. At that meeting Council resolved that this matter be referred to the Minister for Gaming and Racing and seek that it be included in the current liquor Bill tabled in Parliament.

A response has now been received from the Minister which is attached.

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

- i) Sister Cities Committee – 12 September 2007
- ii) Manly Meals on Wheels Service Committee - Notes of Meeting - 19 September 2007
- iii) Manly Access Committee – 20 September 2007
- iv) Manly Youth Council – 24 September 2007

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

**i) Manly Youth Council Committee - 20 August 2007**

**a) Item 5.1 Guest Speaker**

Recommendation

Youth Council also agreed to give support James' proposal that Council reconsider the inclusion of some kind of skate facility at Seaforth Oval.

**ii) Manly Public Art Committee – 19 September 2007**

**a) Item 7.1 Resignation of Chair of the Committee**

Recommendation

That this report be received and noted.

**b) Item 7.2 Amalgamation of Committees**

Recommendation

That Public Art Committee be amalgamated with the Manly Art Gallery & Museum Liaison Committee and renamed Manly Council Art & Culture committee.

**Item For Brief Mention Report No. 13 (Cont'd)****iii) Manly Community Safety Committee – 20 September 2007****a) Item 5.4 CCTV TAXI's and Police Operations**Recommendation

**Motion:** Taxi rank to be moved from the end of The Corso to further north at existing taxi rank outside the Henry Africa's venue near to 43-45 North Steyne. Security for the rank will continue to be provided by the Ministry of Transport on Friday and Saturday nights.

**RECOMMENDATION**

1. That Council receive and note the letter from the Minister of Gaming and Racing in relation to the consent role for trading of licensed premises.
2. That the recommendations of **Minutes of Meetings**, as listed in **item 2**, (i) to (ii), be **adopted**.
- 3 i) That the minutes of the **Manly Youth Council Committee - 20 August 2007** be **adopted**, including the following recommendations of a substantial nature:

**a) Item 5.1 Guest Speaker**

Youth Council also agreed to give support James' proposal that Council reconsider the inclusion of some kind of skate facility at Seaforth.

Divisional Manager HS & F Note:

This matter has been referred to Divisional Manager CPS for planning consideration.

- ii) That the minutes of the **Manly Public Art Committee**- be **adopted**, including the following recommendations of a substantial nature:

**a) Item 7.1 Resignation of Chair of the Committee**

That this report be received and noted.

**b) Item 7.2 Amalgamation of Committees**

That Public Art Committee be amalgamated with the Manly Art Gallery & Museum Liaison Committee and renamed Manly Council Art & Culture committee.

- iii) That the minutes of the **Manly Community Safety Committee** - be **adopted**, including the following recommendations of a substantial nature:

**a) Item 5.4 CCTV TAXI's and Police Operations**

**Motion:** Taxi rank to be moved from the end of The Corso to further north at existing taxi rank outside the Henry Africa's venue near to 43-45 North Steyne. Security for the rank will continue to be provided by the Ministry of Transport on Friday and Saturday nights.

Divisional Manager HS & F Note:

Manly Police, Taxi Industry, Ministry of Transport and Council meeting organised for October to action this change of taxi rank location for Late Night and Security arrangements.

**Item For Brief Mention Report No. 13 (Cont'd)**

**ATTACHMENTS**

AT- 1 Response from Minister for Gaming and Racing 13 Sept 07 1 Page

OM151007IBM\_1

\*\*\*\*\* End of Item For Brief Mention Report No. 13 \*\*\*\*\*

ATTACHMENT 1

Item For Brief Mention Report No. 13 - Items for Brief Mention  
Response from Minister for Gaming and Racing 13 Sept 07



MINISTER FOR GAMING AND RACING  
MINISTER FOR SPORT AND RECREATION

RML EA1183140  
Dept Ref: M07/00756

Mr Henry T Wong  
General Manager  
Manly Council  
PO Box 82  
MANLY NSW 2095

Manly Council  
18 SEP 2007  
13 SEP 2007  
Distribution   
1) Scanned

Dear Mr Wong

I refer to your letter of 26 July 2007 containing advice of Manly Council's resolutions regarding the trading hours of licensed venues.

I note Manly Council has resolved that local councils be given a consent role in the determination of licensing hours, and that hours be consistent with the Council's *Manly After Midnight* policy in relation to lock outs (restricted entry arrangements) and staggered closing.

You have requested that Manly Council's recommendation be included in the liquor law reforms which are presently being finalised by the Government.

A range of views in relation to liquor trading hours has been expressed by stakeholders, including Manly Council, during the development of the Government's liquor law reforms. Those views are being considered in the finalisation of those reforms.

