



Agenda

Ordinary Meeting

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

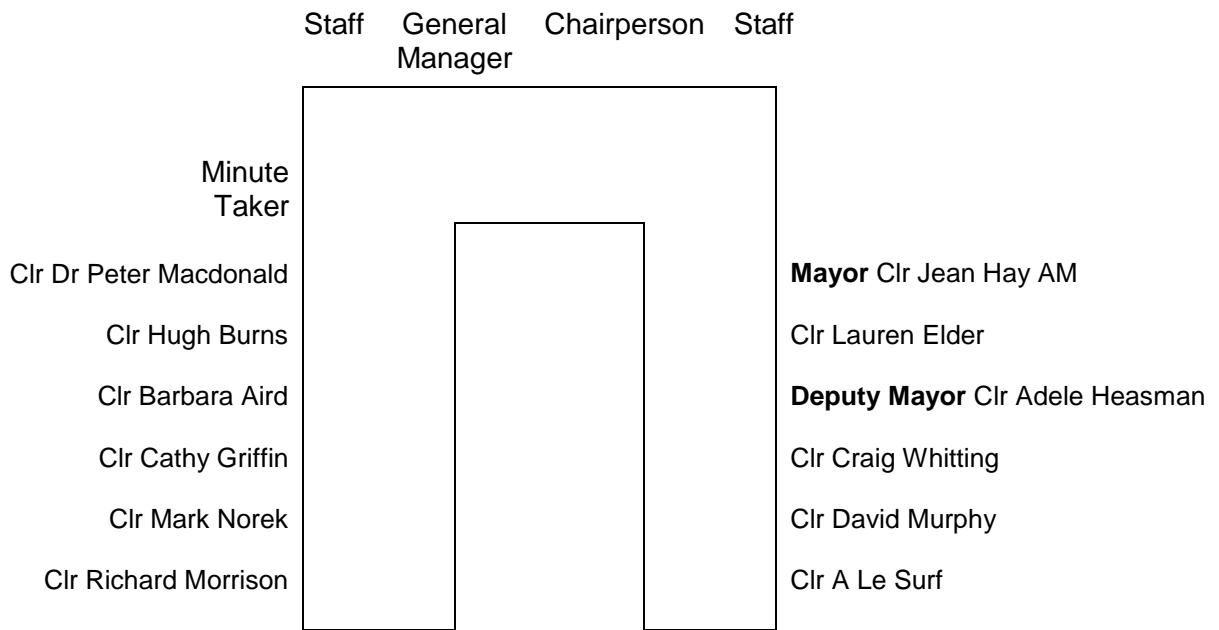
Monday 19 October 2009

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



Press

Public
Addresses

Public Gallery

Chairperson: The Mayor, Clr Jean Hay AM
Deputy Chairperson: Deputy Mayor Clr Adele Heasman

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QUESTIONS WITHOUT NOTICE

MATTERS OF URGENCY

(In accordance with Clause 241 of the Local Government (General) Regulations, 2005)

CLOSED SESSION

CONFIDENTIAL COMMITTEE OF THE WHOLE

General Managers Division Report No. 22

Property Matter It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (g) of the Local Government Act, 1993, on the grounds that the report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Notice of Motion Report No. 34

Restriction of Section 94 Contribution Payments It is recommended that the Council resolve into closed session with the press and public excluded to allow consideration of this item, as provided for under Section 10A(2) (a) of the Local Government Act, 1993, on the grounds that the matter will involve the discussion of personnel matters concerning a particular individual

It further being considered that discussion of the matter in open meeting would be, on balance, contrary to public interest by reason of the foregoing and report contains personal information concerning a member of staff.

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

TO: Ordinary Meeting - 19 October 2009
REPORT: General Managers Division Report No. 19
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 October 2009.

REPORT

The term of the current Deputy Mayor is up to September, 2009. The Council is required to conduct an election to fill this position for the forthcoming term.

Procedure

Clause 394 of the Local Government (General) Regulation 2005 provides that the Deputy Mayor is to be elected in accordance with Schedule 7 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 indicate the order of their preference for the candidates. Preferences must be shown for all candidates (Clause 9 of Schedule 7).

General Managers Division Report No. 19 (Cont'd)

The formality of a ballot paper under this part is to be determined in accordance with Clause 345 (1) (b) and (c) and (5) of the Local Government (General) Regulation, 2005. 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 candidate's 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 October 2009.**
- (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 7 of the Local Government (General) Regulation 2005 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:-

General Managers Division Report No. 19 (Cont'd)

- 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 7, 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 years. However, the practice has been to elect the Deputy Mayor for a one year term only.

RECOMMENDATION

1. That Council elect a Deputy Mayor for the period to **September 2010**.
2. That Council determine the method of voting for the election of Deputy Mayor for the 2009/2010 term.

ATTACHMENTS

There are no attachments for this report

OM191009GMO_1.doc

***** End of General Managers Division Report No. 19 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: General Managers Division Report No. 20
SUBJECT: Appointment of Chairperson and Deputy Chairperson for Planning and Strategy Committee
FILE NO:

SUMMARY

The purpose of this report is to appoint the Chairperson and Deputy Chairperson of the Principal Committee of Planning and Strategy.

REPORT

The Council has only one Principal Committee which is the Planning and Strategy Committee. It meets in Committee-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.

Council's Code of Meeting Practice established (1) Principal Committee which is the Planning and Strategy Committee.

Functions and Responsibilities

The functions and responsibilities of the Planning and Strategy Committee are as follows:

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 and Plans of Management
- (iv) Special Planning Projects
- (v) Urban Design Guidelines
- (vi) Special Design Projects
- (vii) Specification of Services
- (viii) Commissioning and Contracting of Work
- (ix) Monitoring of construction works
- (x) Monitoring of the Annual Works Programme
- (xi) Traffic Management - Works Implementation

General Managers Division Report No. 20 (Cont'd)

- (xii) Waste Management and Recycling
- (xiii) Public Place Cleansing
- (xiv) Road Safety
- (xv) Flood Plain and Estuary Management
- (xvi) Asset Management

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

RECOMMENDATION

1. That Council establish a Planning & Strategy Committee as its Principal Committee with the functions and responsibilities outlined in this report.
2. That Council proceed to elect a Chairperson and a Deputy Chairperson for its Principal Committee of Planning and Strategy for the period to September 2010.
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 delegates to the Principal Committee of Planning and Strategy the power to resolve on matters properly before the Principal Committee.

ATTACHMENTS

There are no attachments for this report.

OM191009GMO_2.doc

***** End of General Managers Division Report No. 20 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Notice of Motion Report No. 32
SUBJECT: Assessment of Risk of Manly being hit by a Tsunami and need for public alarm and evacuation procedures
FILE NO:

Councillor Hugh Burns will move:

That Manly Council develop (1) a tsunami warning action plan, and (2) install the necessary warning infrastructure (such as a public address system) and (3) have inundation modelling carried out.

Background

Tsunamis are a low probability, high consequence event. They are mainly a risk for coastal and estuary areas that are less than 5 to 10 metres above sea level. The flat of Manly would therefore be one of the most vulnerable areas of Sydney.

However given suitable warning systems and evacuation procedures the loss of life from such an event can be largely, if not entirely, eliminated. The flat of Manly is generally surrounded by high ground that is generally reachable within a 10 minute walk for able bodied persons (1 km).

Thus to safely evacuate the flat of Manly a minimum of a 20-30 minute warning would be required, providing the community is prepared and has an action plan. As part of this action plan, the community needs to be advised of safe locations and evacuation routes. The use of motor vehicles and possible congestion would need to be considered.

To assess the risk to the Community, Council should firstly seek the consensus of expert opinion on the probability and likely magnitude of a Tsunami event affecting the Australia eastern seaboard coast.

A major issue is how to effectively communicate the warning to the population, particularly if it occurs at night or at a period of peak travel. In light of the risk identified, some sort of public warning infrastructure should be considered.

The Solomon Islands Tsunami disaster is a warning to Manly that showed the consequences of a lack of risk assessment and preparation by their community. The warnings broadcast on TV and Radio were also found to be not sufficiently effective at alerting the population.

Some initial inundation modelling of Manly has already been carried out and was presented at the most recent Coastal Councils meeting held at North Sydney.

Refer also to the [NSW] State Tsunami Plan:

http://www.ses.nsw.gov.au/multiversions/12994/FileName/Tsunami_Plan_Dec_08_FINAL.pdf

RECOMMENDATION

That the Notice of Motion be submitted for consideration.

ATTACHMENTS

There are no attachments for this report.

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***** End of Notice of Motion Report No. 32 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Notice of Motion Report No. 33
SUBJECT: Preparation of plans to restore heritage aspects of Manly's Town Hall - Stage 1
FILE NO:

Councillor Hugh Burns will move:

That Council:-

1. prepare plans to enable the restoration of the two external garden beds and the four standard lights in front of the Council chambers to their original locations.
2. prepare plans to restore the interior of hall to the Councillors stairs with restoration or reinstatement of the polished stone wall finishes and uncovering of the original internal timber windows.
3. that these works are budgeted to be carried out in the 2010-2011 works program.

Background

Manly's current town hall was first completed in 1937 and featured in architectural journals of that era.

However there have been a number of alterations and modifications carried out over the years that have removed some of the original detail from the building as constructed.

The front exterior of the building originally had attractive planted garden beds either side of its imposing main entry and a line of period lights in front of the building.

The path in front of the Council chambers was also originally an angle to the front of the building (reflected in the placement of the fig trees). This feature was lost with the recent repaving works and the paving alignment and tree locations are currently mis-matched.

Inside the chambers the stairway to the Councillor areas is largely original but the hall to this has been modified with new linings covering where most of the original stone wall finishes were and where the interior woodwork and windows still are.

RECOMMENDATION

That the Notice of Motion be submitted for consideration.

ATTACHMENTS

There are no attachments for this report.

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***** End of Notice of Motion Report No. 33 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Item For Brief Mention Report No. 21
SUBJECT: Items for Brief Mention
FILE NO:

1. Correspondence from Pittwater Council:

That the attached letter (Attachment 1) from Pittwater Council regarding Council amalgamations be received and noted.

2. Update on a new Level 5 Northern Beaches Hospital:

This matter has been before the Council at meetings held on 7th September 2009, 15th June 2009, 1st June 2009, and 20th October 2008, where Council has requested certain undertakings from the NSW State Government and the NSW Opposition, in relation to a commitment to build a Level 5 Northern Beaches hospital.

The most recent response from the NSW Government, received from the office of the Treasurer, indicates that Council's enquiry is being forwarded to the Minister of Health for his consideration and response. A copy of this letter is attached for the information of the Council (refer to Attachment 2).

Also, a response has been received from the NSW Opposition, following Council's recent letter to Mr Barry O'Farrell MP. In the response to Council Jillian Skinner MP, Shadow Minister for Health, on behalf of Mr Barry O'Farrell, states that... "an O'Farrell Government would begin construction of a new Northern Beaches hospital at Frenchs forest in its first term." A copy of this letter is attached for the information of the Council (refer to Attachment 3).

Following receipt of Jillian Skinner's letter, it is now proposed that the SHOROC Board be requested to invite the appropriate members of the NSW Opposition to address the Board more specifically on its policies.

RECOMMENDATION

1. That the letter from Pittwater Council be received and noted.
2. (a) It is recommended that both the letters from the NSW Treasurer's office, and the Shadow Minister for Health, be received and noted.

(b) It is recommended that Mike Baird MP Member for Manly, the NSW Opposition Leader and Shadow Minister for Health be invited to formally address the SHOROC Board on the NSW Liberal Party's policies relating to the development on the new Level 5 Northern Beaches hospital at Frenchs Forest.

ATTACHMENTS

AT- 1	Letter from Pittwater Council	1 Page
AT- 2	Response from Treasurer 27092009 re Northern Beaches Hospital	1 Page
AT- 3	J Skinner MP letter re ongoing commitment for a northern beaches hospital	1 Page

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***** End of Item For Brief Mention Report No. 21 *****

ATTACHMENT 1

Item For Brief Mention Report No. 21 - Items for Brief Mention
Letter from Pittwater Council

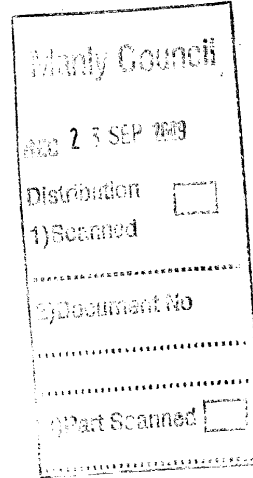


PITTWATER COUNCIL

Warwick Lawrence
Manager, Administration & Governance
8am to 5:30pm Mon - Thurs, 8am to 5pm Fri
9970 1111

16 September 2009

Mr Henry Wong
General Manager
Manly Council
PO Box 82
MANLY NSW 1655



ABN61340837871
Telephone 02 9970 1111
Facsimile 02 9970 7150
Postal Address
PO Box 882
Mona Vale NSW 1660
DX 9018, Mona Vale

Dear Mr Wong

The following notice of motion, submitted by Cr Harvey Rose, was adopted by Council at its meeting held on 7 September 2009.

"That while being supportive of mutually beneficial co-operation with neighbouring Councils, Pittwater totally opposes any moves towards amalgamation of Councils on the Northern Beaches."

The above motion was raised as a result of the article that appeared in the 'Peninsula Living' September 2009 issue. The article discussed the issue of Council amalgamations on the Northern Beaches, with some support for the concept from other Councils.

As a consequence, Pittwater Council felt the need to highlight its position on this issue through its notice of motion and is therefore advising Warringah, Mosman and Manly Councils of its current stance.

We are committed however, to continue to work co-operatively with Warringah, Mosman and Manly Councils on future programs that are deemed beneficial to residents and ratepayers across the Northern Beaches.

