



## Agenda

### Planning and Strategy Committee

Notice is hereby given that a Planning and Strategy Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

**Monday 13 March 2006**

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

Staff      Staff      General  
                                 Manager      Chairperson      Staff      Minute  
   Taker



**Mayor** Dr Peter  
Macdonald

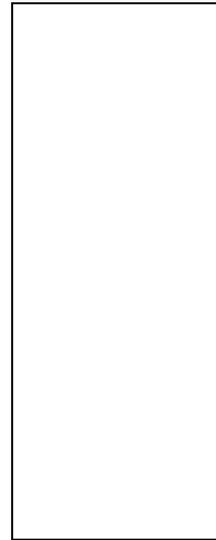
Clr Mark Norek

Clr Joanna Evans

**Deputy Mayor**  
Clr Barbara Aird

Clr Brad  
Pedersen

Clr Richard  
Morrison



Clr Jean Hay AM

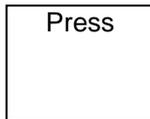
Clr Adele Heasman

Clr Dr Judy Lambert

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



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Public  
Addresses

## Public Gallery

**Chairperson:** The Mayor, Dr Peter Macdonald  
**Deputy Chairperson:** Deputy Mayor Clr Barbara Aird

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

**TO: Planning and Strategy Committee - 13 March 2006**  
**REPORT: General Managers Division Report No. 5**  
**SUBJECT: The Corso Upgrade Project - Progress Report Number 2**  
**FILE NO:**

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## **SUMMARY**

Progress report on The Corso Upgrade project from the Executive Director of Major Projects.

## **REPORT**

Council selected Taylor Cullity Lethlean (TCL) Consultants following the public exhibition of three schemes in October, 2005. Since then TCL have been working with a Client Reference Group (CRG) comprising The Mayor, General Manager, Director Major Projects and selected representatives of the Landscape Management and Urban Design Committee.

Following detailed analysis of all of the submissions on all of the schemes and further input from the CRG and the Manly Chamber of Commerce, TCL have now submitted a Return Brief to the CRG and the Council's Landscape Management and Urban Design (LMUD) Committee. The Return Brief basically takes on board response to the issues that have been raised since the competition and I am pleased to advise that the LMUD Committee has seen fit to endorse the Return Brief as per the following recommendations to Council:-

### **Landscape Management and Urban Design Committee Recommendation of 8th March, 2006:-**

"That the Landscape Management and Urban Design Committee (LMUD) generally supports the elements of the Taylor Cullity Lethlean Scheme as presented, subject to the following points:-

- (a) There is a need for the LMUD Committee to be assured that the pattern of the pavement can and will be effectively interpreted to achieve its objective when viewed from pedestrian level.
- (b) That the LMUD Committee recommends that planning be done now to ensure that the overall objective of rolling out a cohesive scheme within the Central Business District (CBD) is planned on a "whole of village basis" and having regard to budget.
- (c) That the LMUD Committee recommends a review on the need for the fire escape clock tower in Market Lane as part of the planned building works for a third level on the Library building.
- (d) That the LMUD Committee acknowledges the need and desire of the Manly Chamber of Commerce and property owners in the CBD to view and comment on the revised Taylor Cullity Lethlean scheme.
- (e) The LMUD Committee notes that the scheme will be subject to a Part 5 Assessment under the Environmental Planning and Assessment Act. Further, that the LMUD Committee is of the view that little purpose would be served in having a further public exhibition of the revised scheme in that it basically reflects the competition entry and the community would possibly:-
  - (i) Question why the scheme is being exhibited again.

**General Managers Division Report No. 5 (Cont'd)**

- (ii) Embark on a new round of likes and dislikes which was the purpose of the original exhibition in October, 2005 and which was the basis of the refinement of the Taylor Cullity Lethlean scheme over the course of the last five months.
  
- (f) Further, that particular emphasis be given to a communication strategy which clearly informs the community and the CBD commercial sector and Precincts in relation to the scheme, the implementation programme; and that Council attempt a "no surprises" roll out of the scheme."

The presentation to the Manly Chamber of Commerce and Central Business District property owners will take place within the next 10 days and it is anticipated that this will give rise to further engagement of TCL Consultants to proceed to the design development documentation and construction drawing preparation.

In parallel with advancing the design for the scheme, work has commenced on putting together a construction management team. In order to be more flexible and to respond to latent site conditions and/or operational issues associated with maintaining The Corso as an active commercial strip, it is proposed that Council directly manage the construction. This in turn will assist in managing costs normally associated with variations arising from complex projects.

**RECOMMENDATION**

That Council receive and note the report and that Council endorse the engagement of Taylor Cullity Lethlean in accordance with normal industry schedule of fees to specify and document the project for construction by Council commencing in June, 2006.

**ATTACHMENTS**

There are no attachments for this report.

PS130306GMO\_1

\*\*\*\*\* End of General Managers Division Report No. 5 \*\*\*\*\*

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 10  
**SUBJECT:** Item For Brief Mention  
**FILE NO:**

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**1. Minutes of Meetings:-**

- (i) Manly LEP & DCP Review Working Party – Minutes of Meeting held on 25<sup>th</sup> January, 2006
- (ii) Manly Sports Facilities Committee - Minutes of Meeting held on 3<sup>rd</sup> February, 2006.
- (iii) Landscape Management & Urban Design Committee – Minutes of Meeting held on 8th February, 2006.
- (iv) Manly Bicycle Committee – Minutes of Meeting held on 9th February, 2006.
- (v) Manly Sustainability Strategy Management Committee – Minutes of Meeting held on 14<sup>th</sup> February, 2006.
- (vi) Manly Council Community Environment Committee - Minutes of Meeting held on 16<sup>th</sup> February, 2006.
- (vii) Playground Management Committee - Minutes of Meeting held on 16<sup>th</sup> February, 2006.
- (viii) Manly Scenic Walkway Committee – Meetings of Meeting held on 21 February, 2006
- (ix) Manly Coastline Management Committee - Minutes of Meeting held on 22<sup>nd</sup> February, 2006.
- (x) Manly Traffic Committee - Minutes of Meeting held on 27<sup>th</sup> February, 2006.
- (xi) Manly Council Heritage Committee - Minutes of Meeting held on 1<sup>st</sup> March, 2006.

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

- (a) Landscape Management & Urban Design Committee – Minutes of Meeting held on 8th February, 2006

**Item 4.1 – Fairlight Shopping Centre**

Recommendation:-

- " That the Fairlight Shops Urban Improvements LMUD Sub-Committee re-convene a meeting with an appropriate RTA representatives with a view to ascertain what is and isn't negotiable with regards to Option 2 proposals. At that meeting Council's Traffic Manager, John Inglese is requested to attend and representatives from both Fairlight and Ivanhoe Precincts including Richard Hewitt invited to attend.

That following the outcome of the sub-committee meeting (above) Council's Traffic Manager attend the LMUD Committee Meeting once this item is listed on the agenda."

**Corporate Planning And Strategy Division Report No. 10 (Cont'd)**

- (b) Landscape Management & Urban Design Committee – Minutes of Meeting held on 8th February, 2006

**Item 6.1 – Pittwater Road Street Tree Masterplan Implementation Progress**

Recommendation:-

“That the LMUD Committee support a budget bid submission of \$250, 000 to implement the next 2 phases of the Pittwater road Street Tree Masterplan, including the proposed “Tramway Plaza” corner of Golf/Rolfe Streets.

General Managers Note:

General Manager will support the bid into the budget process for consideration”

- (c) Manly Bicycle Committee – Minutes of Meeting held on 9th February, 2006

**Item 7 – The Corso Upgrade**

Recommendation:-

"1 Cycling to be permitted throughout The Corso, at 'walking' speed limit (ie. Courteous riding with bikes giving way to pedestrians).

2 Properly marked/signed route from Wharf - Whistler - Market - Sydney Rd. This would complete perimeter 'loop' with the planned Wentworth St bike lanes. This could be facilitated by raised roadway extending into Whistler to corner of Market.

3 Bike racks at numerous points (inside and adjacent to The Corso) to allow quick and convenient access to shops etc.

4. Encourage active transport in Manly Town Centre and to improve streetscape by reducing motor vehicle dependency and providing for active transport users.

"

- (d) Manly Sustainability Strategy management Committee – Minutes of Meeting held on 14th February, 2006

**Item 5.1 – Discontinuance of a membership consistent with Terms of Reference**

Recommendation:-

“The chairperson noted that Council had forwarded correspondence to Dr Rosemary Cant in relation to her continued absenteeism. The committee noted that there had been no response to Council’s letter, nor any phone messages left, and that there was a substantial breach of the Terms of Reference.”

- (e) Manly Sustainability Strategy management Committee – Minutes of Meeting held on 14th February, 2006

**Item 6.1 – Resignation of Jane McDonald**

Recommendation:-

This committee regrettably accepts the resignation of Jane McDonald due to her work commitments, and propose that Council write a thank you for her important contribution.

**Corporate Planning And Strategy Division Report No. 10 (Cont'd)**

- (f) Manly Sustainability Strategy management Committee – Minutes of Meeting held on 14th February, 2006

**Item 6.2 – New Membership**

Recommendation:-

In view of the loss of two community representatives on this committee, this committee recommends that Council call for nominations, noting “demonstrated interest, or expertise of sustainability, focusing on the triple bottom line of natural environment, social environment and economic environment” as the key criteria for application.

