



## Agenda

### Ordinary Meeting

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

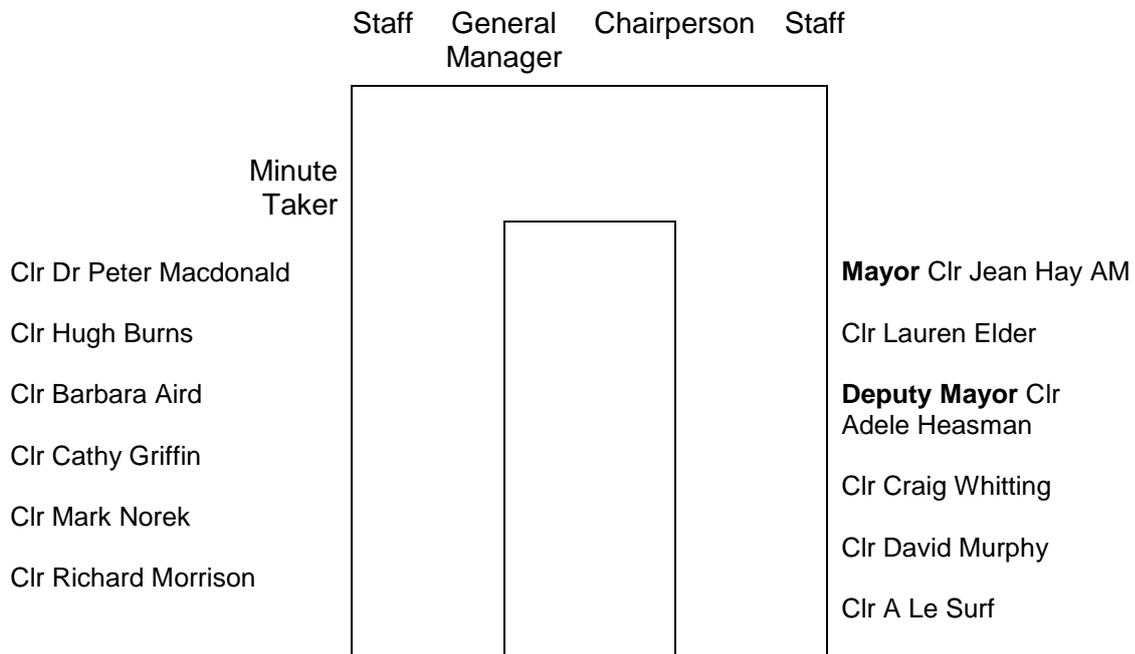
**Monday 20 April 2009**

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

# Seating Arrangements for Meetings



Press

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Public  
Addresses

## Public Gallery

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

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(In accordance with Clause 66 in Council's Code of Meeting Practice, Public Forum is for a maximum of fifteen (15) minutes for <i>matters that are not listed on the Agenda</i> . A total of five (5) people may address Council for a maximum of three (3) minutes each.)	
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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**

**Notice of Motion Report No. 14**

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

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

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Notice of Motion Report No. 10  
**SUBJECT:** Council Support for the Making of a Section 79 Complaint to the Director of the Department of Liquor Gaming and Racing  
**FILE NO:**

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Councillor Peter Macdonald will move:

That Manly Council formally resolves to support the current Section 79 complaint lodged by Manly Police to the Director and that the Community Safety Officer prepares a submission.

### **Background**

Alcohol related violence and anti-social behaviour has a long and sad history in Manly. It affects many individuals; it results in property damage and personal injury, and reflects adversely on the reputation of our area. It is related to the number of, and to the extended licensing hours of, the hotels and pubs in our CBD area. This was recognised by the previous Council and the *Manly After Midnight Policy* was developed and implemented with limited results; the main failure was to formally curtail the licensing hours of the large establishments (despite clear evidence by survey that the community wished earlier closing).

A separate initiative by the local police, the Venue Management Plan, was introduced in the middle of 2008. Some of the measures are still in place such as ranger/police cooperation, late night transport services, improved security and CCTV and alternative entertainment. However, the key agreement between police and licensees to close earlier has collapsed. Pubs are trading late, the improvements seen with earlier closing has evaporated and the police are reporting increasing violence and anti-social behaviour. This has led to the police announcing that they will be taking action under the new section 79 of the *Liquor Act 2007*.

Under that Act, in sub section 3(c), the local consent authority may make a complaint that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed; I urge Council to do so in support of the police submission. The General Manager has already prepared a document for the police which has not yet been sighted but could be included in the Council submission along with a contribution from the Community Safety Officer.