Yours sincerely

**GRAHAM WEST MP**  
Minister for Gaming and Racing  
Minister for Sport and Recreation

Level 31, Governor Macquarie Tower, 1 Farrer Place SYDNEY NSW 2000  
Telephone: (61 2) 9228 4228 Facsimile: (61 2) 9228 4598

**TO: Ordinary Meeting - 15 October 2007**  
**REPORT: Corporate Services Division Report No. 36**  
**SUBJECT: Financial Statements for the Year Ended 30 June 2007**  
**FILE NO:**

---

## **SUMMARY**

The Local Government Act, 1993, requires a Council to present its Audited Financial Reports for the financial year ended 30 June 2007, together with the Auditor's Report, at a meeting of Council within 5 weeks of receipt of the Auditor's Report.

## **REPORT**

At Council's Ordinary Meeting of 17 September 2007, the Financial Reports for the period 1 July 2006 to 30 June 2007 were adopted and referred to Council's Auditors, Spencer Steer Chartered Accountants.

The Auditor's Report was completed and signed off on 27 September 2007.

In accordance with the requirements of the Local Government Act, a notice was published in The Manly Daily of 7 October, 2007 advising that the accounts were available for inspection at the Council Offices, and that the accounts would be formally presented to Council at its Meeting to be held on 15 October, 2007.

Council's Financial Statements for the year ended 30 June, 2006 have been audited and a copy of the annual Financial Reports with the Auditor's report were forwarded to the Department of Local Government on 27 September 2007.

A copy of the Auditor's Report is attached as 'Attachment A' for the information of Councillors and a copy of the statements has been circulated separately to all Councillors and will be tabled at the meeting.

A representative from Council's auditor, Mr Norm Mah Chut from Spencer Steer, has been invited to be in attendance at the meeting to present the Auditors Report and to answer any questions.

In accordance with Section 420 of the Act, public submissions were invited up to Thursday 11 October 2007 in accordance with S418 and S420.

## **Financial Results:**

For the year ended 30 June 2007, Council recorded an Operating Deficit of \$ 0.422 million from Ordinary Activities before Capital Amounts. Operating result after Capital Amounts - Grant & Contributions is a surplus of \$ 1.499 million.

A summary of the Financial Statements for the year ended 30 June, 2007 is detailed below:-



## Corporate Services Division Report No. 36 (Cont'd)

	Current Year \$'000	Previous Year \$,000
<b><u>Income Statement</u></b>		
Total Revenues from Ordinary Activities	47,659	44,913
Total Expenses from Ordinary Activities	46,160	43,797
Net Operating Result from All Activities	1,499	1,116
Net Operating Result from Ordinary Activities before Capital Grants and Contributions	(422)	159
<b><u>Balance Sheet</u></b>		
Total Current Assets	15,843	21,247
Total Current Liabilities	16,349	15,735
Total Non Current Assets	509,915	502,527
Total Non Current Liabilities	4,945	4,074
Total Equity	505,464	503,965
<b><u>Other Financial Information</u></b>		
Unrestricted Current Ratio	1.15:1	2.15:1
Debt Service Ratio (%)	3.18%	3.08%
Rate Coverage Ratio (%)	54.65%	55.66%
Rates & Annual Charges Outstanding (%)	3.63%	3.80%

**Performance Measures:****Unrestricted Current Ratio**

Purpose is to assess the adequacy of working capital and the ability to satisfy obligations in the short term for the unrestricted activities of Council.

Measures Current Assets less Externally Restricted Assets divided by Current Liabilities less Specific Purpose Liabilities) (Desirable ratio is 1.05:1 and not less than 1:1)

The Unrestricted Current Ratio as at 30/6/07 was 1.15:1 (2.15:1 – 2006).

The decline in this ratio is a result of Council funding major works during the year from internal reserve funds. The alternative would have been external loan borrowing, however by using internal borrowing from reserves of \$3.649 million for financing The Corso (which will be funded and repaid from future Special Rates levied specifically for that purpose), Council will make substantial savings in debt service costs.

**Conclusion:**

All Councils are required to have their annual financial statements prepared and audited by 31 October each year, and a copy lodged with the Department of Local Government by 7 November. A copy of Council's annual Financial Reports with the Auditor's report were forwarded to the Department of Local Government on 27 September 2007.

In summary, on the consolidated basis (including joint ventures), Council's financial statements show:

1. An increase in Net Assets for the year of \$1.499 million to \$505,464 million (\$503,965 million previous year).
2. Expenses from ordinary operations amounted to \$46,160 million (\$43,797 million).