**RECOMMENDATION**

1. That the recommendations of Minutes of Meetings, as listed in Item 1 above, being 1(i) to 1(xi), be adopted.
2. That in relation to all matters of a substantial nature listed in Item 2 above, being 2(a) to 2(f), be adopted as per the recommendation of the Committees.

**ATTACHMENTS**

There are no attachments for this report.

PS130306CPSD\_1

\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 10 \*\*\*\*\*

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 11  
**SUBJECT:** Submission to the Productivity Commission on the Draft Report Conservation of Australia's Historic Heritage Places  
**FILE NO:**

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## SUMMARY

This report presents a summary of the submission of Manly Council planning staff to the Productivity Commission on the draft report *Conservation of Australia's Historic Heritage Places* and outlines concerns and objections to many of the findings and recommendations contained in the draft report.

## REPORT

Council, at the meeting of 13 February 2006 made the following resolution in Corporate Planning and Strategy Division Report 6: *Heritage Review for Manly LGA*, Resolution 2:

*That Council make a submission in response to the draft Productivity Commission expressing concerns in relation to constraints on local protection of heritage items.*

Council planning staff subsequently made a submission to the Productivity Commission expressing strong objections to the findings and recommendations made in the Draft Report, particularly on the Key Recommendation of the draft report which is as follows:

*Privately-owned properties should be included on a National, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and should remain listed only while an agreement is in force.*

Planning staff commented in the submission that:

- This recommendation would dismantle more than 30 years of heritage conservation work;
- Would be an undue administrative burden on Councils;
- Indicates that the Productivity Commission does not recognise the complexity of local heritage listings;
- Does not give any proven examples of the success of negotiated agreements at protecting heritage.
- Would generally have an enormously detrimental impact upon local heritage conservation.

The Heritage Committee at its meeting of 1st March 2006 expressed support for the submission comments.

## RECOMMENDATION

That this information be received and noted.

## ATTACHMENTS

**AT- 1** Submission sent to the Productivity Commission 24 February 2006 10 Pages

PS130306CPSD\_2

\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 11 \*\*\*\*\*

## ATTACHMENT 1

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### Corporate Planning And Strategy Division Report No. 11 - Submission to the Productivity Commission on the Draft Report Conservation of Australia's Historic Heritage Places Submission sent to the Productivity Commission 24 February 2006

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Productivity Commission Submission:

General Comments:

Manly Council submits the following comments on the Productivity Commission Report:

- Manly Council, like many other Councils, benefited from funding provided by the State Government in the 1980s for the preparation of local heritage studies to identify places and items of heritage significance as well as conservation areas. Manly's was completed in 1986. This foundation study identified most of the items that are heritage-listed in the Manly Local Environment Plan (LEP) & is considered to be an excellent thematic study that, since being tabled, has provided sound guidelines for local listings. The process of listing items in the LEP also included community consultation and notification of affected property owners at the time. The NSW Heritage Office also provides clear guidelines. Council occasionally receives complaints from individual property owners or developers regarding heritage restrictions but the more dominant theme seems to be community concern that Council does not have enough resources to protect heritage adequately, or that it does not interpret its existing controls strongly enough.
- It is disappointing that the PC report overwhelmingly emphasises (& at times over states) potential negative implications of heritage listing. In Manly, heritage listing is often highly supported in the community, including by those who own heritage properties. We have even had cases of the residents of a street petitioning, with near 100% support, for their street to be listed in its entirety, or to have special controls to maintain its heritage character. The pressure to reduce heritage controls, & the controversial developments proposed as a result of fewer controls, comes overwhelmingly from non-resident private developers rather than from resident property owners.
- In the 1990s the NSW Government withdrew financial support for heritage planning in the Sydney Region, and redirected available funding towards 'regional areas'. This substantially increased the financial burden on the councils which accommodate a very high proportion of the historic and architectural heritage of the Sydney Region. Regrettably, insufficient funds have been made available to councils in NSW to address the issue over several years. Manly Council is highly committed to conservation but not highly resourced & has only recently been able to allocate the necessary resources to do a review of its 1986 report & of the general state of heritage conservation in the LGA.
- The report does little to address the lack of resources available to councils for heritage studies/surveys required to be carried out to inform their heritage listings. The comprehensive research carried out for these studies/surveys is first base for any proposed listings or from which any negotiation can commence, even including the negotiated conservation agreements suggested by PC. Arising from this process, also, is the research to inform State and National Registers. Despite all this, Manly Council, in embarking on a review of its 1986 heritage study and the state of heritage in the entire LGA will not be able to access any funding from the NSW Heritage Office. The PC should be considering opportunities to assist funding of these studies.
- Once excellent & successful model for funding of heritage at all levels of government that the PC should have examined is the UK system of funding for heritage through the national lottery. This has resulted in increased incentives to conserve heritage & increased community & public awareness of the importance of heritage. Another possibility is tax breaks to encourage people to keep original fabric of homes, rather than to knock down & rebuild.
- It is a concern that language used in the report underscores an anti-heritage bias. When positives are mentioned, it is generally along the lines of "there may be some benefits" while with potential negatives, the language is much stronger: "significantly negative", "detrimental impacts", etc. even though the evidence cited to support either side clearly should have equal merit & thus similarly neutral language should be used.

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- The report does not make use of several reports recently done that examine the economic benefits of listing. This is a major & glaring omission. These include reports available on the NSW Heritage Office website.
- Obvious anti-heritage biases have the unfortunate result of undermining some of the good points & sound recommendations made in the report, for example, that property owners need to have good information on the significance of their property.
- The report treats the very different systems in each of the states as if they are the same. NSW has very clear guidelines on determining the heritage significance of an item.
- The report takes a simplistic view on heritage items versus heritage conservation areas when many, at not just local government level, are inextricably linked. Heritage items are many and varied in nature, particularly at the local government level. Heritage conservation areas also often contain heritage items which are significant to the areas and warrant separate listing as items.

#### Comments on Findings & Recommendations:

Key Recommendation:	
<p><i>DRAFT RECOMMENDATION 8.1:</i> Privately-owned properties should be included on a national, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and should remain listed only while an agreement is in force.</p>	<p>Manly Council strongly objects to this recommendation for the following reasons:</p> <ul style="list-style-type: none"> <li>- The Productivity Commission seems to have an overly simplistic view of the complexity of local heritage lists. Manly Council has some 300 items, including streetscapes and conservation areas. The ownership of the items is not always straightforward. For example it is difficult to imagine the application of negotiated conservation agreements to the variety in the range of heritage items which are privately-owned including single trees, and groups of trees, stones walls, pairs of semi-detached houses, rows of houses, just to name a few examples. Also, for example, a conservation area is one item with multiple owners, as is a streetscape. The value (in both heritage &amp; economic terms) of each individual item depends upon its relation to the uniform character presented by the whole. How would agreements work in this case?</li> <li>- Even an owner who has every intention of conserving the heritage features of their item would still have no reason to agree to a conservation agreement unless there was some kind of incentive, particularly if there is no assurance that it will continue to be protected if it is again sold. What incentives does the Commission propose to make a Conservation agreement a sensible option for an owner?</li> <li>- What resources would Councils be allocated to ensure that the terms of the negotiations are equal? It is easy to foresee a developer with the means that, if they agree to enter into the negotiations at all, simply hires a highly-trained lawyer, to negotiate on their behalf while Council staff are generally not formally trained to negotiate such agreements.</li> </ul>

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	<ul style="list-style-type: none"> <li>- In Council areas such as Manly where non-resident developers comprise a significant proportion of re-development &amp; new development, negotiated agreements are completely unfeasible. A developer will have no reason to negotiate a conservation agreement for a site which has been purchased with the very intention of demolition &amp; redevelopment by a non-resident who has no vested interest in the long-term amenity or character of the area.</li> <li>- The report neglects to cite specific cases at the local level of successful examples of broad heritage conservation making use of negotiated agreements. Why seek to dismantle an entire system that generally works for the purpose which it is intended (ie. to protect heritage) to replace it with an unknown entity? On what basis are these negotiated agreements proposed? They may work on sites that are so high profile that there would be little disputing their significance (such as the Opera House) but are unlikely to be appropriate to the much more subtle &amp; complex nature of local heritage significance.</li> </ul>
<h4>3 Overview of historic heritage conservation in Australia</h4>	
<p><b>DRAFT FINDING 3.1</b> <i>Little statistical information is available on the conservation of Australia's historic heritage — the number, quality and composition of listed places; the nature, source and types of expenditures on historic heritage conservation; or the effectiveness and cost-effectiveness of those expenditures.</i></p>	<ul style="list-style-type: none"> <li>- This implies, then, that the key finding of the Commission is based upon a very incomplete picture, given its own finding that there is little statistical information available. Should adequate statistical information not be gathered &amp; conclusions drawn after all necessary information is received? To propose sweeping changes based upon "little statistical information" is irresponsible.</li> </ul>
<p><b>DRAFT RECOMMENDATION 3.1</b> All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia's historic heritage places.</p>	<ul style="list-style-type: none"> <li>- All levels of government should be given the resources to do this. Local government would not have the administrative capacity to compile this information with the current level of resources for heritage.</li> <li>- In addition to providing funding to Councils, legislation may be required to make Councils do this.</li> </ul>
<h4>4 Australian, State and Territory governments' heritage systems</h4>	
<p><b>DRAFT FINDING 4.1</b> <i>The listing of properties onto a State or Territory Heritage Register results in the relevant Heritage Council becoming the de facto planning authority. This differs significantly from the approach to non-heritage places where the local council is generally the planning authority. This can result in the need for dual approvals for any proposed development.</i></p>	<ul style="list-style-type: none"> <li>- non-heritage places can also require dual assessments such as developments affecting waterways, agriculture etc.</li> <li>- The NSW State Government has mechanisms whereby applications involving both state and local assessment are assessed concurrently.</li> <li>- The NSW Heritage Council &amp; Office has provided local councils with delegated authority to determine S.60 applications and has also provided guidelines to assist local government assessments. Council sends the</li> </ul>