### **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. 10 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Notice of Motion Report No. 11  
**SUBJECT:** Implementation of a maintenance program for Manly Lagoon/Queenscliff Lagoon  
**FILE NO:**

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Councillor Craig Whitting will move:

That Manly Council, with the support of Warringah Council, implements a maintenance program for Manly Lagoon/Queenscliff Lagoon ASAP.

### **Background**

Maintenance is urgently needed to improve Manly/Queenscliff Lagoon's tidal flow and remove sand build-up.

Several specially designed concrete blocks were placed at the Ocean Beach end in front of low flow pipes to prevent seaweed being forced into the pipes and to slow down the tidal flow.

Unfortunately these blocks are no longer in place and seaweed is now blocking the pipes, stopping the tidal flow and contributing to sand build-up under and west of the Stuart Somerville Bridge.

### **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. 11 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Notice of Motion Report No. 12  
**SUBJECT:** Surf Life Saving Flags at North Steyne Surf Club  
**FILE NO:**

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Councillor Craig Whitting will move:

That Manly Council initiate using Surf Life Saving Flags at North Steyne Surf Club every Monday to Friday as per Manly and Queenscliff Surf Clubs.

### **Background**

Presently North Steyne Surf Club Members, visitors and residents are unable to swim at North Steyne every Monday to Friday outside of Christmas School Holidays and Public Holidays.

The Manly Surf Club Liaison Working Group recently met and discussed operating flags at North Steyne. The motion was unanimously supported by the committee.

### **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. 12 \*\*\*\*\*

**TO: Ordinary Meeting - 20 April 2009**  
**REPORT: Notice of Motion Report No. 13**  
**SUBJECT: Manly Council Solar Energy Conversion Plan - Stage 1**  
**FILE NO:**

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Councillor Hugh Burns will move:

That to promptly reduce Council's carbon (CO<sub>2</sub>) emissions:

1. That Council undertake an urgent investigation to audit all hot water heaters in its premises (including but not limited to the Town Hall, Art Gallery, Libraries, depot, childcare centres, reserve kiosks, public toilets, surf clubs etc.)
2. That Council identify the energy used, energy cost and estimated CO<sub>2</sub> emission annually from each such hot water unit (tabulated separately in report for each unit).
3. Council identify the feasibility and capital cost of changing every Council electric water heater to a solar panel storage water unit of sufficient capacity to provide 95% of the heating energy from the sun annually. That the feasibility and cost of converting each of the premises to have Natural Gas backup energy source for hot water is also to be looked at (i.e. so electricity is not used for heating water other than incidentally - e.g. for controls and circulating pumps etc.).
4. The above report to be provided within one month so as any works can be included in this year's Council budget.
5. That, notwithstanding the above, Council conduct an Energy Audit on each of its premises (if any already done in last 12 months re-present these). (The Audits are to identify what measures can be taken to reduce energy consumption on the premises.)
6. All Audits be presented to Council within 3 months.
7. That Council examine the cost and feasibility of constructing and commissioning a trial Concentrated Photo Voltaic (PV) solar electric power generator array, located on Council premises in a prominent public location. The size of the array should be sufficient to generate 100kW of electrical output (max).
8. A university (suggest UNSW) be engaged in partnership to independently record and report on the results of the installation.
9. The report on the Concentrated PV proposal be presented to Council in 2 months.
10. The original plans of our 1937 Manly Council Chambers (in Belgrave Street) be sourced from Council records (or the archives) to identify the design of the original internal natural lighting arrangement. (Original internal photos will be provided for brief display at the Meeting).
11. That the feasibility and cost of restoring this arrangement and the annual energy and CO<sub>2</sub> savings resulting be identified.
12. The results of this investigation be brought back to Council in one month so any works can be included in this year's budget.

**Notice of Motion Report No. 13 (Cont'd)**

**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. 13 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Item For Brief Mention Report No. 5  
**SUBJECT:** Items for Brief Mention - Minutes for Adoption by Council - Special Purpose and Joint Committees  
**FILE NO:**

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

i) **Sister Cities Committee** – 25 March 2009

a) **Item 3 Terms of Reference – Quorum for Meetings**

The adoption of the Terms of Reference were referred back to the Committee by the General Manager to resolve an issue regarding Quorums and attendance at meetings.

Recommendation

That the Terms of Reference (as tabled) be recommended for adoption subject to the following amendments:

Page 2 – **Membership of Committee** - The Quorum for the Committee is 11 members.