**Corporate Services Division Report No. 36 (Cont'd)**

3. Revenues from Ordinary Activities including capital grants and contributions amounted to \$47.659 million (\$44.913 million).
4. Operating result from Ordinary Activities before capital items of \$0.422 million (deficit) (\$0.159 million surplus).
5. Net Operating result after capital grants and contributions (Surplus) - \$1.499 million (\$1.116 million).
6. Operating Revenues increased by \$2.746 million and there was an increase in Operating Expenses of \$2.262 million resulting in a net surplus increase in of \$0.363 million.
7. Current Assets exceed Current Liabilities by \$0.494 million (\$5.512 million).
8. The Unrestricted Current Ratio is 1.15:1 (2.15:1).
9. Operating revenue required to service debt is 3.18% (3.08%) on total borrowings including finance leases of \$5.843 million (\$4.925 million).
10. Percentage of rates, annual and extra charges collected was 96.4% (96.2%).
11. Available Working Capital at 30 June 2007 of \$919,000.
12. Cash and Investments held at 30 June 2007 were \$12.231 million (\$19.560 million in 2006). Of this amount \$5.847 million (\$4.000 million) is externally restricted; \$4.973 million (\$13,798 million) is internally restricted; and \$1.411 million is unrestricted (\$1.762 million).

**RECOMMENDATION**

That:

1. The Annual Financial Report for the Year ended 30 June 2007 together with the Auditors Report be received;
2. Council's Auditors, Spencer Steer Chartered Accountants, be thanked for their attendance.

**ATTACHMENTS**

AT- 1 Manly Council Financial Report 30 June 2007 74 Pages Circulated Separately

OM151007CSD\_2.doc

\*\*\*\*\* End of Corporate Services Division Report No. 36 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Corporate Services Division Report No. 37  
**SUBJECT:** Report on Council Investments as at 30 September 2007  
**FILE NO:**

---

## 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.

## REPORT

Council is required to report on a monthly basis, all invested funds which have been made in accordance with the Local Government Act 1993, The Local Government (General) Regulation 2005, and Council's Investment Policy.

Attached is the report of the bank balances and investment performance for September 2007.

### Certification – Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

### Investment Performance

The Investment Report shows that Council has a combined Bank Balance of \$691,071 and Investment Holdings of \$8,753,197 (directly managed) and \$4,737,140 (externally managed).

Directly managed investments overall performed better than 90 day USBWA index for the month providing a return of 6.73% (*Council Benchmark = 6.60% - benchmark is 90 day UBS Warburg Bank Bill Index*)

Return on Grange Managed Funds since inception was 18.25%, less than the benchmark UBSWA Index of 6.60% (for the month of September 2007 the monthly return was 0.62% above the benchmark UBSWA Index) This is due to the poor return on these managed funds which had a 3.53% exposure to the US Sub prime mortgage assets market.

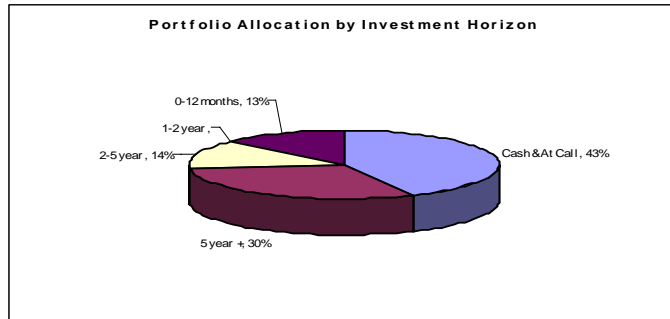
Whilst the current market to market value of these investments (included in the report for information) shows a reduction in the value and the returns reported by Grange Securities indicate a return below benchmark, it is important to note that the Investments are recorded by Council at their original principal face value, and there would be no erosion of Council's initial capital investment if the investment continues to be held at the present time to call. There has been a slight upward movement in the market valuation of the Grange IMP for the month. In the mean time the securities are continuing to pay their full coupon value and provide an interest return greater than the benchmark.