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**Corporate Planning And Strategy Division Report No. 11 - Submission to the Productivity Commission on the Draft Report Conservation of Australia's Historic Heritage Places  
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	<p>Heritage Council a copy of the approvals under this delegation.</p> <ul style="list-style-type: none"> <li>- In Manly the number of State significant items is small and the need for concurrent approvals is infrequent.</li> </ul>
<p>DRAFT FINDING 4.2 <i>The commitment to identify, conserve and manage publicly-owned historic heritage places varies considerably between States and Territories.</i></p>	<ul style="list-style-type: none"> <li>- How related is this to the level of available resources? While the commitment may be there, the resources are not always available.</li> </ul>
<p>DRAFT FINDING 4.3 <i>The level of assistance provided to non-government owners of historic heritage places varies considerably between States and Territories. The level of expenditure on government-owned heritage places is difficult to calculate since no jurisdiction requires explicit budgetary recognition of such expenditure.</i></p>	<p>No comment.</p>
<p><b>5 Planning controls and heritage conservation at the local level</b></p>	
<p>DRAFT FINDING 5.1 <i>There is a high level of discretion for decision-making on heritage matters at the local government level, derived in part from limited State government guidance and this has resulted in inconsistent outcomes within many local governments.</i></p>	<ul style="list-style-type: none"> <li>- NSW offers very comprehensive guidance and criteria. Certainly, discretion rests with the local level, as it does with most planning controls.</li> <li>- Inconsistency can also be a result of changing views over time. What might look like inconsistency can be a reflection of changing attitudes, values &amp; controls over a certain period of time.</li> <li>- Inconsistency can also be a reflection of the lack of resources available to councils over time. Some councils have reviewed their 1980s plans, others have not. Heritage conservation practice has evolved over time since it was first introduced and a higher quality of study is required now.</li> </ul>
<p>DRAFT FINDING 5.2 <i>While statements of significance are recommended in State guidance material, no State requires its local governments to include a statutory statement of significance in their local heritage lists. The absence of such statements seriously impairs subsequent decision-making about listed properties.</i></p>	<ul style="list-style-type: none"> <li>- In Manly Council, we follow the NSW Heritage Office inventory sheets for guidance for both assessing properties for heritage significance &amp; providing as much information as possible. This includes a statement of significance. Professional heritage staff would never recommend an item for listing without a Statement of Significance although the quality of the SoS's in our current listings (based upon the 1986 study) are of varying degrees of detail.</li> <li>- Manly Council supports a recommendation to make this a requirement so property owners can have adequate information &amp; further supports appropriate funding being provided to local government to enable improvement.</li> </ul>
<p>DRAFT FINDING 5.3 <i>Heritage conservation areas impose less stringent restrictions on the ability to demolish and redevelop properties than do individual heritage controls.</i></p>	<ul style="list-style-type: none"> <li>- In Manly, this is because certain items can be non-contributory to the character of the Conservation Area &amp; therefore more extensive re-development is permitted subject to an assessment of whether or not</li> </ul>

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	<p>there is any original fabric that is significant &amp; could be restored.</p>
<p>DRAFT FINDING 5.4 <i>Heritage controls can be applied to properties that have not been individually listed or contained within a heritage conservation zone. Typically, the owner is informed only upon seeking development approval.</i></p>	<ul style="list-style-type: none"> <li>- When this happens, it is usually because there has been community opposition to what is proposed to replace the item, or the community sees the item as valuable but Council has not yet had the resources required to assess it for listing.</li> <li>- It is rarely an initiative of Council that this happens but it supports the case for having more resources allocated to pro-active conservation measures so this does not occur, the community is satisfied that heritage is being adequately protected by Council &amp; property owners are satisfied that controls are applied consistently.</li> <li>- Legislation in the Manly LEP clearly states the planning requirements for development in the 'vicinity of a heritage item', and is one of the standard heritage clauses in NSW LEPs which all property owners have access to.</li> <li>- It is similar in both practice &amp; principle to general planning controls which require assessment of impacts on adjacent sites, such as privacy, overshadowing &amp; heritage.</li> </ul>
<p>DRAFT FINDING 5.5 <i>Many property owners do not fully understand the effect that heritage listing has on their property. This is not simply a reflection of a lack of awareness by owners of the implications of listing, rather it flows from unclear legislative requirements and inconsistent administrative actions. More specifically, it is a direct result of the failure of all State Heritage Acts to specifically require a statement of significance for heritage listing at the local level.</i></p>	<ul style="list-style-type: none"> <li>- Probably the most common misconception is that property owners think they can't do anything to their heritage listed property when in fact they can.</li> <li>- The legislative requirements are very clear &amp; are outlined in our LEP &amp; Development Control Plans (DCPs). Not everyone agrees with them but they are certainly clear.</li> <li>- Manly Council employs at least 3 staff with heritage specialist training and/or skills to assist its community to understand heritage, particularly on an individual basis. Poor public perception of heritage in general, including poor publicity on a much broader than LGA scale, makes this task difficult. Greater leadership and support from the Australian Government in defining heritage and in guiding the strengthening of statements of significance at all 3 tiers of government would assist all.</li> </ul>
<p>DRAFT FINDING 5.6 <i>There is significant scope to improve the management of heritage conservation by local governments in their systems and processes for land use and planning.</i></p>	<ul style="list-style-type: none"> <li>- Yes, this is true. Resources should be allocated accordingly. These should include a permanent fund for assistance in the conservation of privately-owned locally listed items and funding for all Councils to do a comprehensive review of their original heritage studies.</li> </ul>
<p><b>6 Analytical framework</b></p>	
<p>DRAFT FINDING 6.1 <i>While under some circumstances (particularly where</i></p>	<ul style="list-style-type: none"> <li>- The language in this point indicates an anti-heritage bias. While it is grudgingly acknowledged that</li> </ul>

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<p><i>neighbourhood amenity is to be preserved) heritage listing can have a positive impact on property values, the constraints on development potential associated with listing can have a significant negative impact on the prices of individual properties. The potential for owner detriment arising from development controls may differ significantly between properties.</i></p>	<p>heritage can have a positive impact, the report does not cite the numerous reports on the benefits of heritage listing &amp; instead stresses the potential negative impact with terminology like "significantly negative" &amp; "owner detriment" while similarly positive terminology is not used when discussing the benefits.</p>
<p><b>DRAFT FINDING 6.2</b> <i>Current methods of identifying historic heritage places for statutory listing focus on the benefits expected to accrue to the community. Typically, there is little, if any, consideration of the costs imposed either on the owner or the community more generally.</i></p>	<ul style="list-style-type: none"> <li>- This report fails to cite recent research on the benefits of heritage listing.</li> <li>- Redressing the gap between public &amp; private benefit is significantly a failing of the federal &amp; state governments to provide adequate incentives in the form of tax breaks, heritage grants &amp; a dedicated fund (such as the English lottery fund for heritage). The problem is not that there is little consideration of the cost, the problem is that there are few avenues to do anything about this that will directly assist owners in the conservation of important local heritage.</li> </ul>
<p><b>7 Assessing governments' involvement</b> - *General comment: it is confusing that the recommendations in this section do not relate to the findings as they do for the previous sections. How can there be recommendations that are not based upon findings? This needs to be clarified.</p>	
<p><b>DRAFT FINDING 7.1</b> <i>The three-tier legislative framework is an appropriate model for government involvement in heritage conservation. It delineates the responsibility of each level of government for historic heritage conservation and, consistent with the principle of subsidiarity, aligns the scale of heritage significance with its level of government decision-making.</i></p>	<ul style="list-style-type: none"> <li>- If so, funding provisions to local government need to be reflect the amount of heritage in a local Council area as the bulk of heritage (government &amp; privately owned) is in local government areas.</li> <li>- The framework could also be improved if the attention of PC in this inquiry was drawn to improvements in practice at all 3 levels from a "best practice" perspective.</li> </ul>
<p><b>DRAFT RECOMMENDATION 7.1</b> The Australian Government should phase out the Register of the National Estate for historic heritage purposes, beginning with the closure of the Register to any new nominations.</p>	<ul style="list-style-type: none"> <li>- What finding led to this recommendation?</li> <li>- What does this mean to the existing list of items on the Register? Does this mean the existing National significant sites are suddenly no longer significant? The Register is an important indicator of the significance of a place, (both nationally &amp; locally) &amp; should be retained for reference purposes at least.</li> </ul>
<p><b>DRAFT FINDING 7.2</b> <i>Negotiated agreements are desirable as they facilitate voluntary conservation and ensure the costs of conservation are considered alongside the community benefits.</i></p>	<ul style="list-style-type: none"> <li>- Negotiated agreements are not in any way desirable or appropriate for local government, particularly in the absence of any proposed incentives programs that would genuinely "facilitate voluntary conservation".</li> <li>- There is an unfounded assumption that conservation always costs the individual and that there are always benefits to the community.</li> </ul>
<p><b>DRAFT RECOMMENDATION 7.2</b> State and Territory governments should remove any reference to the Register of the National Estate from their planning and heritage legislation and regulations.</p>	<ul style="list-style-type: none"> <li>- What finding led to this recommendation?</li> </ul>