Page 4 – **Meetings** - A Quorum shall comprise one third of members on the Committee plus one.

ii) **Sports Facilities Committee** – 27 March 2009

a) **Item 4 Strategic Framework of the Sports Facilities Committee's 2009-2012 term, Priorities Dates for Future Meetings Report**

A presentation was made concerning the strategic framework for the work of the committee.

This included key outcomes for the committee and sporting users, objectives, opportunities and priorities. Following discussion the Committee decided to finalise its consideration of objectives and priorities at its May meeting, including that consideration of priorities that relate to public risk or related damage be given the highest priority in any Council considerations for funding.

The membership of the Committee was considered. It was felt that even though representatives were from certain sporting areas they represent all sports and the community and previously, representation of all sports has been strong and fair.

The committee outlined that it would be a good idea to invite other sporting reps to the meeting in the future as observers, this would leave the opportunity open for any future representation.

The committee did feel the need to have the representation of the Sporting Union President Eric Galloway or his representative on the committee.

**Item For Brief Mention Report No. 5 (Cont'd)**Recommendation

The Committee recommends to the Council that it considers the Committee's approved strategic framework (tabled).

The Committee recommends to the General Manager and Council the following changes that:

- The Sporting Union President Mr Eric Galloway or his chosen representative be invited to join the Committee.
- That the Committee will meet at 8am on the first Friday of the month.

**b) Item 6 Damage to Sports Field Lighting Report**

The Committee discussed the report, and the Parks & Reserves Manager emphasised the need for the sporting clubs to use due diligence in making sure that the lights were switched off on ovals when users were finished, and that damage to lighting infrastructure could result in a reduction in usage for clubs.

Council also has a commitment to reduce its carbon footprint and issues such as sports field lighting are a crucial part of that process.

The committee was responsive to this discussion and outlined that they as user groups would consider how they could also help Council meet its commitment.

Recommendation

The Committee recommends to the Council and General Manager that:

- The Committee and user groups are committed to helping Council meet any carbon footprint targets.
- The Committee seeks Councils consideration for improved technologies related to sporting infrastructure that will assist in meeting such target usage.

**c) Item 7 General Business****The Volley Ball Storage area on Ocean Beach North Steyne**

Item from previous meetings in 2007-2008. The Committee and Chair felt that this was an urgent matter to be considered because it has been raised by the Committee previously.

Recommendation

The Committee recommends for the consideration of the General Manager that:

The Volley Ball storage unit be constructed as previously prescribed given the previous commitment and the grant funding attached to the proposal.

**Item For Brief Mention Report No. 5 (Cont'd)****Pathway of Surfing Champions**

The Committee discussed the possibility of having a pathway to commemorate the surfing champions of Manly, and would like to form a sub committee of suitable representatives and formalise criteria for selection.

**Recommendation**

The Committee recommends to the Council and General Manager that:

The pathway project for the commemoration of such champions in Manly, be considered for endorsement by Council.

**RECOMMENDATION**

1 i) That the minutes of the **Sister Cities Committee - 25 March 2009** be **adopted**, including the following recommendations of a substantial nature:

a) **Item 3 Terms of Reference – Quorum for Meetings**

That the Terms of Reference (as tabled) be recommended for adoption subject to the following amendments:

Page 2 – **Membership of Committee** - The Quorum for the Committee is 11 members.

Page 4 – **Meetings** - A Quorum shall comprise one third of members on the Committee plus one.

ii) That the minutes of the **Sports Facilities Committee - 27 March 2009** be **adopted**, including the following recommendations of a substantial nature:

a) **Item 4 Strategic Framework of the Sports Facilities Committee's 2009-2012 term, Priorities Dates for Future Meetings Report**

The Committee recommends to the Council that it considers the Committee's approved strategic framework (tabled).

The Committee recommends to the General Manager and Council the following changes, that:

- The Sporting Union President Mr Eric Galloway or his chosen representative be invited to join the Committee.
- The Committee will meet at 8am on the first Friday of the month.

b) **Item 6 Damage to Sports Field Lighting Report**

The Committee recommends to the Council and General Manager that:

- The Committee and user groups are committed to helping Council meet any carbon footprint targets.

**Item For Brief Mention Report No. 5 (Cont'd)**

- The Committee seeks Councils consideration for improved technologies related to sporting infrastructure that will assist in meeting such target usage.

**c) Item 7 General Business****The Volley Ball Storage area on Ocean Beach North Steyne**

The Committee recommends for the consideration of the General Manager that:

The Volley Ball storage unit be constructed as previously prescribed given the previous commitment and the grant funding attached to the proposal.