MANLY COUNCIL INVESTMENT PORTFOLIO as at 30 September 2007							Investment Returns Interest Rate	Interest Sep 07	Accrual YTD	
Form of Investment	Investment in AUS\$	Percentage of Portfolio	S & P Rating	Date Invested	Call/Maturity Date					
<b>Directly Managed Funds</b>										
<b>Trading Account</b>										
CBA Trading Account	Cash	691,071	4.87%	AA-	.	.	5.25% <sup>(4)</sup>	\$ 9,663	\$ 22,416	
<b>Others</b>										
NM Rothschild & Son (Aust)	Floating Rate Note	700,000	4.94%	BBB-	3/12/2004	3/12/2009	7.95%	\$ 4,565	\$ 13,344	
Emu Note - Dresdner Bank	Structured Note	500,000	3.53%	AAA	25/10/2005	25/10/2007	7.03%	\$ 2,889	\$ 8,962	
WBC PP Ethical Note	Structured Note	500,000	3.53%	AA-	5/07/2006	5/07/2012	8.08%	\$ 3,384	\$ 10,520	
Credit Suisse - Aqueduct Note	Structured Note	500,000	3.53%	AA-	22/12/2006	21/06/2010	6.80%	\$ 2,646	\$ 543	
Greater Building Society	Term Deposit	500,000	3.53%	BBB+	19/09/2007	19/03/2008	7.15%	\$ 2,137	\$ 2,137	
Illawarra Mutual Building Society	Term Deposit	121,936	0.86%	BBB	22/05/2007	22/11/2007	6.57%	\$ 1,346	\$ 4,128	
Elders Rural Bank	Term Deposit	719,877	5.08%	AA-	4/06/2007	4/06/2008	6.80%	\$ 4,012	\$ 10,403	
LGFS Fixed Out-Performance Cash Fund	@ Call	500,419	3.53%	AA-	At call	At call	7.95%	\$ 419	\$ 419	
LGFS Ethical Fund	@ Call	118,804	0.84%	A	At call	At call	4.23%	\$ 829	\$ 3,956	
Illawarra Mutual Building Society	@ Call	5,000	0.04%	AA-	At call	At call	6.50%	\$ 27	\$ 79	
Commonwealth Bank	@ Call	4,587,161	32.35%	AA-	At call	At call	6.45%	\$ 6,271	\$ 7,102	
	Total	8,753,197	61.72%							
<b>Total Directly Managed Funds</b>		9,444,268								
<b>Grange Managed Funds (All in AUS\$)</b>										
<b>Approved Deposit Institutions (Bank)</b>										
			<i>Market Val (Note 1)</i>							
HSBC	Floating Rate Note	500,000	492,570	3.53%	AA-	20/03/2007	22/09/2011	7.15%	\$ 4,794	\$ 9,218
Australian Central Credit Union	Floating Rate Note	1,000,000	990,890	7.05%	Cr Union	15/12/2004	15/12/2014	8.16%	\$ 5,102	\$ 22,478
ANZ Principle Protected Note	Euro Bond	50,000	47,165	0.35%	AA	17/07/2007	17/07/2008	8.25%	\$ 338	\$ 867
	Total	1,550,000	1,530,625	10.93%						
<b>Interest Bearing Securities (Non Bank)</b>										
Magnolia (Flinders)	Floating Rate CDO	300,000	258,687	2.12%	AA	20/03/2007	20/03/2009	8.35%	\$ 1,793	\$ 6,668
MAS6-7 (Parkes IIA)	Floating Rate CDO	500,000	454,010	3.53%	AA-	20/03/2007	20/12/2009	8.85%	\$ 3,195	\$ 11,812
Heli0308 (Scarborough)	Floating Rate CDO	250,000	225,710	1.76%	AA	21/06/2007	23/06/2009	8.17%	\$ 1,345	\$ 5,144
Corsair (Torquay)	Floating Rate CDO	500,000	446,400	3.53%	AA	20/03/2007	20/06/2009	8.05%	\$ 2,865	\$ 10,694
Zircon (Coolangatta)	Floating Rate CDO	500,000	411,965	3.53%	AA	20/03/2007	20/03/2011	8.15%	\$ 2,906	\$ 10,834
Beryl (Global Bank Note)	Floating Rate Note	500,000	474,420	3.53%	AAA	3/04/2007	20/03/2010	7.45%	\$ 2,617	\$ 9,856
SPRC (Federation)	Floating Rate Note	500,000	180,460	3.53%	AAA	9/05/2007	9/05/2010	7.66%	\$ 3,111	\$ 5,443
	Total	3,050,000	2,451,652	21.51%						
Macquarie Cash Management Account	@ Call	137,140	137,140	0.97%	AAA	At call	At call	5.44%	\$ 993	\$ 1,372
<b>Total Grange Managed Funds</b>		4,737,140		4,119,417		33.40%				
Retired Investments								\$ 15,476		
<b>TOTAL PORTFOLIO</b>		14,181,408		100.00%		7.22%		\$ 67,247 \$ 192,785		
<b>BENCHMARK</b>							6.60%			

**Notes:**

- 1 Market to Market Valuation as provided by Issuer. Note that Council records Securities at Face Value
- 2 Benchmark is 90 day USB Warburg Bank Bill Index
- 3 CDO - Collateralised Debt Obligation
- 4 Balances less than \$250,000 earn 5.25%, \$250,000 to \$499,999 earn 5.5%, \$500,000 to \$750,000 earn 5.75% & greater \$750,000 earn 6%

Summary by Credit Rating		No.
AAA	11.54%	4
AA	11.28%	5
A	0.84%	1
AA-	59.96%	9
A-	0.00%	0
BBB+	3.53%	1
BBB	0.86%	1
BBB-	4.94%	1
Credit Union	7.05%	1
	100.00%	23



### **Investments Review by Department of Local Government**

The Department of Local Government have announced a review of Councils Investments for all councils in NSW. The main focus of the review is to clarify the exposure of NSW councils to any losses, particularly through investments in collateralised debt obligations (CDOs) and similar products. The review is being conducted under the direction of a Steering Committee chaired by the Department and including representatives from the Department of Premier and Cabinet and NSW Treasury.