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<p>DRAFT FINDING 7.3</p> <p><i>The current arrangements for (i) agreed management plans and (ii) heritage protection on the sale of property provide a sound basis for the conservation of Australian Government-owned heritage properties. However, clearly identifying expenditure on conservation would improve accountability and provide more incentives for government agencies to better conserve listed heritage places.</i></p>	
<p><b>DRAFT RECOMMENDATION 7.3</b> Those State governments that have specific legislation governing the operations of the National Trust should repeal such legislation.</p>	<ul style="list-style-type: none"> <li>- What finding led to this recommendation?</li> </ul>
<p>DRAFT FINDING 7.4 <i>State, Territory and local governments do not have a systematic framework for the management of, and expenditure on, the conservation of government-owned heritage places. Management of government-owned places could be improved through the introduction of conservation management plans and transparent reporting of expenditure on conservation.</i></p>	<ul style="list-style-type: none"> <li>- How would reporting of expenditure on conservation be achieved &amp; how would it clearly reflect the balance between cost &amp; benefits (ie. those that are difficult to quantify such as the advantages of having a heritage character for attracting tourists, creating a desirable sense of place, etc.</li> </ul>
<p><b>DRAFT RECOMMENDATION 7.4</b> The Australian Government should implement reporting systems that require government agencies with responsibility for historic heritage places to document and publicly report on the heritage related costs associated with their conservation.</p>	
<p><b>DRAFT RECOMMENDATION 7.5</b> State, Territory and local governments should:</p> <ul style="list-style-type: none"> <li>• produce adequate conservation management plans for all government-owned statutory-listed properties; and</li> <li>• implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related costs associated with their conservation.</li> </ul>	<ul style="list-style-type: none"> <li>- Conservation Management Plans can themselves be a large &amp; expensive undertaking &amp; are not always necessary unless redevelopment or change of use is proposed or likely. For local government they can be an especially cumbersome task generally requiring the services of a heritage consultant.</li> <li>- This could be supported as long as the reporting systems present a balanced view of the costs vs. the benefits &amp; are supported by adequate extra resources.</li> </ul>
<p>DRAFT FINDING 7.5 <i>At the State, Territory and local government levels, there is an over-reliance on prescriptive regulation to achieve heritage conservation objectives. In many cases, this has led to poor outcomes, through for example, inappropriate listing imposing unwarranted costs (such as denial of redevelopment opportunity) and possibly perverse effects (such as destruction to avoid maintenance costs).</i></p> <p>DRAFT FINDING 7.6 <i>The current listing process does not provide a mechanism for rigorously identifying the costs and benefits of conserving a</i></p>	<ul style="list-style-type: none"> <li>- Can the Commission cite some concrete evidence of this? What does "in many cases" mean? In Manly, it would be rare that either listings are inappropriate or that they lead to "perverse effects". Perhaps "in some cases" or "in a few cases" would be much more appropriate, unless an actual proportion can be determined.</li> <li>- It would certainly not be the norm that owners of heritage properties do not conserve their heritage values. Most property owners in this area take extremely good care of their homes.</li> <li>- It is not true that assistance is poorly targeted but it is</li> </ul>

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<p><i>place. Typically, the assessment process does not prioritise places according to heritage significance or conservation need, and little or no account is taken of the added costs of conservation when the decision is made to list a place and impose regulatory controls. As a consequence:</i></p> <ul style="list-style-type: none"> <li>• <i>the community has an incentive to over-list (or be non-selective) as they do not bear the costs of conservation; and</i></li> <li>• <i>property owners can suffer an erosion of property rights and loss of value. As a result, they are unlikely to actively conserve heritage values and may, in some cases, have an incentive to degrade or destroy the heritage place.</i></li> </ul> <p><b>DRAFT FINDING 7.7</b> <i>The assistance available to private owners of heritage properties is poorly targeted, and in some cases, falls well short of the additional costs of obligations imposed on owners as a result of listing. In these circumstances, property owners will not have an incentive to actively conserve heritage values.</i></p>	<p>certainly true that there is hardly any available. Manly Council would welcome the efforts of the Productivity Commission in recommending that much more funding be available.</p>
<p><b>DRAFT FINDING 7.8</b> <i>At the local government level, the management of heritage conservation under local planning schemes is not working well, primarily because of:</i></p> <ul style="list-style-type: none"> <li>• <i>the imposition of unclear and uncertain restrictions on property owners;</i></li> <li>• <i>the failure to prepare a statement of significance for each place listed on a local list;</i></li> <li>• <i>inconsistent use and interpretation of heritage controls; and</i></li> <li>• <i>the application of heritage controls to places that have little, if any, heritage significance in order to achieve other planning objectives.</i></li> </ul>	<ul style="list-style-type: none"> <li>- This point is absolutely untrue in Manly Council. Restrictions are neither unclear nor uncertain. Controls are clearly outlined in the LEP &amp; DCPs.</li> <li>- In Manly LGA, there have been attempts to use heritage controls for other planning objectives at the initiative of the community but this approach is strongly rejected by professional heritage staff in Council &amp; does not succeed.</li> <li>- At the local level, the most helpful thing that would clarify heritage would be the funding of comprehensive heritage reviews for all LGAs in order that they can update information of listed items, re-assess their significance, respond to community concerns/views, understand concerns of heritage-listed property owners &amp; implement policies where necessary.</li> </ul>
<p><b>8 Getting incentives right</b> – General comment: none of these actually address incentives. Does this mean it is the position of the PC that there should not be any? The PC should investigate other options as well, and not disregard over thirty years of heritage conservation in NSW.</p>	
<p><b>DRAFT FINDING 8.1</b> <i>Conservation of historic heritage on privately owned heritage property could be more effectively achieved through negotiated conservation agreements between governments and owners.</i></p>	<ul style="list-style-type: none"> <li>- The objections of Manly Council have already been made to this finding above.</li> <li>- This is a significant and major change in the current state and local management of heritage protection. Improvements to the current system should be investigated, including incentives, funding, education, etc. rather than dismantling the existing system.</li> </ul>
<p><b>DRAFT RECOMMENDATION 8.1</b> Privately-owned properties should be included on a national, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and should remain listed only while an agreement is in force.</p>	<ul style="list-style-type: none"> <li>- Manly Council strongly disagrees &amp; observes that the PC report fails to understand the more complex &amp; diverse nature of local heritage &amp; local listings.</li> <li>- No evidence is provided to support this approach as effective at heritage conservation. How can councils and the community be ensured that negotiation works</li> </ul>

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	<p>in conserving heritage? It may work for National items which are fewer, known 'icons' &amp; often government owned, than local items.</p> <ul style="list-style-type: none"> <li>- The current system should not be thrown out, but resources must be provided at the local level to assist in improving the current system and testing the negotiation approach as an additional tool in the conservation process.</li> </ul>
<p><b>9 Conservation agreements for privately-owned heritage places.</b> General comment: again, it seems strange that some of these are not based upon or cross-referenced to a specific Finding in this report.</p>	
<p><i>DRAFT RECOMMENDATIONS 9.1</i> The Australian Government should implement processes whereby any additions of non-government owned properties to the National List occur only after a conservation agreement with the owner has been entered into, and that the property remain on the list only while an agreement is in force. Consistent with its stated preference of relying on agreements for the management of world and nationally significant historic heritage places, the Australian Government may wish to make this a statutory requirement under the Environment Protection and Biodiversity Conservation Act.</p>	<ul style="list-style-type: none"> <li>- This may be appropriate at the national level but it is not at the local or state level.</li> </ul>
<p><i>DRAFT RECOMMENDATIONS 9.2</i> State and Territory governments should modify heritage legislation to ensure that any additions of non-government owned properties to their statutory heritage conservation lists occur only after a conservation agreement with the owner has been entered into, and that the property remain on the list only while an agreement is in force.</p>	<ul style="list-style-type: none"> <li>- Disagree as outlined above under comments for Findings &amp; Recommendations 8.1.</li> </ul>
<p><i>DRAFT RECOMMENDATION 9.3</i> State governments should require their local governments to add non-government owned properties to a local heritage conservation list only after a conservation agreement with the owner has been entered into and remains in force.</p>	<ul style="list-style-type: none"> <li>- As above.</li> </ul>
<p><i>DRAFT RECOMMENDATION 9.4</i> State governments should put in place systems for their local governments to request compulsory acquisition in cases where this becomes the only way to ensure cost-effective conservation of places of local significance.</p>	<ul style="list-style-type: none"> <li>- As above.</li> </ul>
<p><i>DRAFT RECOMMENDATION 9.5</i> Private owners of already listed properties, where the listing occurred after purchase of that property, should be able to apply for a negotiated conservation agreement and for listing to continue only if an agreement is reached.</p>	<ul style="list-style-type: none"> <li>- As above.</li> </ul>

