Agenda

Ordinary Meeting

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

Monday 19 September 2005

Commencing at 7:30 pm 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
Seating Arrangements for Meetings

Chairperson: The Mayor, Dr Peter Macdonald
Deputy Chairperson: Deputy Mayor Clr Richard Morrison

Public Gallery

Chairperson: The Mayor, Dr Peter Macdonald
Deputy Chairperson: Deputy Mayor Clr Richard Morrison
# Ordinary Meeting Agenda

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CLOSED SESSION

QUESTIONS WITHOUT NOTICE

MATTERS OF URGENCY
(In accordance with Clause 14 of the Local Government (Meetings) Regulations, 1993)

***** END OF AGENDA *****
On Thursday last, 15th September, 2005, I chaired a Public Forum at St. Paul’s Church Hall in Seaforth held to discuss the future of the Seaforth TAFE site. There were approximately 150 people in attendance.

The meeting was convened to report back to the community on the progress and ideas developed as part of the Community Reference Group (CRG) process which had been established by a similar Public Forum in February, 2005.

The CRG has worked through a process to establish criteria for assessing options for the site and worked towards identifying outcomes that would satisfy the criteria.

In parallel, Landcom (acting as agent for the Department of Education) has engaged Allen Jack and Cottier Architects to develop these ideas into three fundamental approaches to develop the site. These approaches are:-

1. Maintain the existing buildings and adaptively re-use them.
2. Approach two is to demolish the existing building and create a mixed use re-development on the site.
3. Approach three is more ambitious and centres on approach 2 plus incorporates the idea of diverting Sydney Road at Kempbridge Avenue to pass to the north side of the heritage library building, thus creating a significant “Civic Plaza” on the south side of the road.

The three approaches were presented to the meeting followed by a session of open questions and discussion. The meeting acknowledged that the option to re-open Seaforth TAFE is no longer viable in view of the State Government’s policy. It should also be noted that the CRG had relegated Approach 1 below approaches 2 and 3 as members felt they both had more merit.

Both the CRG and the Public Forum expressed disquiet over the height and scale of the proposed residential development in the context of the existing Development Control plan for Seaforth Village.

I also hosted an informal breakfast of Seaforth business leaders on Tuesday September 13th where they were briefed by Landcom. The current lack of parking and the need to include additional parking in any re-development was highlighted. They set this as their highest priority but also expressed some concern about the height of buildings. They generally saw merit in Approach 3.

The public meeting expressed support for Landcom to further develop Approaches 2 and 3 in parallel.

My view is that Council needs to take the initiative in several areas:~

(a) Commission an independent consultant to prepare a Masterplan / Urban Design Guidelines for the site and the adjoining Seaforth Village with consultation with the community. Both approaches 2 and 3 include buildings of a height double that permitted by the DCP and the community has misgivings. This process will allow the future shape of Seaforth to be driven by Council and the community rather than Landcom.
Mayoral Minute No. 6 (Cont’d)

(b) Part of the rationale for Approach 3, whereby Sydney Road is re-aligned to the north, is the traffic improvement associated with eliminating the current roundabout. The cost of moving Sydney Road has been estimated at $4 million and such costs, as argued by Landcom, would need to be offset by increased residential development. Landcom has undertaken a traffic analysis and Council needs to be provided with the detail of this document.

(c) The CRG needs to continue to meet to review further work by Landcom, to assess the community benefits and outcomes against the evaluation criteria and to report back to the community on a regular basis.

RECOMMENDATION

(1) Council engage an independent consultant to prepare Urban Design Guidelines
(2) Council request Landcom to provide further details of its Traffic Analysis of approach 3
(3) Council prepare a Parking Study with Landcom contributions looking at current and future needs
(4) Council support the continuation of the CRG

ATTACHMENTS
There are no attachments for this report.
OM190905MM_1

***** End of Mayoral Minute No. 6 *****
Councillor Daley, Councillor Murphy, and Councillor Hay will move:

“That the Council’s decision of 15 August 2005 being Item 5 in respect of Development Application Process Review be and is hereby rescinded.”

ATTACHMENTS
AT-1 Rescission Motion - DA Process 1 page(s)

OM190905NR_1

***** End of Notice of Rescission No. 8 *****
RESCSSION MOTION
(Code of Meeting Practice - Clause 34)

That the Council’s decision of:_

being Item No: 5 in respect of DA PROCESS

MAYORAL MINUTE

be and is hereby rescinded.

Date: 15/04/05

Councillor: Pat Daley

Councillor Murphy

Councillor Hay

This notice should be signed by three (3) Councillors dated and delivered to the General Manager during the meeting at which the resolution to be rescinded is carried.

General Manager’s note: The Notice of Rescission is in order in terms of Clause 34 of the Council’s Code of Meeting Practice.

General Manager
Councillor Daley will move:

That Manly Council fully support the strengthening of the national counter-terrorism laws as outlined last week by the Prime Minister (see attached document) and which will be discussed at the COAG meeting at the end of this month.

I also call on Manly Council to liaise with appropriate agencies when taking forward new security measures as recommended by the Manly After Midnight working party. For example the installation of CC TV cameras on The Corso.

ATTACHMENTS

AT-1 PM's Media Release  3 page(s)

OM190905NM_1

***** End of Notice of Motion No. 29 *****
COUNTER-TERRORISM LAWS STRENGTHENED

MEDIA RELEASE FROM PM

In anticipation of the special Council of Australian Governments (COAG) meeting on counter-terrorism to be held on 27 September, I announce a number of proposals to further strengthen Australia’s counter-terrorism laws. These proposals are designed to enable us to better deter, prevent, detect and prosecute acts of terrorism.

Following the terrorist attacks on the London transport system in July, law enforcement and security agencies were asked to examine whether further legislative reforms could be made that would enable Australia to better respond to the threat of terrorism.

Consistent with the Government’s comprehensive response to the post-11 September security environment, the proposed legislation is a combination of best practice from overseas and innovative solutions that respond to Australia’s security needs.

Some of those amendments – such as enhanced use of closed circuit television – draw directly from the experience and observations of the Australian Federal Police, state police and the officials from the Department of Transport and Regional Services who travelled to London after the bombing.

Other amendments such as modernising the existing sedition offences target those inciting violence against the community.

The Government will grant increased powers to law enforcement and security agencies to enhance their capacity to prevent attacks. Importantly, control orders will be available to our law enforcement agencies in circumstances where a person might pose a risk to the community but cannot be contained or detained under existing legislation.

Law enforcement agencies have advised the Government that the introduction of a regime allowing preventative detention during terrorist situations might be critical in preventing an escalation of the incident or subsequent attacks. Similar powers have been available to police in the United Kingdom for some time.

Accordingly, I will seek the agreement of State and Territory leaders at our special COAG meeting to introduce a new national regime, similar to that applying in the United Kingdom, allowing for preventative detention in a terrorism situation. Such a scheme would require the States and Territories to enact legislation complementing the work of the Commonwealth and I will be seeking their agreement to do this as a matter of priority.

In addition, I will call on the States to extend police powers at transport hubs and places of mass gatherings outside Commonwealth jurisdiction, and to consider under what circumstances they would support the use of random baggage searches.

While we have been fortunate not to suffer a terrorist attack on our soil, Australians have been the victims of attack overseas and Australia itself has been a target for terrorists in the past.

Governments cannot afford to be complacent. Our terrorism laws have so far proven to be effective, resulting in the arrest and conviction of a number of people here in Australia. However terrorists have demonstrated that they are innovative and determined and we have to make sure our laws stay one step ahead of them.

The reforms I have announced today will ensure Australia’s counter-terrorism legislative regime
remains at the forefront of international efforts to counter the global threat of terrorism.

I am releasing the details of our proposal at this time to allow detailed work with State and Territory officials to commence as soon as possible and to give State and Territory leaders ample opportunity to consider the proposals in advance of the COAG meeting on 27 September.

The special COAG meeting will be an opportunity for State and Territory leaders to demonstrate their commitment to working cooperatively with the Commonwealth on national security. I look forward to a continuation of our productive relationship with the States and Territories in co-operatively fighting counter-terrorism.

* Details about the proposals are attached

8 September 2005

**Counter-Terrorism Laws Strengthened**

The terrorist attacks on the London transport system in July have raised new issues for Australia and highlighted the need for further amendments to our laws. The Government has comprehensively reviewed our existing laws and will move quickly to implement the following new regimes:

1. **Control orders**

   A new regime to allow the AFP to seek, from a court, 12-month control orders on people who pose a terrorist risk to the community. These would be similar to apprehended violence orders but would allow stricter conditions to be imposed on a person such as tracking devices, travel and association restrictions. The Government will be conferring with the States and Territories about the details and administration of the orders.

2. **Preventative Detention**

   A new preventative detention regime that allows detention for up to 48 hours in a terrorism situation. Preventative detention is to be contrasted with ASIO and police detention for the purposes of questioning which is limited by the intelligence available to allow proper questioning. As is the case in the UK, the focus of preventative detention is primarily about stopping further attacks and the destruction of evidence. At the 27 September COAG meeting, States and Territories will be asked to provide for longer detention periods, similar to those available in the UK which allow for up to 14 days detention, because there are constitutional restrictions on the capacity of the Australian Government to provide for this type of detention.

3. **Notice to produce**

   A new notice to produce regime to facilitate lawful AFP requests for information that will assist with the investigation of terrorism and other serious offences.

4. **Access to passenger information**

   Provide access to airline passenger information for ASIO and the AFP.

5. **Stop, question and search powers**

   Extend stop, question and search powers for the AFP where there are reasonable grounds that a person might have just committed, might be committing, or might be about to commit a terrorism
offence.

6. Exploring with the States and Territories about extending these powers to police at transport hubs and other places of mass gatherings as well as the use of random baggage searches and a National Code of Practice for Closed Circuit Television (CCTV) Systems for the Mass Passenger Transport Sector.

7. ASIO warrant regime

ASIO’s special powers warrant regime is being refined to:

- clarify the definition of ‘electronic equipment’, and allow for entry onto premises, in the computer access warrant provisions
- extend the validity of search warrants from 28 days to 3 months
- extend the validity of mail and delivery service warrants from 90 days to 6 months
- amend the search warrant provisions to provide that material may be removed and retained for such time as is reasonable “for the purposes of security”.

8. Strengthening existing offences and creating new offences

Create new offences for:

- leaving baggage unattended within the airport precinct, and
- inciting violence against the community to replace the existing sedition offence, to address problems with those who communicate inciting messages directed against other groups within our community, including against Australia’s forces overseas and in support of Australia’s enemies. This is consistent with the Gibbs Committee in its Review of Commonwealth Criminal Law in 1991 which recommended that the sedition offence should be updated and simplified and the maximum penalty increased from 3 to 7 years imprisonment.

9. Strengthen existing offences for financing of terrorism, providing false or misleading information under an ASIO questioning warrant and for threatening aviation security.

10. Terrorism offences in the Criminal Code will be clarified and the criteria for listing terrorist organisations extended to cover organisations that advocate terrorism. This will be another issue that will be discussed with the States and Territories.

11. Citizenship

We will continue to work on visa and citizenship security and character checking processes but will move immediately to strengthen our citizenship provisions including:

- extending the waiting period in order to obtain citizenship by 12 months to three years,
- security checking of citizenship applications, so that citizenship applications can be refused on security grounds; and
• strengthening the deprivation of citizenship provisions relating to serious criminal offences to include offences committed in the period between approval of an application and acquisition of citizenship.

12. Terrorist financing

Improve our terrorism financing regime to better implement criminalising financing of terrorism, alternative remittance dealers, wire transfers and cash couriers. The Government will investigate with the States and Territories better ways to ensure charities are not misused to channel funds to terrorists.

08 September 2005
Councillor Heasman will move:

That Manly Council write to the NRMA INSURANCE (IAG INSURANCE) to show our support and our concern for local smash repairers and our local Automotive Groups with regard to the dispute to win a fairer deal from NRMA INSURANCE.

ATTACHMENTS
There are no attachments for this report.

OM190905NM_2

***** End of Notice of Motion No. 30 *****
TO: Ordinary Meeting - 19 September 2005
REPORT: Notice of Motion No. 31
SUBJECT: A Management Plan For Roseberry Street, Balgowlah
FILE NO:

Councillor Heasman will move:

That Council develop a management plan that will encompass on and off street parking, and future planning, location of parking; indented / roll kerb parking; safer entry points for trucks, etc. landscaping and traffic management within Roseberry St and its effect on other streets.

Supporting Information

Roseberry Street is Manly’s only Industrial Area and I think it is time to give it a bit more of a profile. We have done some great work over the last couple of years with the stormwater management and the dialogue with those businesses seemed to me to be extremely productive and well-received by the Industrial area.

ATTACHMENTS

AT-1 Supporting Evidence for Roseberry Street Man Plan 2 page(s)

OM190905NM_3

***** End of Notice of Motion No. 31 *****
Notice of Motion Report No. 31
A Management Plan For Roseberry Street, Balgowlah
Supporting Evidence for Roseberry Street Man Plan
Councillor Morrison will move:

That the General Manager investigate and develop a proposal for the provision of a mediation process for the resolution of disputes between applicants and objectors in relation to DA proposals, based on the essential principles of the New South Wales Law Society Model, and bring back a report to Council for consideration of his proposal, within two (2) months.

BACKGROUND

The Sydney property market is the leading property market in Australia, and I think, is in the top five or six in the world, and Manly is one of premier precincts. In such high stakes markets, the reality is that property owners will tend to maximise the investment in their property, and neighbours will tend to resist any development that is perceived to reduce the value of their property.

This is a matter of competing interests that can, and I believe often does, take the protagonists way beyond an ability to understand and accept the Council's role in the objective analysis of the merits of a proposal in terms of the DCP.

By the time the applicant and the objector come before Council, the conflict is likely to have become very personal and very subjective, to the point where the battle lines are drawn and there is trench warfare. Council finds itself cast in the dual role of mediator and decision maker. This is not good process, and is not conducive to good outcomes.

Council has good controls to regulate development, but these competing interests require recognition and management in their own right. This is where I think mediation should be considered.

Mediation is "... the process by which the participants, together with the assistance of a neutral person or persons, systematically isolate disputed issues in order to develop options, consider alternatives, and reach a consensual settlement that will accommodate their needs. Mediation is a process that emphasizes the participants' own responsibility for making decisions that affect their lives (My emphasis)"


The principles and processes for mediation in development applications before local councils are not new. They have been fully documented in the Law Society of New South Wales Best Practice for the Management of Environmental Disputes - a Guide for Local Government Councillors and Staff. Here are some key points from the Guide:

- A study of metropolitan councils carried out in 1997 showed that three quarters of councils had introduced mediation or facilitation to assist in resolving environmental disputes. The practice tended to be an informal one. Only one third adopted a dispute management policy, and very few councils appointed a dispute resolution manager for case management and to monitor and evaluate the program.

- It is important that applicants and objectors understand the difference between the council's role as the provider of an environmental disputes resolution service and its role as the statutory consent authority for development.
Notice of Motion No. 32 (Cont’d)

• Irrespective of the dispute resolution outcome, the council, as consent authority, has the statutory duty to determine the application in accordance with the Environmental Planning and Assessment Act 1997, taking into consideration all matters that are relevant to the application, including any dispute resolution agreement.

• The council, as consent authority, is not obliged to include any part of the dispute resolution agreement in the conditions of consent.

• However, the dispute resolution agreement does afford the council the benefit of considering the objector’s and the applicant's agreed positions before making its consent decision.

• Not all disputes are suitable for referral to mediation. Those most likely to achieve a satisfactory outcome are ones where the issues relate to discretionary planning controls and all parties are willing to attempt to resolve their differences.

• Where objections relate to nondiscretionary statutory controls the dispute is unlikely to be referred to mediation.

It is important to realise that achieving the potential benefits of a mediation process depend on adopting the essential features identified by the Law Society, and others in the field. First and foremost, the mediator must be a neutral person with no role, stake or interest in the outcome of the development application to which the mediation relates. It is also important that he or she have specific training and/or experience in the conduct of mediation processes.

In regard to the last two points from the Law Society I remind Councillors that the DCP is a discretionary planning control. It is not, I repeat not, statutory law. It is Council's adopted set of principles and practices, which Council can apply or vary as it sees fit in the individual case, to achieve good planning outcomes.