Yours sincerely

Warwick Lawrence
MANAGER, ADMINISTRATION & GOVERNANCE

Email pittwater_council@pittwater.nsw.gov.au Web pittwater.nsw.gov.au

Mona Vale Customer Service Centre
Village Park 1 Park Street, Mona Vale

Avalon Customer Service Centre
59A Old Barrenjoey Road, Avalon

Support Services
Units 11, 12, 13 + 16/5 Vuko Place, Warriewood

Boondah Depot
1 Boondah Road, Warriewood

ATTACHMENT 2

**Item For Brief Mention Report No. 21 - Items for Brief Mention
Response from Treasurer 27092009 re Northern Beaches Hospital**



NEW SOUTH WALES

TREASURER

Mr Henry T Wong
General Manager
Manly Council
PO Box 82
Manly NSW 1655

Contact: Clare Wilde
Telephone: (02) 9228 3691
Your Reference: 230709
HLL:HTW
Our Reference: M09/06329

Dear Mr Wong,

I refer to your correspondence of 23 July 2009 and 3 November 2008 regarding a proposed hospital for Sydney's northern beaches.

As you would be aware, the State Government has identified the location for the new hospital for the northern beaches and has proceeded to procure land on a site earmarked for a Northern Beaches Hospital.

The new hospital for the northern beaches is included as a proposed future work in the State Infrastructure Strategy (SIS) to 2017-18. All works included in the SIS are subject to specific budget approval through the annual Budget process prior to commencement.

NSW Health is responsible for the planning and development of all new capital works projects within Health's state-wide service delivery priorities identified in the Department's annual Total Asset Management Plan. Accordingly, I will pass your enquiry to the Minister for Health for his consideration and response.

Yours sincerely

THE HON HENRY TSANG MLC
Parliamentary Secretary

27 SEP 2009
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Level 36, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Tel: (02) 9228 3535 Fax: (02) 9228 4469

ATTACHMENT 3

Item For Brief Mention Report No. 21 - Items for Brief Mention

J Skinner MP letter re ongoing commitment for a northern beaches hospital



Mr Henry T Wong
General Manager
Manly Council
PO Box 82
Manly NSW 1655

29th September 2009

Manly Council

REC 7 OCT 2009

Distribution

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Dear Mr Wong

Thank you for your letter to Barry O'Farrell, MP Leader of the Opposition, advising that Manly Council resolved to write to a 'future Liberal Government', asking for confirmation of an ongoing commitment for a Northern Beaches Hospital as a priority if the Coalition is successful in the 2011 election.

Mr O'Farrell has asked me to reply on his behalf, in my capacity as Shadow Minister for Health.

As you will no doubt be aware, I have been very vocal in my condemnation of the Labor Government over its continued failure to fund the building of the new Northern Beaches Hospital.

Please rest assured that the NSW Liberal/Nationals Coalition has never varied in its commitment to delivering this important health facility. On 18th December 2008 I announced along with local Liberal MPs in Northern Sydney and the Northern Beaches that an O'Farrell Government would begin construction of a new Northern Beaches hospital at Frenchs Forest in its first term.

This policy announcement will secure the medical and healthcare of thousands of families in Sydney's north that have been neglected for over a decade by the State Labor Government.

I hope this allays any concerns your Council may have about the Coalition's intentions about the future of a northern beaches hospital.

Yours faithfully

Jillian Skinner MP

Electorate office 3/40 Yeo Street, Neutral Bay 2089 Phone 9909 2594 Fax 9909 2654
Parliament office Parliament House, Macquarie Street, Sydney 2000 Phone 9230 3080 Fax 9230 3406
Email jillian.skinner@parliament.nsw.gov.au Website www.jillianskinner.com



TO: Ordinary Meeting - 19 October 2009
REPORT: Report Of Committees Report No. 2
SUBJECT: Minutes for Adoption by Council - Special Purpose Committees - without recommendations of a substantial nature
FILE NO:

The minutes of the following Special Purpose Committee meetings are tabled at this meeting.

Minutes of Meetings for adoption without recommendations of a substantial nature:

- i) Joint Services Committee – 21 May 2009
- ii) Sustainable Transport Committee – 3 June 2009
- iii) Access Committee meeting of 18 August 2009
- iv) Landscape Management and Urban Design Committee – 19 August 2009
- v) Sustainable Transport Committee – 26 August 2009
- vi) Manly Warringah Pittwater Local Emergency Management Committee–3 September 09
- vii) Sports Facilities Committee - 4 September 2009
- viii) Sustainability & Climate Change Committee – 8 September 2009
- ix) Manly Scenic Walkway Committee – 8 September 2009
- x) Playground Committee – 10 September 2009
- xi) Community Safety Committee - September 2009
- xii) Manly Traffic Committee – 14 September 2009
- xiii) Arts and Culture Committee - 15 September 2009
- xiv) Sustainable Transport Committee - 24 September 2009

RECOMMENDATION

That the Minutes of the following Special Purpose Committee Meetings be adopted:

- i) Joint Services Committee – 21 May 2009
- ii) Sustainable Transport Committee – 3 June 2009
- iii) Access Committee meeting of 18 August 2009
- iv) Landscape Management and Urban Design Committee – 19 August 2009
- v) Sustainable Transport Committee – 26 August 2009
- vi) Manly Warringah Pittwater Local Emergency Management Committee–3 September 09
- vii) Sports Facilities Committee - 4 September 2009
- viii) Sustainability & Climate Change Committee – 8 September 2009
- ix) Manly Scenic Walkway Committee – 8 September 2009
- x) Playground Committee – 10 September 2009
- xi) Community Safety Committee - September 2009
- xii) Manly Traffic Committee – 14 September 2009
- xiii) Arts and Culture Committee - 15 September 2009
- xiv) Sustainable Transport Committee - 24 September 2009

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 2 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Report Of Committees Report No. 3
SUBJECT: Minutes for Adoption by Council - Human Services Planning and Policy Committee Meeting - 25 August 2009
FILE NO:

These reports were dealt with at the Human Services Planning and Policy Committee meeting of 25 August 2009 and were listed as a Recommendation in those minutes. These items are hereby submitted to the Ordinary Meeting for formal adoption by Council.

1. ITEM 5 REPORT – AFFORDABLE HOUSING

In accordance with the minutes from the 23 June 2009 meeting, a general report was prepared on affordable housing schemes and funding opportunities that might benefit affordable housing provision in the Manly area.

The measures outlined in the report are designed to boost the provision of affordable housing by combined efforts from all levels of government and in partnerships with private sector developers and community housing providers. The policies aim to assist in improving housing affordability for low and medium income earners. Generally, large scale proposals for Residential Flat Buildings and boarding houses, together with DOH and housing provider partnerships are more likely to be funded by the NSW and Commonwealth Government programs discussed above.

However, recent legislative changes as contained in the SEPP (Affordable Rental Housing) 2009 will provide greater opportunities for affordable infill housing (the provision of granny flats) by changes to permit secondary dwellings throughout NSW and new generation boarding houses. The breadth of the SEPP may trigger substantial changes in the provision of low cost and affordable housing for the Manly LGA.

The role of local government in this process is considered to be limited.

2. ITEM 7 GENERAL BUSINESS

It was noted by the Manly Community Centre's representative that Mike Baird had released a media statement on the need to retain the local Phoenix Unit rehabilitation centre at Manly Hospital. This was in response to the Health Minister's statement in Parliament in June that the NSW government would not continue to run the unit and would appoint a new not-for-profit operator to run the centre.

RECOMMENDATION

That the:

1. ITEM 5 REPORT – AFFORDABLE HOUSING

Report on Affordable Housing be received and noted.

2. ITEM 7 GENERAL BUSINESS

Council notes the NSW government response about the future of the Phoenix Unit at Manly Hospital.

ATTACHMENTS

There are no attachments for this report.

OM191009RC_3.doc

***** End of Report Of Committees Report No. 3 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Report Of Committees Report No. 4
SUBJECT: Minutes for Adoption by Council - Heritage Committee - 2 September 2009
FILE NO:

These reports were dealt with at the Heritage Committee meeting of 2 September 2009 and were listed as a Recommendation in those minutes. These items are hereby submitted to the Ordinary Meeting for formal adoption by Council.

1. ITEM 4 REPORT 1 – Meeting of the DA Working Group - 1 July 2009

Discussion of the Manly Bathers Pavilion application (DA25/09 & DA26/09) took place, including the background to the current application and the openings in the southern wall, adjacent to the pedestrian walkway. Members considered that the openings should be returned to their original historic appearance and not allow patrons to impact on the pedestrian walkway.

2. ITEM 7 REPORT 5 – Heritage Committee’s Terms of Reference (TOR) – Additional matters raised by Community Member Jim Boyce, for consideration

Community Member, Mr Jim Boyce outlined the reasons for the additional information proposed to be included in the TOR, including types of heritage, to clarify what the Committee is involved in. He also mentioned a Warringah Council booklet that members could use as a guide to producing similar information for Manly. Members agreed to Jim Boyce and Terry Metherell preparing this information. Discussion took place on communicating heritage matters such as the Cemetery; brochures; the review of the heritage list; an overview of heritage, and a designated officer of Council to oversee heritage matters. The committee resolved to adopt the proposed changes to the TOR, including staff changes. Notes from Mr Boyce are attached to the minutes at his request.

RECOMMENDATION

That:

1. ITEM 4 REPORT 1 – Meeting of the DA Working Group - 1 July 2009

The Committee recommends to the General Manager that the Heritage Committee DA Working Group advice in relation to the Bathers Pavilion be amended by the addition of the following underlined words:

The Heritage Committee:

1. deplores the destruction of heritage fabric on the south elevation;
2. is gravely concerned at the encroachment onto the public walkway permitted by the new openings with sliding doors;
3. recommends reinstatement of the original heritage fabric of the original openings, including permanent barriers across these openings to prevent intrusions by patrons on the right of passage of the public along the walkway;
4. recommends that permanent barriers are also necessitated by the urgent need to protect the habitat of endangered little penguins which nest adjacent to the walkway.

2. ITEM 7 REPORT 5 – Heritage Committee’s Terms of Reference (TOR) – Additional matters raised by Community Member Jim Boyce, for consideration

The Heritage Committee recommends to the General Manager and Council that its Terms of Reference be amended under “Roles and Responsibilities” “and “Priorities for 2009 – 2012” as outlined below

Report Of Committees Report No. 4 (Cont'd)

(new wording added is underlined):

Role and Objectives:

This is a Special Purpose Committee, convened by the General Manager, to provide a forum for discussion and recommendation to Manly Council:

(a) On heritage related matters within the Manly local government area encompassing:

- Built Heritage
- Parks and Gardens
- Natural Heritage
- Indigenous Heritage
- Shipwrecks and Marine Structures
- Moveable Heritage

Priorities for 2009-12:

- (i) Communication: Heritage Committee Communications Working Group;
- (ii) Strategic input into the review of the current heritage list;
- (iii) Development Applications: Heritage Committee Development Applications Working Group;
- (iv) Manly Cemetery;
- (v) Liaison/advice to other committees where matters of Heritage arise;
- (vi) Strategic input into issues of moveable heritage as they arise;
- (vii) Input into the establishment of a Museum/Heritage Centre (via the Arts and Culture Committee);
- (viii) Heritage Promotion including the promotion of benefits and recognition to those owners of properties on the Heritage list

ATTACHMENTS

There are no attachments for this report.

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***** End of Report Of Committees Report No. 4 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Report Of Committees Report No. 5
**SUBJECT: Minutes for Adoption by Council - Community Environment Committee Meeting
- 9 September 2009**
FILE NO:

This report was dealt with at the Community Environment Committee meeting of 9 September 2009 and was listed as a Recommendation in those minutes. The item is hereby submitted to the Ordinary Meeting for formal adoption by Council.

1. ITEM 5.2 North Head Report - Plan of Management for Sydney Harbour National Park

As part of the preliminary process, community ideas and feedback are being sought through a special website at: <http://sydneyharbourpom.net.au/>

It is important to encourage community participation in this process to ensure future uses and management of National Parks within the Manly LGA in particular and in the broader Sydney Harbour National Park strike the right balance between conservation and recreational values.

For this purpose, the Committee requests that:

- Council prepares a media release as well as including it in the Mayor's Message;
- This matter be placed on the Agenda for next meeting and National Parks staff (Margaret Bailey and Peter Hay) be invited to provide a presentation to the Committee;
- The Committee would appreciate a short summary of critical issues for the October Committee meeting.

RECOMMENDATION

That:

1. ITEM 5.2 North Head Report - Plan of Management for Sydney Harbour National Park

- a) A media release on the Plan of Management for Sydney Harbour National Park be prepared by Council staff, and a related notice included in the Mayor's Message;
- b) Staff prepare a short summary of critical issues relating to the Plan of Management for Sydney Harbour National Park, for the October Environment Committee meeting.

ATTACHMENTS

There are no attachments for this report.

OM191009RC_4.doc

***** End of Report Of Committees Report No. 5 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Corporate Services Division Report No. 26
SUBJECT: Report on Council Investments as at 31 August 2009
FILE NO:

SUMMARY

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

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

REPORT

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

Attached is the report of the bank balances and investment performance for August 2009.

Certification – Responsible Accounting Officer

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

Investment Performance

The Investment Report shows that Council has total Investments of \$13,664,764, comprising a combined Bank Balance of \$1,729,886; and Investment Holdings of \$7,737,741 directly managed and \$4,197,137 externally managed.

Investments overall performed below the 90 day average Bank Bill Swap Rate (BBSW) for the month providing a return of 2.68% (*Council Benchmark =3.30% - benchmark is 90 day average BBSW*)

The reduced interest returns for August are a result of several investments not paying interest coupons and initiating capital guarantee mechanisms to protect the investment. These include Emu Note (Dresdner Bank), Credit Suisse Aquaduct; Longreach Socially Responsible Note, ANZ Climate Change Trust, Westpac Principal Protected Ethical Note, and Lehman Bros Zircon (Coolangatta) and Beryl (Global Bank Note).