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<p><i>DRAFT RECOMMENDATION 9.6</i> Private owners of already listed properties, where the listing occurred prior to the purchase of that property, would remain covered by the existing 'package' of restrictions and concessions (if any). These arrangements would be reassessed at the time of any substantive development application when negotiations for a new conservation agreement would occur and listing would continue only if an agreement is reached.</p>	<ul style="list-style-type: none"><li>- The PC should be aware that determining what properties on the local list were purchased when is a whole other cumbersome requirement that would be a difficult &amp; potentially unworkable obligation for local councils. How does the PC envision this could be accomplished effectively &amp; accurately?</li><li>- This will result in increased pressures on staff resources and potential loss of a significant amount of heritage in the local area and cumulatively the state.</li></ul>
<p><i>DRAFT RECOMMENDATION 9.7</i> State and Territory governments should modify their planning legislation and regulations to remove any requirement to take heritage considerations into account in relation to any individual property other than those requirements relating to zoned heritage areas.</p>	<ul style="list-style-type: none"><li>- Manly Council disagrees that non heritage items should not be subject to controls if they are in the vicinity of a heritage item &amp; if changes are proposed that would affect the significance of the heritage item.</li></ul>
<p><i>DRAFT RECOMMENDATION 9.8</i> State and Territory governments should remove the identification and management of heritage, zones, precincts or similar areas from their heritage conservation legislation and regulations, leaving these matters to local government planning schemes.</p>	<ul style="list-style-type: none"><li>- It is not clear in the PC report what impact this has on local government resources for heritage management of such areas.</li><li>- Council's LEP already has a heritage conservation area clause which manages impacts of change in the area on the heritage significance.</li></ul>

End of Submission

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 12  
**SUBJECT:** Draft Manly Development Control Plan for the Residential Zone 2006 - Small Allotments  
**FILE NO:**

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## SUMMARY

This report has been prepared to advise Council that an amended Clause regarding small allotments which were proposed in a Notice of Motion at the Council's Ordinary Meeting of 21 November 2005 has been incorporated into the Draft Development Control Plan (DCP) for the Residential Zone.

## REPORT

The Clause referring to small allotments relative to the site area specified in each of the density sub-zones.

Clause 3.3.2 (b), reads as follows:

“ On sites which are substantially less (20%) than the minimum site area required in the relevant density sub-zone, (identified on Table 1,p.9). Council may consider a variation to the floor space ratio provided the applicant can demonstrate the objectives of the DCP can be achieved.”

At Council's Ordinary Meeting on 21 November 2005, it resolved as follows:

*That clause 3.3.2(b) of the Manly Residential DCP be amended and clarified as follows:*

*That “substantially and 20%” be removed from the clause and the following clarification be added at the end. “This variation shall be limited to the allowable FSR for the minimum lot size in the relevant density subzone.*

*The new clause 3.3.2(b) would now read:*

*“On sites which are less than the minimum site area required in the relevant density subzone, (identified on Table 1, p9), Council may consider a variation to the floor space ratio provided the applicant can demonstrate the objectives of the DCP can be achieved. This variation shall be limited to the allowable FSR for the minimum lot size in the relevant density subzone”.*

The proposed amended clause clarifies and strengthens the provisions relating to small allotments. It will also ensure a consistent assessment process for development applications. Due to the imminent exhibition of the Draft Residential DCP 2006 it is considered more appropriate that the proposed amended clause be incorporated in the new document rather than amend the current DCP (Manly DCP for the Residential Zone 2001).

Accordingly the amended clause, as adopted by Council on 21<sup>st</sup> November 2005, has been incorporated into Draft Manly Development Control Plan for the Residential Zone 2006.

## RECOMMENDATION

That Council approve of this amendment to clause 3.3.2(b) for inclusion in the draft revised Development Control Plan for the Residential Zone 2006.

## ATTACHMENTS

There are no attachments for this report.

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\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 12 \*\*\*\*\*

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 13  
**SUBJECT:** Review of Request to Rezone Properties Nos 38 & 40 Stuart Street Little Manly from (Zone No 6 Open Space) to (Zone No 2 Residential)  
**FILE NO:**

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## SUMMARY

This report addresses a request from Messrs Chapman & Chapman Solicitors to rezone the land at 38 and 40 Stuart Street, Manly from (Zone No 6 Open Space) to (Zone No 2 Residential) on behalf of the property owners. It does not recommend rezoning the land for residential use.

## REPORT

### Background

#### Previous resolutions

On 13 February 1995, a report was presented to Council's Performance and Audit Committee providing a review of Council's acquisition of properties at Stuart Street, specifically properties Nos. 34, 36, 38 and 40 (see attached plan). The following comment was provided in the report with respect to the opportunity for Council to purchase these properties zoned open space:-

*Realistically, it is beyond Council's financial capacity to acquire this land without other Government assistance and the community benefit in the circumstances for such expenditure is hard to justify for passive recreation.*

Council on 23 January 1996 considered a report on these properties and resolved:

*To enter into these discussion with the owners of No. 36, 38 and 40 Stuart Street with a view to dedication of a strip of land behind the sea wall as reserve lands in exchange for zoning the residue of the properties Zone No. 2 Residential.*

Council entered into discussions with the land owners who expressed concerns over different issues including: the equity of the continued acquisition of land and the impact of the provision of a formal access way along the rear of properties (loss of privacy). A site inspection was undertaken by the Council on 20 October 1997.

On 30 October 1997, the Little Manly Precinct Committee resolved:

- *That Council reinforce its open space zone policy by returning the earlier acquired property at 34 Stuart Street to "Open Space";*
- *That the returned area be used for adequate dingy storage provided by the Council for public use.*

On 10 November 1997 Council considered the Little Manly Precinct Committee recommendations and resolved that Council reinforce its existing Open Space Zoning for the area.

### Land acquisition

Council acquired a large section of land from the mean high water mark to the current sea wall in the mid 1970's. About the same time, Council acquired property No 34 Stuart Street, which contains a listed environmental heritage item in the Manly LEP 1988. On 22 September 1998 Council acquired property No. 36 Stuart Street which is currently leased. At present Nos 34 and

**Corporate Planning And Strategy Division Report No. 13 (Cont'd)**

36 are classified 'operational' under the Local Government Act, 1993 and are both managed through commercial leases.

Two of the properties, 38 and 40 Stuart Street remain in private ownership. Council has been liaising with the Department of Infrastructure Planning and Natural Resources to seek funding assistance for the acquisition of these properties.

On 20 October 1999, the Department was in favour of acquisition, providing Council fulfilled its previous commitment to review the open space reservation affecting private land holdings fronting Middle Harbour, off Gurney Crescent, Seaforth. This review was carried out.

Council then wrote to the Department in 2003 emphasising that the land in Stuart Street was of regional open space significance and the State should acquire the land for regional open space. The Department replied to the effect that it did not agree with Council's assessment of the land.

**Description of the land**

The subject properties are in a central position within Little Manly Reserve, immediately behind Little Manly Beach. They separate the boat ramp area to the west from the picnic area to the east of the Reserve (see attached map). The lots are on the low side of Stuart Street where crib retaining walls separate the frontage from the roadway. The lots are quite level, but are more than 5m below the street and more than two metres above the beach.

A concrete seawall at the rear of the properties runs for approximately 120m, stands up to 1.2 m high and separates the rear of properties from the sandy beach. It appears that this is a gravity retaining wall with an almost rectangular cross section. The wall has no drainage provisions and there is the presence of cracks and some movement is evident.

The rear garden of No 34 Stuart Street which Council owns has been converted into a dinghy storage area, which is adjacent to the grassed reserve. At present the rear of No 36 Stuart Street remains part of the residential property which is currently leased to a tenant.

The subject properties are bounded on the eastern side by Little Manly Point Reserve and to the north and west by residential land. They represent a residential intrusion into the open space network within the area, isolating the eastern and western ends of Little Manly Reserve. The foreshore is a listed heritage item under Manly LEP 1988.

**Natural Heritage**

Sandstone cliffs and rock shelves add to the scenery and natural attractiveness of the beach area and combined with the foreshore heritage listing support the preservation of the land for open space and public leisure for current and future generations.

Furthermore, the majority of the nearby open space area, is landscaped, grassed, beach or rocky foreshore. There is some remnant bushland covered by State Environmental Policy No 19 "Bushland in Urban Areas" connecting Little Manly Reserve with Little Manly Point Park along the eastern foreshore.

Two endangered populations occur near or at Little Manly Cove. These are:

- the long-nosed bandicoot (*Perameles nasuta*) population; and
- the little penguin population (*Eudyptula minor*).

**Corporate Planning And Strategy Division Report No. 13 (Cont'd)**

The population of little penguins at Manly is listed as endangered in Part 2 of Schedule 1 of the New South Wales *Threatened Species Conservation Act* 1995 (TSC Act). Potential habitat for this species occurs on the foreshore of the western end of Stuart Street.