ATTACHMENTS

AT-1 Best Practice for the Management of Environmental Disputes - a Guide for Local Government Councillors and Staff - the Law Society of New South Wales 4 page(s)

AT-2 The Law Society of New South Wales Charter on Mediation Practice - A Guide to the Rights and Responsibilities of Participants 11 page(s)

OM190905NM_4

***** End of Notice of Motion No. 32 *****
BEST PRACTICE
FOR THE MANAGEMENT OF
ENVIRONMENTAL DISPUTES

A GUIDE FOR LOCAL GOVERNMENT
COUNCILLORS AND OFFICERS

The Law Society of New South Wales
ACN 000000699
Planning and Development Sub-Committee
ATTACHMENT 1

Notice of Motion Report No. 32
Mediation Process For The Resolution Of Disputes Between Applicants And Objectors
Best Practice for the Management of Environmental Disputes - a Guide for Local Government Councillors and Staff - the Law Society of New South Wales

‘BEST PRACTICE FOR THE MANAGEMENT OF ENVIRONMENTAL DISPUTES’
has been prepared by
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This Guide is the initiative of the
PLANNING AND DEVELOPMENT SUB-COMMITTEE
OF THE LAW SOCIETY OF NEW SOUTH WALES

Participating institutions on the Sub-Committee are The Law Society of NSW, Australian Commercial Disputes Centre, Royal Australian Planning Institute, Department of Local Government and Local Government & Shires Associations.

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INTRODUCTION

Over the past decade, local government has increasingly taken on a facilitating role in assisting to resolve disputes related to development applications and local planning issues. The practice has tended to be an informal one and has included the use of direct negotiation, facilitation and mediation. In 1997, a comprehensive survey of metropolitan councils disclosed the following trends:

- Most councils considered that disputes are best resolved prior to the council's determination of a development application, as consent authority.
- Three quarters of metropolitan councils had introduced mediation or facilitation to assist in resolving environmental disputes.
- For disputes referred to mediation, two out of three achieved successful outcomes.
- Only one third of councils had formally adopted an environmental disputes management policy.
- Very few councils had appointed a dispute resolution manager for case management and to monitor and evaluate the program.

In 1999, concern at the rising costs of local government litigation, led to the Interactive Seminar and Workshop on Dispute Management in Local Government initiated by the Law Society of New South Wales and conducted by the Public Accounts Committee of the NSW Parliament.

At this seminar, the Hon Jerrold Cripps, a former Chief Judge of the Land and Environment Court of NSW, stated:

"It is clear from the attendance at this seminar that we no longer use for the purpose of determining whether alternative dispute resolution (ADR) is a suitable method for the resolution of planning disputes. It is now accepted that it is, and the discussions need to focus on how ADR should be used." (transcript p.54)

Both the survey and the seminar highlighted the need for best practice guidelines for councillors, council officers and the general public on how to manage and resolve environmental disputes.

The Planning and Development Sub-Committee of the Law Society of New South Wales, has compiled three documents to fulfil this need:

- **BEST PRACTICE GUIDELINES FOR THE MANAGEMENT OF ENVIRONMENTAL DISPUTES - A Guide for Local Government Councillors and Officers**
- **WHAT YOU NEED TO KNOW ABOUT DISPUTE RESOLUTION IN LOCAL GOVERNMENT**
- **ENVIRONMENTAL DISPUTES MEDIATION SERVICE - A Guide for the Community**

Best Practice Guidelines for the Management of Environmental Disputes covers the following topics:

- **Council's Responsibilities**
- Adaption of an environmental disputes management policy and establishment of the management program
- Separation of the council's roles as provider of the dispute resolution service and as consent authority for applications
- Time and cost impacts
- Ways in which the council participates in mediation

- **Choice of Dispute Resolution Methods**
- Dispute resolution processes appropriate for environmental disputes

- **Integration of the Environmental Disputes Management Program with the Development Control System**
- Steps to be taken prior to the lodgement of the application, at the assessment stage and at the consent stage

- **Managing the Mediation Service**
- Selection of disputes for mediation
- Identification of the parties and their authority to settle
- Initiation of mediation and selection of the mediator
- Outcomes of mediation

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**Notice of Motion Report No. 32**
**Mediation Process For The Resolution Of Disputes Between Applicants And Objectors**
**Best Practice for the Management of Environmental Disputes - a Guide for Local Government Councillors and Staff - the Law Society of New South Wales**
COUNCIL’S RESPONSIBILITIES

Adopting an Environmental Disputes Management Policy

To establish an environmental disputes management program, it is best practice for the council to adopt a policy which embodies the objectives of the program. The aims of the policy should be:

- to establish an environmental disputes management program which is effective and equitable to all parties;
- to offer dispute resolution methods which empower both applicants and respondents to resolve their disputes in a mutually satisfying way;
- to widely publicize the environmental disputes management program, in order to raise the level of community awareness;
- to identify the council’s separate roles as the provider of a dispute resolution service and as the consent authority for development;
- to improve the council’s consent procedures by taking into consideration the mediations’ agreement or facilitation report, prior to determining an application;
- where the applicant agrees, to provide for an extension of time for dispute resolution to take place;
- to avoid litigation in Land and Environment Court through the use of mediation where appropriate;
- to establish the function of environmental disputes manager for case management and regular program reviews; and
- to adequately fund the program.

Establishing the Environmental Disputes Management Program

For the program to be successful, it needs to be well-managed. This requires a dispute resolution manager, appointed on a full- or part-time or contract basis, or a dedicated function as part of an existing position.

The manager has sole responsibility for the operation of the program, and should be adequately trained in dispute resolution and case management procedures.

The functions of the dispute resolution manager should be:

- to deliver a high quality dispute resolution service;
- to educate the community on the opportunities for participation in dispute resolution;
- to determine the appropriate dispute resolution process for each dispute, in consultation with the council’s development control unit;
- to identify those persons who have an interest in the disputed development, including objectors and applicants, and in consultation with the council’s development control unit;
- to facilitate a preliminary meeting with each party to a mediation, ensuring that they sufficiently understand the application, the relevant development controls, and how the parties will participate in mediation;
- to arrange for the selection of the mediator or facilitator, the venue set-up, and all pre-mediation documentation; and
- to maintain statistics on the environmental disputes resolution program, reporting regularly to the council on the program’s effectiveness.

Councll’s Role as Provider of the Dispute Resolution Service and as Consent Authority

It is important that applicants and objectors understand the difference between the council’s role as the provider of an environmental disputes resolution service and its role as the statutory consent authority for development.

The points of distinction are as follows:

Where the council offers an environmental dispute resolution service, the parties may be able to resolve their dispute, either in full or in part. This may result in one or more of the following:

- Documents stating full or partial agreement on the dispute, with clarification of issues remaining unresolved. The outcome may include:
  - Agreement to submit amended plans
  - Requests for the council to include certain conditions in the development consent
  - Withdrawal of objections
- Private agreements between the parties, which are not relevant to the consent authority’s decision

The dispute resolution documents are submitted to the development control unit, where the following actions take place:

- When there is an agreement to amend the plans, these may be submitted and assessed in place of the original plans.
- Irrespective of the dispute resolution outcome, the council, as consent authority, has the statutory duty to determine the application in accordance with the Environmental Planning and Assessment Amendment Act 1997, taking into consideration all matters that are relevant to the application, including any dispute resolution agreement.
- The council, as consent authority, is not obliged to include any part of the dispute resolution agreement in the conditions of consent.
- However, the dispute resolution agreement does afford the council the benefit of considering the objector’s and the applicant’s agreed positions before making its consent decision.
Time and Cost Implications

There are occasions when dispute resolution will increase
the time taken to determine the development application.
However, the applicant participates voluntarily in the dispute
resolution process and may withdraw at any stage,
requesting the council to proceed with the determination.

Applicants often appreciate the fact that by resolving
disputes at an early stage a more satisfactory consent will be
obtained and this warrants the longer time taken.

When the parties have agreed that amended plans are to be
lodged, the council needs to consider its policy regarding the
winding or reducing of fees related to this subsequent
lodgement.

Where applications have gone to appeal, it is possible to use
mediation in lieu of litigation at the Land and Environment
Court. This may result in time and cost savings.

The council needs to establish a policy on how to fund the
environmental disputes resolution service. To date, most
councils have funded the service through general revenue.

In September, 1999, the Independent Pricing and Regulatory
Tribunal released its "Review of Fees for Development
Control Services, Development Application Fees Interim
Report". The Tribunal found that there are potential benefits
from mediation in terms of a more efficient assessment
process and a reduction in legal costs to both the applicant
and the consent authority.

The Council's Participation as an Observer at
Mediation

Confidentiality also binds councillors or council officers
attending mediation as observers. Again, this may give
rise to similar conflicts of interest. It is best practice for
councillors and council officers not to attend mediation
in the capacity of observers. When councillors wish to
observe the resolution of the dispute, a non-confidential
mediation meeting is the appropriate dispute resolution
process to use.

The Council's Participation in Providing
Technical Advice at Mediation

Where the council is requested to give technical advice
to parties at mediation, it is best practice for council
staff to provide this advice, but refrain from giving an
opinion on the way in which the council is likely to
determine the application. Council staff should leave
the mediation immediately after they have given the
requested technical advice.

The Council's Participation as a Party at
Mediation

Where the council itself is involved in the dispute and
chooses to participate as a party at mediation, the most
effective practice is for the council to resolve to delegate
authority to a person or persons to represent the council and
to settle the dispute on its behalf. Delegation would be in
accordance with the power to delegate under the Local
Government Act.

Notwithstanding the fact that the council is a party, the
mediated agreement has the same standing as any other
dispute resolution agreement. The council, as consent
authority, is required to make an independent determination
on the application, after considering all relevant matters,
including the mediated agreement to which the council is a
signatory.

It should be noted that a person, who represents the council
at mediation, is bound by a confidentiality agreement not to
disclose information heard in the mediation. Where the
representative is a councillor, this may create a conflict of
interest in dealing with the application as consent authority,
and the council may need to consider whether it is
appropriate to vote on the consent decision.
CHOICE OF DISPUTE RESOLUTION METHODS

Facilitation, mediation and litigation are the processes most commonly used by local government to resolve environmental disputes. Some councils also encourage applicants to have direct consultation and negotiation with the community or with neighbours prior to lodging a development application.

Dispute resolution methods vary in their degree of formality and the degree to which the parties dictate the outcome for themselves. The diagram on the following page illustrates the continuum.

The following sections of this document outline best practice guidelines for the most commonly used processes - facilitation and mediation.

The Australian Commercial Disputes Centre's (ACDC) definitions of facilitation and mediation are comprehensive and clear:

Facilitation

"Facilitation is a process for assisting communication. It is usually used where there are a large number of participants. Facilitations may be used for many purposes, including assisting parties to negotiate, setting an agenda, providing information to a group or receiving feedback on particular issues. The facilitator is an independent neutral person who is responsible for guiding the discussion." (ACDC)

Facilitation is not confidential. In order to achieve a satisfactory outcome, it is best to invite voluntary rather than mandatory participation.

The function of the facilitator may be performed by one of the councilors or planning officers, or by an externally appointed facilitator. The facilitator's aim is to open up communication between the parties, assisting them to clarify the issues and ensuring that the parties understand all relevant development controls.

It is highly desirable for the person acting as facilitator to be trained in facilitation and mediation techniques. The facilitator should always be conscious of acting in a neutral and impartial manner. This is not a forum for the facilitator to persuade or influence the parties towards a council preferred outcome.

For a major community dispute, it is advisable to use an external facilitator who is seen to be independent of the council, thus ensuring a strong perception of neutrality and impartiality.

Facilitation is useful at various stages in the development consent process:

1. Prior to lodgment of the development application, a facilitator is often able to assist the applicant and interested parties to develop plans that have community support.

2. Facilitated pre-mediation conferences are held to ensure that the parties understand the issues in dispute, the development controls applying to the application, and the way in which the mediation will be conducted. There are occasions where the facilitated pre-mediation conference is sufficient to resolve the dispute.

   The facilitated pre-mediation conference is generally undertaken by the dispute resolution manager or by the mediator, sometimes with the assistance of planning staff.

3. Facilitation can also be used as the final dispute resolution process. This is beneficial for large groups in which maintaining the confidentiality required in mediation would be difficult.

   A report on the facilitation, outlining resolved and unresolved issues, is prepared by the facilitator as a record of the meeting, referred to the parties for endorsement, and provided to the council for consideration in determining the development application.

Mediation

"Mediation is a form of structured, assisted negotiation. The mediator, an independent neutral person, assists the parties to find their own solutions by isolating the issues and developing options for reaching an agreement which best accommodates the needs and interests of each participant. The mediator does not impose a solution or provide legal or technical advice or opinions. The parties retain control over the issues discussed. There is no obligation to reach an agreement but once an agreement is reached, a final and binding settlement may be signed. The process is confidential, and without prejudice." (ACDC)

As with facilitation, it is best practice for participation in mediation to be voluntary. It is important that all parties are prepared to negotiate in good faith and work towards a mutually acceptable agreement.

In contrast to facilitation, the mediation process is confidential and the terms of a signed mediated agreement may be enforced through judicial proceedings.

Having participated in mediation does not prejudice any future action a party may wish to take with respect the development application.

Best practice guidelines for managing a mediation service are outlined in the final section of this document.
**DISPUTE RESOLUTION METHODS**

**Negotiation** - direct communication between the parties using problem-solving techniques to attempt to resolve the dispute.

**Facilitation** - a meeting at which the parties are encouraged by a facilitator to explore the issues surrounding the dispute with the possibility, but not the express objective, of finding a resolution. The facilitator may be a neutral person or may be a person with an interest in the dispute and the ability to facilitate, such as the council officer dealing with a contentious application.

**Mediation** - a voluntary and confidential negotiation at which the parties are assisted by a neutral and impartial third party to explore the issues surrounding the dispute and the options for resolution, with the objective of enabling the parties to reach their own mutually satisfying agreement.

**Expert determination** - the referral of a dispute by the parties to an agreed expert for a decision.

**Arbitration** - the referral of a dispute by the parties to an arbitrator, within a voluntary or compulsory arbitration system, for a binding decision.

**Section 24 Conference** - a conference in the Land and Environment Court ("Constitution Conference") - the presentation of the issues in the dispute to an assessor for the Court's determination.

**Litigation** - formal, rights-based procedure with a binding decision by a judge or assessor..

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**Ordinary Meeting Agenda**

Page 24
INTEGRATION OF THE ENVIRONMENTAL DISPUTES MANAGEMENT PROGRAM WITH THE DEVELOPMENT CONTROL SYSTEM

When environmental disputes arise, a methodology needs to be established for the integration of the environmental disputes management program with the development control system.

The following steps ensure that disputes are appropriately managed:

Prior to Lodgement of the Application

Step 1 Potential conflict related to a development is identified at an early stage.

Step 2 Council encourages direct or facilitated negotiation between the developer and the community to achieve mutually satisfactory solutions, prior to the finalisation and lodgement of the development application.

Advertising/Notification of the Application

Step 3 The application is advertised or notified, and, at the same time, the public is informed of the council’s dispute resolution service.

Step 4 Objections and submissions are received, together with requests to use the council’s dispute resolution service.

Step 5 The dispute resolution manager, in consultation with the development control unit, decides whether a disputed application is to be referred to facilitation or mediation, or whether it is to proceed directly to council (or council’s delegated authority) for determination.

Assessment of the Application

Step 6 Where the dispute is to be mediated, the dispute resolution manager or the mediator facilitates a pre-mediation conference with each party, to ensure the parties understand both the application and the relevant development controls, and how they will participate in mediation. A representative of the development control unit generally provides planning advice for the pre-mediation conference.

Step 7 Mediation or facilitation takes place, prior to completion of the development control unit’s assessment of the application.

Step 8 The assessment officer reports to the consent authority on the application, including comments on the mediated agreement or facilitation report.

A full copy of the mediated agreement or facilitation report should be appended to the assessment report.

Development Consent

Step 9 The council (or its delegate), as the consent authority, determines the development application after considering the assessment report and the attached dispute resolution document.

The flow chart illustrates the integration of the mediation process and the development consent process.
MANAGING THE MEDIATION SERVICE

Where disputes are referred to mediation, the important aspects for which best practice guidelines are necessary, are:

- Selection of disputes for mediation
- Identification and representation of the parties
- Authority to settle
- Selection of the mediator
- Initiating the mediation
- Outcomes of mediation

Selection of Disputes for Mediation

It is best practice for the dispute resolution manager and a representative of the development control unit to jointly review disputed applications and to select those appropriate for mediation.

Not all disputes are suitable for referral to mediation. Those most likely to achieve a satisfactory outcome are ones where the issues relate to discretionary planning controls and all parties are willing to attempt to resolve their differences.

Where objections relate to non-discretionary statutory controls, the dispute is unlikely to be referred to mediation.

Identification and Representation of the Parties

Objectors to development may request mediation. However, mediation is voluntary and only proceeds where the applicant is also willing to participate.