**Pathway of Surfing Champions**

The Committee recommends for the consideration of the General Manager that:

The pathway project for the commemoration of such champions in Manly be considered for endorsement by Council.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Item For Brief Mention Report No. 5 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Corporate Services Division Report No. 7  
**SUBJECT:** Report on Council Investments as at 28 February 2009  
**FILE NO:**

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## 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 February 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 \$11,624,337, comprising a combined Bank Balance of \$796,901; and Investment Holdings of \$6,777,272 directly managed and \$4,050,165 externally managed.

Investments overall performed better than 90 day average Bank Bill Swap Rate (BBSW) for the month providing a return of 3.81% (*Council Benchmark =3.15% - benchmark is 90 day average BBSW*)

The reduced interest returns for February 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 21.21%, less than the benchmark UBSWA Index of 6.98% (for the month of February 2009 the monthly return was 0.35% 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 call.

**Corporate Services Division Report No. 7 (Cont'd)****Movements in Investments for the Month of February 2009****Investments Made**

<u>Issuer</u>	<u>Particulars</u>	<u>Face Value</u>
Newcastle Permanent Building Society	At Call	\$506,454.79

**Investments Matured**

<u>Issuer</u>	<u>Particulars</u>	<u>Face Value</u>	<u>Redeemed Value</u>
Newcastle Permanent Building Society	Term Deposit	\$506,454.79	\$506,454.79
Macquarie Bank	Term Deposit	\$45,000.00	\$45,000.00

**Investments Update**

Council is currently working to have the Trustee for two of the Lehman Brothers investments to remove LBSF as the swap counterparty and to have the collateral returned to the note-holders (council). At the same time the administrators for Lehman Bros Australia (PPB) are working on a deed of company arrangement to be approved by creditors.

**RECOMMENDATION**

**That:** the statement of Bank Balances and Investment Holdings as at 28 February, 2009 be received and noted.

**ATTACHMENTS**

**AT- 1** Investment Report 1 Page

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\*\*\*\*\* End of Corporate Services Division Report No. 7 \*\*\*\*\*



**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Planning And Strategy Division Report No. 15  
**SUBJECT:** Manly Development Control Plan 2011 - Preparation of a new Comprehensive DCP  
**FILE NO:**

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## SUMMARY

The NSW Government requires that once councils have prepared their new principal Local Environmental Plan that only one Development Control Plan (DCP) may apply to the same land. A DCP must also remain consistent with the provisions of an LEP applying to the same land. These NSW Government provisions require Council to consolidate its existing fourteen (14) DCPs and to review this DCP policy to ensure that it is consistent with the LEP. The new Comprehensive DCP is required to be adopted by Council when the LEP is gazetted i.e. before March 2011.

The aim of this report is to provide an overview of the preparation of the new principal draft Development Control Plan for Manly. The delivery of the new DCP is in tandem with the LEP timeline, previously reported to Council (6<sup>th</sup> April 2009).

## REPORT

### Background

The purpose of any DCP under the *Environmental Planning and Assessment (EPA) Act 1979* (Division 6) is to make provisions for development that set out to achieve the purposes of an LEP. The DCP may provide more detailed controls, requirements (lodgement and notification), guidelines and planning principles that accompany the LEP's statutory zones, development standards and various special provisions.

### *Legislative Requirements*

Relevant legislative requirements for the consolidation and review of Council's DCP are as follows:

- Section 74C(2) of the *Environmental Planning and Assessment (EPA) Act 1979* states that only one DCP per planning authority may apply in respect of the same land. Non-compliance with this provision renders all DCPs invalid.
- Section 74C(5) of the *Environmental Planning and Assessment (EPA) Act 1979* states a provision of a DCP is rendered invalid if it is the same as, or is inconsistent with, the provisions of an environmental planning instrument applying to the same land.
- Under the EPA Regulations (clause 25AD), compliance with the abovementioned sections 74C(2) and (5) will only be required once a council has prepared its new principal LEP that adopts the provisions of the Standard Instrument or by 31 March 2011, whichever is sooner.

Furthermore, on the 2<sup>nd</sup> August 2007, the Director General provided statutory Notice to Council in relation to the making of draft LEP 2011 which including a requirement that Council should develop a new comprehensive DCP for Manly in tandem with the LEP. This new consolidated DCP must be adopted and effective when the draft LEP is made. In this regard, the estimated date for the making of the LEP under the reported LEP timeline is August 2010. The Department's notification is consistent with Council intentions for the amalgamation of its DCPs to produce a single DCP for the Manly LGA.