All Council's have been circulated with a data return to be completed and returned by 17 October 2007. Information being collected includes:

- Investment details (issuer, type, maturity date, face value, interest rate and basis, credit rating);
- Purchase details (purchase date, price, seller);
- Value as at 30 June 2007 (market value, source of valuation);
- Recent valuation (valuation date, market value, source of valuation)
- The Investment process (how Council determines appropriate risk/return profile for the investment portfolio; how Council determines appropriate maturity profile, diversification and liquidity; is independent investment advice received prior to making investment decisions; does Council use external party to manage some or all of investments; particulars of external managers delegations and whether investments are recommended/approved prior to purchase; monitoring of investment portfolio for credit ratings, liquidity, market valuations).

### **Independent Financial Advice**

Council at the Extra-ordinary meeting held on the 27 August 2007 resolved to seek independent financial advice with respect to Manly Council's investment portfolio. Accordingly Ernst and Young were engaged to conduct this review and their report on Manly Council's Investment Portfolio is presented in Attachment "A"

The Reports summary findings were:

1. *That the Manly Council investment portfolio satisfies the requirements of the Local Government Act and Ministerial Investment Orders.*
2. *The portfolio has a profile that is relatively conservative in terms of maturity and credit quality.*
3. *The "underlying asset classes" supporting the investment portfolios, based on ratings published by reputable rating agencies, appear sound and statistically on a hold to maturity basis, have a high probability of returning the principal invested. A caveat is placed on the Federation investment (\$500k) where risks have increased albeit S&P have maintained their AAA rating at this stage.*

**Corporate Services Division Report No. 37 (Cont'd)**

4. *The information provided about the CDO portfolios (by Grange Securities) is thorough and timely, although given the complexity of the instrument and nature of the market, independent validation of information by Council is extremely difficult.*
5. *We recommend Council formally review its investment portfolio policy in conjunction with its medium term cash flow forecasts in light of the changed circumstances and economic environment.*

(Note: Staff are reviewing the investment portfolio policy and the placement of investments to satisfy Council's investment cash flow forecasts as per recommendation 5 above).

**RECOMMENDATION**

That:

1. The statement of Bank Balances and Investment Holdings as at 30 September, 2007 be received and noted;
2. Council note the review of council investments being conducted by the Department of Local Government;
3. Council receive and note the report on Council's investments by Ernst & Young.

**ATTACHMENTS**

**AT- 1** Ernst & Young Investment Portfolio Review 27 Pages Circulated Separately

OM151007CSD\_3.doc

\*\*\*\*\* End of Corporate Services Division Report No. 37 \*\*\*\*\*

**TO:** Ordinary Meeting - 15 October 2007  
**REPORT:** Corporate Services Division Report No. 38  
**SUBJECT:** Gathering Information Policy  
**FILE NO:**

---

## **SUMMARY**

To establish a policy and associated procedures for gathering information to assist in defending future Public Liability and Professional Indemnity claims.

## **REPORT**

Council's insurance underwriter Statewide Mutual has in recent years prepared a series of Best Practice Manuals as an industry approach to assist in reducing the number of successful Public Liability and Professional Indemnity claims against councils. The Gathering of Information Manual is aimed at detailing the minimum data and information requirements to assist in defending future Public Liability and Professional Indemnity claims.

Each year Council is audited on the implementation of the Best Practice Manual procedures. The audit results contribute to determining the amount of rebate that Council receives as a reimbursement for its Risk Management Best Practice Performance.

For Council to maximise its Premium arrangements, it is a Statewide Mutual requirement that a Gathering Information Policy and procedures be adopted by Council.

As the Manual has been developed as a guide for councils the respective documents have been customised to meet Council's requirements. The Draft Gathering Information Policy is at Attachment 1. The Incident Procedure Flow Chart (Attachment 2) and Gathering Information Incident Checklist (Attachment 3) form the procedures, showing the process for incident reporting and the minimum data/information requirements to support future claims.

The flowchart and the Gathering Information Document – Checklist have been established for a number of years however a formal policy has not previously been developed for Council's consideration.

The purpose of the policy and procedures is to ensure that such systems provide a clear audit trail for investigators as they attempt to reconstruct Council's response to a particular event or incident. The collection and retrieval of accurate information is critical when defending Public Liability and Professional Indemnity claims. In defending claims made against it is essential that Council is able to substantiate that it has acted in a manner which was not in breach of its duty of care. In order to do this accessibility and availability of admissible evidence is critical especially when the matter may not be determined by a Court for many years after the alleged incident.