As the council, in its role as consent authority, is required to take into account, not only the objections received, but also the wider public interest, it is best practice to identify other persons likely to be affected by the development and invite them to attend mediation.

Where a party wishes to be represented by another person, this needs to be agreed to by the other parties and the mediator. The names of all parties and their representatives are notified to the other parties and to the mediator prior to mediation. This gives each party the opportunity to have the same level of representation.

Observers may be present, subject to their acceptance by the mediator and all other parties. Observers may not speak at the mediation, without the consent of the mediator and the other parties.

Where the mediator decides that the large number of persons attending the mediation requires two mediators, or “co-mediation”, this will be arranged. Alternatively, the dispute may be more appropriately handled in a non-confidential faciliation meeting.

Authority to Settle

Where the party is an individual, this person should attend the mediation and have authority to enter into a Mediated Agreement.

Where the party is a company, organisation, public authority, or unincorporated group, an authorised representative should attend, who has authority to reach an Agreement in Principle and to sign the Mediated Agreement after the represented body has endorsed the Agreement in Principle.

Selection of the Mediator

The dispute resolution manager nominates a neutral and impartial mediator. Prior to the mediation, the name of the nominated mediator is put to all parties for their acceptance.

It is best practice to select a mediator, who is external to the council’s organisation and external to the locality within which the dispute is occurring.

The parties may perceive that a mediator selected from within the council will be biased in favour of the council’s position. The parties may also perceive the council has a conflict of interest where it is both providing an internal mediator and determining the development application.
Initiating Mediation

It is best practice to initiate mediation as early as possible after a dispute has been identified.

A preliminary conference is held with each of the parties to clarify:
- the mediation process and the parties willingness to participate;
- statements of issues in dispute and other information required to be exchanged; and
- the parties' representation at mediation and their authority to settle.

The parties are required to sign an Agreement to Mediate, which includes the commitment to confidentiality and an indemnity for the mediator and the council. Observers are required to sign a Confidentiality Agreement.

Prior to mediation, there needs to be an exchange of Statements of Issues between the parties.

The development control unit may provide a briefing statement to the mediator on the development application and the related planning controls. At the discretion of the council and the mediator, this statement may also be forwarded to the parties.

Outcome of Mediation

The outcome of mediation takes one of three forms:

- A Mediated Agreement containing agreements reached by the parties at mediation.
- A Joint Statement of Outcome which sets out agreements reached if any, and clarifies unresolved issues.
- No resolution.

The parties themselves are responsible for the delivery of the Mediated Agreement or the Joint Statement of Outcome to the council, through the dispute resolution manager. This is then referred to the development control unit, for inclusion in the assessment report on the application.

In order to enhance confidence in the transparency and fairness of the local government's consent processes, the Mediated Agreement or the Joint Statement of Outcome should be appended in its entirety to the assessment report. This gives the council the opportunity of considering the complete document, prior to determining the application.

The assessment officer may also comment on the dispute resolution document in preparing the assessment report and making recommendations to the council.
The Law Society of NSW Charter on Mediation Practice – A Guide to the Rights and Responsibilities of Participants

1. Underlying assumptions for the Charter

The majority of mediations conducted under the Law Society Mediation Program involve two-party disputes with a single mediator. It is acknowledged, however, that there are some disputes where more than one mediator, usually two, work together in co-operation.

Multi-party disputes may require a variation in the mediation process which is normally applied in the Law Society Mediation Program.

2. Objectives of the Charter

2.1 To set the highest standards of practice in accordance with the principles of mediation and to formulate guidelines consistent with the Law Council of Australia Ethical Standards for Mediators.

2.2 To inform parties of the principles and practice of mediation and of the role of mediators.

2.3 To provide guidelines to the parties for their role in mediation.

2.4 To provide opportunities for mediators and parties to give feedback on their experience as participants in mediation in order to foster and maintain the highest standards of mediation practice.

3. What parties can expect of the mediator

The mediator is experienced in assisting communication and negotiation

The role of the mediator is to guide the communication process so that a useful discussion can take place. The mediator will do this by asking you questions to assist in identifying and clarifying the issues in dispute, to help you sort out misunderstandings and to talk about what is important to you. The mediator aims to help you talk and negotiate with each other directly.

The mediator aims to be impartial

The mediator is not there to establish facts or to decide which of you is right or wrong, nor to take sides. The mediator will therefore not agree or disagree with statements you make nor put pressure on you to follow a particular idea or suggestion. The mediator aims to treat all parties equally.

The mediator is not an adviser

The mediator will not give legal advice, nor give professional or other advice.

The mediator respects confidentiality

What is discussed in mediation is confidential unless disclosure is required by law. This means that in nearly all cases, confidentiality will be maintained. Mediators cannot be called as witnesses in any court proceedings which may take place in the future. The mediator will not mention anything discussed by you during a private session to other parties during the mediation (unless you request the mediator to let the other parties know), or to anyone else following the mediation.
Options for settlement

The mediator will encourage you to consider a range of options for settlement and to evaluate them for the purpose of reaching a mutually satisfying outcome for all of you. The mediator will not express any opinion about the merits of the options but will encourage you to assess their implications.

The mediator is not a decision-maker

You need to decide what is best for you, as the mediator will not impose or suggest final outcomes for you. The mediator has nothing to gain in any way from the outcome of the mediation, whether agreement is reached or not.

The mediator controls the mediation process but not the content of the discussions or the outcome of the dispute.

The mediator will encourage you:

a. To take an active part in the mediation and to speak freely and with no interruptions from others present.
b. To discuss issues which are important to you not issues which the mediator considers to be relevant or significant.
c. To treat each other with courtesy.

What happens if you are accompanied by your lawyer at mediation

If your lawyer attends the mediation, the mediator will still encourage you to participate actively in the discussions and negotiations. You will, however, be given the opportunity, if you wish, to allow your lawyer to speak and negotiate on your behalf if you feel more comfortable with that arrangement. The mediator will also provide you with opportunities for breaks to allow you to consult with your lawyer in the course of the mediation or on the telephone if your lawyer is not present.

4. What parties can expect of the mediation process

The Law Society encourages mediators on its panel to follow a standard mediation process. However the parties can suggest variations provided the important principles of mediation are adhered to.

The Law Society mediation process normally consists of two sessions – a preliminary conference and a mediation session. Occasionally, the two sessions are merged into one.

4.1 What parties can expect at the Preliminary Conference

What mediation is and the mediator’s role

The mediator will explain the features of mediation – its voluntary and confidential nature and the role of the mediator as a neutral third party facilitator, not an adviser or decision-maker. You will be told that as mediation is voluntary, it can be terminated at any stage by either party or the mediator without the need to give reasons.

The process of mediation

The mediator will outline the stages of the mediation process and you will be able to ask questions about it.
Preparation for the mediation session

The mediator will make sure that everyone is ready for the mediation session. An Agreement to Mediate will be signed by all participating in the mediation session.

A timetable will be set for all outstanding matters relevant to the mediation to be finalised prior to the mediation session including documents to be prepared and exchanged, and arrangements for the payment of fees.

The mediator will ensure that all parties to the mediation have authority to negotiate and settle.

4.2 What parties can expect at the Mediation Session

The mediator will ask you to make a brief opening statement outlining your individual concerns and the issues which have brought you to mediation whether you are accompanied by your lawyer or not. If your lawyer is with you, you may, if you wish, ask him or her to make the opening statement on your behalf.

The mediator will ensure that you get equal time to make your statement and that you do so uninterrupted.

The mediator will then summarise parties’ opening statements and extract issues for discussion which emerge from the opening statements.

You will be able to correct any errors you believe the mediator may have made when summarising back your opening statement. You will also be asked to check and agree on the list of issues for discussion.

The mediator will then facilitate direct communication between you and discussion of the issues.

You will be encouraged to communicate directly with the other party, asking each other questions to explore and clarify the issues extracted from your opening statements. The mediator will also facilitate your discussions so that you have the opportunity of becoming aware of each other’s point of view.

The mediator may hold private and confidential sessions with each of you

During any private and confidential session you may have with the mediator you can raise any matter you consider relevant to the mediation.

The mediator will facilitate negotiations, settlement and agreement formulation. You will be able to discuss options and negotiate freely with the other party in order to reach a mutually satisfying resolution of your dispute. You will be given the opportunity to contribute actively to the substance and wording of the final agreement which is usually in writing.

You will also be given opportunities to give instructions to your lawyer, if present, on your wishes in relation to the agreement. If your lawyer is not present, you will be able to contact him or her to seek advice.

5. What the mediator can expect of the parties

Attendance at the mediation in good faith with the intention of seeking settlement

The mediator expects that parties are attending mediation in good faith with the intention of seeking settlement not in order to prepare themselves for a court case.
Attendance at both the preliminary and mediation sessions

The mediator will expect you to attend the Preliminary Conference as well as the Mediation Session to ensure that the same information is imparted to you all at the same time.

Preparing for the mediation session

It is very helpful to the mediator if you maintain realistic goals when entering negotiations. You can prepare yourself for the negotiations by doing calculations and background work beforehand and bringing relevant documents to the mediation session.

The mediator will expect you to have authority to negotiate and to settle.

Setting the scene for a constructive mediation session

You can make it easier for everyone if you observe the normal rules of courtesy and listen to each other in a fair and open-minded way. Even if you do not agree with what is being said, it will be helpful to you to appreciate each other’s point of view.

Maintaining a positive attitude and being prepared to give and take

It would be very helpful if you adopt a positive, practical and forward looking approach when negotiating about the future.

A spirit of compromise is usually required to achieve agreement. An agreement which is satisfying to you all is only possible if you agree to give and take rather than insist on one particular set of demands.

6. The Policy Regarding Observers

In principle, the presence of observers is not desirable. If you require the attendance of observers, their attendance should occur only with the consent of the parties and the mediator(s).

7. The Opportunity for Feedback

As participants in a mediation conducted as part of the Law Society Mediation Program you will have the opportunity, if you wish, to comment on your mediation experience by responding to a short questionnaire or by forwarding your comments in writing to the Dispute Resolution Committee of the Law Society of NSW.

Your positive, constructive and informed feedback will help us to maintain the standard of mediation service provided by the Law Society Program at the highest possible level.

For a copy of the questionnaire or more information on any aspect of the Charter contact the Dispute Resolution Department, at the Law Society of NSW, 170 Phillip St, Sydney, 2000 or phone 9926 0284, fax 9233 7146.
1. Reports:

1A. RESPONSE FROM NSW HEALTH REGARDING THE PROPOSED NEW LEVEL 5 HOSPITAL ON SYDNEY'S NORTHERN BEACHES

At Council's Ordinary Meeting of 20 June, 2005 it was resolved as follows:-

"1. Given the outcomes of the Value Management Study consultative process, and the pressing need for a new Level 5 hospital on Sydney's North Beaches, and

2. Reaffirming Manly Council's previously expressed concerns in relation the Golf Course site, Council calls on Minister Iemma and the State Government to ensure that a new Level 5 hospital is operational by 2010, by urgently progressing from the assessment stage to funding commitment and detailed planning directed to construction of the hospital at one of the preferred sites within the Dee Why - Brookvale - Frenchs Forest triangle, this being the demographic centre of the area."

Following this resolution the General Manager wrote to the NSW Minister for Health (at the time) the Hon Morris Iemma MP conveying Council's resolution.

Correspondence was recently received from the Deputy Director General, Health System Support, Robert D McGregor AM dated 5 August, 2005 in reply to correspondence from Council in relation to a Level 5 Hospital on Sydney's Northern Beaches. Relevant sections from this advice are reproduced below:-

"…………..over the past five years, the Area Health Service (AHS) has undertaken extensive community consultation and site analysis to identify the most appropriate site for a new Northern Beaches Hospital.

Six possible locations have now been identified for the new hospital and a Value Management Study (VMS) has been conducted with the involvement of members of the community, health care staff and other stakeholders. The VMS considered a range of issues in relation to the six sites, including their proximity to public transport, travel times to each site, traffic access and impacts, long-term viability, environment and heritage issues and other factors such a flooding.

The AHS has had some preliminary discussions with the Warringah Golf Course directors about the options for retaining as much of the course and parkland as possible, should the hospital go ahead on this site.

The AHS will consult closely with golf course members, players and the community should the golf course be selected as the preferred site for the new hospital. This is to ensure that recreational facilities are retained wherever possible. At the moment, however, this site is only one of six under consideration and no decision has been made. The Area is considering all six options for a new hospital site and your views will be taken into consideration as part of that process.

NSW Health is committed to providing the best possible health service for the Northern Beaches and will continue to keep the community up to date with any developments."

The response lists Mr Michael Roxburgh, Director, Capital Procurement, Northern Sydney and Central Coast Area Health Service as the contact should Council have further issues or concerns it wishes to raise.
Item For Brief Mention No. 8 (Cont’d)

1B. END OF FINANCIAL YEAR REPORTS – ITEMS FOR END OF YEAR CLEARANCE


In accordance with Section 413(2)(c) of the Local Government Act, Council is required to include with it’s Annual Financial Reports a "Statement" signed under resolution of Council, by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer in respect to the General Purpose Annual Financial Statements as well as the Special Purpose Financial Statements.

Council’s Auditors will be commencing the audit in the last week of September and these “Statements” will enable Council’s Auditor to complete the audit and for Council to submit the audited Financial Reports to the Department of Local Government by 7 November 2005. The Annual Financial Reports will be presented to the Council following completion of the audit.

A draft set of Financial Reports for Year Ended 30 June 2005 will be tabled at the meeting.

b. Goods and Services Tax Compliance Certificate

Circular 05/26 (Attachment 1) from the Department of Local Government advised Council of changes to requirements for GST compliance. Council must now supply the Department of Local Government a certificate of confirmation signed under resolution of Council, by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer, that Council has complied with GST requirements.

Statement by Chief Financial Officer

I hereby certify that to the best of my knowledge and belief that all GST required to be paid for the period 1 July 2004 to 30 June 2005 has been paid; that Council has in place management arrangements and internal controls to account for GST liabilities and recoup GST input tax credits; and there are no GST non-compliance issues or events that have been identified or raised by the Australian Taxation Office.

2. Minutes Of Meetings:

(i) ACCESS COMMITTEE MINUTES OF MEETING HELD ON 18 AUGUST 2005

(ii) COMMUNITY SAFETY COMMITTEE MINUTES OF MEETING HELD ON 18 AUGUST 2005

(iii) MANLY YOUTH COUNCIL MINUTES OF MEETING HELD ON 22 AUGUST 2005

(iv) MANLY ART GALLERY & MUSEUM LIAISON COMMITTEE MINUTES OF MEETING HELD ON 10 AUGUST 2005

(v) THE MANLY MEALS ON WHEELS SERVICE COMMITTEE MINUTES OF MEETING HELD ON 3 AUGUST 2005

(vi) MANLY VISITOR AND COMMUNITY BOARD COMMITTEE MINUTES OF MEETING HELD ON 25 AUGUST 2005

(vii) MANLY ARTS FESTIVAL COMMITTEE MINUTES OF MEETING HELD ON 11 AUGUST 2005

(viii) MANLY SISTER CITIES COMMITTEE MINUTES OF MEETING HELD ON 10 AUGUST, 2005
Item For Brief Mention No. 8 (Cont’d)

THE FOLLOWING MINUTES CONTAIN RECOMMENDATIONS OF A SUBSTANTIAL NATURE REQUIRING FORMAL COUNCIL ADOPTION AS FOLLOWS:


Item Number: Item 3.1 - Marine Parade

The Recommendation of the Committee was to:

That the recommendation of the Community Safety Committee as listed in item 3.1 of the Manly Community Safety Committee minutes of meeting held on 18 August, 2005 be noted by Council and referred to the General Manager for his consideration and action as it involves a significant policy change, whereby the current state of play requires cyclists to dismount along marine Parade on weekends and public holidays.

This is to allow time for a report to be prepared on this matter with professional input, canvassing the issues as raised by the Manly Safety Committee and the Manly Bicycle Committee and making a recommendation to Council on this issue. This report will address both risk management and pathway planning matters affecting both pedestrians and cyclists.

RECOMMENDATION

1a. That Council note the response from the Deputy Director General, Robert D McGregor AM in response to the proposed development of a new Level 5 Hospital on Sydney’s Northern Beaches.

1b. i) That in respect to Council’s General Purpose Annual Financial Statements and Council’s Special Purpose Financial Statements, that the Certificates as tabled be signed under resolution of Council by the Mayor, the Deputy Mayor (or one other Councillor), the General Manager and the Responsible Accounting Officer.

ii) That in respect to Council’s GST compliance requirements, that the Goods and Services Tax (GST) Compliance Certificate, as tabled, be signed under resolution of Council by the Mayor, the Deputy Mayor (or one other Councillor), the General Manager and the Responsible Accounting Officer.