**Planning And Strategy Division Report No. 15 (Cont'd)**

Other relevant legislation in relation to DCPs includes amendments to the EPA Act in 2006 as part of the Minister's Planning Reform agenda under which:

- the Minister now has powers to direct Council to amend, revoke or make a DCP;
- if the Council does not comply with the Ministerial Direction, the Minister can bypass the Council and make the DCP himself; and
- the Minister may intervene in a DCP to ensure that it does not undermine an LEP.

*Need for Review*

An additional reason for reviewing Council's planning controls is that many of the existing planning controls for Manly are at least ten years old including DCPs for the Industrial Zone, Energy Efficient Buildings, Advertising, Backpackers and Access. Subsequently, many of the planning studies that informed these plans have been at least partly superseded by more recent legislation e.g. BASIX in respect of energy efficiency and SEPP (Advertising Structures) in relation to signs. Therefore, it has become necessary to review and update all of the Manly DCP and associated planning policy documents.

**A new comprehensive Development Control Plan**

Preparation of the Manly Consolidated DCP is being undertaken in tandem with preparation of the draft LEP. It is anticipated that DCP will be completed in time to enable both the draft Manly (Standard Instrument) LEP and the draft Manly DCP to be publicly exhibited together. As previously reported to Council in relation to the LEP timeline, this date is currently estimated to be October 2009.

*DCP Structure*

While the Department of Planning have previously indicated its intention to provide a standard DCP template, such guidelines are unlikely to be provided in the near future. To enable Council to progress the DCP project, the following preliminary structure/template has been prepared for Manly. This structure is designed to enable Council's existing and future DCP provisions to be incorporated into five (5) main parts as follows:

- **Part 1 : Introduction and Objectives**
- **Part 2: Process (what do I lodge with the DA & how is the DA notified)**
  - 2.1. *Submission Requirements for Lodgement of DAs* (including Context and Site Analysis; Heritage (including Aboriginal Heritage); Landscaping Plan; Shadow Diagrams; Access Checklist; Construction Management Plans; Geotechnical report ; Flora and Fauna Assessment ('7 part test'); Social impact assessment; Management Plans).
  - 2.2. *Requirements for the Notification and Advertising of DAs*
  - 2.3. *Approval requirements for removal of trees*
- **Part 3: General Principles of Development**

(including Streetscapes and Townscapes; Heritage; Landscaping; Amenity (Views, Overshadowing, Overlooking /Privacy, Noise); Parking and Vehicular Access (including Bicycle Facilities); Sustainability (Energy Efficiency); Affordability; Storm water; Accessibility; Waste Management).
- **Part 4: Development Controls**
  - 4.1. *Residential Development- General* (including Density; Floor space ratio (FSR); Height; Setbacks; Open space; Car parking and access).

**Planning And Strategy Division Report No. 15 (Cont'd)**

- 4.2. *Residential Development- Certain types and aspects* (including Alterations and Additions; Fencing; Sloping Sites; Swimming Pools, Spas and Water Features).
- 4.3. *Non Residential Development* (including Commercial Development (Manly Town Centre, Balgowlah, Seaforth); Industrial Development; Backpackers; Late Night Venues; Child Care Centres).
- 4.4. *Other Development* (including Excavation and Earthworks; Land Subdivision; Demolition; Signage; Solar Water Heaters; Communication Facilities).
- **Part 5: Special Character Precincts, Areas and Sites**
  - 5.1. *Heritage Conservation Areas.* (incorporating Manly Town Centre, The Corso and Pittwater Road Conservation Areas; Other specific areas from DCP for the Residential Zone.
  - 5.3. *Environmentally Sensitive Areas* (including guidelines in respect of Landslip the foreshore scenic protection area; Threatened Species and Critical Habitat; Flood prone land etc).
- *Dictionary* (including definitions modified to comply with LEP Standard Instrument Orders)
- *Appendices* (including Maps accompanying the DCP; Parking Rates/Requirements; Dimensions for parking, access and loading areas; Energy Efficient Plant Selections etc).

**Conclusion**

The preparation of a single comprehensive DCP is driven by statutory requirements that only one DCP apply in respect of any one parcel of land. The DCP is to be made at the same time that the new LEP is made and will set out more detailed control, requirements and guidelines that achieve the purposes of the LEP and its statutory zones, development standards and various special provisions.

More DCP review will be required as Council moves through the LEP process to ensure consistency between the two plans. This process will be necessarily in tandem with the LEP review process to ensure both consistency and compliance with the required timeframe.