As well as being an effective tool in the defence of liability claims, such accurate and consistent record keeping may discourage other potential claimants from seeking redress from Council. This also reflects on Council's image as it presents itself as a well organised and capable organisation with comprehensive, well documented work management systems that clearly outline Council's regard for its duty of care to the community.

## **RECOMMENDATION**

That the Gathering Information Policy be adopted following a 28 day notification and exhibition period.

**Corporate Services Division Report No. 38 (Cont'd)**

**ATTACHMENTS**

- AT- 1 Draft Gathering Information. 2 Pages
- AT- 2 Incident Procedure Flow Chart. 4 Pages
- AT- 3 Gathering Information Incident Checklist 4 Pages

OM151007CSD\_4

\*\*\*\*\* End of Corporate Services Division Report No. 38 \*\*\*\*\*





## Gathering Information Policy

---

### 1 Objective

To establish a formal policy supporting the consistent and systematic treatment and collection of information systems and procedures to be used to defend public liability and professional indemnity claims. The information is often valuable and needs to be formatted so that it is not rendered inadmissible when defending claims in court.

### 2 Scope

To document the required standard of Council generated information and data needed to assist in defending a public liability or professional indemnity claim and ensure that they constitute admissible evidence.

To support procedures for the gathering of information for such purposes.

- 1 To meet operational business needs, accountability requirements and community expectations.
- 2 The protection of Council's financial position through risk management.
- 3 To facilitate the minimum data requirements for information required to be used defending possible public and professional liability claims.

### 3 Statement

Manly Council aims to protect the community, by providing services and making decisions that enhance the residents quality of life and our economic and our natural environment. The Risk Management function is committed to documenting and assisting groups within Council by distributing the adopted procedures for gathering information and information systems.

This policy, together with the procedures, provides the minimum data standards for the gathering of information. It is aimed at providing Council's defence lawyers quality information to support their defence of claims against Council. The checklist should be used to ensure that all the appropriate data is gathered and contains the appropriate information. Listed information source documentation from the checklist, must be appropriately recorded and archived in accordance with Council's Records

Management Policy adopted 2 July 2002 and in accordance with the State Records Act 1998.

Council will within its budgetary constraints and using existing information systems available to it, endeavour to ensure accurate and systematic information.

ATTACHMENT 1

Corporate Services Division Report No. 38 - Gathering Information Policy  
Draft Gathering Information.



Gathering Information Policy

4 Supporting Documentation

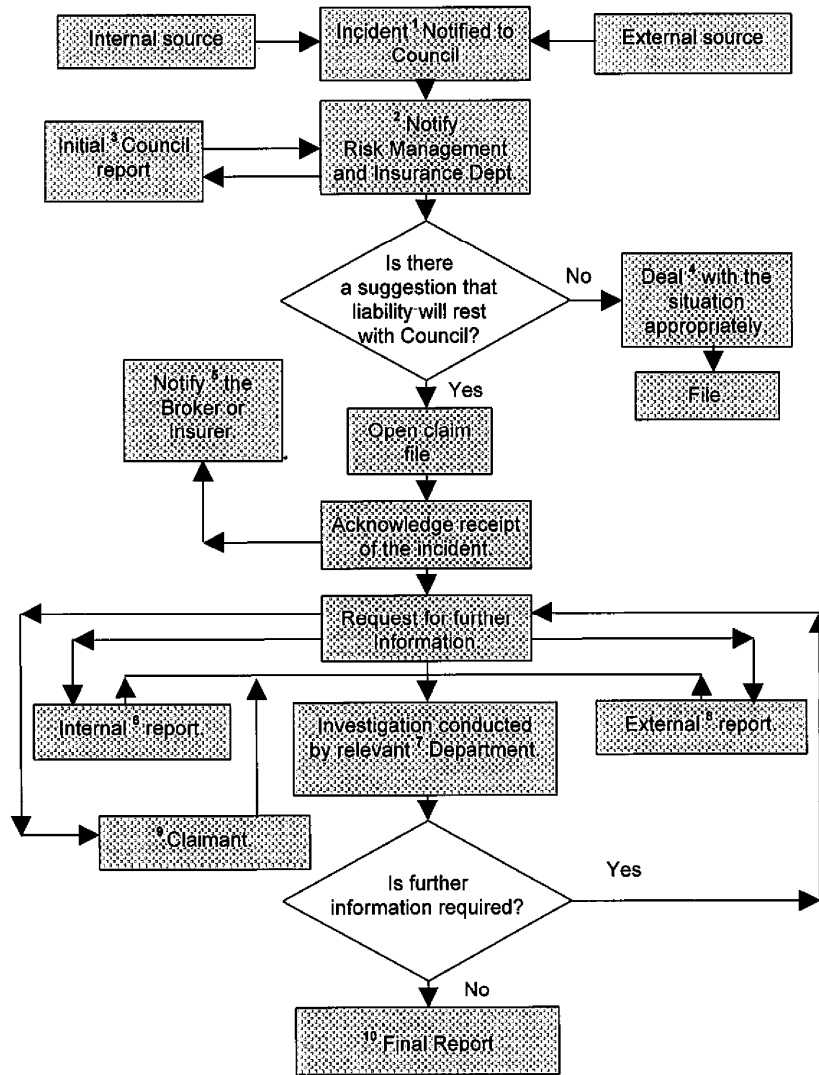
Title	Type	DW doc. No.
Incident Reporting Work Flow	Flowchart	1474940
Gathering Information Checklist	Checklist	1474944