2. That the recommendations of Minutes of Meetings, as listed in item 2, being items I to viii, as listed above, be adopted.

3a. That item 3.1 – Marine Parade of Community Safety Committee Minutes of Meeting held on 18 August, 2005 be adopted, as follows:

That the recommendation of the Community Safety Committee as listed in item 3.1 of the Manly Community Safety Committee minutes of meeting held on 18 August, 2005 be noted by Council and referred to the General Manager for his consideration and action as it involves a significant policy change, whereby the current state of play requires cyclists to dismount along marine Parade on weekends and public holidays.

This is to allow time for a report to be prepared on this matter with professional input, canvassing the issues as raised by the Manly Safety Committee and the Manly Bicycle Committee and making a recommendation to Council on this issue. This report will address both risk management and pathway planning matters affecting both pedestrians and cyclists.

ATTACHMENTS

AT-1 DLG Circular 05-26 1 page(s)
OM190905IBM_1

***** End of Item For Brief Mention No. 8 *****
GOODS AND SERVICES TAX – COUNCIL COMPLIANCE REQUIREMENTS FROM 2004/05

The purpose of this circular is to advise councils of changes to the requirements for GST compliance. As you are aware from Circular 01/45, the current approach requires councils to have an independent GST review undertaken and a GST Audit Review Report prepared by an auditor and lodged with the department each year.

The approach for the 2004/2005 financial year and for all future years, is for councils to supply a certificate of confirmation to the department in place of the Audit Review Report. It is no longer mandatory for councils to have their auditors undertake a review of the GST systems, therefore reducing costs to councils. However a council may, at its own discretion, initiate an external review to support the process.

The first certificate will be for the period 1 July 2004 to 30 June 2005 and the due date will be 7 November 2005. For the years thereafter, the certificates will be for the period 1 May to 30 April. The certificate will be due by 1 June each year. The reason for the change in the date of the certificates is to enable the department to provide more accurate and current information to NSW Treasury. Attached to this circular is a certificate that meets these requirements.

The certificate is to be signed by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer (if the Responsible Accounting Officer is not the General Manager).

Councils’ responsibilities extend to developing and maintaining internal controls, which should ensure compliance and reduce the risk of cash flow issues and under/over payment of GST. Information on GST better practices can be obtained from the Better Practice Guide for Management of GST Administration, the Accompanying Workbook and GST and Grants (ATO NAT Number 7037-04.2004), which are available on the ATO website and the Audit Office website. A health check is provided in the Better Practice Guide and Workbook.

Garry Payne Director General
Department of Local Government 5 O'Keefe Avenue NOWRA NSW 2541 Locked Bag 3015 NOWRA NSW 2541 T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209 E dlg@dlg.nsw.gov.au W www.dlg.nsw.gov.au ABN 99 567 863 195
TO: Ordinary Meeting - 19 September 2005
REPORT: General Manager’s Office Report No. 26
SUBJECT: Election Of Deputy Mayor
FILE NO:

SUMMARY

Section 231 of the *Local Government Act, 1993* empowers the Council to elect one of its members to act as Deputy Mayor for the Mayoral term or for a shorter term.

A Deputy Mayor may exercise any function of the Mayor at the request of the Mayor or if the Mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the Office of the Mayor.

The election for Deputy Mayor will be held at the Ordinary Meeting of Council on 19 September 2005.

REPORT

The term of the current Deputy Mayor is up to September 2005. The Council is required to conduct an election to fill this position for a further term.

Procedure

Clause 124 of Part 12 of the Local Government (Elections) Regulation 1998 provides that the Deputy Mayor is to be elected in accordance with Schedule 3 of the Regulation. The provisions of the Schedule are summarised as follows:-

1. A nomination for the Office of Deputy Mayor is to be made in writing by two or more Councillors (one of whom may be the nominee). The nomination is *not valid unless* the nominee has indicated consent to the nomination in writing.

   There is no prescribed form of "nomination paper". However, for convenience, "nomination papers" have been prepared and distributed.

2. If only one Councillor is nominated, that Councillor is elected. If more than one Councillor is nominated, the Council is to resolve whether the election is to proceed by:-

   (a) Preferential Ballot.

   (b) Ordinary Ballot.

   (c) Open Voting.

   (Note: It has been Manly Council long-standing practice to have Open Voting.)

3. If the method is by Preferential or Ordinary Ballot, it shall be by secret vote.

4. The General Manager (or a person appointed by the General Manager) is the Returning Officer.

The primary difference between Ordinary Ballot/Open Voting and Preferential Ballot is:-

   (i) Preferential Ballot - *Only one ballot is taken* and Councillors are to mark their votes by placing the numbers "1", "2", "3" and so on, against the various names so as to
Ordinary Meeting Agenda Page 38

General Manager’s Office Report No. 26 (Cont’d)

indicate the order of their preference for the candidates. Preferences must be shown for all candidates (Clause 9 of Schedule 3).

The formality of a ballot paper under this part is to be determined in accordance with Clause 76 of the Local Government (Elections) Regulation, 1998. In essence, the ballot paper must:-

(a) Be completed in accordance with the directions for the showing of preferences.

(b) Be initialled by the Returning Officer or an Electoral Officer.

(c) Not contain a mark or writing which would enable the voter to be identified.

If a candidate has an absolute majority of first preference votes (i.e. more than one half of the number of formal ballot papers), that candidate is elected.

If not, the candidate with the lowest number of first preference votes is excluded and that candidate’s votes transferred to that candidates’ second preferences. This procedure continues until a candidate receives an absolute majority.

(ii) Ordinary Ballot/Open Voting - Separate and continuing ballots/votes are taken to exclude the candidate with the lowest vote.

When there are two candidates remaining, a ballot/vote is taken to elect the candidate with the higher number of votes.

Tied Candidates (Choosing by Lot)

If, on any count of votes, the number of votes cast for two candidates are equal and:-

(a) those candidates are the only candidates in, or remaining in the Election - the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected; or

(b) those candidates are the ones with the lowest number of votes on the count of the votes - the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

If on any count the number of votes cast for three or more candidates are equal and the lowest number of votes on the count of the vote - the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

Summary of Procedure

A summary of the procedure is as follows:-

(a) Councillors will be called upon by the Returning Officer to submit their nomination papers (in writing signed by two or more Councillors and with nominees written consent) before 7pm on Monday, 19 September 2005.

(b) Nominations received will be read to the Meeting by the Returning Officer and he will ask if any of the candidates so nominated wish to withdraw.

(c) If there are more candidates than one, an election will be carried out in accordance with the provisions of Schedule 3 of the Local Government (Elections) Regulation 1998 as outlined above, and Councillors will be requested to resolve whether the election is to proceed by Preferential Ballot, by Ordinary Ballot or by Open Voting.
(d) (i) If a Preferential or Ordinary ballot is required, ballot papers will be prepared and distributed to Councillors for marking:-

- Upon completion of marking of the ballot papers by Councillors, the ballot papers will be collected on behalf of the Returning Officer and the votes will be counted.

- When the ballot or ballots, as required pursuant to the provisions of Schedule 3, have been completed and a result obtained, the Returning Officer will announce the result to the meeting.

(ii) If the election is by Open Voting, then votes to exclude candidates (if more than two) and, where there are two candidates, votes to elect a candidate will be taken by show of hands.

When one candidate has a majority of votes the Returning Officer will declare this Councillor duly elected.

Term

Section 231(2) of the *Local Government Act, 1993* states that the person may be elected for the Mayoral term or a shorter term.

As Council is aware the current Mayoral term at Manly Council will be for 4 ½ years. However, the practice has been to elect the Deputy Mayor for one term only.

**RECOMMENDATION**

1. That Council elect a Deputy Mayor for the period to September 2006.


**ATTACHMENTS**

There are no attachments for this report.

OM190905GMO_1

***** End of General Manager’s Office Report No. 26 *****
TO: Ordinary Meeting - 19 September 2005
REPORT: General Manager's Office Report No. 27
SUBJECT: Appointment of Chairperson and Deputy Chairperson for it's Principal Committees

FILE NO:

SUMMARY
The purpose of this report is to appoint the Chairperson and Deputy Chairperson for its Principal Committees of Land Use Management and Planning and Strategy.

REPORT
The Council has two Principal Committees. These are the Land Use Management Committee and the Planning and Strategy Committee which are Principal Committees. They meet in Committees-of-the-Whole (membership consists of all councillors) and on a monthly cycle.

Under the Local Government Act, the Mayor is ex-officio Chairperson of all committees established by Council.

However it is the practice of Manly Council for the roles of Chair and Deputy Chair to be delegated to other Councillors.

Principal Committees

Council’s Code of Meeting Practice established (2) Principal Committees:-

- Planning and Strategy Committee
- Land Use Management Committee

The functions and responsibilities of the Principal Committees are as follows:-

1. Planning and Strategy Committee

Functions and Responsibilities:
To consider and resolve on all matters pertaining to the Planning and Commissioning of facilities, works and services, and in particular:-

(i) Forward planning (Local Environmental studies)
(ii) Statutory planning (Local Environmental Plans and Development Control Plans)
(iii) Management Plans (Reserves)
(iv) Special Planning Projects
(v) Urban Design Guidelines
(vi) Special Design Projects
(vii) Specification of Services
(viii) Commissioning and Contracting of Work
General Manager's Office Report No. 27 (Cont'd)

(ix) Monitoring of construction works
(x) Monitoring of the Annual Works Programme
(xi) Traffic Management - Works Implementation
(xii) Waste Management and Recycling
(xiii) Public Place Cleansing
(xiv) Road Safety
(xv) Flood Plain and Estuary Management
(xvi) Asset Management

2. Land Use Management Committee

*Functions and Responsibilities:*

To consider and resolve on matters pertaining to:-

(i) Development Control (Processing of development applications)
(ii) Associated Land Use Matters (fire safety, compliance, etc.)
(iii) Strata Subdivision Applications
(iv) Land Subdivision Applications
(v) Advertising Signs

Each Principal Committee presently comprises the whole of the Council with a **quorum of seven**.

**RECOMMENDATION**

1. That Council establish a Planning & Strategy Committee and Land Use Management Committee as its Principal Committees with the Functions & Responsibilities outlined in the above report.

2. That Council proceed to elect Chairpersons and Deputy Chairpersons for its Principal Committees of Land Use Management and Planning and Strategy.

3. That Council determine the method of voting as applied to the election of the Deputy Mayor.

4. That in accordance with s377 of the Local Government Act Council delegate to the two (2) Principal Committees of Land Use Management and Planning and Strategy the power to resolve on matters properly before each Principal Committee.

**ATTACHMENTS**

There are no attachments for this report.

OM190905GMO_2

***** End of General Manager's Office Report No. 27 *****
SUMMARY

Latest accounting statements for the period to 31 August, 2005.

1. Statement showing general fund bank account balance as at 31 August, 2005.

2. Cash investments as at 31 August 2005.

REPORT


   Limit of overdraft arranged with bank $400,000.00 Dr
   Bank Balance as at 31 August, 2005 (1) $2,469,773.95 Cr

2. Details of Council Investments Pursuant to the Financial Regulation as at 31 August, 2005.

   In accordance with clause 16 of the Local Government (Financial Management) Regulation 1999, a report setting out the details of money invested must be presented to Council on a monthly basis.

   For the information of Councillors, the following cash investments were held by Council as at 31 August, 2005.

<table>
<thead>
<tr>
<th>Invest Date</th>
<th>Maturity/ Call date</th>
<th>Institution</th>
<th>Term (Days)</th>
<th>Rate</th>
<th>Amount</th>
<th>Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>15/07/02</td>
<td>15/07/07</td>
<td>HSBC</td>
<td>1826</td>
<td>6.34</td>
<td>1,000,000.00</td>
<td>15,858.24(2)</td>
</tr>
<tr>
<td>15/08/02</td>
<td>15/07/07</td>
<td>HSBC</td>
<td>1795</td>
<td>6.34</td>
<td>2,008,481.93</td>
<td>31,716.49(2)</td>
</tr>
<tr>
<td>30/07/02</td>
<td>12/12/06</td>
<td>Bendigo Bank</td>
<td>1596</td>
<td>7.67</td>
<td>510,200.00</td>
<td>9,587.49(3)</td>
</tr>
<tr>
<td>14/10/02</td>
<td>12/12/06</td>
<td>Bendigo Bank</td>
<td>1520</td>
<td>7.67</td>
<td>504,476.45</td>
<td>9,587.49(3)</td>
</tr>
<tr>
<td>08/08/02</td>
<td>08/08/07</td>
<td>Bank of Qld</td>
<td>1826</td>
<td>6.95</td>
<td>1,000,000.00</td>
<td>17,374.99(4)</td>
</tr>
<tr>
<td>02/09/02</td>
<td>28/09/06</td>
<td>Suncorp Metway</td>
<td>1487</td>
<td>6.75</td>
<td>1,005,210.00</td>
<td>33,750.00(5)</td>
</tr>
<tr>
<td>18/02/03</td>
<td>18/02/08</td>
<td>Macquarie Bank</td>
<td>1826</td>
<td>5.75</td>
<td>1,000,000.00</td>
<td>28,750.00(6)</td>
</tr>
<tr>
<td>02/04/04</td>
<td>02/04/09</td>
<td>Adelaide Bank</td>
<td>1826</td>
<td>6.59</td>
<td>500,000.00</td>
<td>8,237.49(7)</td>
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<tr>
<td>03/12/04</td>
<td>03/12/09</td>
<td>NM R’child &amp; Son (Aust)</td>
<td>1826</td>
<td>6.71</td>
<td>700,000.00</td>
<td>11,742.49(8)</td>
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<tr>
<td>15/12/04</td>
<td>15/12/09</td>
<td>ACCU</td>
<td>1826</td>
<td>5.97</td>
<td>1,000,000.00</td>
<td>17,174.99(9)</td>
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<tr>
<td>21/05/04</td>
<td>21/05/07</td>
<td>CBA</td>
<td>1095</td>
<td>6.20</td>
<td>719,877.16</td>
<td>44,632.38(10)</td>
</tr>
<tr>
<td>11/07/05</td>
<td>11/10/05</td>
<td>Aust Central C/U</td>
<td>92</td>
<td>5.95</td>
<td>1,000,000.00</td>
<td>14,997.26</td>
</tr>
<tr>
<td>11/07/05</td>
<td>11/10/05</td>
<td>IMB</td>
<td>92</td>
<td>5.80</td>
<td>1,250,000.00</td>
<td>18,273.97</td>
</tr>
<tr>
<td>11/07/05</td>
<td>11/10/05</td>
<td>Bank West</td>
<td>92</td>
<td>5.70</td>
<td>2,000,000.00</td>
<td>28,734.24</td>
</tr>
<tr>
<td>26/07/05</td>
<td>26/10/05</td>
<td>Aust Central C/U</td>
<td>92</td>
<td>5.91</td>
<td>1,000,000.00</td>
<td>14,896.44</td>
</tr>
<tr>
<td></td>
<td></td>
<td>IMB @CALL</td>
<td></td>
<td>5.45</td>
<td>1,600,000.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>CBA @CALL</td>
<td></td>
<td>5.45</td>
<td>4,128,958.71</td>
<td></td>
</tr>
</tbody>
</table>

1) Balances > $750,000 earn RBA cash rates less 0.50%pa
2) Interest to 15 October, 2005 only
3) Interest to 12 September, 2005 only
4) Interest to 8 November, 2005 only
5) Interest to 28 September, 2005 only
Corporate Services Division Report No. 21 (Cont’d)

6) Interest to 18 February, 2006 only
7) Interest to 2 October, 2005 only
8) Interest to 2 September, 2005 only
9) Interest to 15 September, 2005 only
10) Interest to 21 May, 2006.

Except for (5), (6) and (10) interest is calculated at a floating rate, fixed for the duration of each subsequent quarter, based on the prevailing interest rates at the quarterly reset date(s).

<table>
<thead>
<tr>
<th>Investment Performance</th>
<th>Council</th>
<th>Benchmark*</th>
<th>90 day BBSW**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Returns - August 2005 [%pa]:</td>
<td>6.09</td>
<td>5.87</td>
<td>5.62</td>
</tr>
</tbody>
</table>

* benchmark is 90day BBSW plus 0.25%pa
** 90 day BBSW is the average 90 day bank bill rate for the month.

Certification – Responsible Accounting Officer

The Chief Financial Officer hereby certifies that the investments listed above have been made in accordance with Section 625 of the Local Government Act 1993, clause 16 of the Local Government (Financial Management) Regulation 1999 and Council's Investment Policy.