Lehman Brothers Australia (Grange) Portfolio Performance

Return on Lehman Brothers Australia Limited (Grange) Managed Funds since inception was 12.54%, less than the benchmark UBSWA Index of 6.20% (for the month of August 2009 the monthly return was 2.35% above the benchmark UBSWA Index). Whilst the current market value of these investments (included in the report for information) shows a reduction in the value and the returns reported by Lehman Brothers Australia (Grange) indicate a return below benchmark, it is important to note that the Investments are recorded by Council at their original principal face value, and there would be no erosion of Council's initial capital investment if the investment continues to be held at the present time to maturity.

Corporate Services Division Report No. 26 (Cont'd)**Movements in Investments for the Month of August 2009****Investments Made**

<u>Issuer</u>	<u>Particulars</u>	<u>Face Value</u>
Savings and Loans Credit Union Limited	Term Deposit	\$719,877.16

Investments Matured

Nil

RECOMMENDATION

That: the statement of Bank Balances and Investment Holdings as at 31 August, 2009 be received and noted.

ATTACHMENTS

AT- 1 Investment Report August 2009 1 Page

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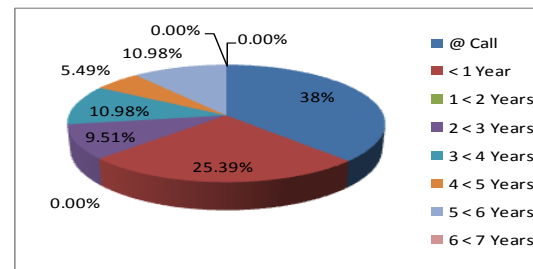
***** End of Corporate Services Division Report No. 26 *****

ATTACHMENT 1

Corporate Services Division Report No. 26 - Report on Council Investments as at 31 August 2009 Investment Report August 2009

MANLY COUNCIL INVESTMENT PORTFOLIO as at 31 August 2009							Investment Returns Interest Rate	Interest YTD	Accrual Aug 2009	
Form of Investment	Investment in AUS\$	Market Val	Percentage of Portfolio	S & P Rating	Date Invested	Call/Maturity Date				
Directly Managed Funds										
Trading Account										
CBA Trading Account	Cash	1,729,886	1,729,886	12.66%	AA-	.		2.5% ⁽³⁾	\$ 3,714	\$ 1,920
Others										
NM Rothschild & Son (Aust)	Floating Rate Note	700,000	676,529	5.12%	BBB-	3/12/2004	3/12/2009	4.24%	\$ 2,459	\$ 2,540
Emu Note - Dresdner Bank	Structured Note	500,000	382,150	3.66%	AAA	25/10/2005	13/12/2012	0.00%	\$ -	\$ -
WBC PP Ethical Note	Structured Note	500,000	438,515	3.66%	AA-	5/07/2006	5/07/2012	0.00%	\$ -	\$ -
Credit Suisse - Aqueduct Note	Structured Note	500,000	478,150	3.66%	AA-	22/12/2006	21/06/2010	0.00%	\$ -	\$ -
Longreach - Socially Responsible Note	Structured Note	500,000	431,300	3.66%	AA	19/12/2007	11/12/2012	0.00%	\$ -	\$ -
ANZ Climate Change Trust	Structured Note	500,000	399,160	3.66%	AA	21/12/2007	21/12/2013	0.00%	\$ -	\$ -
Greater Building Society	Term Deposit	549,649	549,649	4.02%	BBB+	13/03/2009	9/09/2009	3.50%	\$ 3,268	\$ 1,634
Savings and Loans Credit Union Limited	Term Deposit	719,877	719,877	5.27%	Cr Union	26/08/2009	24/05/2010	4.94%	\$ 487	\$ 487
LGFS Fixed Out-Performance Cash Fund	@ Call	54,423	54,423	0.40%	AA-	At call	At call	3.52%	\$ 325	\$ 159
LGFS Ethical Fund	@ Call	29,891	29,891	0.22%	A	At call	At call	5.72%	\$ 236	\$ 114
Illawarra Mutual Building Society	@ Call	5,000	5,000	0.04%	AA-	At call	At call	2.95%	\$ 25	\$ 13
Commonwealth Bank	@ Call	3,178,901	3,178,901	23.26%	AA-	At call	At call	2.95%	\$ 9,822	\$ 3,068
Total		7,737,741	7,343,545	56.63%						
Total Directly Managed Funds		9,467,627	9,073,431							
Lehman Brothers Australia (Grange) Managed Funds (All in AUS\$)										
Approved Deposit Institutions (Bank)										
HSBC	Floating Rate Note	500,000	463,385	3.66%	AA	20/03/2007	22/09/2011	3.31%	\$ 2,786	\$ 1,393
Australian Central Credit Union	Floating Rate Note	1,000,000	963,070	7.32%	Cr Union	15/12/2004	15/12/2009	4.22%	\$ 7,115	\$ 3,557
Total		1,500,000	1,426,455	10.98%						
Interest Bearing Securities (Non Bank)										
Magnolia (Flinders)	Floating Rate CDO	300,000	215,736	2.20%	BBB-	20/03/2007	20/03/2012	4.75%	\$ 2,402	\$ 1,201
MAS6-7 (Parkes IIA)	Floating Rate CDO	500,000	45,085	3.66%	CCC-	20/03/2007	20/06/2015	5.30%	\$ 4,467	\$ 2,233
Heli0308 (Scarborough)	Floating Rate CDO	250,000	9,643	1.83%	CCC-	21/06/2007	23/06/2014	4.54%	\$ 1,910	\$ 955
Corsair (Torquay)	Floating Rate CDO	500,000	29,700	3.66%	CCC-	20/03/2007	20/06/2013	4.50%	\$ 3,794	\$ 1,897
Zircon (Coolangatta)	Floating Rate CDO	500,000	380,000	3.66%	B+	20/03/2007	20/09/2014	0.00%	\$ -	\$ -
Beryl (Global Bank Note)	Floating Rate Note	500,000	420,000	3.66%	B-	3/04/2007	20/09/2014	0.00%	\$ -	\$ -
Total		2,550,000	1,100,164	18.66%						
Macquarie Cash Management Account	@ Call	147,137	147,137	1.08%	AAA	At call	At call	1.74%	\$ 262	\$ -
Total Grange Managed Funds		4,197,137	2,673,756	30.72%						
Retired Investments									\$ 1,928	\$ -
TOTAL PORTFOLIO		13,664,764	11,747,186	100.00%				2.68%	\$ 40,082	\$ 21,171
BENCHMARK								3.30%		
Notes:										
1 Benchmark is 90 day Average BBSW										
2 CDO - Collateralised Debt Obligation										
3 Balances less than \$250,000 earn 1.75%, \$250,000 to \$499,999 earn 2%, \$500,000 to \$750,000 earn 2.25% & greater \$750,000 earn 2.5%										

Summary by Credit Rating		No.
AAA	4.74%	2
AA	10.98%	3
A	0.22%	1
AA-	43.68%	6
A-	0.00%	0
BBB+	4.02%	1
BBB-	7.32%	2
B+	3.66%	1
B-	3.66%	1
CCC-	9.15%	3
Credit Union	12.59%	2
Total	100.00%	22



TO: Ordinary Meeting - 19 October 2009
REPORT: Planning And Strategy Division Report No. 38
SUBJECT: Manly Local Environmental Plan 1988 (Draft Amendment 79)
FILE NO:

SUMMARY

This is a report to the Council on the submissions received following the public exhibition of Draft Manly Local Environmental Plan 1988 – Amendment 79, (Draft LEP Amendment 79). It recommends that the Council defer the application to amend Manly LEP 1988 to permit a supermarket as a permissible use in the Industrial Zone on the subject site in Roseberry Street, Balgowlah, until further strategic land use and planning studies for the Industrial Zone are completed.

REPORT

Draft LEP Amendment 79 proposes to amend Manly LEP 1988 to permit with consent, a supermarket on one of the larger sites within the Industrial Zone known as 17 and 31 Roseberry Street, Balgowlah.

Background and Introduction

At its meeting held on 4 February 2008 Council resolved [L8/08]:

- “1. To prepare a draft amendment to Manly Local Environmental Plan 1988 under the provisions of section 54 of the Environmental Planning and Assessment Act 1979 to permit a supermarket at 17 and 31 Roseberry Street, Balgowlah; and*
- 2. To request that the Director General issue Council a certificate certifying that the draft Plan may be publicly exhibited in accordance with section 66 of the Act, pursuant to section 64 of the Environmental Planning and Assessment Act 1979.*
- 3. That once the Director General's Certification is received, Council undertake a comprehensive notification and consultation process in regard to the proposed rezoning.”*

Submission to the Director General (section 54 Report)

On 13 February 2008 Council made a submission to the Director-General of the Department of Planning (Department) in accordance with point 2 of Council's abovementioned resolution. Council's preliminary assessment at that time and prior to any certification and exhibition, considered that the proposed development was well sited in terms of access to services and transport and therefore consistent with State objectives and priorities for service delivery and employment generation to the local population. Council's submission to the Director-General included details of the application including:

- Planning Report prepared by Urbis JHD, dated June 2007;
- Land Use Audit of businesses operating in the Precinct;
- Preliminary Architectural Plans prepared by Scott Carver Architecture and Urban Design, dated 25 May 2007;
- Economic Impact Assessment prepared by Urbis JHD, dated May 2007;
- Report on the Traffic aspects of Rezoning for proposed Woolworths Supermarket, Balgowlah prepared by Colston Budd Hunt and Kafes Pty Ltd, dated May 2007;

Planning And Strategy Division Report No. 38 (Cont'd)

- Total Catchment Management and Drainage Study by Richmond Ross Pty Ltd, Consulting Engineers, undated;
- Consultancy Proposal for Ecologically Sustainable Design by ARUP, undated; and
- Acid Sulphate and Waste Investigation by Environmental Investigation Services, dated 20 January 2006.

Council's submission also considered a range of Plans and Policies including NSW Government Strategies and directions including the following:

- Metropolitan Strategy
- draft North East Sub Regional Strategy;
- Ministerial Planning Directions and Circulars;
- Manly Local Environmental Plan (LEP) 1988;
- Manly Industrial Zone Development Control Plan; and
- draft SHOROC Employment Strategy.

In conclusion, Council's submission considered that while a number of issues and concerns remained under draft Strategy documents, the exhibition of draft LEP Amendment 79 may proceed on the strength of the applicant's own studies and submissions and given the extent of strategic planning considerations at that time.

Director General's reply (written authorisation to exercise delegation) and subsequent correspondence from the Department of Planning.

On 19 January 2009 the Director General notified Council that it may continue with the preparation of draft LEP amendment 79, subject to providing further justification by Council post exhibition, of the retail use on industrial land. In particular, the matters to be considered included:

- the availability of supermarket floor space across the Manly local government area;
- the existing context of the site;
- its future purpose;
- the potential impact of loss of industrial land; and
- the relationship to surrounding local centres.

Council sought clarification from the Department by letter dated 16 March 2009 in relation to the exercise of Council's delegation to certify and exhibit draft LEP amendment 79. Council's letter referred particularly to the Director General's advice that the draft Plan may be inconsistent with Ministerial Direction 1.1 - Business and Industrial zones, and trigger the consequential requirement to provide further justification to the Department.

On 2 April 2009 the Department confirmed that 'Council's undertaking to have further studies prepared and submitted to the Department post exhibition are considered to be satisfactory in terms of the delegation'. The Department also acknowledged at that time that Council has advised the proponent of the additional study requirements and that Council has asked the proponent to fully fund these studies. It was on this basis that Council proceeded to exhibit draft LEP Amendment 79 and advised the Department of the exhibition details on 6 May 2009.

Director General's Advice Post Exhibition.

By letter dated 25 June 2009 the Director General requested that Council provide copies of the submissions by Urbis, on behalf of Woolworths. The requested reports were duly provided to the Office of the Director General. This letter makes reference to advice received by Council on 22 May 2009 from Urbis, that the original submissions have addressed the abovementioned five items raised by the Department in relation to Ministerial Direction 1.1. In this regard the Director General concluded that the submission of this information would be 'partial fulfilment of the requirements

Planning And Strategy Division Report No. 38 (Cont'd)

under Section 68 of the EPA Act 1979'. The Department further clarified in meetings with Council staff that the Department raises no objection to the making of this plan.

On 21 August 2009 the Department further responded to Council's submission of exhibition details and acknowledged that Council is in the process of undertaking a review of relevant information and in particular, that Council is using submissions received during exhibition and other information to assist in responding to the matters raised in the Director-General's letter of 19 January 2009 (summarised above). The Council's attention was also drawn to various procedural matters and general requirements for submissions under s68(4) of the EPA Act including the justification of any inconsistencies and variations on planning grounds.

Public Exhibition

Draft LEP amendment 79 was placed on public exhibition for a period of 30 days from 11 May to 9 June 2009. This draft Plan was available for viewing at:

- Manly Council Chambers, Belgrave Street Manly between 8.30 am and 5.00 pm.
- Manly Library, 1st floor information desk, Market Lane, Manly during the Library's usual opening hours.

The exhibition was advertised in the Manly Daily on Saturday 9 May 2009 and notification of the exhibition was also placed on Council's website, and circulated to the Community Precinct Forums in the June 2009 Newsletter.

The Submissions

Three (3) submissions were received in response to draft LEP Amendment 79 including one submission from the Applicant and detailed as follows.