**Reference(s):** Gathering of Information Manual  
**Responsible Department(s):** Corporate Services

DRAFT

Corporate Services Division Report No. 38 - Gathering Information Policy  
Incident Procedure Flow Chart.

Figure 1.  
Incident Flow Chart



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**Corporate Services Division Report No. 38 - Gathering Information Policy  
Incident Procedure Flow Chart.**

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**Figure 1 Notes**

*This Best Practice Manual utilises terms and definitions that are the cornerstones of understanding the process of gathering information. To assist in understanding this process, Figure 1 contains a number of subscripts which are expanded below:*

- 1. An incident is defined as an event that may result in either a loss to the Claimant or a situation where Council could be held liable for a loss to a third party. All incidents should be recorded on a standard form that has been developed by Council.*
- 2. The initial report instigated by Council must record the facts of the situation so that liability can be determined.*
- 3. The risk manager should be notified on the appropriate reporting form.*
- 4. All incidents notified to Council must be dealt with. If the cause of the event was in no way attributable to the actions or inactions of Council, then an appropriate letter should be sent to the notifier of the incident.*
- 5. All possible claims against the insurance policy for damages and injury must be notified to the Broker or Insurer in writing as per the policy wording.*
- 6. Internal reports may be required to be generated by all Departments affected by the incident.*
- 7. The investigation conducted by the relevant Department must be thorough and follow the internal procedures developed by Council.*
- 8. External reports may be required to support the events leading up to and during the incident. These reports may include medical reports, loss adjusters reports, experts reports and weather reports.*
- 9. It is often necessary to contact the claimant to clarify certain pieces of information. This must be done in writing and it is advisable that the wording of the letter be checked by Council's Solicitor. However, if a claim has been lodged it may not be acceptable to contact the Claimant.*
- 10. The final report should be written such that it is available to all concerned.*

## ATTACHMENT 2

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### Corporate Services Division Report No. 38 - Gathering Information Policy Incident Procedure Flow Chart.

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In a normal scenario, a Council is somehow informed of an incident or accident which could potentially result in an action against the Council. This step is illustrated as an **Incident Notified to Council**. This notification is the entry point on the flow chart. As the chart illustrates, such scenarios could originate from external sources (a letter or call of complaint) or internal sources (such as a Council worker witnessing the incident) and reporting directly to the appropriate Council officer. Regardless of whether the incident originates from an internal or external source, the chain of events outlined on the flow chart should be followed.

While in many Councils it will be the job of the risk manager or insurance officer to administer the report of this incident, Councils may have another individual given this duty. In the flow chart, **Notify Risk Management and Insurance Department** indicates that the appropriate individual in the Council should be informed of the incident.

Upon receipt of the notification of the incident, the risk manager may have the benefit of an **Initial Council Report**. Perhaps a Council worker witnessed the incident and filled out a written incident or accident report, which accompanied the original report of the incident.

Often, at first notification of an incident, there will be no initial Council report, however, such reports are extremely useful in investigating the claim and if they are available, should accompany the notification of the incident.

Once in receipt of the notification and any accompanying additional information, the risk manager will review the incident and determine **Is there a suggestion that liability will rest with Council?** If, from the information at hand, the risk manager is certain Council will have no liability in the matter, then the risk manager should **Deal with the reported incident appropriately**.

If there is a suggestion that liability might rest with Council, the risk manager should begin the formalised claims procedure. This process would include the steps illustrated such as **Open claim file** and **Acknowledging receipt of the incident** and, if the terms and conditions of the public liability insurance contracts require, **Notify the Broker**.

Once the steps above has been completed, the risk manager will begin the relevant data gathering process, making a **Request for further information** from the appropriate sources. The sources may need to prepare **External reports** and/or **Internal reports** from the **Relevant Department** itself.

## ATTACHMENT 2

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### Corporate Services Division Report No. 38 - Gathering Information Policy Incident Procedure Flow Chart.