RECOMMENDATION

1. That the statement of General Fund Bank Account balance as at 31 August, 2005 be received and noted.
2. That the certification by the Chief Financial Officer be noted.
3. That details of Council's cash investments as at 31 August, 2005 be received and noted.

ATTACHMENTS

There are no attachments for this report.

OM190905CSD_1

***** End of Corporate Services Division Report No. 21 *****
TO: Ordinary Meeting - 19 September 2005

REPORT: Environmental Services Division Report No. 51

SUBJECT: 118 North Steyne, Manly

FILE NO: DA508/04

Application Lodged: 22 October 2004
Applicant: Allen Jack & Cottier
Owner: Violet Stedman
Estimated Cost: $5,519,000.
Zoning: Manly Local Environmental Plan, 1988 - Residential
Surrounding Development: Single dwelling houses and residential flat buildings
Heritage: The existing dwelling is listed as an item of Environmental Heritage under Council’s Local Environmental Plan.

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR THE ALTERATIONS AND ADDITIONS TO THE EXISTING TIMBER COTTAGE AND FOR THE ERECTION OF A SIX STOREY RESIDENTIAL FLAT BUILDING CONTAINING FIVE (5) UNITS WITH BASEMENT CARPARKING.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND ADVERTISED IN THE MANLY DAILY.
3. THE APPLICATION WAS NOTIFIED TO THE OCEAN BEACH PRECINCT COMMUNITY FORUM FOR COMMENT.
4. THE APPLICATION IS PRESENTED TO THE ELECTED COUNCIL AT THE REQUEST OF COUNCILLOR MURPHY
5. THE APPLICANT HAS LODGED AN APPEAL WITH THE LAND & ENVIRONMENT COURT AGAINST DEEMED REFUSAL OF THE APPLICATION.
6. THE APPLICATION IS RECOMMENDED FOR REFUSAL

LOCALITY PLAN
Shaded area is subject land.

REPORT

Introduction

Consent is sought for the alterations and additions to the existing cottage (including the replacement of the rear and new attic area), and the erection of a six storey residential flat building containing five units with basement carparking for 14 vehicles. Part of this basement parking area is under the rear of the existing cottage where the new additions are located.
Environmental Services Division Report No. 51 (Cont’d)

Existing Cottage

The existing cottage will be refurbished and will have two bedrooms, a combined dining area, laundry, bathroom and the new family room and stairs leading up to the new first floor attic area. The new attic area will contain an ensuite and the master bedroom leading to a small balcony on the eastern elevation. This cottage, known as Unit 6, will be connected to the new building at the rear by a covered walkway.

New six storey building

Basement - Vehicular access off the southern side of Pine Lane, with 12 resident and two visitor parking spaces. Six of the resident spaces are in a mechanically vertical stacked arrangement. Internal lift and stairs to upper level and internal stairs to existing cottage. Garbage area and recycling room, switch room, and individual storage areas.

Ground Floor - Unit 1 containing three bedrooms, two bathrooms, a combined lounge, dining and kitchen area, and laundry. Two balconies on the eastern elevation and side entry on the northern elevation. Pedestrian to main lobby and lift, and fire stairs.

Level 1 Unit 2 containing three bedrooms, two bathrooms, a combined lounge, dining and kitchen area, and laundry. A large balcony on the eastern elevation. Lift lobby, lift well and fire stairs.

Level 2 Unit 3 containing three bedrooms, two bathrooms, a combined lounge, dining and kitchen area, and laundry. A large balcony on the eastern elevation. Lift lobby, lift well and fire stairs.

Level 3 Unit 4 containing three bedrooms, two bathrooms, a combined lounge, dining and kitchen area, and laundry. A large balcony on the eastern elevation. Lift lobby, lift well and fire stairs.

Level 4 Lower level of Unit 5 containing two bedrooms, two bathrooms, a combined lounge, dining and kitchen area, and laundry. A large balcony on the eastern elevation. Lift lobby, lift well and fire stairs.

Level 5 Upper level of Unit 5 containing two bedrooms with ensuite. Wrap around balcony along eastern and northern elevation.

The applicant has lodged an appeal with the Land & Environment Court against deemed refusal of the application, with the first callover set down for 18 October, 2005.

Development Control Plan Numerical Assessment

The following is an assessment of the proposal’s compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

<table>
<thead>
<tr>
<th></th>
<th>Permitted/ Required</th>
<th>Proposed</th>
<th>Complies Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Density - Sub Zone 2</td>
<td>1/150m2</td>
<td>1/156m2</td>
<td>Yes</td>
</tr>
<tr>
<td>Floor space ratio</td>
<td>1.5:1</td>
<td>0.86:1</td>
<td>Yes</td>
</tr>
<tr>
<td>Wall height North side</td>
<td>12.0 metres</td>
<td>20.2 metres</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>12.0 metres</td>
<td>20.2 metre</td>
<td>No</td>
</tr>
</tbody>
</table>
### Environmental Services Division Report No. 51 (Cont’d)

<table>
<thead>
<tr>
<th></th>
<th>Permitted/Required</th>
<th>Proposed</th>
<th>Complies Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof height</td>
<td>3 metres 500mm</td>
<td>500mm</td>
<td>Yes</td>
</tr>
<tr>
<td>Fence height</td>
<td>1000 to 1500mm</td>
<td>1400mm</td>
<td>Yes (on average)</td>
</tr>
<tr>
<td>Setback Front</td>
<td>6 metres 5.0 metres</td>
<td></td>
<td>Yes (existing cottage)</td>
</tr>
<tr>
<td>Setback Rear</td>
<td>8 metres 900mm</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>North setback side</td>
<td>6.7 metres (top Level) 5.5 metres (5th level)</td>
<td>5.3 – 7.2 metres 3 – 4.5 metres</td>
<td>No</td>
</tr>
<tr>
<td>South setback side</td>
<td>6.7 metres (top Level) 5.5 metres</td>
<td>7.5 – 8.5 metres 3.8 metres</td>
<td>Yes No</td>
</tr>
<tr>
<td>Spa/ pool Side and Rear</td>
<td>No pool</td>
<td>Nil</td>
<td>N/A</td>
</tr>
<tr>
<td>Wall on boundary length</td>
<td>15m</td>
<td>15m</td>
<td>Yes</td>
</tr>
<tr>
<td>Open space - total</td>
<td>45%</td>
<td>46%</td>
<td>Yes</td>
</tr>
<tr>
<td>Open space - soft</td>
<td>25%</td>
<td>38%</td>
<td>Yes</td>
</tr>
<tr>
<td>Private Open Space</td>
<td>12m2/unit</td>
<td>All units have in excess of 25m2 of private open space</td>
<td>Yes</td>
</tr>
<tr>
<td>Car Parking Residents</td>
<td>10</td>
<td>12</td>
<td>Yes</td>
</tr>
<tr>
<td>Visitors</td>
<td>2</td>
<td>2</td>
<td>Yes</td>
</tr>
<tr>
<td>Total</td>
<td>12</td>
<td>14</td>
<td>Yes</td>
</tr>
<tr>
<td>Shadow - adjacent open space adjoining EW orientation</td>
<td>Maintain 1/3 of existing sunlight Minimum 2 hours</td>
<td>&gt;1/3 &gt;2 hours</td>
<td>Yes Yes</td>
</tr>
<tr>
<td>Excavation</td>
<td>900mm from boundary</td>
<td>Basement garage built to northern, southern and western boundaries</td>
<td>No</td>
</tr>
<tr>
<td>Energy Efficient Rating</td>
<td>Minimum 3.5 star rating</td>
<td>3.5 star rating to all units</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### Applicant’s Supporting Statement

In support of his application, the applicant has submitted a Statement of Environmental Effects (SOEE). This is on file. The applicant also submitted a Stormwater Concept Plan, Sediment Control Plan, Parking and Traffic Assessment Report, Acoustic Report, BCA Assessment report, Preliminary Acid Sulphate Soil Assessment, and a Wind Effects Report. There is a NatHERS certificate and Energy Report accompanying this application.

A proposed strata plan accompanied the application, but does not form part of this application. Strata subdivision is not described in the Proposal in the application form and no fees have been paid for assessment of a strata subdivision.

### Submissions

The application was notified on 17 November 2004 to 6 December 2004. The application was also advertised in the Manly Daily on 20 November 2004. In response to the notification, Council received fifteen (15) letters of support and objections from twenty nine (29) surrounding residents.

The letters of support are from residents who are predominantly not in close proximity to the subject site. They are mainly from people who became aware of the proposed development because they saw the notification on the subject site as a result of using the beach or walking...
The objections received are all from nearby residents. The reasons for the objections are:

- Overdevelopment of the site
- Proposed new six-storey building is too high
- Loss of view to properties on both sides of Malvern street and beyond
- Loss of privacy
- Loss of sunlight
- Proposal out of scale with existing cottage
- Detrimental impact on airflow
- Increase in traffic, particularly on Pine Lane
- Access on Pine Lane blocked during construction
- Possible damage to adjoining properties
- Inconsistent with aims and objectives of LEP
- Too much breach of DCP controls
- Undesirable precedent for such a high building
- Excessive bulk
- Inadequate side and rear setbacks
- Loss of property values
- Undesirable impact on streetscape
- No assessment of other alternative proposals
- Assessment in heritage impact statement fundamentally flawed as it addresses proposal as being in the vicinity of a heritage item, rather than on the heritage item itself, which is the subject site
- Proposal totally unsympathetic to existing heritage cottage
- Proposal will compromise the integrity and setting of heritage item
- Proposal will have a detrimental impact on the historic and architectural significance of the cottage
- Proposed part demolition and rear and first floor additions to cottage including recessed balcony will have a detrimental impact on the heritage significance of the cottage
- Proposed excavation under the existing cottage for the basement carpark will have a detrimental impact on the heritage significance of the cottage
- No Conservation Management Plan prepared for the site
- No construction statement to detail how the proposed new works will be undertaken so close to the existing heritage cottage without placing the building under threat of damage or collapse

Precinct Community Forum Comments

Precinct minutes have not been submitted to date.

Engineers Comments

No objections subject to conditions, however the site is subject to a road widening proposal.

No objections from Council's Traffic Engineer.

Building Comments

No objections subject to conditions.

Landscape Architects Comments
Environmental Services Division Report No. 51 (Cont’d)

No objections subject to conditions.

**SEPP 65 Assessment**

Council’s architect has raised objections to the proposed development and has stated that the proposal does not satisfy the provisions of SEPP65.

**Heritage Planner Comments**

Council’s Heritage planner has requested for an alternative design to the front veranda doors, deletion of proposed new eastern roof balcony and louvre, changes to treatment and external finishes. Additional information is required in relation to BCA matters and the submission of a Conservation Management Plan.

Council’s external Heritage Advisor has objected to the proposed development on the grounds that the proposal will have a major detrimental impact on the heritage significance of the site.

**Planning Comments**

The subject site is known as 118 North Steyne, Manly and is located on the western side of North Steyne, about 50 metres south of its intersection with Pacific Street. The site is a 901.6m² irregular shaped allotment, with a frontage of 14.47 metres to North Steyne. The frontage along Pine lane is 26.47 metres. The site has a depth of 46.76 meters along the northern boundary and 42.67 metres along the southern boundary.

A single storey heritage listed cottage known as “Brise de Mer” occupies the front half of the site with a garage at the rear on Pine Lane. The site is relatively flat and is devoid of any significant vegetation. There are some kentia palms at the rear of the site near the existing garage. The development to the immediate north at No 119-120 North Steyne is a five storey residential flat building. A nine storey residential flat building is to the immediate south of the site at No114–117 North Steyne. The properties across Pine Lane to the west consist mainly of one and two storey dwelling houses. The beachfront is to the east of the subject site.

The proposal is for the alterations and additions to the existing cottage (including the replacement of the rear and new attic area), and the erection of a six storey residential flat building containing five units with basement carparking for 14 cars.

The subject site is located in Zone No. 2-Residential under Manly Local Environmental Plan 1988. The proposed use is permissible with consent.

**Note:** When Council decided to list the subject site as a heritage item, the Planning and Strategy Committee meeting held on 8 September 2003 passed a motion (that relates to the subject site), that Council “negotiate a relaxation of the provisions of the Development Control Plan for the Residential Zones, as it might apply to the property, in order to allow the sympathetic design of additional development”.

The applicant has relied heavily on the above motion to justify the height, bulk, scale and form of proposed development. This report will make an assessment of this proposal, notwithstanding the many contraventions of the DCP controls, and consider if the proposed development meets the objectives of the LEP and if the proposed development is a “sympathetic design of additional development”.

**Density**
Environmental Services Division Report No. 51 (Cont’d)

The site is located on Density sub-zone 1 of the Manly Development Control Plan for Residential Zone 2001, Amendment 1. The permissible density is 1 dwelling/50m². The proposal satisfies this performance criteria.

Floor Space Ratio

The maximum permissible floor space ratio for the subject site is 1.5:1. The proposed FSR is 0.86:1.

The following comments are made in respect of the DCP objectives regarding floorspace ratio:

a) to control the bulk of building
Whilst the proposed floor space ratio is below the 1.5:1 FSR, the development is restricted to the western rear portion of the site. This is because of the siting of the existing heritage listed cottage and the necessity to retain the dwelling. As a result, the proposal is well above the height limit and contravenes the side and rear setbacks requirement. The excavation is to the north, south and western boundaries. The new building is considered to present excessive visual bulk and scale.

b) to ensure that the scale of development does not obscure important landscape features
There are no important landscape features on the site. Nearby residents have raised concerns as to loss of ocean views.

c) to be consistent with the existing and future character of the residential area
The applicant has relied on the existing nine storey residential flat building to justify the height of the proposal, which exceeds the maximum wall height by about 8 metres. Buildings over 12m in wall height will no longer permitted in this area under the current controls. It is considered that the proposal is not consistent with the existing and future character of the residential area.

d) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development as well as proposed development
The additional height will create additional overshadowing and will impact on the views of the beach and water from the residents in Malvern Avenue.

e) to provide sunlight access to private open space within the development and maintain adequate sunlight access to private open spaces and habitable rooms of adjacent dwellings
All the proposed units will receive adequate sunlight access to the living areas and private open space. The amount of sunlight to adjoining properties satisfies the DCP.

Height

The proposed development has a wall height of approximately 20.2 metres. This is well above the maximum wall height of 12 metres.

The objectives regarding height in Clause 3.4 of the DCP are:

a) to control the height of buildings by specifying maximum wall and roof/ridge heights

b) to provide for building heights that are consistent with the locality

c) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development

d) to provide sunlight access to private open spaces within the development site and maintain adequate sunlight access to private open spaces windows of living spaces of adjacent dwellings

The proposed height is well over the permissible wall height control, and the building is about 6 metres higher than the residential flat building to the north. The maximum permissible wall height of the properties on the other side of Pine Lane is 9.0 metres. Apart from the development at the north western corner of Pine Lane and Pacific Street, most of the dwellings on the other side of
Pine Street consist of single and two storey dwellings. The proposal will disrupt views and impact on privacy.

In view of the above comments, it is considered that the proposal does not satisfy the height objectives in Clause 3.4 of the DCP.

**Setbacks**

Council’s performance criteria in respect to setbacks in Clause 3.5 of the DCP are:

- To preserve and enhance the existing streetscape
- To provide privacy
- To provide equitable access to light and sunshine
- To promote flexibility in the siting of building
- To enable view sharing
- To accommodate planting of native vegetation including endemic trees
- To control the nature of development adjoining specific open space lands and national parks so as to not unduly detract from the nature of those lands and to comply with SEPP19.
- To maintain adequate space between buildings to protect the views and vistas from public space

As a result of the location of the existing heritage cottage, the proposed six storey building will be only 900mm from Pine Lane. This is considered to be well short of the minimum 8.0 metre rear setback requirements and will have a significant impact on the (Pine Lane) streetscape. There is inadequate area to provide any significant planting along the lane. The proposal will tower over the properties on the other side of Pine Lane and will result in other impacts like increased overshadowing, and unsatisfactory bulk, siting and scale.

**Excavation/Cut and Fill**

The proposal does not comply with the 900mm setback requirement as the proposed excavation for the carpark is along the northern, southern and western boundaries, and below the rear portion of the existing heritage cottage. The scope of works proposed is considered to be unsatisfactory and could impact on the stability of the adjoining properties and on the cottage itself. For these reasons, it is considered that the proposal fails to satisfy the objectives of Clause 3.6 of the DCP which are:

- To limit excavation, cut and fill activities, particularly on sites that have a slope of 1:5 or greater
- To ensure that development respects topography and the natural fall or slope of the land.
- To discourage the alteration or redirection of natural flows of groundwater to existing vegetation.
- To ensure that development not result in sedimentation or blockage of stormwater pipes, waterways and drainage lines.
- To ensure that development does not mar the landscape or landforms degrade or destroy neighbouring bushland
- To limit the height of retaining walls and encourage softening of these areas through planting preferably using native species.