**Values**

The area is characterised by the following values identified in the Little Manly Coastal Management Plan:

- Aesthetic values associated with landscape and physical characters including the beach, cliff lookouts, grassed reserve and bush areas in addition to the coastal/estuary foreshore and harbour views.
- Ecological values associated with the presence of critical habitat for the endangered population of little penguins in addition to different fish species identified in the Little Manly area.
- Biophysical values associated with the natural bushland, seagrass and threatened species.
- Cultural values associated with the area's indigenous and non-indigenous heritage.
- Accessibility values associated with convenient access to all public areas.
- Recreational and lifestyle values associated with a safe, healthy and enjoyable environment for all users, visitors and local residents. Boating, wind surfing, canoeing, kayaking, out rigging and surfboat activities are also popular activities in the area beside SCUBA Diving & Snorkeling.

Also the marine environment of Little Manly is rated by the NSW EPA as 'extremely sensitive' (NSW EPA, 1994). It is the only area in the 'outer harbour' that is afforded that rating.

**Statutory implications**

Sydney Regional Environment Plan (Sydney Harbour Catchment) 2005 identifies the following items as items of regional significance:

- Little Manly Cove Pool, Stuart Street.
- Site and remains of harbourside pool and steps, Stuart Street (located on the eastern side of Little Manly Point).
- Remains of former Gasworks, Little Manly Point, Carey Street.

Schedule 4 of **Manly LEP 1988** identifies the following items, which are located within the study area, as Items of Environmental Heritage:

- "Site of Gasworks" at Little Manly Point (bounded by Carey and Stuart Streets).
- The old stone seawall at Little Manly Point.
- The old cottage adjacent to the Little Manly Cove boat ramp and boat shed at 34 Stuart St.
- The harbour foreshore

In accordance with Manly LEP 1988 the land is zoned Open Space 6(a) and fall within the Foreshore Scenic Protection Area (Council will not grant consent to the carrying out of any development unless is satisfied that the development will have no detrimental effect on the area). Further the whole area is identified as an environmentally sensitive area. The area has been identified as existing open space, except for Nos 38 and 40 which are identified as open space to be acquired.

**Corporate Planning And Strategy Division Report No. 13 (Cont'd)**

Objectives of the Open Space zone include:

- (a) *to ensure there is provision of adequate open space areas to meet the needs of all residents and provide opportunities to enhance the total environmental quality of the Manly Council area;*
- (b) *to encourage a diversity of recreation activities suitable for youths and adults;*
- (c) *to identify, protect and conserve land which is environmentally sensitive, visually exposed to the waters of Middle Harbour, North Harbour and the Pacific Ocean and of natural or aesthetic significance at the water's edge;*
- (d) *to facilitate access to open areas, particularly along the foreshore, to achieve desired environmental, social and recreation benefits;*
- (e) *to conserve the landscape, particularly at the foreshore and visually exposed locations, while allowing recreational use of those areas; and*
- (f) *to identify areas which —*
  - (i) *in the case of areas shown unhatched on the map are now used for open space purposes; and*
  - (ii) *in the case of land shown hatched on the map are proposed for open space*

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.**

The SREP identifies the land as regionally significant. The SREP has repealed and replaced:

- (a) Sydney Regional Environmental Plan No 22—Parramatta River,
- (b) Sydney Regional Environmental Plan No 23—Sydney and Middle Harbours.

The planning principles for land within the Foreshores and Waterways Area which embody the aims of the SREP, include the following:

- (a) *development should protect, maintain and enhance the natural assets and unique environmental qualities of Sydney Harbour and its islands and foreshores,*
- (b) *public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,*
- (c) *access to and from the waterways should be increased, maintained and improved for public recreational purposes (such as swimming, fishing and boating), while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation,*
- (d) *development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores,*
- (e) *adequate provision should be made for the retention of foreshore land to meet existing and future demand for working harbour uses,*

**Comment:**

The Open Space zoning is consistent with the objectives, as well as the aims and principles of the Sydney Region LEP Environmental Plan (Sydney Harbour Catchment) 2005.

**Corporate Planning And Strategy Division Report No. 13 (Cont'd)****Little Manly Coastline Management Plan:****Support Document - Acquisition of Nos. 38 and 40 Stuart Street**

The management plan highlights the significance of these properties in terms of providing connectivity between the Little Manly boat ramp and surrounding land and Little Manly Reserve. Acquisition of all or part of these lands would provide a more holistic and connected reserve system in the area, with greater public access to the foreshore.

**Acquisition Options as per the Management Plan**

One option available to Council is to acquire properties 38 and 40 Stuart Street when they are listed on the property market. However, pursuant to Clause 13 of the Manly LEP 1988, the owners of the Nos. 38 and 40 Stuart Street, may by notice in writing, require the Council to acquire their properties.

Should they be acquired, Council could convert each property, along with those already acquired by Council, to form part of the Little Manly Cove open space system classified as community land. In which case, their use and management would be governed by a Plan of Management. Should this management option be adopted, it would be appropriate for numbers 34 and 36 (already owned by Manly Council – classified operational), to be reclassified as community land also.

Alternatively, Council could negotiate the acquisition of the rear of each of these properties (including the undeveloped grassed areas), for conversion into public lands. This would enable the existing houses to continue to enjoy their position while improving public access to the foreshore and connectivity between the two sections of reserve. Re-zoning the developed land from Open Space to Residential could be used as a negotiating point. This option was discussed in 1997 with the property owners, who indicated at that time, according to the Council report, that this option was not favoured.

**Comment**

These two private properties are significant in terms of providing connectivity between the Little Manly boat ramp and surrounding land and Little Manly Reserve. Acquisition of all of these lands would provide a more holistic and connected reserve system in the area, with greater public access to the foreshore. Acquisition of the rear part would provide a temporary solution which may need to be supplemented by further acquisition and preservation at a later date.

**Section 117 Directions G3-Reservations**

The Minister Directions issued under section 117(2) with regards to reservations

(i) Local Open Space

*Draft Local Environmental Plans shall not substantially reduce existing reservations or zonings of land for public open space as distinct from private open space. The extent of any such reduction shall be considered from the point of view of the total area and the quality of existing land reserved or zoned for public open space within the whole of the Council's area as at the 1st September, 1980.*

**Comment**

The rezoning of the two properties to Residential would reduce the existing zonings for public open space established in accordance with the Manly LEP 1988.

**Corporate Planning And Strategy Division Report No. 13 (Cont'd)****Conclusion**

The rezoning of the subject lands to Residential would preclude the opportunity for improved access along Little Manly Beach and Reserve to all community members including elderly and persons with a disability, and a significant addition to the open space area. Further, the rezoning proposal is inconsistent with the objectives of the Open Space Zone under Manly LEP 1988, the planning principles of the State Regional Environmental Plan (Sydney Harbour Catchment) 2005, section 117 Directions (G3) and the Little Manly Coastline Management Plan.

Two properties remain in private ownership. The owners of these properties have for many years understood that the land was identified for acquisition as open space.

It is recommended that Council affirm its previous resolution to acquire the subject land for open space and to improve public foreshore access. Also that council seek funding assistance for the acquisition of these properties from the Sydney Regional Development Fund.

**RECOMMENDATION**

That Council:

1. Resolve to reject the request to rezone properties Nos 38 and 40 Stuart Street, Little Manly from Zone No 6 Open Space to Zone No 2 Residential.
2. Resolve to acquire the subject lots when funds, and the opportunity become available, to improve public foreshore access and address part of the growing concern over the decreasing public and increase the open space provision.
3. Reclassify the land at 34, 36, 38 and 40 Stuart Street and the other park land open spaces to "Community Land", once properties Nos 38 and 40 acquired.
4. Prepare a plan of management for the future use and management of the land.
5. Inform the owners of the subject properties.