1. Ingham Planning (on behalf of AMP Warringah Mall Pty Limited and Westfield Management Limited as owners of the Warringah Mall Shopping Centre)

Concerns raised are summarised as follows:

- The proposal is contrary to accepted town planning practice and planning policy.
- The proposal will undermine the established retail hierarchy in the locality.
- The proposal is contrary to the planning principles and objectives of the *Sydney Metropolitan Planning Strategy and the draft North East Subregional Strategy*. The hierarchy of centres in the draft Strategy identify Manly Vale as a small Village and supermarkets do not fit in this typology otherwise described as containing a limited number and range of shops. The proposal is considered better located in or adjoining a higher order centres such as Balgowlah.

The submission notes that in the draft Strategy, the Manly Vale industrial area should 'be retained for industrial purposes' and that it does not identify this locality for a wider range of employment uses. The limited supply of industrial land in Manly LGA is also noted.

The submission also notes that the draft Strategy identifies land fronting Condamine Street as a potential Enterprise Corridor to 'provide low cost accommodation for a range of local and regional services including setup offices, light industrial, showrooms, building supplies and retail which benefit from high level passing traffic'. The proposal is identified as not fronting Condamine Street and is considered to introduce a higher land value likely to place upward pressure on local valuations, which will further marginalise viability of lower value uses such as industrial activities. The submission interprets the enterprise corridor as contemplated in the draft Strategy as a zone which would not include supermarkets i.e. confined to bulky goods

Planning And Strategy Division Report No. 38 (Cont'd)

and ancillary retailing). It is also noted that supermarkets are a core town centre use and should be located within or adjoining shopping centres according to the submission.

- The proposal is contrary to the planning principles and objectives of the Department of Planning's *Section 117 directions*, which require that the draft LEP retain areas of existing industrial zones and not reduce the potential floorspace areas for industrial uses in industrial zones. The submission states that the proposal would significantly reduce the supply of industrial land by more than 7%. The proponents justification that alternative industrial land is available is considered outmoded as the reduction in the supply of industrial land would force relocations over time. This submission highlights the presence of existing industrial premises in the locality providing affordable industrial floorspace which would be forced to leave the area by higher retail land values. This relocation of industry away from the Manly Vale area is also considered to result in a loss of local industrial employment contrary to the Draft SHOROC Employment Strategy.
- The proposal is contrary to the planning principles and objectives of *Draft SEPP 66 – Integrating Land Use and Transport* with particular regard to the need for locations which reduce the need for multiple trips and encouraging walking as a mode of transport. The distance between the site and the nearest retail centre at Manly Vale is not considered a practical walking distance and therefore is not considered to encourage walking as a mode of transport. The degree of separation from the Manly Vale centre is considered likely to reduce retail expenditure in the existing centre as additional retail would cluster closer to the Roseberry St site.
- The proposal is contrary to the planning principles and objectives of the NSW *Draft Centres Policy April 2009 - Planning for Retail and Commercial development*. While this submission does not raise issue with the proponents contention that there is scope for additional supermarket floorspace in the locality, the issue raised is one of location. In this regard one of the planning principles in the draft Policy states that retail and commercial activity should '*be located in centres to ensure the most efficient use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres.*' The submission argues that there are other more appropriate site opportunities to develop a supermarket within or adjoining the nearby Balgowlah and Manly Vale shopping centres which do not encroach onto industrial land and further disperse retail services. e.g. existing low density residential land in Manly Vale (Warringah Council) at the rear (western side) of shops fronting Condamine Street.
- The proposal will create an unplanned 'de-facto' retail centre in which the supermarket will attract other shops over time to congregate nearby taking advantage of passing trade created by the supermarket and further competing with and directly undermining the Manly Vale Shopping centre and possibly other nearby centres. This is considered an adverse and unacceptable economic impact and an inefficient allocation of resources. The creation of a new retail centre in an ad-hoc and unplanned manner would disperse retail activities and increase both car dependency and trip generation.
- The proposal to permit a supermarket use on this site has direct amenity impact in relation to traffic and parking and loss of established trees which feature in the streetscape on the western side of Roseberry Street. Roseberry Street is described as a relatively narrow road carrying significant volumes of traffic including trucks which are observed to regularly reverse in and out of various premises along the street obstructing traffic flows. The additional traffic generated by the proposal is considered to create congestion, delays and safety hazards both generally as well as in relation to truck movements. In particular, the likely impact on the intersection of Roseberry Street and Kenneth Road is noted, being already heavily congested during peak hours and Saturdays. These additional delays are considered to have multiplier effects in terms of travel time, fuel consumption and vehicle emissions. In relation to impacts on street parking,

Planning And Strategy Division Report No. 38 (Cont'd)

the Applicant's proposed unrestricted roof top parking is supported in the submission but considered less convenient compared to the existing street parking in Roseberry Street.

- The proposal to allow a retail use of an industrial site would create an undesirable precedent for other rezoning to permit retail development within industrial zones. There are no unique circumstances considered for this proposal where retailers to seek lower cost industrial sites to obtain a competitive advantage over their competitors who have located in zoned commercial centres.
- The submission concludes the proposal should be rejected for the following reasons:
 - Out of Centre retailing is inconsistent with the draft Centres Policy;
 - The established retail hierarchy (under Subregion Strategy) undermined;
 - Increased car dependency and trip generation inconsistent with SEPP66;
 - Loss of industrial land and employment inconsistent with 117 Directions;
 - Effects of traffic congestion and travel delays are unacceptable;
 - Loss of trees are unacceptable in terms of the streetscape;
 - An ad-hoc and unplanned new centre will undermine Manly Vale shops;
 - Failure to consider other locations within or adjoining existing centres; and
 - Undesirable planning precedence for other similar proposals.

2. Coles Supermarkets Australia, State Manager and supported by Planning Submission by Ben Hendriks of Mecone P/L

Concerns raised are summarised as follows:

- Coles was not notified of the public exhibition directly;
- The proposal sets a precedent for out of centre retail growth with no strategic or statutory planning basis and contrary to the Draft North East Subregional Strategy; s117 Directions and Planning circulars;
- The economic impacts are considered to be greater than submitted in the proposal according to Coles' own analysis by Macro Plan in 2008;
- The Director General's requirements for further justification in this matter are supported in relation to concerns raised in the submission as follows:
 - It is considered that currently there is adequate availability of retail floor space in Manly LGA to support the local population.
 - The existing context of the site is an industrial area containing a mix of industrial and bulky goods uses. A supermarket is considered a significant departure from the prevailing pattern of land uses and is likely to lead to the development of a new default centre without the necessary transport linkages usually required for such centres.
 - The future purpose of the Industrial area under all the strategic planning documentation sees the area as continuing its current purposes. The proposal is considered to weaken the role of Manly's Industrial area.
 - The loss of employment land is likely to lead to a local undersupply of land for blue collar workers and local industrial needs particularly given that the site represents 7% of Manly's industrial land and some 2000 workers are estimated to be employed in blue collar occupations in Manly LGA (generated based on an estimated need for 10.2 Ha or 50-80 sqm per worker). Finally it is noted that the draft Subregional Strategy clarifies that industrial land for local industrial services such as automotive repairs are important for the region.
 - The relationship of the site to surrounding centres is considered detrimental on smaller centres in close proximity to the proposed supermarket and given the area is already highly constrained in terms of traffic movements. This impact on turnover for

Planning And Strategy Division Report No. 38 (Cont'd)

surrounding centres is evidenced in the proponents analysis ranging from -1.6% to -7.7%. As discussed above Coles projections estimate greater losses of -25% for the Manly Vale Coles and -18% for the Coles Balgowlah supermarket. The further impact of the development on the Balgowlah strip centre is also raised.

- A key directive of the *Draft North East Subregional Strategy (under the Metropolitan Strategy)* is to contain the rezoning of employment land to residential zonings across Sydney (also under the draft Centres Policy);
- The submission advises Manly Vale Employment Precinct is category 1 Employment land which is lands that must be retained for industrial purpose. Furthermore, while the Subregional Strategy identifies a potential enterprise corridor, the proposed supermarket is not considered to be consistent with this zoning (see standard zoning Order, zone B6) which is contrary to the applicant's submissions;
- The draft Centres Policy seeks to limit retail development in an enterprise corridor to 1000sqm;
- The proposal is considered a spot rezoning inconsistent with directive of Planning Circular PS06-015 given that there are no major transit nodes in Manly, the proposal is not located in a strategic centre, there is loss of industrial land and the use is not compatible / complementary with surrounding land uses (see also discussion on s117 directions);
- The submission notes the Council's s54 report generally argues that the loss of industrial land would be an inconsequential impact due to the scale. The submission suggests this conclusion ignores that the Manly industrial area is small and the site is 7% of the total industrial area; and
- The proposal is not considered to support the Manly LEP 1988 zone objective to increase employment associated with industrial activities.

3. Urbis on behalf of the Applicant (Woolworths)

This submission on behalf of the Applicant responds directly to the Department's requirements for further justification and comments on Council's undertakings to proceed with further study (see Background above). The submission details where the applicant submits that the issues raised in the Department's requirements are already justified in the documentation submitted with the proposal (updated in May 2009). Specific aspects are highlighted with particular regard to the Town Planning report and Economic Impact Assessment. The submission concludes that the requirements of Ministerial Directions have already been fully addressed and satisfied.

4. Further Submission by Urbis (responding to submissions by Coles and AMP/Westfield)

Urbis has, on behalf of the applicant, reviewed the two submissions received during the exhibition by letter dated 26 August 2009. The two submissions considered are those prepared by Planning Consultants Ingham Planning and Mecone Consultants on behalf of Coles and AMP/Westfield respectively. These responses are summarised as follows:

- Submissions are considered to be of a general nature and should be given little consideration;
- Submissions are considered to be overly protective of existing rival supermarket operations whereas increased competition is considered a good thing;
- With specific reference to issues of economic impact, Urbis considers suggestions of adequate retail floor space already in Manly to be incorrect. A significant impact of other supermarkets and local retailers is not accepted. Reference to Woolworths already having a significant local market share are considered irrelevant;

Planning And Strategy Division Report No. 38 (Cont'd)

- With specific reference to land use issues, the suggestion that the proposal would take a significant area out of industrial use is considered to be incorrect. Similarly the submission asserts that the proposed use is consistent with existing land uses and does not depart from prevailing patterns of land use in the area. The submission does not accept that the relocation of industry away from this area will result on a loss of local industrial employment;
- With specific reference to planning policy issues it is noted that in relation to draft SEPP66 that this SEPP is no longer applicable. In relation to objections that the proposal is contrary to the standard zoning (LEP) order and the Enterprise corridor zone; this submission notes that rezoning is not proposed (retail use proposed to be added). It is suggested that rezoning of the land would follow in several years time and that the proposal would be consistent with such future zoning. Reference to the draft Centres policy is considered irrelevant given its draft status and suggestions that the proposal is inconsistent with Planning Circular PS06-015 – Spot Rezoning and section 117 Directions are considered incorrect. The submission does not accept statements that the proposal will not facilitate permanent employment generating active or result in the loss of employment lands. The submission also notes that the surrounding area is listed as potential Enterprise Corridor within the draft Sub regional strategy and is considered consistent with Circular PS06-015 in this regard;
- With specific reference to strategic planning issues, the submission suggests it is incorrect to conclude the site is not located within or adjoining a defined retail or commercial centre and asserts that the site is 100m from retail land in Condamine Street, not 300m as otherwise submitted. It is also asserted that the site is within practical walking distances of nearby centres and facilitate customer parking to the wider area. Suggestion that a supermarket as proposed is better located in a larger centre is not accepted having regard to the general character and land use patterns of the area. Similarly suggestions of upward pressures on land values in the locality are also not accepted for similar reasons. While other submissions suggest the proposal will disperse retail activities, increase trip generation and create new adhoc/unplanned centres; this submission asserts that the proposal with otherwise concentrate retail activities and reduce trips to other supermarkets outside Manly e.g. Warringah Mall;
- Other issue in relation to tree loss are not accepted on the basis if the applicants Arboriculture Impact Assessment's recommendation. Similarly concerns with traffic are not evidenced in the technical analysis accompanying the application. Based on RTA guidelines the capacity of Roseberry Street is considered to be satisfactory (less than 50% capacity) and does not accept that the additional congestion and delay would occur. In this regard it is understood the proposal will remove some 50 on street parking spaces to be located on the site (112 public parking spaces proposed).

In conclusion, the applicant's consultant suggests that any future requirement for further expert reports or 'peer review' is unnecessary given their conclusions that the submissions received are of a general nature with no supporting technical analysis. While it is agreed that these matters are for the Council to determine, the submission requests that Council advise on what basis any future review is warranted.

S62 Consultations

Public Authorities were consulted pursuant to section 62 of the Act on 16 March 2009 as follows:

- Warringah Council;
- Sydney Water Land Zoning Group;
- Department of Land and Water Conservation, Planning Branch;
- State Valuation Office;
- Telstra Development Forecasting Group;
- Department of Environment & Climate Change;
- NSW Department of Water and Energy;

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- Energy Australia; and
- Department of Water and Energy.

Warringah Council notes that the land affected by draft LEP Amendment 79 adjoins the southern edge of the Manly Vale commercial centre, which is a designated Small Village under the draft North East Sub Regional Strategy and makes the following points:

- As the site is part of the Region's employment generating land, any proposed development should not result in a net loss of jobs. It is noted that a supermarket is likely to generate more jobs per square metre than a light industrial use.

Comment: The proposal estimates some 420 jobs will be created including construction and multiplier effects and submits that the proposal will significantly increase the number of jobs available.

- The rezoning should remain specific (i.e. specifically allowing only a supermarket with consent). Should the current proposal not proceed, the site should not be able to be developed for multiple retail outlets, contrary to its industrial zoning. The opportunity for the site to be developed for industrial use in the future should remain.

Comment: The draft LEP Amendment should be drafted in a manner which confines the additional permissible use to a supermarket.