The initial stages of drafting the DCP have primarily focused on a 'consolidation' of existing DCP material into a new comprehensive structure briefly outlined in this report. It should be noted however that the new DCP will not be a strict 'consolidation'. Changes to both the Manly LEP and the DCP must be made to accommodate the form and content of the Standard Instrument LEP as it progresses through its consultations, certification, exhibition, adoption and gazettal.

The next stage in the preparation of the draft Manly DCP will be the finalization of a draft document that is consistent with the LEP. A number of outstanding issues in relation to the LEP will inform aspects of the DCP.

Initial LEP workshops will provide an important forum for Councillors to raise and discuss matters about the new draft LEP and subsequent workshops are anticipated for the new DCP to make more specific and comprehensive provisions for development that set out to achieve the purposes of the LEP.

**RECOMMENDATION**

It is recommended that Council receive and note the report.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Planning And Strategy Division Report No. 15 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Planning And Strategy Division Report No. 16  
**SUBJECT:** Pontoon or Platform for Recreational Purposes  
**FILE NO:**

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## SUMMARY

At its Ordinary meeting held on 9<sup>th</sup> February 2009, Council resolved [8/09] that staff provide a report on the “construction of a pontoon or platform, appropriate for jumping off into the water, between the two centre poles that support the fence around the swimming enclosure between the Wharf and Oceanworld.”

Council requested that the report included risk assessment, examination of environmental impacts, design and determination of cost. A number of possible structures have been considered within this report in line with the resolution.

The proposed diving pontoon/platform has been proposed as a possible source of entertainment and excitement for youth that may reduce the need for jumpers to go to Jump Rock. As such, this report provides some analysis about the appropriateness or otherwise of such a facility.

## REPORT

In 1931 an enormous enclosed shark-proof bathing area was constructed in east Manly Cove. The floodlit pool and its distinctive play equipment of pontoons, slides and treadmills were described at the time as “the finest swimming pool in Australia”.

However, on the weekend of 25<sup>th</sup>/26<sup>th</sup> May 1974, a severe coastal storm completely destroyed the boardwalk structure that remained at the time. A plan in 1984 to rebuild the boardwalk never came to fruition, due to prohibitive costs.

The existing Manly Cove netted swimming enclosure consists of a 10 cm square mesh and has a total length of 150 m. The net is strung between nine wooden pilings which are spaced at approximately 25 m apart. The average maximum depth of the net is 2.8 m however this varies depending on tidal influence. The deepest section within the net is currently recorded at 2.76 m during the lowest recorded tide of 0.1 m Australia Height Datum. This level is subject to change as a result of sedimentary processes.

## Planning Considerations

### *Relevant Development Control Plan*

Council is the responsible authority for land/water interface development under the provisions of the Sydney Regional Environmental Plan - Sydney Harbour Catchments (2005). Land/water interface development includes water recreational facilities.

The Development Control Plan (DCP) of the Sydney Regional Environmental Plan - Sydney Harbour Catchments (2005) sets out in detail Council's town planning controls and guidelines on key development factors. According to this DCP, public recreational facilities may be created *only with development consent*.

Manly Council's jurisdiction ends at the mean high water mark and any structure for public water recreation would first require development consent from NSW Maritime.

**Planning And Strategy Division Report No. 16 (Cont'd)****Risk Assessment**

Advice received from Council's Risk Manager is that a pontoon facility creates a greater exposure for Council than jump rock. The reason is that jump rock is naturally occurring and Council has done its best to prevent people jumping by signage warning of consequences, erection of fencing and planting of endemic flora species to discourage access.

By providing the pontoon Council is inviting use which creates an implied warranty that it is safe to do so. Council's duty of care is greater because it has provided the facility. Ensuring the water body is clear of objects will be entirely Council's responsibility if it goes ahead.

Further to the above, information sourced from Council staff on "still water" pool regulations indicates that a platform of 1 m height above the water surface requires 3 m of water depth; a 2 m high platform requires a minimum 5 m depth. The depth recorded in the mid-point of the existing net structure is 2.76 m during the lowest recorded tide of 0.1 m Australia Height Datum. This level may be further reduced when measured at the low point of troughs during wave action. As such, there would be a need to extend the net into deeper water should Council recommend the construction of a swim platform pontoon facility / structure.

NSW Maritime feedback confirmed that they would not support provision of a pontoon system outside of the existing enclosure. Any alteration to the enclosure footprint would have implications for navigation and marine ecology and would need to seek approval from both NSW Maritime and NSW Department of Primary Industries. Furthermore, it would significantly increase costs for implementation.