**ATTACHMENTS**

**AT- 1** Map of Area including 36-40 Stuart Street, Manly 1 Page

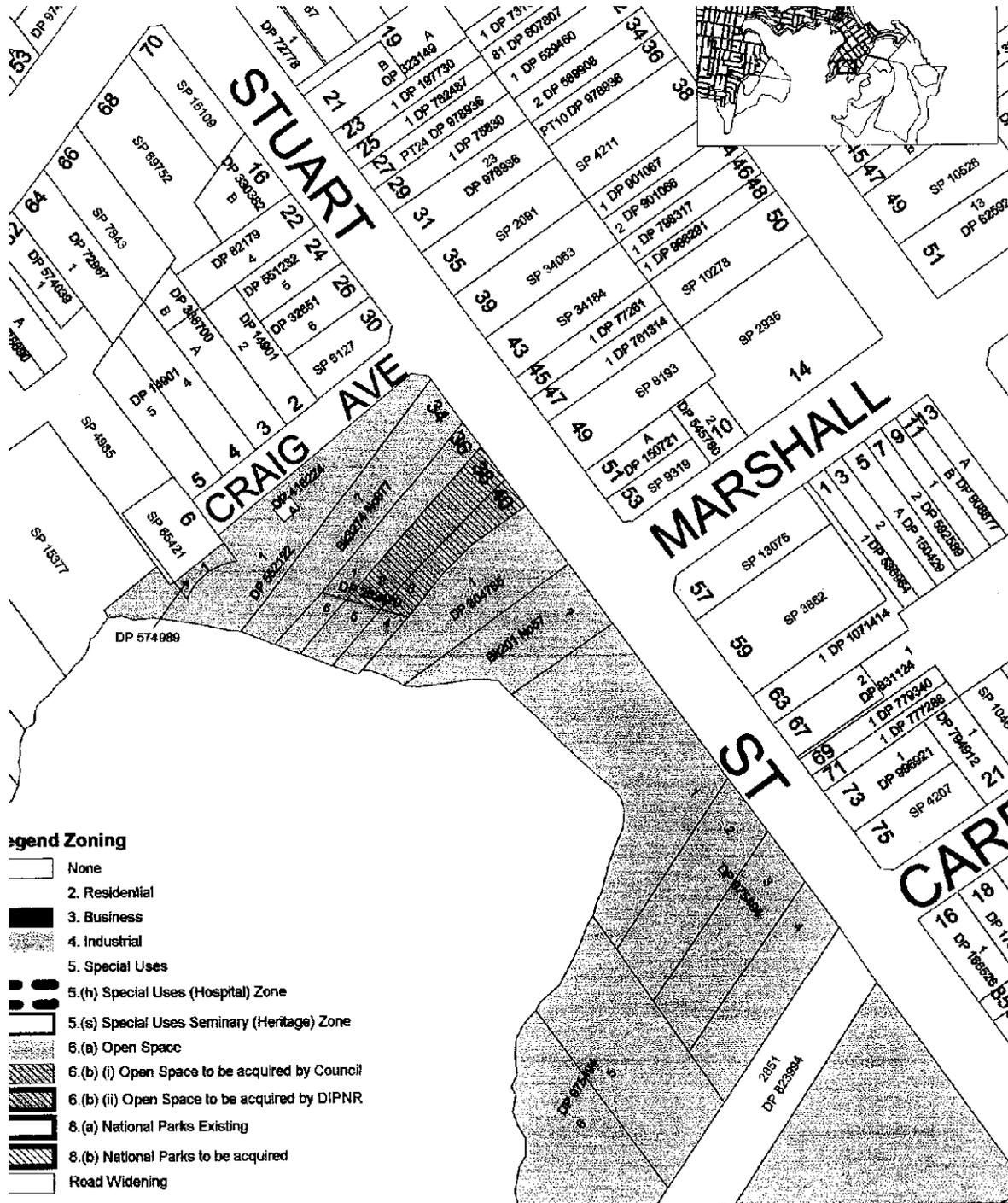
PS130306CPSD\_4

\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 13 \*\*\*\*\*

ATTACHMENT 1

Corporate Planning And Strategy Division Report No. 13 - Review of Request to Rezone Properties Nos 38 & 40 Stuart Street Little Manly from (Zone No 6 Open Space) to (Zone No 2 Residential)

Map of Area including 36-40 Stuart Street, Manly



-20 0 20 40 60 80 100  
Meters

Scale: 1:1,500 Map Grid of Australia 1994 (Zone 56)

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Drawn by: VM Feb06 File No: G:\GIS\MapCatalogue\workspaces\38Stuart.wor

**38, 40  
Stuart St  
Manly**

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 14  
**SUBJECT:** Heritage Listing of "Woodburn" 128-130 Bower Street, Manly  
**FILE NO:**

---

## SUMMARY

This report addresses the Fairy Bower Precinct request of November 2005 that 128 Bower Street, Manly ("Woodburn") be listed and protected as an Item of the Environmental Heritage in Schedule Four of the *Manly Local Environment Plan 1988* (LEP) and recommends that the appropriate means of assessing the significance of the property is a part of the comprehensive heritage review.

## REPORT

Fairy Bower Precinct, at its meeting of November 2005 requested that Council resolve to list 128 – 130 Bower Street, Manly as an Item of the Environmental Heritage in the Manly LEP 1988. The impetus for this request was the fact that the property is up for sale. A potential buyer has recently taken the step of a pre-Development Application meeting and has consulted a heritage advisor and indicated the intention is to purchase the property in order to demolish the existing building and re-develop the site. The potential buyer has been advised that the property is being assessed for its potential heritage significance and may subsequently be heritage listed.

The property identified is a two-storey building from the early part of the twentieth century that it is, according to Fairy Bower Precinct, currently used as an affordable holiday house by the Seventh Day Adventist Church. In addition to having potential heritage significance, the property also may have value as low-income accommodation under State Environmental Planning Policy 10 (SEPP 10) of a kind becoming rare in the Manly Local Government Area.

A Heritage assessment will be carried out. Council's planning staff cannot recommend the listing of a property without an assessment of its heritage significance according to the guidelines and criteria of the New South Wales Heritage Office. Assessment needs to be undertaken as part of the comprehensive review proposed by Council staff in Report 6: *Heritage Review for Manly LGA* to the Planning and Strategy Division Meeting of 13 February 2006. It has become increasingly difficult due to the current planning reforms initiated by the State Government for minor amendments to be made to an LEP and Manly has had recent experience with this regarding the Manly LEP amendment to heritage list 3 Oyama Avenue Manly. The piecemeal listing of properties is a less effective and less desirable mechanism for protecting and managing heritage in Manly Local Government Area.

## RECOMMENDATION

That Council refer the assessment of the property at 128 - 130 Bower Street, Manly to the comprehensive heritage review proposed for 2006-2008.

## ATTACHMENTS

There are no attachments for this report.

PS130306CPSD\_5

\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 14 \*\*\*\*\*

**TO: Planning and Strategy Committee - 13 March 2006**  
**REPORT: Corporate Planning And Strategy Division Report No. 15**  
**SUBJECT: Balgowlah Shopping Centre Urban Design Controls 1999**  
**FILE NO:**

---

## **SUMMARY**

Don Fox Planning have lodged a submission on behalf of Stockland Developments Pty Ltd (Stockland) and Manly-Warringah Masonic and Community Club (Masonic Club) seeking certain amendments to the Council's Balgowlah Shopping Centre Urban Design Controls 1999.

The submission, in the main, addresses residential zoned land fronting the eastern side of Woodland Street, Balgowlah currently owned by the Club, and seeks higher residential densities and the integration of this land into the Totem site. An extension westwards of the area within the Totem site, subject to a maximum height of RL58.5, is proposed.

Having regard to the background to the Totem site and its importance in the Balgowlah context, the amendments proposed to the Balgowlah Shopping Centre Urban Design Controls (UDC) be referred to the Community Reference Group that was established to provide community input into the "Totem" redevelopment.

## **REPORT**

The proposed amendments to the UDC mainly relate to Nos 162 – 182 Woodland Street, Balgowlah which are located on the eastern side of the street with their rear boundaries to the Totem site. Nos 162 – 166 (Lot 201 and Pt Lot 200 in DP1065493) is owned by Stockland and the remaining land is owned by the Masonic Club. With the exception of No 172, which is vacant, and Nos 162 – 166, which is used for parking and access to the Telstra exchange, the land is occupied by single storey dwellings.

The subject lands are zoned Residential under Manly LEP 1988 and are within Density Sub-zone 4 (1 unit /300sqm of site area with an FSR of 0.5:1) under Manly DCP for the Residential Zone 2001. Manly LEP 1988 – Amendment No 45, which applies to Nos. 168-182 allows, inter alia, for underground car parking associated with the Totem Shopping Centre and limits vehicular access from Woodland Street for residential purposes only.

Major amendments proposed to the Urban Design Controls 1999 include:

1. The inclusion of Nos 162-166 Woodland Street into the Totem site. (Refer Dwg No A2).
2. A 4m front setback to apply to Nos 162 to 172 Woodland Street, Balgowlah (approximately 50% of the frontage of the subject land). The remaining allotments to the north will maintain the standard 6m setback. It is contended the former variation is to relate to setbacks applicable to the existing commercial development at the corner of Woodland Street and Sydney Road. (Refer Dwg No A4).
3. A 12m height limit control over Nos 162-166 (in place of Residential DCP Controls) Woodland Street, an extension of the RL 58.5 AHD westerly in to the rear part of Woodland Street properties and the inclusion of an additional area adjacent to the Telstra building with a RL 58.5 AHD height limit. (Refer Dwg No A5).
4. A requirement for multiple pedestrian entries to future development fronting Woodland Street. (Refer Dwg No A6).

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

5. A residential density in Woodland Street of 1 dwelling/100sqm and a FSR of 1.2:1 to replace existing controls of 1 dwelling per 300m and FSR of 0.5:1 (Refer Dwg Nos A7 & A\*).
6. A new provision requiring the minimum open space to be 45% of site area and soft open space to be 25% of open space area. (55% open and 35% as soft open space under existing controls)

The submission seeks to justify the proposed amendment to the UDC by reference to the aims and objectives of Manly LEP 1988 and the objectives of Manly DCP for the Residential Zone. Copies of plans included in the submission, which reflect the amendments proposed are attached.

**DISCUSSION**

The 1999 UDC are the culmination of community consultation and professional input to achieve an environmentally satisfactory outcome to guide the growth and future development of Balgowlah Business zone and the Totem Shopping Centre.