- The proposal is inconsistent with the draft North East Sub Regional Strategy and the SHOROC Employment Study, as it is proposing the development of a major supermarket outside of the established centres hierarchy. This may affect the future viability of existing centres in the Region and Council should satisfy itself with regards to the economic and social benefit considerations of a supermarket locating outside of the established centres.

Comment: The economic and social benefit considerations of a supermarket locating outside of the established centres are important considerations for Council as reflected in this report's recommendations.

- The site is located on a main road (Condamine Street) and Council should be satisfied that the movement of the traffic generated can be safely accommodated.

Comment: see Traffic and Parking comments following.

Other submissions were received from Energy Australia, Sydney Water and Department of Water and Energy. No objections were raised to the draft Plan in any of these other submissions. Energy Australia advised that any future conditions of consent require the installation of an electrical substation on the site. Sydney Water detailed standard requirements for the developer to both obtain a section 73 Certificate from Sydney Water and to fund any adjustments needed as a result of the development.

Planning Considerations

Zoning under draft Warringah LEP.

The Manly Industrial zone, including the land affected by draft LEP Amendment 79 adjoins the southern edge of the Manly Vale commercial centre in Warringah LGA. This adjoining centre is within Warringah LEP locality 'G6' which comprises a mix of retail and business uses. The draft Warringah Comprehensive LEP currently proposes to translate this centre into the most comparable standard LEP template zoning, which is a business (B2) zoning.

While different planning regimes exist on either side of the LGA boundary, retail land uses predominate generally along Condamine Street irrespective of whether land is zoned light industrial (in Manly) or part of a small village centre (in Warringah). In the interests of seamless planning it may be appropriate to explore with Warringah Council a strategic study encompassing

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the broader context of the locality involving both Councils. Preliminary advice from Warringah's staff is that their priority is to progress their new LEP business zoning in this location as a 'translation' of the existing zone, which would not necessarily require further strategic review at this stage.

Traffic and Parking.

Council's Traffic Engineer has reviewed documents accompanying the proposal comprising:

- Planning Report – Woolworths Supermarket, Balgowlah – June 2007;
- Report on the traffic aspects of proposed Woolworths Supermarket, Balgowlah - Colston Budd Hunt & Kafes Pty Ltd – July 2009.

The Traffic and Parking comments have had regard to:

- the characteristics of the surrounding development;
- site characteristics;
- existing traffic environment and existing on-street parking;
- traffic generation of the proposed development and the cumulative impact in the locality; and
- recorded road accident data for the past three and a half years from January 2005 to June 2008.

Comments on particular aspects of the proposal are summarised as follows:

- *Intersection Performance And Midblock Capacities*

The evaluated level of service for intersections at Hayes Street and Condamine Street, Balgowlah Road and Roseberry, and Roseberry Street and Hayes Street are all operating at satisfactory level post development. The midblock capacities are also at acceptable levels and have little impact to post development conditions.

The adjoining road network is considered capable of accommodating the additional traffic projected to be generated by the subject development notwithstanding a range of constraints including:

- notable increase in traffic volumes experienced in Hayes and Roseberry Streets and to a lesser extent Balgowlah Road;
- narrow road carriageway widths are in Roseberry Street and Hayes Street (some 10m wide) and Roseberry Street;
- likely intermittent delays and local queuing caused by parking and unparking vehicles in streets and vehicles accessing the supermarket ingress and egress points.

It is noted that the applicant has also proposed the removal of some 50 on street spaces (unrestricted long term parking spaces).

- *Need for Traffic Improvements and new Infrastructure in the Locality*

Woolworths' proposal will generate additional traffic and the expected "mix" of light and heavy vehicles at the intersection of Roseberry Street and Hayes Street will likely lead to requirement for the provision of intersection control devices to manage any potential turning traffic related accidents. This requires further investigation.

The existing traffic signal intersection of Balgowlah Road and Condamine Street has been identified as a Blackspot location by the RTA. The Bunnings proposal at the corner of Balgowlah Road and Condamine Street proposed improvements to intersection turning movements and phase changes in its proposal. This matter requires further investigation.

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The proposed supermarket also has the potential to attract walking and cycling customers due to close proximity to the residential catchment and hence requires provisions such as either a marked raised crossing or pedestrian refuge.

Due to the narrow road width of Roseberry Street, parking related matters have been raised with Council by various existing operators in the area. Provision of indented parking bays on street on the western side in Roseberry Street could be considered to improve parking related safety issues.

There is a need to upgrade the existing traffic control signal at Balgowlah Road and Condamine Street in relation to future traffic egress and ingress on Arterial roads in the locality. It is suggested that leading and trailing turns on Condamine Street be considered and that leading right turn be allocated to the lowest volume and/or greater accident history. This requires confirmation with the RTA.

- *Sight Distance and Other Safety Issues*

Proposed access locations at both Roseberry Street and Hayes Street are a concern in relation to sight distances due to the proposed landscape measures. The Applicant must ensure that sight distance requirements are met and also additional signposting and speed humps to be installed approximately 5 metres within the access boundary to slow departing vehicles.

Safety concerns are also raised in relation to the parapet wall proposed with ramps which will hinder circulation traffic and has the potential for the cross traffic accidents. Suitable pedestrian walkways must also be included to allow safe pedestrian access via main ingress/egress proposed.

It has been reported in the past that due to narrow width of the road, when vehicles park along kerb side, there have been near misses when passengers and drivers step out of vehicles. Further complaints have also received in the past of broken mirrors of parked vehicles by passing traffic.

- *Accident Data*

The Balgowlah Road and Condamine Street intersection is controlled by traffic signals and also has red light camera. The subject intersection has a significant accident history (15 accidents with the dominant road user movement of "right thru" type 21 accidents.) and has been the subject of a number of "Black Spot" accident submissions to the Roads and Traffic Authority by Manly Council. It is noted that whilst the Woolworths development may consider not having any direct adverse traffic implications, it is likely that traffic generated by the subject development will increase use of this intersection due to existing turning restriction at the intersection of Hayes and Condamine Streets (Left in/out).

As part of the recent development application for a new Bunnings development, the RTA requested the developer to consider the upgrade of the existing Traffic control signals at the applicant's cost. It is unclear at the time of writing this report as to the status of the Bunnings proposal. Should the applicant for the Bunnings development not proceed, then Woolworths' proposal should seriously consider the need for an upgrade of the above signals.

The Balgowlah Road and Roseberry Street intersection is controlled by a single lane roundabout. The roundabout was installed by Council some 3-4 years ago following intersection operational issues. The accident data available for this location shows just one reported accident for the similar period. However, there are a total of six reported accidents recorded within 50m of the intersection in Roseberry Street dominated by accidents resulting from parking/ unparking manoeuvres. There are no other apparent significant circumstances, although non- reported (RTAs) and near miss incidents are indicative of the existing substandard width for the existing nature and volume of the traffic flows.

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The Hayes Street and Roseberry Street intersection has just one recorded accident within the similar time period. The accident involved when a vehicle ran out of control running into a parked vehicle.

The accident statistics for Roseberry Street and Kenneth Road intersection, and Kenneth Road and Condamine Street intersection were not reviewed due to lack of data.

- *Servicing*

It is unclear as to the criteria used by the applicant to determine the number of truck spaces in the loading dock. According to RTA's Guide to Traffic Generating Developments, section 5, table 5.1 the total number of truck parking spaces required is seven. This is crucial as inadequate truck spaces within the subject site can force delivery trucks to queue in streets and can nullify valuable on street parking spaces and can also impact on operational issues.

- *Access and Site Circulation*

The development proposes driveway locations at both Hayes and Roseberry Streets. The proposed ingress/egress location is some 30m from the Roseberry Street and Hayes Street intersection and has the potential to create queuing at the access. The applicant should review this location to relocate to the western site boundary such that internal circulation will not have any conflicting movements.

The aisle widths and parking bays including the ramp grades and driveway widths are to comply with AS2890.1 2004. Care should be taken for each parking bays where columns are located in providing additional clearance and end bays meeting AS2890.1 2004 requirements.

It is unclear how main car park is linked to the public car park area and how customers are prevented from accessing the supermarket via Roseberry Street. The traffic report shows analysis for the Roseberry Street access as exit function only. This requires clarification and the applicant should be requested to provide intersection analysis for both access driveways. Further the applicant should also be requested to provide swept paths diagram for service vehicles accessing the site.

The applicant has not provided necessary information on how the customer car park (short term) and the public car park (long term) will be operated and controlled.

It is also noted that the applicant's request to remove some 50 on street parking spaces will only be considered pending additional information and demonstrating the need to remove on street parking spaces in future submissions to Council.

- *Bicycle Parking*

The report has not addressed the potential bicycle parking demand associated with the supermarket. To establish an acceptable number of bicycle parking spaces the following rate is used (The City of Sydney rates provide an appropriate guideline here). The development should provide 1 bicycle parking space for every 10 car spaces provided in the development. Based on this methodology, 32 bicycle parking spaces should be provided. Further the applicant should also consider the provision of minimum 20% of the spaces allocated to supermarket staff with provision made to secure bicycle storage accessible showers and change facilities.

Shopper bicycle parking should be clearly signed and located at ground floor level not require access via steps. Bicycle parking should also be located adjacent to areas of pedestrian or vehicle movement to allow casual surveillance. The bicycle parking facility should be weatherproof and must not obstruct pedestrian movement or other activities such as the delivery of goods and opening of car doors. Bicycle parking bays should be wide enough to allow adequate space to

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manoeuvre the bike in and out of the space without causing congestion or damage to other bicycles in adjacent bays. As a guide bicycle parking bays should generally be 1.2m wide and 1.7m long. Council prefers the use of stainless steel bicycle hoops due to its high strength and durability. It also allows the bicycle frame and one wheel to be locked to the rack and can withstand vandalism and theft.

Summary of traffic planning issues.

One of the major issues is the planning horizon (say 10 years) to be adopted in the analysis that is the future year to which the surrounding road network is expected to be able to operate satisfactorily after loading of the traffic generated by the proposed development. This is to ensure that a proposed development does not simply use up spare capacity provided at community expense (example of this in the parking context is the removal of on-street 50 spaces sought by the developer) and leave no capacity to accommodate future growth in traffic movements. When the above is established, it generally leads to significant upgrading works (mostly at the developer's expense).

Another aspect that should be addressed is the predictions of future traffic expected to be generated by other new developments in the vicinity. These new developments (may already have approval, but have not commenced) may compromise projects currently under construction or in their planning stages.

In Roseberry Street, the following scenarios are relevant:

Existing developments under current zoning may not have developed to their maximum capacity. These developments may consider expanding their businesses to the full potential and hence additional traffic and parking generation. This analysis has not been undertaken by the applicants' traffic consultant. Additionally, post rezoning, what is the guarantee that other competitors such as Coles or Aldi or the new American Franchise Supermarket wouldn't be moving in and seeking rezoning for their allotments?

Another key area that has not been considered by the proponents' traffic consultant is the failure to factor the "transfer of retail trips from an existing centre (Stockland or Coles at Manly Vale). I recall the traffic consultant has considered 25% discounting for linked trips (pass-by) which is only one of three trip categories (primary, diverted and undiverted).

Traffic and Parking Conclusion.

The traffic generation resulting from the Woolworths development could be accommodated by the surrounding road network for the current traffic conditions only despite the 80% and some 45% increase to traffic volume in Hayes and Roseberry Streets respectively during peak periods. The traffic impact report has not considered any future growth in traffic movements to identify if the surrounding road network is able to operate satisfactorily or has taken into consideration other developments currently under construction or in their planning stages under the current zoning or included developments under current zoning that have not developed to their maximum floor space capacity. Further the traffic report has not considered the effects of "transfer of retail trips from an existing centre (Stockland or Coles at Manly Vale).

The traffic impact report has not provided any intersection analysis to the proposed two vehicular access locations to determine delays and queuing and its interactions with the traffic flows in Hayes and Roseberry Streets. The proposed number of car parking spaces is considered satisfactory. The applicant may be requested to discuss with Council's traffic staff to clarify and address the proposed internal circulation arrangements of the car park and establishing a parking management plan.

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The traffic impact report has also not provided details to the supply of bicycle parking spaces and arrangements within the proposed Woolworths site.

Local Planning Policy Issues

Council's initial notification advice to the Director General on the decision to prepare draft LEP Amendment 79 had regard to the drafting of the new Comprehensive LEP and at that time stated that:

'following draft LEP amendment 79, the preparation of the new Comprehensive LEP and subsequent generations of LEP's would further progress the future rejuvenation and planning objectives for the zone'.

Since Council's initial notification advice in relation to this proposal in February 2008, the Department have advised in the drafting of Manly Comprehensive LEP, that the continued permissibility of bulky goods retailing in the industrial zone may not be supported. The emergence of the Department's concern over the continuation of a significant established retail land use in the Manly Industrial Area raises a significant land use planning issue for Council in relation to the consistency of the proposal for a new retail use with future strategic planning directions for this zone. In other words, to permit a supermarket on one major site in the zone and then proceed to downscale retail activities over the rest of the zone (by prohibiting bulky goods retailing) in the future Comprehensive LEP is poor planning. It would appear that Council must establish its future planning directions under the Manly Comprehensive LEP for the Industrial zone as a priority.

Council last considered a report on the Manly Comprehensive LEP at its Planning and Strategy meeting 6 April 2009. At this time an attachment of planning policy issues including recommendations in relation to the Manly Industrial Zone as follows:

- I. Council continues to make representations to the NSW Department of Planning, seeking to ensure that bulky goods retailing continues as a permitted land use in the Manly Industrial zone.*
- II. Council review the need for a consultant to undertake a strategic land use study of the Manly Industrial zone, which would inform the future permitted land uses and zoning.*
- III. Council explore options with the Department to fund any land use study of the Manly Industrial zone.*

The need for Council to prepare a strategic land use study of the Manly Industrial zone is a more pressing need in light of the issues arising from both the preparation of the Manly Comprehensive LEP and considerations following submissions on draft LEP amendment 79.