**Overshadowing**

The objectives of Clause 3.7 of the DCP in relation to overshadowing are:

- To preserve the environmental quality and property value for existing and new residents.
Environmental Services Division Report No. 51 (Cont’d)

b) To minimise loss of sunlight to adjacent buildings.
c) To maximise mid-winter sunlight to windows of neighbouring living rooms and to the principal outdoor areas of adjacent properties
d) To maximise passive solar design and the use of solar power, and be energy efficient
e) To encourage rooms in the roof to reduce overshadowing
f) To encourage breaking up of plan sizes and building bulk to admit more sunlight.

The proposal satisfies the performance criterion in Clause 3.7.2 of the DCP. The location of the proposed new building on the western portion of the site will result in less overshadowing to the property to the south if it had been built on the more central area of the site. However, it is considered that whilst the proposal meets the numerical requirements, a lower development that satisfies the wall height and boundary setbacks will have an overall less impact on the properties to the west of the site. The proposal does not satisfy objectives (a), (b), (c) and (f).

View Sharing

The excessive height of this proposal will have a detrimental impact on the views of the water enjoyed by some the properties in Malvern Avenue and Pacific Street. Whilst any building up to the allowable 12 metre wall height will impact on the views enjoyed by these properties, the additional height proposed will impact on more of the adjoining properties.

Streetscape, fences and walls

The proposed development will result in a 10 metre length of wall over 18 metres high set back only 900mm from the rear boundary. In addition, there is another 5 metres of wall about 3.5 meters high to the north (for the ground floor Entry Lobby) also set back only 900mm from the rear boundary. There is a 900mm wide planting strip proposed along part of the rear boundary.

There is no objection to the proposed timber fence to match the original timber fence at the front of the cottage along North Steyne.

It is considered that the treatment along the rear lane is unsatisfactory and contravenes the following objectives in Clause 3.9 of the DCP:

a) to ensure that all development contributes positively to the street and locality, identified in the locality analysis
b) to minimise the impact of walls and fences on the street frontage
c) to ensure all fences and walls contribute positively to the identified streetscape
d) in some circumstances, front fences and walls may not be appropriate and soft landscape alternatives should be considered.

Privacy

The proposal has been designed to minimise the impact on the privacy of adjoining properties. However, the proposed eastern balconies on all levels will look directly into the northern side yard of the existing cottage. The terrace on the top level will also look into the rear yards of the residential properties on the other side of Pine Lane, but this can be addressed by the provision of privacy screens. Overall, the proposal generally satisfies the objectives in Clause 3.10 of the DCP which are:

a) to screen between closely spaced buildings
b) to mitigate direct viewing into windows from others
c) to provide screening to outdoor areas
d) to encourage increased security between neighbours
Environmental Services Division Report No. 51 (Cont’d)

Carparking

The proposed 14 carparking spaces satisfy the number of spaces required in the DCP. The amount of traffic generated by this proposal will not have a significant impact on the surrounding streets and on Pine Lane. The only concern is in relation to the excavation of the basement carpark being on the northern, western and southern boundaries and under the existing heritage house.

Heritage Issues

As the site is a local heritage item, consideration of this application must consider Clause 18 of the Manly Local Environmental Plan which states:

“18 Items of the environmental heritage

(1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage:

(a) demolish, renovate or extend any such building or work,
(b) damage or despoil any such relic or any part of any such relic,
(c) excavate any land for the purpose of exposing or removing any such relic,
(d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place, or
(e) subdivide the land on which that building, work or relic is situated or the land which comprises that place, except with the consent of the council.

(2) The council shall not grant consent to a development application made in pursuance of subclause (1) unless it has made an assessment of:

(a) the significance of the item as an item of the environmental heritage of the Municipality of Manly,
(b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
(c) whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained, and
(d) whether the item constitutes a danger to the users or occupiers of that item or to the public.

It is considered that the proposal is unsympathetic to existing heritage cottage and will compromise the integrity and setting of heritage item. The proposed six storey building in such close proximity to the cottage will have a detrimental impact on the historic and architectural significance of the cottage.

Further, the proposed part demolition of the rear of the cottage, the proposed excavation under the existing cottage for the basement carpark, and first floor attic area with recessed balcony and louvre will have a detrimental impact on the heritage significance of the cottage. The concerns raised by the objectors that there is no construction statement to detail how the proposed new works will be undertaken without placing the building under threat of damage or collapse are considered valid.

Finally, there is no Conservation Management Plan prepared for the site.

Notwithstanding Council’s resolution to allow a relaxation of the provisions of the Development Control Plan for the Residential Zones, as it might apply to the property, it is considered that the proposed development is not an appropriate one for the site. The proposal is not considered to be of a sympathetic design in relation to the heritage significance of the site.
Environmental Services Division Report No. 51 (Cont’d)

CONCLUSION:

In view of the above comments, it is considered that the proposed development is not a suitable one for the site. Accordingly, it is recommended that the application be refused.

RECOMMENDATION

That Development Application No 508/04, for the alterations and additions to the existing cottage (including the replacement of the rear and new attic area), and the erection of a six storey residential flat building containing five units with basement carparking at 118 North Steyne, Manly be refused for the following reasons:

1. The proposal contravenes the aims and objectives of the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a) of the Environmental Planning & Assessment Act 1979.


3. The proposal is an overdevelopment of the site, having regard to Section 79C(1)(a), (b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

4. The proposal will have a detrimental impact on the views, privacy and overshadowing of the surrounding properties, having regard to Section 79C(1)(a), (b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

5. The proposal will have a detrimental impact on the heritage significance of the site, in particular, on the existing cottage known as ‘Brise de Mer” and its garden, having regard to Section 79C(1)(a),(b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

6. The proposal is contrary to the public interest, having regard to Section 79C(1)(e) of the Environmental Planning & Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

OM190905ESD_1

***** End of Environmental Services Division Report No. 51 *****
TO: Ordinary Meeting - 19 September 2005
REPORT: Environmental Services Division Report No. 52
SUBJECT: 38a Rignold Street, Seaforth
FILE NO: DA529/04
PREVIOUS ITEMS: 35, Land Use Management Committee (1 August 2005)

Application Lodged: 1 December, 2004 amended plans 11.5.05
Applicant: Home Team Constructions
Owner: Mr P & Mrs S Whitfield
Estimated Cost: $447 858
Zoning: Manly Local Environmental Plan, 1988 - Residential Part within Foreshore Scenic Protection Area
Surrounding Development: Bushland, vacant land as well as single and two storey dwellings
Heritage: n/a

SUMMARY:

1. AN APPLICATION IS MADE FOR EXCAVATION AND ERECTION OF A NEW DWELLING WITH CARERS UNIT (FAMILY FLAT) AS WELL AS A DETACHED DOUBLE GARAGE.
2. THE APPLICATION WAS NOTIFIED IN ACCORDANCE WITH COUNCIL'S NOTIFICATION POLICY WITH SIX (6) SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE LOCAL COMMUNITY PRECINCT FORUM AND COMMENT WAS RECEIVED.
4. THE APPLICATION IS ASSESSED PURSUANT TO SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 INCLUDING COUNCIL'S RELEVANT PLANS AND POLICIES.
5. THE APPLICATION WAS REPORTED TO THE DEVELOPMENT ASSESSMENT UNIT ON 31.3.05 AS WHICH TIME THE APPLICATION WAS RECOMMENDED FOR REFUSAL.
6. REVISED PLANS WERE RECEIVED TO ADDRESS ISSUES RAISED BY THE DEVELOPMENT ASSESSMENT UNIT.
7. THE REVISED PLANS WERE FURTHER NOTIFIED WITH EIGHT (8) SUBMISSIONS RECEIVED.
8. THE REVISED PLANS WERE FURTHER REPORTED TO THE DEVELOPMENT ASSESSMENT UNIT ON 23 JUNE 2005 AT WHICH TIME THE APPLICATION WAS RECOMMENDED FOR REFUSAL.
9. THE DEVELOPMENT APPLICATION WAS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE OF 1 AUGUST 2005 WHERE THE MATTER WAS DEFERRED FOR THE APPLICANT TO MEET WITH COUNCIL STAFF TO ACHIEVE TOTAL COMPLIANCE WITH THE DCP INCLUDING PERFORMANCE BASED QUALITATIVE CRITERIA.
10. THE APPLICANT HAS LODGED AN APPEAL WITH THE LAND & ENVIRONMENT COURT AGAINST DEEMED REFUSAL OF THE APPLICATION.
11. REFUSAL OF THE APPLICATION IS RECOMMENDED.

LOCALITY PLAN
Shaded area is subject land.
REPORT

Introduction

The subject site is located on the eastern (high) side of Rignold Street, has an irregular configuration with a general east/west orientation and is currently vacant. The eastern boundary adjoins Boronia Lane and the site adjoins residential land to each side, with the adjoining land to the south developed with a dwelling and detached garage and the land to the north being currently vacant.

The proposal involves the following:
- Excavation and tree removal
- Erection of a three storey dwelling comprising at Level 1 carers unit (35sqm including kitchenette, shower/WC) as well as a laundry, rumpus, bar, bedroom 6 and ensuite, Level 2 comprising kitchen, family/meals room, living room, study, bedroom 5, shower/WC and shower/WC for persons with disability, and Level 3 comprising bedrooms 1,2,3 & 4 including 2 ensuites and bathroom. Internal lift access is provided to all levels.
- Erection of a double garage with access driveway off Boronia Lane.
- Landscaping

The application was considered by Council at it’s Land Use Management Meeting of 1 August 2005 where Council resolved as follows;

“That DA529/04 38A Rignold Street, be deferred for the applicant to meet with senior Council staff to achieve total compliance with the DCP, including performance–based qualitative criteria. The application is to be brought back to the earliest available Council meeting.”

One of the joint owners Mr Peter Whitfield met with Council’s Manager Development Assessment on 11 August 2005 to discuss the matter. Mr Whitfield advised staff that it was his intention to submit revised plans which addressed DCP numeric requirements to Council and that it was also his intention to lodge an appeal with the Land & Environment Court.

To date Council has not received revised plans. Council has received notification of lodgement of an appeal to the Land & Environment Court against deemed refusal of the application. The matter is listed for first callover at the Land & Environment Court on 5 October 2005.

Development Control Plan Numerical Assessment

The following is an assessment of the proposal’s compliance with the numerical standards of the D.C.P. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

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<th>Permitted/ Required</th>
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<tr>
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<td>south side</td>
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<td>Setback Rear (Boronia L)</td>
<td>8m</td>
<td>3m (garage)</td>
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Environmental Services Division Report No. 52 (Cont’d)

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<th>Permitted/ Required</th>
<th>Proposed</th>
<th>Complies Yes/No</th>
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<tr>
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<td>2.6m 3.79m</td>
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<tr>
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<td>Open space - total</td>
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<td>Open space - total</td>
<td>714.7sqm</td>
<td>1010.8sqm</td>
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<tr>
<td>Open space - soft</td>
<td>35%</td>
<td>84%</td>
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<tr>
<td>Number of Endemic Trees</td>
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<td>&gt;4 tree</td>
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<td>&gt;18sqm</td>
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<td>Car Parking – Residents</td>
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<td>40% water 26% energy pass</td>
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Submissions

The development was notified with (6) submissions raising the following issues:

- The plans indicate a second dwelling/family flat without application
- Proposed living room windows overlook side boundary and result in potential overlooking/loss of privacy
- Non-compliance with side setback and wall heights without adequate grounds
- Extensive overshadowing due to the height and setback
- Lack of provision for retaining walls/ drainage between the garage and site boundary
- Insufficient details of external finishes and materials and maintenance of garage wall to boundary
- Street setback of garage inadequate (3m)- 6m requested
- Inadequate landscaping and Arborist report regarding tree removal
- Impact of proposed excavation on neighbours trees (40 Rignold)
- Lack of OSD details
- Not considered consistent with the locality in terms of height (3 storey), extent of windows, use of brick veneer and aluminum windows
- Complete loss of bush (important native tree canopy) and water views
- Not considered to have proper regard to the natural surroundings of the streetscape.

Amended plans were further notified with (8) submissions received including five (5) new objectors with the following issues:

- Alleged lack of attempt by the applicant to address any of the objections previously raised in the amended plans submitted to Council
- Amended plans considered to increase an already unacceptably large and dominant dwelling in the addition of balconies (25sqm in area) on the northern and western sides.
- The issues and concerns raised by neighbours are not considered to be integrated into the applicants plans
- Previously raised objections remain - see above
- The development is considered unusually large and excessive comprising 7 bedrooms of a minimum dimension of 4.5 by 4.5m
- The scale of existing dwellings in the area is typically a quarter to half the size at 1 and 2 storeys. There are no 3 storey development as proposed
- Underlying the existing modest scale of development is the narrow (4.8m) carriageways of surrounding roads
Regarding the fsr compliance asserted by the applicant it is noted that the garage is excluded from the applicants calculation; the exclusion of that part of the site under a user restriction covenant would result in a non-complying fsr of 0.56:1; fsr is a maximum control; fsr is one of several DCP measures for controlling size and bulk including height and setback (noting breaches in both height and setback)

Design considered a poor project type which emphasises its large and vertical mass and its dominant masonry finishes. It is not considered to accommodate the sloping sandstone topography and surrounding bushland. Its visibility considered to dominate and overwhelm the otherwise natural setting

The proposed cladding (identified as bagged brick veneer, concrete roof tiles and aluminum windows) is considered 'hard edged' and unsympathetic with the bushland setting. No colours are disclosed

In respect of the bulk and scale of development it is considered that DCP objectives (A5(a), (c) and (j) are not satisfied and that the DCP is breached in respect of paragraphs 2.1; 2.5.1,4 & 5

Appearance of three storeys from Rignold Street and the western elevation as viewed from 38 Rignold Street

Precedence of proposed variations to the DCP a concern regards other new development and land release in the area.

Height cannot be properly assessed without a details contour plan and applicant's calculations. The variation to the DCP has not been addressed in the amended plans (1.3m on northern wall) and is considered unacceptable

Non-complying southern side setback considered to be worsened in the applicants' amended plans by the deletion of a 1m setback at the south western corner.

The proposed proximity to the boundaries not considered to allow for significant replanting or regrowth

Proposed tree removal and particularly the mature 'bloodwood' trees around the southwest corner of the property to retain amenity, local character and screening to neighbours.

Loss of privacy to adjoining and adjacent properties including 38 Rignold Street (northern deck, front entry, bedrooms and pool areas) considered to be worsened in the revised plan be the recent addition of decks

Potential future overshadowing impact on land to the south subject to further proposals for the erection of a dwelling

In relation to the proposed accommodation of 'carer', neighbour objectors note dual occupancy is not permitted and that inadequate parking provision

Future use of the proposed building for a commercial use such as a small hotel or residential care units (8 bedroom) is raised as a concern

The development not considered to be consistent with the objectives of the Foreshore Scenic Protection Area.

The extent of excavation and hard surfaces considered to alter existing water flows and potentially degrade the quarantined bushland on the west of the property

The development is considered out of sympathy with the original planning approach for the surplus freeway land (member of the Surplus Lands Steering Committee) ( similar approach to 'area E' Clavering Rd recommended whereby the house footprint on relation to surrounding bushland is specified)

Front location of the garage will unduly limit onsite parking and result impacts on the narrow lane

**Precinct Community Forum Comments**

The Precinct motion is as follows

"The Precinct condemns the application as it proposed a dual occupancy dwelling in a class 1 area"
Environmental Services Division Report No. 52 (Cont’d)

The Precinct strongly condemns the amended application as it does not address any items of non-compliance in the original application and exacerbates the bulk and size of the proposal by the addition of 2 balconies.

The Precinct condemns the precedent that this application would set for the Greenfield sites in this bushland precinct, which should be no more than 2 storey as expressed in the DCP.

**Engineers Comments**

No objections subject to conditions

**Building Comments**

No objections subject to conditions

**Planning Comments**

The most recent plans were received on 19 May 2005 in response to issues raised by Council’s Development Assessment Unit. These plans were notified to neighbours and the Seaforth Precinct Community Forum on the 23 May 2005 and the 24 May 2005 respectively. It is these plans that are the subject this report.