Risks relating to pontoon usage, given that water is sufficiently deep:

- Diver hits Floating/submerged object in water even if brought in by another user;
- Diver or jumper hits a person in the water injuring them;
- Diver or jumper slips and hits side of pontoon on way down and is injured becomes unconscious and potentially drowns (recent case in Blue Mountains of child under inflatable pontoon in a Council pool); and
- Use of pontoon after dark and/or by people affected by alcohol.

Mitigation measures such as provision of lifeguards would reduce some of exposure. Hours of service and funding such an arrangement also requires due consideration. Safety signage would also be required.

Council's current insurers are reserving their rights in terms of provision of cover and would require full details prior to agreeing to extend our liability policy to cover a pontoon. If the insurer decides that they will not cover the proposal Council will have to try and find cover elsewhere. We cannot provide such a facility without insurance coverage which would be expensive and is likely to have to be obtained off shore.

**Environmental Assessment**

The Manly Cove east swimming enclosure is surrounded by seagrass meadows consisting of *Halophila ovalis*, *Posidonia australis* and *Zostera capricorni*. Species within the netted enclosure include reasonable stands of *Halophila ovalis* and *Zostera capricorni*. Seagrass habitats are protected under the NSW Fisheries Management Act 1994 and the associated Fish Habitat Protection Plans. Any proposed pontoon structure is likely to minimize light penetration through the water column and the approval would need to be sought from NSW Department of Primary Industries.

Seagrass beds within the Manly Cove may also be important foraging grounds for Manly's endangered population of Little Penguins *Eudyptula minor*.

**Planning And Strategy Division Report No. 16 (Cont'd)**

As identified earlier in this report the construction of pontoon may involve expansion of the existing footprint of the enclosure to ensuring sufficient water depth. Significant habitat value is exhibited by the existence of the netted-swimming enclosure. The epibiota observed on the net included bryozoans (*Schizoporella errata*, *Watersipora subtorquata*), mussels (*Mytilus galloprovincialis planulatus*), green algae (particularly *Codium cuneatum*), brown algae (*Zonaria* sp., *Sargassum* sp., *Ecklonia radiata*), colonial and solitary ascidians (*Diplosoma listerianum*, *Pyura stolonifera*, *Styela plicata*, *Botrylloides leachi*, *Herdmania grandis*), and several sponges.

Given that seahorse abundance and distribution is directly related to the presence of epibiota, any alteration to the existing net would require careful management to ensure the seahorse population living on the structure were properly protected.

**Design Options**

A number of suitable options exist for the provision of a floating swim platform / pontoon within the swimming enclosure, ranging in size, material and cost. Detailed design for each option would be further developed following consideration of this report by Council.

Options cover a wide range of materials and include solid concrete pontoon systems with piles, modular polyethylene pontoon systems and inflatable modular PVC systems. Extension of the enclosure into deeper water would cost in excess of \$85,000. The existing piles would not support the increased weight of pontoon.

Structure	Cost	Piles (x2)	Anchors x 2	Extension	Total
Concrete	\$30,000 - \$40,000	\$15,000 - \$20,000	N/A	>\$85,000	>\$130,000
modular polyethylene	\$5,000 - \$10,000	\$15,000 - \$20,000	N/A	>\$85,000	>\$105,000
inflatable modular PVC		\$15,000 - \$20,000	\$3,500 supply*	>\$85,000	>\$103.500

\*maintenance of single seagrass friendly mooring is \$200 per annum.

Based on risk, financial and environmental considerations it would be inappropriate to provide a pontoon/platform, for jumping off into the water, between the two centre poles that support the fence around the Manly Cove swimming enclosure.

**Boardwalk Option**

A further option to be considered involves the reconstruction of a solid timber boardwalk structure. One alternative being investigated owing to its popularity with the general public is the horseshoe shaped boardwalk structure located at Balmoral Beach within the Mosman Local Government area. Such a structure would involve the provision of a pile driven timber boardwalk with external handrail and access ladders. One possible scenario is that such a shark proof structure could be accessible from the beach and/or West Esplanade promenade. Such an enclosure may also be able to incorporate public boat landing facilities, currently not conveniently available within North Harbour. A facility similar to that described above would (depending on a final specification) be of the order of 4 million dollars representing a large financial undertaking by Council.

**RECOMMENDATION**

It is recommended that Council receive and note the report.

**ATTACHMENTS**

There are no attachments for this report.