Further Consideration of Submissions

Further to the broader issues arising post exhibition above, the following comments are made on a number of other issues as follows:

The creation of a new retail centre in an ad-hoc and unplanned manner.

Further to issues raised in relation to the Manly Comprehensive LEP above, Council's initial report to the Director General in relation to the making of draft LEP Amendment 79 and in consideration of the draft NE Sub Regional Strategy in February 2008 stated:

Consideration could be given to some intensification of Employment Lands, while not undermining the integrity of employment lands and broader needs of Sydney. Finally the re-use of older industrial areas to higher order employment uses may be raised under further study as a potential strategic direction which may be considered for the Balgowlah/ Manly Vale Industrial Area. Consultation with the Employment Lands Ministerial Advisory

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Committee may be appropriate in this regard to discuss prospects for Manly Vale as an 'economic renewal investigation area'.

Comment: Council is not aware that the proposal was considered by this Ministerial Committee during the period prior to the Ministers delegation approval (between February 2008 and January 2009). Whilst such a forum may not necessarily be appropriate given the smaller scale of this industrial area, the submission highlights some of the broader strategic issues and context for the industrial area into which draft LEP Amendment 79 is proposed.

The proposal will introduce a higher land value likely to place upward pressure in the area.

Comment: As Council is a major land owner in this Industrial area (Council Depot) and given the issues raised in respect of potential benefits in terms of higher land values, it is recommended that the further strategic study recommended in this report be undertaken independently of Council.

Economic Impact Assessment prepared by Urbis JHD (up-dated May 2009) inconsistent with Coles' own analysis by Macro Plan in 2008.

Comment: A review of the assessment of economic impacts in these two studies is beyond the scope of this study. Any assertion that the impacts are greater than assessed should be verified independently to ensure the rezoning is appropriately assessed.

There is already adequate availability of retail floor space in Manly LGA to support local population without the proposal.

The availability of retail floor space was a particular issue arising in the Department's requirements for further justification. Council's initial submission to the Department expressed the view that *'availability of suitable sites for supermarket sites are limited in Manly having regards to the land required, potential amenity effects and access constraints'*. Following receipt of submissions and in light of the Departments issues, it is considered that Council's initial appraisal should be reviewed and subject to more detailed land use analysis.

Where to from here?

The Department advised post exhibition that the proposed LEP amendment may proceed to be made without further justification or study being required (detailed in this report's 'Background'). However, taking into account the drafting of Manly's Comprehensive LEP 2011 and ongoing discussions with the Department of Planning's Sydney East Regional Team there appears to be a number of areas requiring further study and review, and these issues are broadly dealt with in this report.

In determining options to either proceed with this proposal, or refuse the proposal, or defer the application; Council should note that much of the further strategic studies required in this matter are not just required for this LEP amendment alone. The Department of Planning's Sydney East Regional Team has indicated the need to review the light industrial zone more broadly. There are also concerns that the proposed LEP amendment may not be consistent with Ministerial Directions relevant to the preparation of the Comprehensive (Standard Instrument) LEP.

Accordingly there are three options for Council to consider:

Firstly, Council may proceed to prepare and submit the LEP amendment to the Department to make the plan. It is understood that the Department conclude that requirements for further justification have been satisfied in the applicant's submissions notwithstanding certain matters raised by the Departments regional team concerning the zoning of the land in Manly's future Comprehensive LEP under the standard instrument. Under this option, Council would determine that any further planning study and investigations would proceed at a later stage including a review

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of the zoning of the land in the Manly Comprehensive LEP. In this regard it is noted that the proposed LEP amendment would retain the existing light industrial zone and add a supermarket to the permitted uses with development consent.

Secondly, Council may determine not to proceed to prepare the LEP amendment and not amend the existing list of permitted land uses in the light industrial zone (by adding a supermarket use). Under this option the future planning directions for the Industrial zone remain a strategic consideration, still requiring Council to undertake further land use study of the Manly industrial zone which would inform the future permitted land uses and zoning under the Manly Comprehensive (Standard Instrument) LEP. Should the Minister for Planning consider that the proposal should proceed she may take the role as relevant authority and make the plan notwithstanding Council's refusal.

Thirdly, Council may require studies to be undertaken as part of its assessment of the proposed planning amendment. This review may be used to inform Council and the Department in relation to a strategic framework and the necessary justifications for the making of draft LEP Amendment 79. In preparing such studies, Council may seek to recoup certain costs from the applicant or seek funding (including 'plan first' funds from DA levy fees) from the Department to assist in the preparation of these studies.

The Department's particular requirements for further justification implicitly require more research to be carried out. It is understood that the Department may otherwise conclude that the justification requested from Council may not necessarily or essentially require further study. However, it is still considered appropriate from the considerations arising during the assessment of this proposal, for Council to carry out a strategic land use study of the Manly Industrial zone. This study would inform the future permitted land uses and zoning would address any inconsistencies arising in the assessment of draft LEP Amendment 79. Council may also deal more comprehensively and strategically with the assessment of draft LEP Amendment 79 including the statutory requirements resting with Council under Section 117 Direction 1.1 – Business and Industrial Zone and the matters identified by the Department including:

- the availability of supermarket floor space across the Manly local government area;
- the existing context of the site;
- its future purpose;
- the potential impact of loss of industrial land; and
- the relationship to surrounding local centres.

Additional studies may be further warranted having regard to the time that has passed since Council's original resolution to prepare a draft plan on 4 February 2008. Since this time Council has progressed the drafting of the draft Manly Comprehensive LEP 2011 and has received advice regarding future zoning of the land affected by draft LEP Amendment 79. Other major development applications in this industrial zone have also been considered in which the traffic capabilities in and around the industrial areas have been identified as being of major concern.

It is anticipated that any further study of the Manly Industrial zone would be undertaken by an independent Planning Consultant coordinated and directed by Council.

CONCLUSION

Draft LEP Amendment 79 proposes to amend Manly LEP 1988 to permit with consent, a supermarket at 17 and 31 Roseberry Street, Balgowlah within the Industrial Zone. Following exhibition of this draft Plan and a review of submissions, Council may now consider and determine how it wishes to proceed in dealing with this planning proposal. The options to either proceed with this proposal, to refuse the proposal, or defer the application.

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In considering the range of options open for Council in dealing with this proposal, it is noted that the Minister for Planning can 'call in' this proposed LEP amendment at any time for any number of reasons. In relation to the issue of further assessment and broader strategic review must primarily ensure that the draft Plan sufficiently meets the planning principles and objectives of all relevant plans, policies, ministerial directions and strategies. In this regard the Department does not object to the making of this plan and the study requirements are for Council to determine.

In terms of further land use study of the zone this may take place either prior to proceeding with the plan (under Option 3 - to defer), as a separate project (option 2 - to refuse), or following the making of the plan (Option 1 - to approve). Submissions received have also identified potential inconsistency in relation to economic impact assessment and the degree to which the proposal is likely to impact on existing retailing. The area-wide and cumulative traffic effects are also to be addressed in any land use studies dealing with the future planning of the industrial zone. In any case Council is advised of the need to further consider and comprehensively review future land use options for the Manly industrial zone (including the area affected by draft LEP Amendment 79) at some stage prior to the completion of the Manly Comprehensive LEP under the Standard Instrument (LEP) Order.

RECOMMENDATION

THAT

1. The draft Manly Local Environmental Plan 1988 (Amendment No. 79) (Draft LEP No. 79) be deferred until further strategic land use and planning studies (including cumulative traffic impact) for the industrial zone which would inform Council of the future permitted land uses and would address any inconsistencies arising in the Assessment of Draft LEP Amendment 79;
2. The Council explore with the Department of Planning and applicant available future funding opportunities for land use studies of the Manly industrial zone as part of the preparation of the Manly Comprehensive LEP (Standard Instrument) and this Draft Amendment 79.

ATTACHMENTS

There are no attachments for this report.

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***** End of Planning And Strategy Division Report No. 38 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Environmental Services Division Report No. 22
SUBJECT: Development Applications Being Processed During October 2009
FILE NO:

SUMMARY

Development Applications being processed during the month of October 2009.

REPORT

The following applications are with the Town Planners for Assessment.

103/09	71 Bower Street	Demolition of existing and new 3 storey dwelling
108/09	38 Birkley Road	Alterations to approved garage and first floor addition
129/09	87 Stuart Street	Alterations & Additions
137/09	242 Pittwater Road	Alterations & Additions
138/09	170 Pittwater Road	Alterations and Additions including partial demolition
139/09	563 Sydney Road	Shop front and ATM
141/09	94 Seaforth Crescent	Alterations & Additions
145/05	4/11-27 Wentworth Street	Remove brick wall and replace with windows
145/09	34 Rickard Street	Partial demolition and new dwelling
149/09	25 La Perouse Street	Partial demolition and new 2 storey dwelling
150/09	3 Baltic Street	Demolition & new 2 storey dwelling
155/09	16 Margaret Street	Alterations & Additions
156/09	15 Mulgowrie Crescent	Partial demolition and Alterations and Additions
161/09	105 Pittwater Road	Alterations & Additions
165/08	5 Clarence Street	Investigation of Unauthorised Works
170/09	1/111 North Steyne	Demolition of existing & new 6 storey RFB, roof top terrace and plunge pool
171/09	30 Abernethy Street	Alterations & Additions
178/09	39 Ernest Street	Alterations & Additions
180/09	Manly Wharf	'Hugos' extended outdoor seating
181/09	25 Smith Street	Extension of existing garage & add of first floor addition
184/08	63 Kangaroo Street	Demolition and New Garage
188/09	79 Wood Street	Alterations & Additions
190/09	45 Pittwater Road	Alterations & Additions
195/09	1 Baranbali Avenue	Alterations & Additions
196/09	17 Marine Parade	Alterations & Additions
199/09	11 Oyama Avenue	Land Subdivision
200/09	24 Ponsonby Parade	Demolition of existing & construction of new dwelling
201/09	41 Jamieson Street	Alterations & Additions
203/09	40 Dudley Street	Alterations & Additions & Carport
207/09	21 Palmerston Place	Alterations & Additions
208/09	3 Redman Street	Alterations & Additions
209/09	19 West Street	Alterations & Additions
213/09	1 Judith Street	Alterations & Additions
215/09	57 Beatrice Street	Demolition of existing & construction of new 2 storey
225/09	41 Edgecliff Esplanade	Additional Information
226/09	11-27 Wentworth Street	Alterations and Addition to mixed use development
227/09	470 Sydney Road	Alterations & Additions
228/09	18 Acacia Road	2 Storey Dwelling and pool and garage
229/09	Manly Wharf	1.8 metre Security Fencing & Gates
233/09	91 Addison Road	Swimming pool & landscaping
235/09	8 King Street	Alterations & Additions
237/09	35 Pittwater Road	Shop fit out and change of use to Cafe

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239/07	7 Audrey Street	Section 96 Modification
239/08	2 Grandview Grove	Section 96 Modification
24/09	7 Marine Parade	Alterations & Additions to mixed use building
240/09	27 Radio Avenue	Alterations & Additions
242/09	13 Victoria Parade	Change of Use in accompany adjoining
243/09	102 Balgowlah Road	Front Fence
244/09	2 Avona Crescent	Alterations & Additions
245/09	77A Ellery Parade	Demolition of existing and new 2 Storey dwelling
246/09	165 Condamine Street	Alterations & Additions
248/09	43-45 East Esplanade	2 Illuminated Signs
249/09	46 Addison Road	Alterations & Additions to RFB
250/09	22 The Crescent	Alterations & Additions to RFB
252/09	36 Pacific Parade	Driveway Crossing
254/09	200 Pittwater Road	Change of Use - Cafe Bar
256/09	29 Gurney crescent	Alterations & Additions
257/09	43 Macmillan Street	Demolition of existing and new 2 Storey Dwelling
258/09	258 Sydney Road	Alterations & Additions
259/09	72 Baringa Avenue	Rear Timber Dec and Brick Front Fence
260/09	26 Crescent	Alterations & Additions
261/09	122 Woodland Street	Carpport and fence
262/09	8 James Street	Alterations & Additions to RFB
263/09	12 Kareema Street	Alterations & First Floor Additions
265/09	38 Francis Street	Alterations & Additions
266/09	19 Moore Street	Alterations & Additions
267/09	74 The Corso	Change of use to educational establishment
268/09	53 Fromelles Avenue	Alterations & Additions
269/09	21 Allenby Street	Partial demolition and Alterations and Additions
271/06	85 West Street	Section 96 Modification
271/09	37 Baringa Avenue	2 Storey Dwelling ,garage and landscaping
272/09	41 Darley Road	Alterations & Additions
273/06	1 Beatty Street	Section 96 Modification
274/09	107 Wanganella Street	Alterations & Additions
288/09	3 Cliff Street	Alterations & Additions
290/09	7 Vista Avenue	Alterations & Additions
320/98	11 Wentworth Street	LEC Appeal
358/08	30 Kitchener Street	Demolition and new 2 storey dwelling
363/07	2A Denison Street	Section 96 Modification
396/06	23 Kitchener Street	Section 96 Modification
398/07	13 Barrabooka Street	Alterations & Additions
401/07	26 Malvern Avenue	Section 96 Modification
408/08	47 Seaforth Crescent	82A Review
409/07	11 Oyama	Alterations & Additions
417/07	7A Seaforth Crescent	Section 96 Modification
420/08	55 Fromelles Avenue	Section 96 Modification
427/07	2A West Street	Land Subdivision into 2 allotments and new driveway access
443/02	Rialto Square	LEC Appeal
445/07	24 Collingwood Street	Section 96 Modification
446/08	29 Adelaide Street	Part demolition and Alterations and Additions
477/08	29 Alma Street	Section 96 Modification
482/04	106 Darley Road	Section 96 Modification
532/07	18 Cutler Road	Section 96 Modification
61/09	30 Abernethy Street	Alterations & Additions
652/99	7 West Street	Section 96 Modification

Environmental Services Division Report No. 22 (Cont'd)

75/09	10 Beatty Street	Demolition & new 4 storey dwelling, pool, terrace, deck and landscaping
77/98	11 Wentworth Street	LEC Appeal
81/09	33 Gordon Street	Demolition of RFB and New 2 storey dwelling, garage, deck and landscaping
85/07	41E Castle Court	Section 96 Modification
88/09	16 Mulgowrie Crescent	Alterations & Additions
95/09	29 Marshall Street	Demolition and construction of retaining wall

The following applications are with Lodgment and Quality Assurance for notification, advertising and referral to appropriate parties.