The issues raised in regard to the original proposal were:

- Garage location necessitates removal of significant trees and does not comply with setback requirements
- Wall height at the northern and rear elevations is excessive
- Details of retaining walls and reduction in excavation particularly along the southern boundary not provided
- Lack of articulation of the external walls and vertical stepping in the southern, western and northern facades.

The amended plans incorporate the following amendments:

- At ground floor level extend Bedroom 6 southward by 1.0m (3.5sqm additional floorspace)
- At second floor level the addition of new deck with pergolas on both the northern and rear elevations
- At second floor level reduce western by 1.0m (5.0sqm reduction in floor space)

Variations to the development control plan identified in the development control table are discussed in terms of relevant objectives as follows

**Open space and landscape design**

Council’s performance criteria in respect of open space and landscape design are numerically satisfactory in terms of area largely due to the existing restriction as to user over some 25% of the site which is to remain as undeveloped bushland. The development is not however supported in terms of Council’s open space and landscape objectives as follows

a) to preserve important landscape features.

The Council’s landscape officer identifies several important native canopy trees on the site that are not proposed to be preserved. The extent and prominence of these trees is such that important landscape features of the site in terms of its bushland setting and tree canopy is not considered to be preserved in accordance with this objective.
Environmental Services Division Report No. 52 (Cont’d)

An opportunity has been given the applicant to submit amended plans to minimise tree loss. In particular Council officers have suggested relocation of the proposed garage in this regard as a number of the significant trees are within the proposed garage and driveway footprint. There is no reduction in tree loss proposed in the amended plan. The applicants Planner submits by letter dated 6 May 2005 that the dwelling is 'located and designed to minimise the removal of significant vegetation' and that 'any development would require the removal of such trees'. In this regard Council's Officers do not share the view that tree loss is minimised by the development and that the proposed extent of tree removal is inevitable in any development of the site.

b) to enhance the amenity of the site, streetscape and surrounding area.
The proposed landscaping design is considered unsatisfactory in this regard. In relation to the front setback area, the proposed garage construction seeks the removal of significant trees in the context of the streetscape and surrounding areas. The amenity of the site streetscape and surrounding area is not enhanced.

c) to retain and increase remnant populations of endemic native flora and fauna.
The proposed tree removal and extent of proposed limited planting is considered to impact remnant populations of endemic native flora and fauna and as such is not considered to satisfy this objective

d) to minimise the spread of weeds and degradation of natural ecosystems.
e) to maximise wildlife habitat.
f) to encourage the production of food.
As previously noted the extent of tree removal and the inadequacy of new planting is not considered commensurate with the existing landscape character of the site and locality and on this basis these objectives are not considered to be satisfied

g) to maximise water infiltration on-site and reduced stormwater runoff.
Soft open space components comply in this regard

h) to provide open space for the recreational needs of the occupier.
i) to assist in the provision of privacy and shade.
j) to maximise usable outdoor space to allow for soft landscaping including tree planting and maintenance of existing vegetation.
The adequacy of the landscape design and its detail does not demonstrate that these objectives are satisfied.

Floorspace ratio

Council’s performance criteria in respect of floorspace ratio states “A calculation of the FSR will generally reveal that the maximum floorspace area fit into the potential development envelope that the other controls (ie open space, height and setback) set.”(para. 3.3.2.c)

In relation to Council's DCP controls generally, the extent of floorspace outside minimum setback and height controls is not considered satisfactory. The proposed floorspace is excessive in these terms as dealt with elsewhere in the report. Council's objectives are addressed as follows

a) to control the bulk of building
Further reduction to the bulk is sought due to exceedence of the maximum building envelope and it’s associated impacts.

b) to ensure that the scale of development does not obscure important landscape features
Important landscape features are considered to be obscured by the scale of the development and the proposal will result in a loss of existing landscape features (immediate tree canopy).

c) to be consistent with the existing and desired character of the residential area
The provision of a three storey building which exceeds the wall height requirements of Council’s DCP is not considered consistent with the existing and desired character of the residential area.

d) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development as well as the proposed development
View lines, privacy and shadow effects are considered to be detrimental environmental effects in the circumstances of the case.

e) to provide sunlight access to private open spaces within the development and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings
Due to the topography of the area falling from south to north the proposal will not result in significant overshadowing impacts on adjoining properties. Adequate sunlight is available to the development itself.

**Height**

Council’s performance criteria in respect of the height control are not complied with on the northern side and Council’s objectives are not considered to be satisfied as follows

a) to control the height of buildings by specifying maximum wall and roof heights
The length of the northern side wall is 10.85m from RL16.4-15 resulting in a gradient of 1.77:1 and a height requirement of 7.3m. The maximum wall height proposed is 8.2m (from RL15.6-23.8). This height exceeds the control by 0.9m.

b) to provide for building heights that are consistent with the locality
The properties generally in the locality, to the north are vacant as the site is part of a recently created subdivision. Properties on the other side of the street from the subject site are no more than two storeys compared to the three storeys proposed

c) to minimise disruption to views, loss of privacy and loss of sunlight to existing residential development
as above (see fsr objectives)

d) to provide sunlight access to private open spaces within the development site and maintain adequate sunlight access to private open spaces and windows of living spaces of adjacent dwellings
Satisfied

**Setbacks**

In regard to the proposed garage the variation to Council’s performance criteria in respect of the setback control are considered in terms of Council’s objectives as follows

a) to preserve and enhance the existing streetscape
The proposed garage is a minimum 3m from the rear boundary which fronts Boronia Lane and whilst the postal address is Rigbold Street, Boronia Lane is interpreted as the property frontage. The proposed garage location results in the loss of significant trees. As such the objective is not considered to be satisfied.

b) to provide privacy
c) to provide equitable access to light and sunshine
d) to promote flexibility in the siting of buildings
Environmental Services Division Report No. 52 (Cont’d)

e) to enable a view sharing
The proposed setback variations are not considered to have a significant adverse impact on the adjoining property in terms of privacy, light and views.

f) to accommodate planting of native vegetation including endemic trees
n/a

g) to control the nature of development adjoining specific open space lands and National Parks so as to not unduly detract from the nature of those lands and to comply with SEPP19
n/a

h) to maintain adequate space between buildings to protect the views and vistas from public places
Satisfied.

Excavation/ cut and fill

The compliance with excavation performance criteria is not clearly demonstrated in the documentation before Council, particularly in relation to the southern side boundary detail. It appears that excavation to a maximum depth of 2.5m (including slab) is setback 1.9m from the boundary incorporating stairs. While the details of the retaining walls are required by condition it is considered that the proposed stairs and location of an ensuite window to the ensuite in the basement level unduly extend the need for excavation.

Variation to Council's performance criteria in respect of the setback control (distance from boundaries) are supported in terms of Council's objectives as follows

a) To limit excavation, cut and fill activities, particularly on sites that have a slope of 1:5 or greater.
The site has a cross fall of approximately 1:6 the proximity and extent of excavation near the south side boundary is unclear on the plans submitted. Excavation is not considered to be adequately controlled in this regard.

b) To ensure that development respects topography and the natural fall or slope of the land
The extent of excavation for the basement level is not considered to respect the topography.

c) To discourage the alteration or redirection of natural flows of groundwater to existing vegetation
The proposal is not considered to result in redirection of groundwater to such an extent that would effect existing vegetation on the site or immediately adjoining land.

d) To ensure that development does not result in sedimentation or blockage of stormwater pipes; waterways and drainage lines
Proposed drainage plans and appropriate work practice will ensure the development does not result in sedimentation or blockage of stormwater pipes, waterways and drainage lines.

e) To ensure that development does not mar the landscape or landforms and degrade or destroy neighbouring bushland
Excavation within the canopy of trees is a significant issue (see open space)

f) To limit the height of retaining walls and encourage softening of these areas through planting preferably using native species
The height of retaining walls, is not considered to dominate the open space and soft planted areas and this objective is considered to be achieved.

Streetscape fences and walls
Environmental Services Division Report No. 52 (Cont’d)

Council’s performance criteria in respect of the streetscape, fences and walls are not considered in terms of Council’s objectives as follows

a) to ensure that all development contributes positively to the street and localities, identified in the locality analysis
The proposed dwelling is not considered to contribute positively to the street and locality in this regard given the limited prominence of parking structures at the front, stepped planter beds and setbacks.

b) to minimise the impact of walls and fences on the street frontage.

c) to ensure all fences and walls contribute positively to the identified streetscape see objective d) below

d) in some circumstances front fences and walls may not be appropriate and soft landscape alternatives should be considered.

No detail of boundary fencing is submitted.

Privacy

Privacy criteria in terms of Council’s objectives as follows

a) to screen between closely spaced buildings
b) to mitigate direct viewing into windows from others
c) to provide screening to outdoor living areas
d) to encourage increased security between neighbours

The proposed balcony to the north elevation at first floor level will result in overlooking of the adjoining property. The extent of overlooking could be minimised by the planting of suitable screening trees however no screening is proposed on the landscape plans submitted.

Other considerations

Under Clause 17 of the LEP, the development due to it’s height and the loss of significant trees is considered to have a detrimental effect on the amenity of the Foreshore Scenic Protection Area.

Under Clause 33 of the LEP, the site is not with 500m of class 4 land and therefore do not require an Acid Sulphate assessment report.

Under Clause 10 of the LEP the Residential zone the following objectives are considered

(a) to set aside land to be used for purposes of housing and associated facilities;
The proposal is for residential use of the site and therefore complies with this objective.

(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;
The proposal has been assessed having regard to the relevant control plans and is considered unsatisfactory.

(c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;
The proposal would allow variety in housing types however the development is not consistent with the desired character of the area.

(d) to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;
Environmental Services Division Report No. 52 (Cont’d)

The proposal will result in adverse amenity impacts in terms of height, visual bulk and scale as well as loss of significant trees.

(e) to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;
The proposal provides for landscaping works however additional plantings of native species and screening trees is required.

(f) to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;
n/a

(g) to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;
The occupants of the building would utilise social and physical infrastructure currently provided to the site and community.

(h) to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.
Having regard to the nature of development existing in the area and the proposed variations from Council’s DCP provisions the proposal is not considered to be suitable development for the area.

Conclusion

The proposed development has been considered under section 79C of the Environmental Planning and Assessment Act, Manly Local Environmental Plan, 1988, the Development Control Plan for the Residential Zone 2001 and is not considered to generally satisfy Council’s relevant plans and policies with a number of resident submissions raising concerns with the application.

RECOMMENDATION

That Development Application No.529/04 for erection of a new dwelling and detached double garage at No.38A Rignold Street Seaforth be refused for the following reasons;

1. The proposal fails to comply with Council’s Development Control Plan for the Residential Zone in respect of wall height and setbacks, having regard to Section 79C(1) (a) (iii), (b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

2. The proposal by virtue of it’s height, bulk and scale will have an adverse impact on the amenity of adjoining properties and the immediate area, having regard to Section 79C(1) (a) (iii), (b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

3. The extent of excavation is not effectively controlled and will result in adverse impacts on the amenity of adjoining the adjoining property to the south through limitations on the use of land between the proposed dwelling and the boundary, having regard to Section 79C(1) (a) (iii), (b) and (d) of the Environmental Planning & Assessment Act 1979.

4. The proposal will result in the removal of several significant trees on the site with resultant adverse effects of the amenity and character of the area, having regard to Section 79C(1) (a) (iii), (b), (c), (d) and (e) of the Environmental Planning & Assessment Act 1979.

ATTACHMENTS
There are no attachments for this report.

OM190905ESD_2

***** End of Environmental Services Division Report No. 52 *****
TO: Ordinary Meeting - 19 September 2005  
REPORT: Human Services and Facilities Unit Report No. 9  
SUBJECT: Community And Cultural Group Subsidies Allocation Of 2005/2006 Grants  
FILE NO:  

SUMMARY

This report requests council endorsement of the allocation of financial donations and subsidies to the successful organisations.

REPORT

COMMUNITY GRANTS

Background:

In May 1994, Council established a Community Grants Programme to provide financial assistance to local community groups. Under this programme Council can grant assistance to community groups in the following way:

a **Operational Assistance** – Contribution to the general operation of the service or programme up to $2,000.

b **Capital Grant** – Allocation of funds to purchase equipment or upgrade facilities up to $2,000.

c **Seeding/Establishment Grant up to $1,000** – should be considered a grant of a one-off nature to enable a group to meet establishment costs/incorporation costs. Groups should only be considered eligible for this grant on one occasion.

To be eligible for funding the community group or organisation should satisfy as many of the following criteria as possible -

1. Provide or service an identified community need.
2. Service a client group of at least 50% Manly residents.
3. Complement existing services provided to the community of Manly.
4. Be an incorporated body or registered charity.

The Community grants budget for 2005/2006 financial year is $8,000, which includes capital and operational assistance. All applicants listed in the table below submitted an application. A total of approximately $27,000.00 of funding was requested from 22 applicants. A panel was convened from staff of the Human Services and Facilities Division to make the assessments.

The process of awarding amounts was difficult. Some organizations requested $1,500 for operational and others $1,500 for capital. However, the amount awarded was dependent on the degree of ongoing merit that the project represented.

The 22 applicants are listed below (More detailed information can be found in Attachment 1):
### Human Services and Facilities Unit Report No. 9 (Cont’d)

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Request details</th>
<th>Recommended Amount Awarded</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cubby House Toy Library Inc</td>
<td>$1,500.00</td>
<td>$800.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>2. Chinese Elderly Welfare Association Inc</td>
<td>$500.00</td>
<td>$300.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>3. Peninsular Senior Citizens Toy Repair Group Inc</td>
<td>$500.00</td>
<td>$500.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>4. Lone Parent Family Support Service</td>
<td>$160.00</td>
<td>$160.00</td>
<td>Capital Grant</td>
</tr>
<tr>
<td>5. Aboriginal Support Group – Manly Warringah Pittwater</td>
<td>$300.00</td>
<td>$300.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>6. Northern Beaches Multiple Birth Club</td>
<td>$1,000.00</td>
<td>$600.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>7. Northern Beaches Mental Health Consumer Network</td>
<td>$1,200.00</td>
<td>$500.00</td>
<td>From Cultural Grants</td>
</tr>
<tr>
<td>8. Manly Warringah Pittwater Community Aid Inc</td>
<td>$1,500.00</td>
<td>$1,000.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>9. Aunties and Uncles Cooperative Family Project Ltd.</td>
<td>$1,500.00</td>
<td>Nil</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>10. Northside Enterprises Inc</td>
<td>$1,500.00</td>
<td>$500.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>11. Bosnia Herzegovina Project Inc</td>
<td>$1,500.00</td>
<td>$1,500.00 from Cultural grant Budget</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>12. Pioneer Clubhouse</td>
<td>$1,500.00</td>
<td>Nil</td>
<td>Capital Grant</td>
</tr>
<tr>
<td>13. Manly Warringah Pittwater Torchbearers for Legacy</td>
<td>At the discretion of Council</td>
<td>$500.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>14. Learning Links</td>
<td>$1,000.00</td>
<td>Nil</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>15. Manly Croquet Club Inc</td>
<td>$1,500.00</td>
<td>Nil</td>
<td>Operational Capital</td>
</tr>
<tr>
<td>16. Northern Beaches Neighbourhood Service Inc - Easy Care Gardening</td>
<td>$1,500.00</td>
<td>$800.00</td>
<td>Capital Grant</td>
</tr>
<tr>
<td>17. Northern Beaches Neighbourhood Service Inc - Information Services</td>
<td>$400</td>
<td>$400.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>18. Sempre Con Te</td>
<td>$1,500</td>
<td>$1,000.00 from Cultural Grant Budget</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>19. Uniting Care Ageing Wesley Heights</td>
<td>$1,500.00</td>
<td>$1,140.00</td>
<td>Capital Grant</td>
</tr>
<tr>
<td>20. Lifeline Northern Beaches Inc</td>
<td>$1,200.00</td>
<td>$500.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>21. Lifestart Northern Beaches (Early Childhood Intervention Service)</td>
<td>$3246.00</td>
<td>$500.00</td>
<td>Operational Assistance</td>
</tr>
<tr>
<td>22. Zonta Club of Middle Harbour</td>
<td>$1,500.00</td>
<td>Nil</td>
<td>Operational Assistance</td>
</tr>
</tbody>
</table>

**TOTAL**                                                                 |                 | **$8,000.00**               |
The community requests have come from long serving and well established organisations, which provide services to the different population groups. Two applications were considered to be of a cultural nature and were funded from this source. With so many applications it was very difficult to allocate the limited budget as all provide a very worthwhile service to the community. One application (Aunties and Uncles Cooperative Family Project Ltd) did not receive funding as the CDSE (Community Development Support Expenditure - funding via gaming revenue levied on registered clubs in NSW to provide for front line services in the local communities) payments were determined and this was a recipient of this funding. Further two organizations (Pioneer Club House and Manly Croquet Club Inc) are subsidized by Manly Council in other ways and therefore were not allocated any funding this year.