OM200409PSD\_3.doc

\*\*\*\*\* End of Planning And Strategy Division Report No. 16 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Planning And Strategy Division Report No. 17  
**SUBJECT:** Northern Beaches Storage Project - Update  
**FILE NO:**

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## SUMMARY

This report provides an update of the Sydney Water's Northern Beaches Storage Project.

## REPORT

Sydney Water is in the planning phase of a \$40-80 million capital works program to be implemented between 2007-2012 to address and reduce major wet weather sewage incapacity issues, to meet NSW Government targets.

Manly Lagoon currently contains sewage concentrations which exceed primary recreational contact guidelines. A Sydney Water information leaflet received by Council on 26 February 2008 indicates that overflows in the Brookvale area are the main cause for sewer pollution in the Manly Lagoon catchment.

### Wet Weather Storage options and the Northern Beaches Storage Project

In August 2008, Sydney Water released the Northern Beaches Catchment Wet Weather Overflow Abatement Program Outcome Report and announced the *Northern Beaches Storage Project*. The report indicated that a new deep storage tunnel of 3.6 kilometers long and between 50-150m deep will be built. "Construction will be contained to one area in the Brookvale industrial area, which will also be the location of the project's only new ventilation facility... The diameter of the tunnel will be approximately 3.5 meters, and the diameter of the shaft in Brookvale around 10 meters." The tunnel begins at Chard Road, Brookvale, and finally connects to the Northside Storage Tunnel, below Fairlight, with minimal impact on the Manly LGA.

### Requirement for Alternate Construction Sites in the Manly LGA

In a letter dated 27 February 2009, Sydney Water informed Council that after completing an evaluation of the Project from a construction, engineering, and cost perspective, Sydney Water has decided to explore alternative sites in Manly and Warringah for the main access shaft for the tunnel, to be used to transport personnel, machinery, and building materials to and from the tunnel. A site office and supporting infrastructure would also be located at the shaft during construction and the access may also be used during the operational phase of the project. The Project is now on hold while Sydney Water assesses alternative sites against a range of criteria including community, environment, safety, construction and maintenance. Alternate access shaft sites in Manly under consideration include Manly West Park and LM Graham Reserve.

### **Triple Bottom Line Assessment**

Not applicable.

## RECOMMENDATION

It is recommended that the report be received and noted.

## ATTACHMENTS

There are no attachments for this report.

OM200409PSD\_2.doc

\*\*\*\*\* End of Planning And Strategy Division Report No. 17 \*\*\*\*\*

**TO:** Ordinary Meeting - 20 April 2009  
**REPORT:** Environmental Services Division Report No. 7  
**SUBJECT:** Shop Awnings in the Manly LGA  
**FILE NO:**

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## **SUMMARY**

This is an information report on the Council's directive requiring building owners to provide proof of structural adequacy of awnings where erected over public footways.

## **REPORT**

Following a severe storm in June 2007 where an awning in Fairlight partially collapsed, Council wrote to the owners of all commercial and industrial properties directing that they submit to Council certification to prove the adequacy of any awnings that are attached to their buildings and built over any public footways.

In all, more than a 1000 letters were issued.

A reminder letter was issued in subsequent months.

In December 2007, an awning attached to a building on Sydney Road Balgowlah collapsed in a storm. In that incident, a person who stood under the awning for shelter was tragically killed. This incident is currently before the State Coroner.

In 2008, Council applied a significant amount of resources to follow up on building owners to provide proof to Council of the structural adequacy of their awnings. In that process, Council had also rejected a number of inadequately or qualified certifications that were issued for awnings that did not received what Council considered to be adequate visual inspections.

To date, Council has received structural certification for 239 out of the 260 sites where awning are built over public footways, of these 15% required completely new awnings. The total value of the work undertaken by building owners under Council's directive so far is over \$1.5 million.

Currently, there are 21 certifications that remain outstanding. However, all of them have received some degree of attention from a practicing structural engineer.

Notwithstanding, Council has served notices upon each of these owners requiring them to urgently finalise any required work that is ordered by their engineer and to submit to Council the requisite certification without further delay. In the meantime, where necessary, such awnings are required to be propped as directed by a practicing engineer.

Council has in place a database to activate future follow up inspections as may be noted on the certifications received by Council.

As a matter of policy, all local authorities should require building owners to inspect and certify awnings every 10 years by a practicing structural engineer in a similar fashion as the law in this State requiring annual fire safety inspections for certain classes of building.

## **RECOMMENDATION**

It is recommended that the report be received and noted.

## **ATTACHMENTS**

There are no attachments for this report.

OM200409ESD\_1.doc

\*\*\*\* End of Environmental Services Division Report No. 7 \*\*\*\*