114/2009 4 Belgrave Street, MANLY 2095

Change of hours to 9.00am to 10.00pm Monday to Sunday, signage and sun shade curtain

169/2006 68 Beatrice Street, BALGOWLAH HEIGHTS 2093

Section 96 to modify approved Alterations and additions to existing dwelling including new carport and veranda

253/2009 19 George Street, MANLY 2095

Front fence and gate

255/2009 5 Ainslee Place, SEAFORTH 2092

AMENDED PLANS - Construction of a two (2) storey dwelling house with double garage and landscaping

264/2009 24B Bungalow Avenue, BALGOWLAH HEIGHTS 2093

Alterations and additions to existing dwelling including first floor addition and decks

290/2007 30 Cutler Road, CLONTARF 2093

Section 96 to modify approved alterations and additions to an existing dwelling including a third floor addition

174/2008 8 Coral Street, BALGOWLAH 2093

Section 96 to modify approved Torrens Title Subdivision into two (2) allotments and construction of a two (2) storey dwelling house on each of the newly created allotments

270/2009 323 Sydney Road, BALGOWLAH 2093

Alterations and additions to existing dwelling to convert into a Residential Flat Building containing two (2) units, including first floor, second floor additions, double carport and strata subdivision

127/2009 37 Boyle Street, BALGOWLAH 2093

Section 96 to modify approved Demolition of existing timber deck alterations and additions to existing single storey dwelling

276/2009 4 Smith Street, MANLY 2095

Alterations and additions to an existing two (2) storey dwelling including new kitchen, bathroom, off street parking, rear fence, windows and roof

330/2007 36 Ernest Street, BALGOWLAH 2093

Section 96 to modify approved Alterations and additions to an existing dwelling including new upper floor level, new swimming pool and landscaping

277/2009 7 Smith Street, MANLY 2095

Change of use to a Boarding House

278/2009 31 Augusta Road, FAIRLIGHT 2094

Environmental Services Division Report No. 22 (Cont'd)

Alterations and additions to an existing dwelling including conversion of a carport to a garage, new driveway and retaining walls

279/2009 4 Salisbury Square, SEAFORTH 2092

Partial demolition of the existing dwelling, alterations, additions including a new first floor level, basement garage, swimming pool and landscaping

275/2009 7 Abernethy Street, SEAFORTH 2092

Alterations and additions to the existing dwelling including widening of driveway, new retaining wall and new concrete slab

280/2009 30 Quinton Road, MANLY 2095

Torrens Title Subdivision into two (2) lots and two (2) storey dwelling with garage

281/2009 Wakehurst Parkway, SEAFORTH 2092

Construction of a new two (2) storey dwelling, attached garage and driveway

282/2009 4 Gordon Street, CLONTARF 2093

Alterations and additions to the existing dwelling including first floor addition, swimming pool, cabana, garage and landscaping

100/2007 95 Castle Circuit, SEAFORTH 2092

Section 96 to modify approved Alterations and additions to dwelling, excavation and construction of a new garage, deck and stairs

283/2009 197-215 Condamine Street, BALGOWLAH 2093

Shop fit out, establishment of use as a Seafood Shop, signage and outdoor eating area in Shop 70 within The Village - Balgowlah

284/2009 48 Seaview Street, BALGOWLAH 2093

Alterations and additions to the existing dwelling including a new double carport and front fence

120/2009 1 Alma Street, CLONTARF 2093

Section 96 to modify approved Alterations and additions to an existing two (2) storey dwelling including extensions to first floor and ground floor, deck and front fence

285/2009 9 Thornton Street, FAIRLIGHT 2094

Alterations and additions to the existing dwelling including a new rear deck, demolish internal walls to Unit 2

286/2009 7 Reserve Street, SEAFORTH 2092

Demolition of existing and construction of a new two (2) storey dwelling including a garage and landscaping

287/2009 11 Fairlight Crescent, FAIRLIGHT 2094

Alterations and additions to the existing Residential Flat Building including a new lift, spa, swimming pool, sauna and extension of car bay

289/2009 30 Cutler Road, CLONTARF 2093

Alterations and additions to the existing dwelling including a new second storey

272/2002 66 Peacock Street, SEAFORTH 2092

Section 96 to modify approved Alterations and additions to existing dwelling house

291/2009 143 Balgowlah Road, BALGOWLAH 2093

Alterations and additions to the existing dwelling including a first floor addition

Environmental Services Division Report No. 22 (Cont'd)

- 292/2009 65 Lauderdale Av, FAIRLIGHT 2094
Alterations and additions to the existing dwelling including a new rear deck, paving, doors and stairs
- 293/2009 18 Daintrey Street, FAIRLIGHT 2094
Alterations and additions to the existing dwelling including first floor addition and driveway widening
- 526/2006 14 Lombard Street, BALGOWLAH 2093
Section 96 to modify approved Demolition of the existing single storey dwelling and shed and construction of a new semi-detached development containing two (2) dwellings as well as Torrens Title Subdivision of the block into two (2) parcels
- 294/2009 26 Nolan Place, BALGOWLAH HEIGHTS 2093
Alterations and additions to the existing dwelling including carport, rear terrace and internal reconfiguration
- 295/2009 81 West Esplanade, MANLY 2095
Alterations and additions to the existing Residential Flat Building including a new entry awning
- 296/2009 37A Woodland Street, BALGOWLAH 2093
Demolish outbuildings, alterations, additions to existing dwelling including rear deck, internal stairs, roof alterations, rendering and landscaping
- 421/2007 38-40 Balgowlah Road, FAIRLIGHT 2094
Section 96 to modify approved Reconfigure the eighteen (18) hole golf course including repositioning of holes and fairways new drainage works new water storage and treatment ponds
- 455/2008 99 Clontarf Street, SEAFORTH 2092
Section 96 to modify approved Alterations and additions to existing dwelling including first floor additions and deck
- 70/2009 26 Curban Street, BALGOWLAH HEIGHTS 2093
Section 96 to modify approved Alterations and additions to existing dwelling including double garage, extension, decks, pergola, front fence, swimming pool and landscape
- 297/2009 69 Peacock Street, SEAFORTH 2092
Alterations and additions to the existing dwelling including rear deck
- 298/2009 2 Craig Avenue, MANLY 2095
Alterations and additions to the existing building including decks, pergolas and ramp
- 462/2006 151 Darley Road, MANLY 2095
Section 96 to modify approved Pathway at St Patrick's Estate (North of Darley Road)
- 493/2007 Stuart Street, MANLY 2095
Section 96 to modify approved Alterations and additions to an existing kiosk & Change of the hours of operation of existing kiosk
- 383/2008 15 Seaview Street, BALGOWLAH 2093
NEW DA required - Not Section 96 Modification - Section 96 to modify approved Alterations and additions to existing dwelling including extensions and new deck
- 35/2004 8 The Corso, MANLY 2095
Section 96 to modify approved Demolition of existing buildings and Construction of a Coles Supermarket, Retail Shops and Residential Apartments

Environmental Services Division Report No. 22 (Cont'd)

299/2009 Kangaroo Street, MANLY 2095
Alterations and additions to the existing Child Care Centre

300/2009 1C Vista Avenue, BALGOWLAH HEIGHTS 2093
Alterations and additions to the existing dwelling including extensions to second floor, deck extension and new side deck

301/2009 9 James Street, MANLY 2095
Alterations and additions to the existing dwelling including first floor addition, rear extension and new carport with terrace above

391/2008 13 Manly Road, SEAFORTH 2092
Swimming Pool

302/2009 103 Pittwater Road, MANLY 2095
Alterations and additions to the existing dwelling including rear extension, new garage, swimming pool and landscaping

303/2009 50 Rosedale Avenue, FAIRLIGHT 2094
Alterations and additions to the existing semi-detached dwelling including first floor addition

304/2009 30 Addison Road, MANLY 2095
Swimming pool and landscaping

305/2009 30 Addison Road, MANLY 2095
Demolition of existing and construction of a two (2) storey dwelling, double garage and rear deck

306/2009 197-215 Condamine Street, BALGOWLAH 2093
Establishment of use as a Restaurant with associated fit out and illuminated signage Shop 68 and new toilets in Shop 61 within The Village - Balgowlah

307/2009 197-215 Condamine Street, BALGOWLAH 2093
Food Shop

308/2009 17 Belgrave Street, MANLY 2095
Change of Use/New Use

311/2009 28 Alexander Street, MANLY 2095
Land Subdivision

309/2009 121 Condamine Street, BALGOWLAH 2093
Alterations & Additions to Dwelling

310/2009 33 Pacific Street, MANLY 2095
Alterations & Additions to Dwelling

RECOMMENDATION

THAT the information be noted.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 22 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Environmental Services Division Report No. 23
SUBJECT: Current Legal Appeals Relating to Development Applications
 October 2009

FILE NO:

SUMMARY

Current Legal Appeals relating to Development Applications during October 2009.

REPORT

DA#	L&E Appeal Reference	House #	Address	Date Appeal Lodged	Solicitor Company	Current Status
387/03	11098/04 S56A	71	The Corso	02/06/08	HWL.	S56A appeal 24/11/09
261/08	10997/08 Class 1	38	Stuart Street	02/10/08	Pikes	Appeal Upheld 07/10/09
66/07	11277/08 & 10192/09 Class 1	11-27	Wentworth Street	16/12/08	HWL	Hearing 27/10/09
51/08	10429/08 S56A Appeal	114	Frenchs Forest Road	30/04/08	Pikes	Awaiting judgment

RECOMMENDATION

THAT the information be noted.

ATTACHMENTS

There are no attachments for this report.

OM191009ESD_2.doc

***** End of Environmental Services Division Report No. 23 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Environmental Services Division Report No. 24
SUBJECT: Compliance and Enforcement Policy 2009
FILE NO:

SUMMARY

The Manly Council Compliance and Enforcement Policy has been formulated to provide a sound and fair basis with respect to how Manly Council, as the responsible authority, acts promptly, consistently and effectively so as to manage unlawful activities with a view to ensuring, so far as is practicable, compliance with the law and, in the case of the carrying out of unlawful development, reflecting the planning objectives of the EPAA and any EPI.

REPORT

The objective of the Enforcement Policy is to establish clear guidelines in dealing with unlawful activity, taking into account all relevant information, including the available evidence, cost to the community, the circumstances of the individual case and public policy and precedent considerations.

The policy –

1. Provides a legal and administrative framework to assist Council and its officers in making decisions in its enforcement functions
2. Specifies the criteria which the Council and its officers will take into consideration when deciding:
 - (a) if enforcement action is necessary; and
 - (b) the most appropriate type of action.
3. Provides information to the public about the Council's role and policy on enforcement; and
4. Ensures that the enforcement process is conducted with maximum speed and minimal delay.

RECOMMENDATION

1. THAT the report be received and noted
2. THAT Council adopts the Compliance and Enforcement Policy.

ATTACHMENTS

AT-1	Compliance and Enforcement Guidelines - October 2009	15 Pages	Circulated Separately
AT-2	Compliance and Enforcement Policy - October 2009	6 Pages	Circulated Separately

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***** End of Environmental Services Division Report No. 24 *****

TO: Ordinary Meeting - 19 October 2009
REPORT: Human Services And Facilities Division Report No. 6
SUBJECT: Graffiti Policy
FILE NO:

SUMMARY

This report is to seek Council's resolution on two policies relating to graffiti in the Manly Local Government Area.

To inform this report to Council, attached is:

- A. Draft Graffiti Management Policy
- B. Draft Graffiti Reward Scheme Policy

REPORT

Graffiti vandalism in Manly

Graffiti is an increasing concern for residents, local business and Council. Graffiti also has financial implications through removal and prevention programs. Manly Council is committed to mitigating the effects of graffiti vandalism in the community.

The NSW Bureau of Crime Statistics and Research (BOCSAR) reported that in 2007, Manly:

- experienced an upward trend for malicious damage of 10.5% over the previous 60 months.
- 8% of malicious damage incidents ultimately result in conviction of an offender.
- the CBD is the hotspot location for malicious damage in the Manly LGA.
- the peak time for malicious damage incidents was over the weekend (between midnight and 6am Friday and Saturday nights).
- persons of interest (POI's) for malicious damage were predominantly male, and of those Persons of Interest (POI) proceeded against by the Police, 44% were under the age of 19 years of age

A NSW BOCSAR report in 2006 reviewing malicious damage in NSW confirmed that:

- There is a low clear up rate for malicious damage to property (only 8%) as incidents are rarely witnessed and often take place in the evening.
- The majority of graffiti incidents reported to the police do not have an identified person of interest, as was the case for **74.2%** of recorded graffiti incidents in 2005 and **73.6%** in 2006.