CULTURAL GRANTS

Background

Council's Cultural Grants Programme was established to help community groups develop projects to service identified cultural needs in the community. Financial assistance is granted under the following categories:

Operational Assistance - Contribution to the general operation of the service or programme up to $1,500.00.

Capital Grant - Allocation of funds to purchase equipment or to upgrade facilities up to $1,500.00.

Seeding/Establishment Grant - A one off grant to enable a group to meet establishment/incorporation costs up to $1,000. Groups will be eligible for this grant on one occasion only.

Groups are eligible to apply for funding under the Cultural Grants Programme if they satisfy as many of the following criteria as possible:

- Provides or services an identified community cultural need.
- Services a participant group of which at least 50% are residents of Manly Council.
- The service complements existing cultural services and programmes provided to the community of Manly.
- Be an incorporated body.
- Is consistent with Council's Cultural Policy.
- Is not a Manly Council Service or Project.

2005/2006 Cultural Grants Applications

A budget of $6,000 has been set for the 2005/2006 Cultural Grants Programme. A total of four applications were received for Cultural Grants, however there were three applications which applied for a community grant but were considered to be of a cultural nature. A summary of them is listed below. The original applications are as follows:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Request</th>
<th>Recommended</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Manly Music Club</td>
<td>Operational assistance $1,500.00</td>
<td>$450.00</td>
</tr>
<tr>
<td>2. Manly District Band</td>
<td>Operational assistance $1,500.00</td>
<td>$900.00</td>
</tr>
<tr>
<td>3. Northern Beaches Eisteddfod</td>
<td>Operational assistance $1,500.00</td>
<td>$1,400.00</td>
</tr>
<tr>
<td>4. Bosnia Herzegovina Project Inc</td>
<td>Operational assistance $1,500.00</td>
<td>$1,400.00</td>
</tr>
</tbody>
</table>
Applications 4, 5 and 6 were requested as a Community Grant however the assessment team considered their project description to be of a Cultural nature and were offered funding through that budget.

**RECOMMENDATION**

That Council:-

1. Award the 2005/2006 Community Grants to the following organisations:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Recommended Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Cubby House Toy Library Inc</td>
<td>$800.00</td>
</tr>
<tr>
<td>2. Chinese Elderly Welfare Association Inc.</td>
<td>$300.00</td>
</tr>
<tr>
<td>3. Peninsular Senior Citizens Toy Repair Group</td>
<td>$500.00</td>
</tr>
<tr>
<td>4. Lone Parent Family Support Service</td>
<td>$160.00</td>
</tr>
<tr>
<td>5. Aboriginal Support Group MWP</td>
<td>$300.00</td>
</tr>
<tr>
<td>6. Northern Beaches Multiple Birth Club</td>
<td>$600.00</td>
</tr>
<tr>
<td>7. Manly Warringah Pittwater Community Aid Inc</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>8. Aunties and Uncles Cooperative</td>
<td>Nil</td>
</tr>
<tr>
<td>9. Northside Enterprise Inc</td>
<td>$500.00</td>
</tr>
<tr>
<td>10. Pioneer Clubhouse</td>
<td>Nil</td>
</tr>
<tr>
<td>11. Manly Warringah Pittwater Torchbearers for Legacy</td>
<td>$500.00</td>
</tr>
<tr>
<td>12. Learning Links</td>
<td>Nil</td>
</tr>
<tr>
<td>13. Manly Croquet Club Inc</td>
<td>Nil</td>
</tr>
<tr>
<td>14. Northern Beaches Neighbourhood Service – Easy Care Gardening</td>
<td>$800.00</td>
</tr>
<tr>
<td>15. Northern Beaches Neighbourhood Service – Information Service</td>
<td>$400.00</td>
</tr>
<tr>
<td>16. Uniting Care Ageing Wesley Heights</td>
<td>$1,140.00</td>
</tr>
<tr>
<td>17. Lifeline Northern Beaches Inc</td>
<td>$500.00</td>
</tr>
<tr>
<td>18. Lifestart Northern Beaches (Early Childhood Intervention Service)</td>
<td>$500.00</td>
</tr>
<tr>
<td>19. Zonta Club of Middle Harbour</td>
<td>Nil</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$8,000.00</strong></td>
</tr>
</tbody>
</table>

2. Award the 2005/2006 Cultural Grants to the following organisations:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Recommended Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Manly Music Club</td>
<td>$450.00</td>
</tr>
<tr>
<td>2. Manly District Band</td>
<td>$900.00</td>
</tr>
</tbody>
</table>
Human Services and Facilities Unit Report No. 9 (Cont’d)

| 3. | Northern Beaches Eisteddfod | $1,400.00 |
| 4. | Bosnia Herzegovina Project Inc | $1,400.00 |
| 5. | Sempre Con Te | $900.00 |
| 6. | Northern Beaches Mental Health Consumer Network | $450.00 |
| 7. | Manly Warringah Choir Inc | $500.00 |

**Total** $6,000.00

**ATTACHMENTS**

**AT-1** Community Cultural Grants Attachment 1 4 page(s)

OM190905HSFU_1

***** End of Human Services and Facilities Unit Report No. 9 *****
<table>
<thead>
<tr>
<th>Name and Address</th>
<th>Amount requested</th>
<th>Project to be funded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cubby House Toy Library Inc</td>
<td>$1,500 Operational assistance</td>
<td>Operating for 25 years – Only Toy Library for children with special needs on the Northern Beaches Meet the costs of employing a part time Librarian for 8 hours a week</td>
</tr>
<tr>
<td>Chinese Elderly Welfare Association Inc</td>
<td>$500 Operational assistance</td>
<td>Chinese Community Information on health issues, welfare issues personal safety, crime reporting, home safety and domestic violence etc. Chinese Information Kit for the target group</td>
</tr>
<tr>
<td>Peninsular Senior Citizens Toy Repair Group Inc</td>
<td>$500 Operational assistance</td>
<td>Active group for 29 years providing recycled and repaired toys, bikes etc, Pick up point in Manly Library</td>
</tr>
<tr>
<td>Lone Parent Family Support Service</td>
<td>$160 Capital Grant</td>
<td>To purchase a new printer for the coordinators office</td>
</tr>
<tr>
<td>Aboriginal Support Group – Manly Warringah Pittwater</td>
<td>$300 Operational assistance</td>
<td>Seek financial assistance for special activities including the Guringai Festival nights and promotion of our calendar of events</td>
</tr>
<tr>
<td>Northern Beaches Multiple Birth Club</td>
<td>$1,000 Operational assistance</td>
<td>No other club offers this service specifically for families of twins or more Establishing a specific program for pregnancy risk and bereavement support. This programme provides a community service for members who experience tragedy at pregnancy or death of an infant at birth or soon after. Also piloting a support group for bereaved parents of multiple births</td>
</tr>
<tr>
<td>Northern Beaches Mental Health Consumer Network</td>
<td>$1,200 Operational assistance (Funding from Cultural Budget)</td>
<td>To fund consumer facilitators for the sessions of creative writing, Women’s Discussion Group, Cultured Pearls (monthly recovery activity of art and culture ) and Art Alive The aim and purpose is these activities is to decrease social isolation of consumers</td>
</tr>
<tr>
<td>Manly Warringah Pittwater Community Aid Inc</td>
<td>$1,500 Operational assistance</td>
<td>Program has been operating for 37 years. Neighbour Aid &amp; social support provided to Manly residents with services e.g. individual transport to hospital, doctors, dentists, specialists, hydrotherapy and community activities</td>
</tr>
<tr>
<td>Project Name</td>
<td>Assistance Details</td>
<td>Description</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>9. Aunties and Uncles Co-operative Family Project Ltd</td>
<td>$1,455 Operational assistance $500 Capital Grant (Funded by CDSE)</td>
<td>Volunteer recruitment Advertising in Manly Daily and Volunteer Induction Training for 6 Volunteers Contribution to purchase presentation equipment for information and training</td>
</tr>
<tr>
<td>10. Northside Enterprise Inc</td>
<td>$1,500 Operational assistance</td>
<td>“Can Do” Community Development Programme is designed to raise awareness of the needs of people with intellectual disabilities and create work experience and job opportunities in local businesses</td>
</tr>
<tr>
<td>11. Bosnia Herzegovina Project Inc</td>
<td>$1,500 Operational assistance (Funding from Cultural Budget)</td>
<td>Funding to commence a Bosnian Arts/craft and social history for elderly. To reduce isolation, create friendships and beneficial to clients suffering torture/trauma issues. To be based at the Manly Community Centre</td>
</tr>
<tr>
<td>12. Pioneer Clubhouse</td>
<td>$1,500 Capital grant (Recd. Funding from MW Masonic and Balgowlah RSL from CDSE funds)</td>
<td>To level the floor in the main room 16metres x 11metres. A 100mm step in the middle of the room is a trip hazard and client in wheelchair unable to access.</td>
</tr>
<tr>
<td>13. Manly Warringah Pittwater Torch Bearers for Legacy</td>
<td>At discretion of assessment panel</td>
<td>To help and support 3 widows’ clubs and a computer club to meet and hold social activities. Get-togethers, training sessions and a drop in facility</td>
</tr>
<tr>
<td>14. Learning Links</td>
<td>$1,000 Operational assistance</td>
<td>To subsidise families who have children with learning difficulties and through financial hardship would normally not be able to access specialist tuition for their children. It will provide extra places for children who are currently on our waiting list to access services.</td>
</tr>
<tr>
<td>15. Manly Croquet Club Inc</td>
<td>$1,500 Operational assistance $1,500 Capital Grant</td>
<td>Advertising to promote the health benefits of the game of croquet and attract more members To install hot water heaters in toilets both men and ladies</td>
</tr>
</tbody>
</table>

**ATTACHMENT 1**

Human Services and Facilities Unit Report No. 9
Community And Cultural Group Subsidies Allocation Of 2005/2006 Grants
Community Cultural Grants Attachment 1
| **16. Northern Beaches Neighbourhood Service Inc Easy Care Gardening** | $1,500 Capital grant | Seeking funding to purchase new tools 25 Secateurs $500 Hedge Clippers $300 Small Hoppers $700 for volunteers working in 6 teams to provide an affordable gardening service for people who are frail, have a disability or their carers living in their own homes |
| **17. Northern Beaches Neighbourhood Service Information Services** | $400 Operational assistance | Contribution towards costs of 2006 Youth Card which will be produced in March 2006 |
| **18. Sempre Con Te** | $1,500 Operational assistance *(To fund from Cultural Grant)* | To cover exhibition costs of art works and take on the road to other areas. Advertising costs, postcard and poster printing |
| **19. Uniting Care Ageing Wesley Heights** | $1,500 Capital grant | To organise a Manly Men’s Shed to promote the health and wellbeing of older men in the community and to provide a place for men to meet each other, to network and make friends. It is particularly aimed at men who are 55 years and older. |
| **20. Lifeline Northern Beaches Inc** | $1,200 Operational assistance | Anxiety group meetings ongoing on Thursdays (20 members) coordinated by (volunteer) psychologist Evening group 10 week courses |
| **21. Lifestart Northern Beaches (Early Childhood Intervention Service)** | $3246 Operational assistance | Parents have requested a holiday program for Lifestart and their siblings To provide support to families when regular services close The program would run for 2 days each week during school holidays and for 3 weeks during summer holidays |
| **22. Zonta Club of Middle Harbour** | $1,500 Operational assistance | To provide a “bank” of speakers who could address older girls to talk about career ideas, overcoming obstacles, life planning etc., Career’s Advisor Software, Adult Literacy Software for the parents, upgrade student ‘s computer skills etc. |
## Cultural Organisations

<table>
<thead>
<tr>
<th>Name of Organisation</th>
<th>Project to be funded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manly Music Club</td>
<td>A special 60th Anniversary concert is planned for 2005</td>
</tr>
<tr>
<td>Manly District Band</td>
<td>The Manly District Band has been part of Manly’s cultural life since the early 1900s. Provides services to Manly Council for various events. Grant to be used for instrument purposes.</td>
</tr>
<tr>
<td>Northern Beaches Eisteddfod</td>
<td>To encourage talented performers in their pursuit of further study through professional adjudication and awards. There are over 12,000 entrants competing annually. Managed by local volunteer committee. Approx. 30% of participants are from the Manly area</td>
</tr>
<tr>
<td>Bosnia Herzegovina Project Inc</td>
<td>A Bosnian Arts and Crafts and Social history group to relieve isolation, create friendships and beneficial to clients suffering torture/trauma issues. To be based at the Manly Community Centre</td>
</tr>
<tr>
<td>Sempre Con Te</td>
<td>To cover exhibition costs of art works and take on the road to other areas. Advertising costs, postcard and poster printing.</td>
</tr>
<tr>
<td>Northern Beaches Mental Health Consumer Network</td>
<td>To fund consumer facilitators for the sessions of creative writing, Women’s Discussion Group, Cultured Pearls (monthly recovery activity of art and culture) and Art Alive The aim and purpose of these activities is to decrease social isolation of consumers</td>
</tr>
<tr>
<td>Manly Warringah Choir Inc</td>
<td>To assist with the cost of staging a concert in December 2005 at Cardinal Cerutti Chapel Manly.</td>
</tr>
</tbody>
</table>
TO: Ordinary Meeting - 19 September 2005
REPORT: Civic Services Unit Report No. 6
SUBJECT: Tenders - Purchase Of Major Plant – Tender No. 05/04 - Supply And Delivery Of One (1) One Small Pavement Sweeper Vehicle – Tender No. 05/13 - Sale Of Plant No. 740 By Tender

FILE NO:

SUMMARY

1. Tenders have been received for the supply of one (1) small pavement sweeper vehicle together with the purchase and/or trade-in on Council's plant no. 740.

2. It is recommended that the tender from applied sweepers for the supply and delivery of one (1) small pavement sweeper vehicle be accepted and that plant no. 740 be disposed of at auction.

REPORT

Tenders were recently called for the Supply & Delivery One (1) Small pavement Sweeper Vehicle together with the direct Purchase and/or Trade-in on Council’s Plant No. 740.

The following (5) companies made offers for the supply and delivery of the garbage compactors:

- Rosmech
- Sweeper Technology Pty Ltd
- Applied Sweepers
- Macdonald Johnston
- Mackay-Sim Pty Ltd

An analysis of the tenders is provided as a Confidential Attachment to this report. A detailed assessment of the respective plant was undertaken by Council’s Manager Civic Services, Cleansing Supervisor and Fleet Coordinator to ensure that the plant met Council’s specification, and had the ability to perform the work in terms of general configuration and construction, maintenance requirements, spare parts availability and driver needs and comfort, and operation in Council’s particular beachside environment.

The lowest formal tendered cost, for the Sweeper was from Applied Sweepers who offered both the Applied 525 for $116,130 excluding GST, and the Applied 525 HS for $135,730 excluding GST. Both models offered are of stainless steel construction for wearing parts.

The latter model also has the advantage of robustness and it can travel between jobs itself without need for a float, improved diagnostic ability, whisper mode for quieter operation in the CBD, and is therefore recommended for purchase.

Council's existing cleaning fleet includes three other applied sweepers, and this offers advantages in keeping a consistent fleet i.e. common parts and diagnostic engine equipment, driver familiarity with the existing vehicles, and satisfactory service from Applied.

Enquiries of other Metropolitan Councils who have purchased the same model sweeper have attested to its performance.
Civic Services Unit Report No. 6 (Cont’d)

No formal tenders were received for the straight purchase of plant No. 740. However, Pickles Auctioneers have indicated that a sum of $16,000-$22,000 could be expected at auction for plant No. 740.

CHIEF FINANCIAL OFFICER’S COMMENTS:

Sufficient funds exist in the “Purchase of Major Plant” – job No. 81060-0670-4529 for the purchase of this One Small Pavement Sweeper Vehicle and is in accordance with Council’s planned plant replacement schedule for 2005/2006.

RECOMMENDATION

1. That Council accept the offer from Applied Sweepers for the supply and delivery of one small pavement sweeper vehicle, model 525HS for $135,730 excluding GST.

2. That plant No. 740 be disposed of at Auction.

3. That the unsuccessful tenderers be advised accordingly.

ATTACHMENTS

AT-1 Confidential Attachment Purchase of Major Plant Tender No. 05.04 & 05.13 1 page(s)
- CONFIDENTIAL ATTACHMENT - for the information of Councillors

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***** End of Civic Services Unit Report No. 6 *****