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Risk managers may look for sources both internal and external to assist Council in the preparation of the final report. They may require that the inspection records, work or services instructions or photographs related to the incident be made available.

The contents of these documents provided by the internal department should be in a format suitable for use as evidence in court and be honest, truthful and open. Documents which a court may regard as ad hoc or not properly completed may be ruled as inadmissible.

The risk manager may decide that **external reports** are also required to determine if Council breached its duty of care to the injured third party. They may require the services of a professional loss assessor, or an engineer who could later testify in court that Council had performed its duties in accordance with relevant standards. This must be documented in a manner which is admissible to court and supports Council's due diligence programmes.

Finally the risk manager may seek other **internal reports** of Council to help demonstrate that the organisation has not been negligent. Copies of budgets for its public works programmes, decisions by the Council regarding levels of service and financial resources allocations are examples of documents which can assist in the defence of a possible claim.

After receiving all requested reports from the relevant departments, internal and external sources, the risk manager will decide if further information gathering is required. If reports are incomplete or do not provide sufficient detail, the flow chart illustrates a feedback loop, which initiates a request for more data to be retrieved and gathered. If the risk manager and/or Insurer has enough information, a final report is prepared.

**Appendix B**

**Information Gathering Checklist**

The attached checklist can be used to ensure that all the appropriate information has been gathered at the scene of an incident.

**ATTACHMENT 3**

**Corporate Services Division Report No. 38 - Gathering Information Policy  
Gathering Information Incident Checklist**

INFORMATION	SPECIFIC REQUIREMENTS
<p><b>Photographs</b> - There may only be one chance to gain photographs at the scene of the incident. Remember, there can never be too many photographs.</p>	<ul style="list-style-type: none"> <li>(a) Total working area from all points of the compass.</li> <li>(b) Examples of the environmental conditions including rivers, drains, approaches, verges, vegetation, shadows, etc.</li> <li>(c) Close ups of all the damaged area, property, approaches, road conditions, any other factors etc.</li> <li>(d) Ensure that photographs of close ups have a size reference point eg ruler or pen.</li> <li>(e) Warning signs and general signs positioned by Council.</li> <li>(f) The damaged property from all angles.</li> </ul>
<p><b>Description of scene.</b></p>	<p>Record as accurately as possible each photograph that has been taken. Also add a brief description of the scene. This will help to paint the overall picture.</p>
<p><b>Time.</b></p>	<p>Day, Month, Year and Time in 24 hour clock, eg. 6:00 am is 0600 hours while 6:00 pm is 1800 hrs, ie. no confusion.</p>
<p><b>Weather Conditions.</b></p>	<p>Record as accurately as possible the weather conditions. Include wind direction, wet or dry, light or dark, fog or no fog, ice or snow, etc.</p>
<p><b>Measurements</b> - These can be useful to determine the actual facts of the situation eg "the one that got away."</p>	<p>Record all measurements as accurately as possible. These may include heights, lengths or widths of objects, obstructions, holes, etc.</p>



**ATTACHMENT 3**

**Corporate Services Division Report No. 38 - Gathering Information Policy  
Gathering Information Incident Checklist**

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<b>INFORMATION</b>	<b>SPECIFIC REQUIREMENTS</b>
<b>Description of damage.</b>	Record as accurately as possible the type, nature and extent of the damage.
<b>Property involved.</b>	Itemise all the property that has been damaged. This includes both third party property and Council property.
<b>Registration numbers</b>	Record the registration numbers of all vehicles involved in the incident whether damaged or not. Also include their exact location.
<b>Description of any injuries</b> This is only an indication. Council staff are not medically trained nor are they expected to be involved with the treatment of any injuries	Record the type of injuries people have received: <ul style="list-style-type: none"><li>(a) Minor - walked away from the scene.</li><li>(b) Moderate - required medical attention.</li><li>(c) Severe - was transported away from the scene by ambulance.</li><li>(d) Unknown.</li></ul>
<b>Witness</b>	If possible record name and address of any witnesses.
<b>Statements made by third parties</b>	Record any statements uttered by third parties.
<b>Council employees</b>	Name of all employees working within the area of the incident.
<b>Type of work</b>	Record the actual activity being undertaken by Council at the time of the incident.

**ATTACHMENT 3**

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**Corporate Services Division Report No. 38 - Gathering Information Policy**  
**Gathering Information Incident Checklist**

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INFORMATION	SPECIFIC REQUIREMENTS
<b>Police</b>	Record the name and station of any Police in attendance.
<b>WorkCover</b>	Record the name and region of any WorkCover Inspectors in attendance.
<b>Signs</b>	Record the place of erection, the day of erection, the day of last inspection, etc. of all general and warning signs displayed by Council. Record any other signs in the area that may have erected by other authorities.