Manly Council spends a considerable amount removing graffiti vandalism from Council buildings and infrastructure. Expenditure can be summarised as:

Financial year	Expenditure
2005/06	\$34,545
2006/07	\$45,019
2007/08	\$92,270
2008/09	\$76,373

Human Services And Facilities Division Report No. 6 (Cont'd)**Council resolutions regarding graffiti vandalism**

Following a Mayoral Minute from the Extraordinary Meeting of 20 October 2008, Council resolved that:

- “1. The NSW Attorney General and the president of the LGSA be called upon to hold a Leaders’ Summit on graffiti vandalism, and that they be requested to invite experts to address the summit on effective anti-graffiti strategies, which should include speakers on legal remedies as a deterrent to offenders.*
- 2. A joint meeting of the Community Safety Committee, Youth Council and youths of the area, Manly Police, School Principals of all local schools, and State Transit Police, be held to formulate a joint approach to tackle the challenges of graffiti vandalism.*
- 3. Council continue to offer a monetary reward of up to \$1,000 upon the conviction of a graffiti vandal for their crime; and*
- 4. Council mount a public awareness campaign for reporting and detection of graffiti and apprehension of graffiti vandals.”*

As correspondence from NSW Attorney General and the LGSA indicated, there was little interest for a Leaders’ Summit on graffiti vandalism.

Council proceeded to hold a local meeting including members of the Community Safety Committee, Youth Council, Manly Police and 21 local school principals and community members to discuss the issues of graffiti.

The outcomes of this meeting led to a report to the Community Safety Committee meeting of 9 April 2009, which made recommendations to the Planning and Strategy Meeting of 4 May 2009, at which Council resolved to:

- 1. Continue the policy of rapid removal.*
- 2. Publicise and continue to offer a monetary reward of up to \$1,000 upon the conviction of a graffiti vandal for their crime.*
- 3. Establishes a database of graffiti tags and display on line on Council’s website (sharing information across organisations).*
- 4. Maintain a dedicated Council hotline to receive community reports.*
- 5. Mount a public awareness campaign to encourage residents to report graffiti.*
- 6. Develop an information resource to assist residents in removing graffiti and how to graffiti proof property against tags e.g. graffiti resistant materials, darker surfaces.*
- 7. Consider the requirements that would be necessary for removal of publicly visible graffiti from private property.*

Following media coverage of this resolution, including the graffiti reward, and subsequent claims for the reward, the Community Safety Committee discussed the issue of the reward scheme on 11 June 2009, and at the Planning and Strategy meeting of 6 July 2009, a recommendation to Council was:

That Council consider extending the graffiti reward scheme to be payable for information leading to a criminal proceeding resulting in any of the following:

- a conviction*
- a formal caution under the Young Offenders Act 1997, or*
- a juvenile justice conference under the Young Offenders Act 1997.*

At the Planning and Strategy meeting of 6 July 2009 the adopted recommendation was:

Human Services And Facilities Division Report No. 6 (Cont'd)

That the General Manager be requested to prepare a report to Council on a new policy on the offer of public rewards offers for the reporting of, conviction, and official cautions against persons involved in graffiti crimes committed or made against public properties.

Manly Council Graffiti Management and Reward Policies

Council has developed the following policies in consultation with key stakeholders including Manly Police and operational sections of Council:

Graffiti Management Policy "A"

1. Background

Graffiti vandalism refers to *'illegally defacing private and public property with markings and/or graphics without the owner's consent'* (Stop Graffiti Vandalism – Lawlink, NSW Attorney General's website).

2. Purpose

Manly Council is committed to rapid removal of graffiti from Council owned and Council managed property, accurate recording of graffiti removal work, encouraging community involvement in reporting and providing the community with information to help with prevention and removal.

3. Objectives

The objectives of Manly Council's Graffiti Management Policy can be summarised as:

- Remove
- Engage
- Educate

4. Legislative requirements

Manly Council is governed by the following legislation in regard to graffiti management and rewards:

- The Graffiti Control Act 2008
- Local Government Act 1993
- Young Offenders Act 1997
- Young Offenders Amendment (Graffiti Offenders) Regulation 2009
- Children (Community Services Orders) Act 1987
- Summary Offences Act 1988
- Crimes Act 1900

4.1 Policy - Graffiti Removal

Manly Council removes graffiti from Council owned and Council managed property only.

Manly Council may choose to remove graffiti from property without the agreement of the owner or occupier if the graffiti is racist or defamatory and is visible and accessible from a public place.

4.1.1 Legislation regarding graffiti removal

The Graffiti Control Act 2008 provides for graffiti removal on other property, without the agreement of the owner or occupier. Part 4, Section 12 applies to

Human Services And Facilities Division Report No. 6 (Cont'd)

graffiti which is visible from a public place, and removal of such graffiti can only be carried out from a public place. Council is to “*bear the cost of graffiti removal work*”, and Council will “*give the owner or occupier of the land concerned written notice that the work has occurred*”. Council “*must pay compensation for any damage caused by the council in carrying out graffiti removal work in accordance with this section*”.

4.1.2 Legislation requiring the keeping of records in a Graffiti Register

In accordance with Part 4, Section 13 of the Graffiti Control Act 2008, Council will maintain a Graffiti Register of all graffiti removal work conducted by its painters and contractors, including details which show the owner or occupier of the premises, the nature of the work, and the actual or estimate of cost.

5. Review of the policy

This policy will be reviewed on an annual basis. Where legislative, policy or funding impacts on the policy in its current form, the policy will be reviewed and amended accordingly.

Graffiti Reward Policy “B”**1. Background**

Graffiti vandalism refers to ‘illegally defacing private and public property with markings and/or graphics without the owner’s consent’ (Stop Graffiti Vandalism – Lawlink, NSW Attorney General’s website).

2. Objectives

- To reduce acts of graffiti on Council property
- To encourage the public to report acts of graffiti
- To strengthen community pride

3. Reward Conditions

The reward scheme is subject to an annual cap of \$10,000 per financial year.

Conditions for the Graffiti Reward Policy apply:

- To graffiti offences committed on Council owned and Council managed property only;
- a reward will only be paid to one person for each graffiti incident reported to the Police which results in a criminal proceeding and a conviction under any of the governing legislation;
- a reward under this scheme will be payable for information leading to a criminal proceeding resulting in:
 - a conviction under the Summary Offences Act 1988, or
 - a formal caution or conference under the Young Offenders Act 1997 where guilt has been found or admitted;
- Persons providing information must be aware that they may be required to attend a police station and make a formal statement and/or appear in a court to give evidence;
- any person providing information must not be associated with the criminal offence;
- Fraudulent and/or misleading claims will be ineligible for payment of the reward. Council may seek to recoup the reward and costs associated with this action should an application be found to be fraudulent or misleading;

Human Services And Facilities Division Report No. 6 (Cont'd)

- Council may seek financial compensation or community service work for graffiti offenders as per the Graffiti Control Act 2008, the Children (Community Services Orders) Act 1987 or the Young Offenders Amendment (Graffiti Offenders) Regulation 2009.

4. Assessment of Claims

All applications for the reward will be verified with NSW Police and Manly Council records to ensure compliance with the conditions of the Graffiti Reward Policy. The value of the reward will be determined by the following formula:

- Fine determined by Magistrate less graffiti removal costs = reward. The maximum reward is \$1000.

Graffiti is a crime punishable by fines of up to \$2200, however the level of fine is determined by the Magistrate.

5. Legislative requirements

Manly Council is governed by the following legislation in regard to graffiti management and rewards:

- The Graffiti Control Act 2008
- Local Government Act 1993
- Young Offenders Act 1997
- Young Offenders Amendment (Graffiti Offenders) Regulation 2009
- Children (Community Services Orders) Act 1987
- Summary Offences Act 1988
- Crimes Act 1900

6. Review of the policy

An annual review of the policy will be undertaken as part of the reporting process to Council. Where legislative, policy or funding impacts on the policy in its current form, the policy will be reviewed and amended accordingly.

Conclusion

Given that research shows the majority of malicious damage incidents are not witnessed, and that offenders are often not apprehended, Council's offer of a reward for the reporting of graffiti incidents will encourage the community to actively report this crime. Encouraging graffiti reports to Council will also foster a greater sense of community pride and ultimately act as a deterrent to potential offenders, with more people in Manly watching out for graffiti vandals.

Adoption of the Graffiti Management Policy and Graffiti Reward Policy will provide a local approach to graffiti management, clarify Council's legislative obligations and give a clear direction for staff regarding management. The Graffiti Reward Policy will provide clarity on Council's position regarding the graffiti reward and will encourage the community to become actively involved in reporting graffiti vandalism. Council has prepared operational procedures regarding the implementation of both policies.

RECOMMENDATION

That Council:

Human Services And Facilities Division Report No. 6 (Cont'd)

1. Adopt the Graffiti Management Policy and the Graffiti Reward Policy; and
2. Conduct a community awareness campaign to inform residents of Manly of the Graffiti Management Policy and the Graffiti Reward Policy.

ATTACHMENTS

AT- 1 GRAFFITI MANAGEMENT POLICY 2 Pages

AT- 2 GRAFFITI REWARD SCHEME POLICY 2 Pages

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***** End of Human Services And Facilities Division Report No. 6 *****

Manly Council Graffiti Management Policy
Attachment A

1. Background

Graffiti vandalism refers to 'illegally defacing private and public property with markings and/or graphics without the owner's consent' (Stop Graffiti Vandalism – Lawlink, NSW Attorney General's website).

2. Purpose

Manly Council is committed to rapid removal of graffiti from Council owned and Council managed property, accurate recording of graffiti removal work, encouraging community involvement in reporting and providing the community with information to help with prevention and removal.

3. Objectives

The objectives of Manly Council's Graffiti Management Policy can be summarised as:

- Remove
- Engage
- Educate

4. Legislative requirements

Manly Council is governed by the following legislation in regard to graffiti management and rewards:

- The Graffiti Control Act 2008
- Local Government Act 1993
- Young Offenders Act 1997
- Young Offenders Amendment (Graffiti Offenders) Regulation 2009
- Children (Community Services Orders) Act 1987
- Summary Offences Act 1988
- Crimes Act 1900

4.1 Policy - Graffiti Removal

Manly Council removes graffiti from Council owned and Council managed property only. Manly Council may choose to remove graffiti from property without the agreement of the owner or occupier if the graffiti is racist or defamatory and is visible and accessible from a public place.

4.1.1 Legislation regarding graffiti removal

The Graffiti Control Act 2008 provides for graffiti removal on other property, without the agreement of the owner or occupier. Part 4, Section 12 of the Graffiti Control Act 2008 applies to graffiti which is visible from a public place, and removal of such graffiti can only be carried out from a public place. Council is to "bear the cost of graffiti removal work", and Council will "give the owner or occupier of the land concerned written notice that the work

Human Services And Facilities Division Report No. 6 - Graffiti Policy
GRAFFITI MANAGEMENT POLICY

has occurred". Council "must pay compensation for any damage caused by the council in carrying out graffiti removal work in accordance with this section".

Manly Council Graffiti Management Policy
Attachment A

Continued.....

4.1.2 Legislation requiring the keeping of records in a Graffiti Register

In accordance with Part 4, Section 13 of the Graffiti Control Act 2008, Council will maintain a Graffiti Register of all graffiti removal work conducted by its painters and contractors, including details which show the owner or occupier of the premises, the nature of the work, and the actual or estimate of cost.

5. Review of the policy

This policy will be reviewed on an annual basis. Where legislative, policy or funding impacts on the policy in its current form, the policy will be reviewed and amended accordingly.

Draft Ordinary Meeting Cl. 19.10.2009

Manly Council Graffiti Reward Policy

Attachment "B"

1. Background

Graffiti vandalism refers to 'illegally defacing private and public property with markings and/or graphics without the owner's consent' (Stop Graffiti Vandalism – Lawlink, NSW Attorney General's website).

2. Objectives

- To reduce acts of graffiti on Council property
- To encourage the public to report acts of graffiti
- To strengthen community pride

3. Reward Conditions

The reward scheme for successful reporting of graffiti is subject to an annual cap of \$10,000 per financial year.

Conditions for the Graffiti Reward Policy apply:

- To graffiti offences committed on Council owned and Council managed property only;
- a reward will only be paid to one person for each graffiti incident reported to the Police which results in a criminal proceeding and a conviction under any of the governing legislation;
- a reward under this scheme will be payable for information leading to a criminal proceeding resulting in:
 - a conviction under the Summary Offences Act 1988, or
 - a formal caution or conference under the Young Offenders Act 1997 where guilt has been found or admitted;
- Persons providing information must be aware that they may be required to attend a police station and make a formal statement and/or appear in a court to give evidence;
- any person providing information must not be associated with the criminal offence;
- Fraudulent and/or misleading claims will be ineligible for payment of the reward. Council may seek to recoup the reward and costs associated with this action should an application be found to be fraudulent or misleading;
- Council may seek financial compensation or community service work for adult or juvenile graffiti offenders under the relevant legislation.

4. Assessment of Claims

All applications for the reward will be verified with NSW Police and Manly Council records to ensure compliance with the conditions of the Graffiti Reward Policy. The value of the reward will be determined by the following formula:

- Fine determined by Magistrate less graffiti removal costs = reward. The maximum reward is \$1000.

Graffiti is a crime punishable by fines of up to \$2200, however the level of fine is determined by the Magistrate.

Manly Council Graffiti Reward Policy

Attachment "B"

Continued.....

5. Legislative requirements

Manly Council is governed by the following legislation in regard to graffiti management and rewards:

- The Graffiti Control Act 2008
- Local Government Act 1993
- Young Offenders Act 1997
- Young Offenders Amendment (Graffiti Offenders) Regulation 2009
- Children (Community Services Orders) Act 1987
- Summary Offences Act 1988
- Crimes Act 1900

6. Review of the policy

An annual review of the policy will be undertaken as part of the reporting process to council. Where legislative, policy or funding impacts on the policy in its current form, the policy will be reviewed and amended accordingly.

Draft Ordinary meeting 19.10.2009