The Council's consistent application of its policies and standards in this regard has been upheld by the Land and Environment Court.

The subject amendments in many respects are contrary to the intent of the 1999 UDC, especially in relation to increased residential densities and heights in Woodland Street. The current design controls recognise the low density residential nature of the street and seek to maintain the status quo. It is recognised that town planning is a dynamic process, but there have been no environmental, social, legislative or structural changes in recent years to warrant amending the UDC as they apply to Woodland Street. Its original *raison d'être* remains sound.

The proposed amendments will have severe impacts on Woodland Street and would include:

- A diminution of streetscape and character, which currently comprises single storey dwellings. The amendments would create a medium/high density area on the eastern side of Woodland Street.
- Over-shadowing and domination by the intended extension of the "high rise zone".
- Increased traffic because of the higher residential densities.

Further, as the residential densities and FSR controls proposed are far in excess of any of the Council's current controls, this may lead to a precedent for similar increases in other localities.

For all of the above reasons, and given the significance of the "Totem" site Council should refer the requested amendment to the UDC to the Community Reference Group for their input.

**RECOMMENDATION**

That following consultation with the Community Reference Group, that a further report be prepared for Council's consideration.

**ATTACHMENTS**

AT- Drawing Nos A2, A4, A5, A6, A& and A8 as amended December 2005 by Don 6  
1 Fox Planning Pages

PS130306CPSD\_6

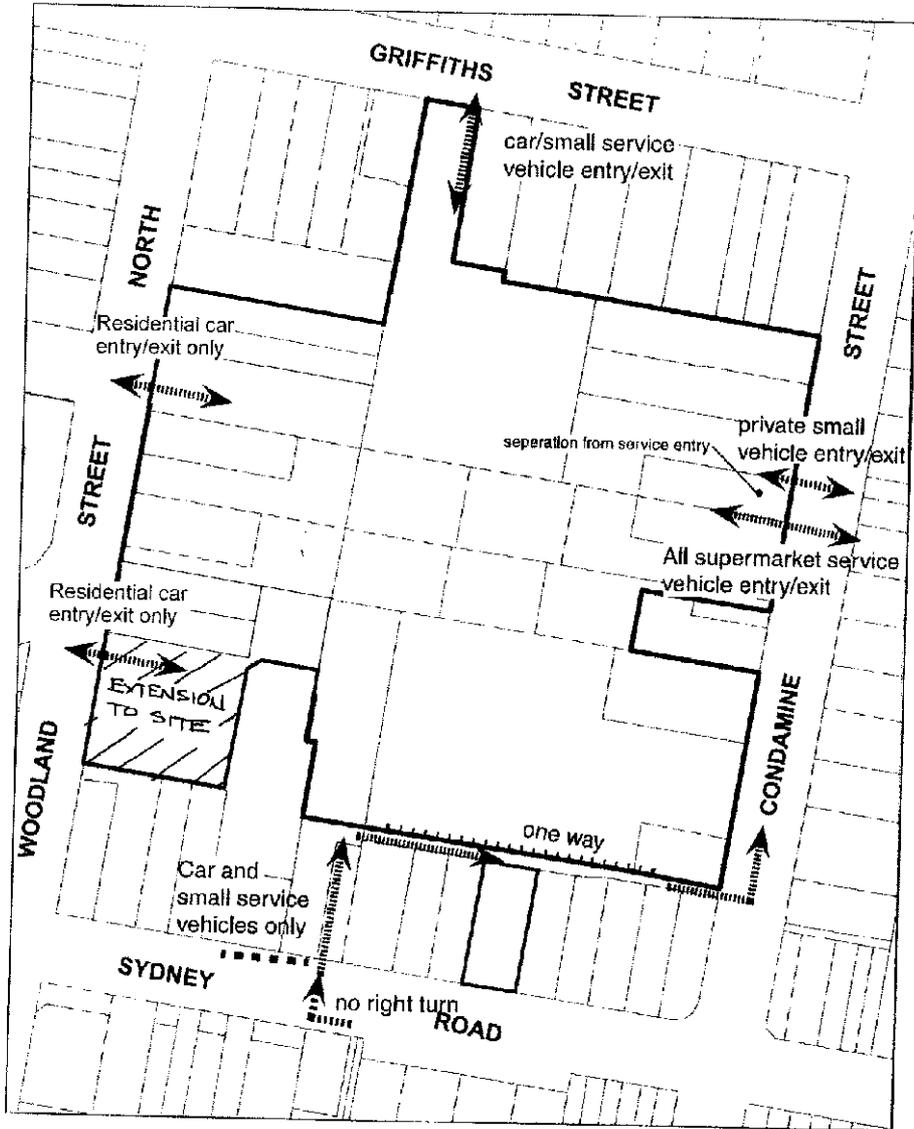
\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 15 \*\*\*\*\*

# ATTACHMENT 1

## Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999

Drawing Nos A2, A4, A5, A6, A8 and A8 as amended December 2005 by Don Fox Planning

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**Legend**

- Area of Totem development site
- Area of lane widening

Project: <b>Totem Development Block</b>				
Urban Design Controls				
Drawing Title: Vehicular Circulation				Prepared by Planning Design & Environment
	Scale NTS	Date March 1999	Drawn by RE	Dwg No <b>A2</b>

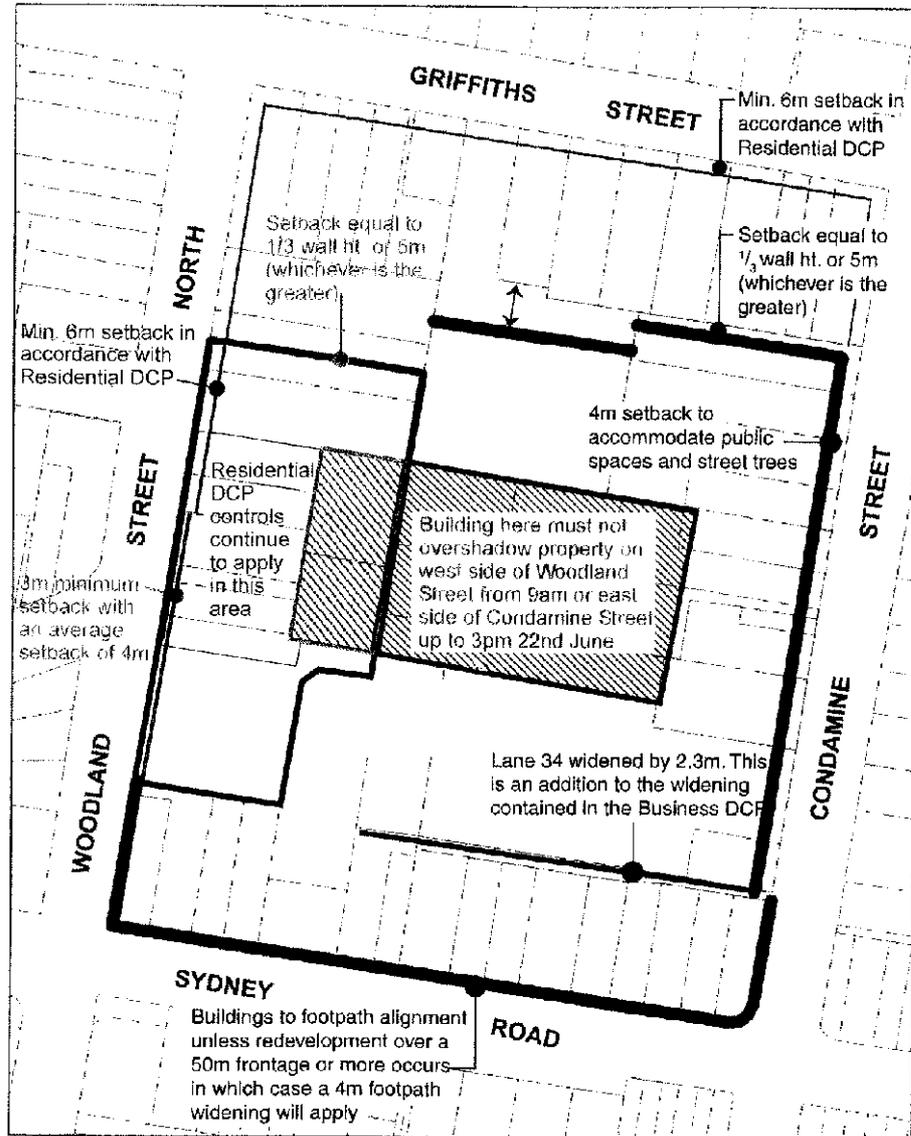
*Amended December 2005 by Don Fox Planning*

# ATTACHMENT 1

## Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999

Drawing Nos A2, A4, A5, A6, A8 and A8 as amended December 2005 by Don Fox Planning

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- Legend**
- Suitable for multi storey component
  - Car park structure set back 12m from rear boundary above RL 39.5

Project:			
Totem Development Block			
Urban Design Controls		Prepared by: Planning Design & Environment	
Drawing Title:			
Building Setbacks			
	Scale	Date	Drawn by
	NTS	March 1999	RE
			Dwg No
			<b>A4</b>

*Amended December 2005 by Don Fox Planning*

**ATTACHMENT 1**

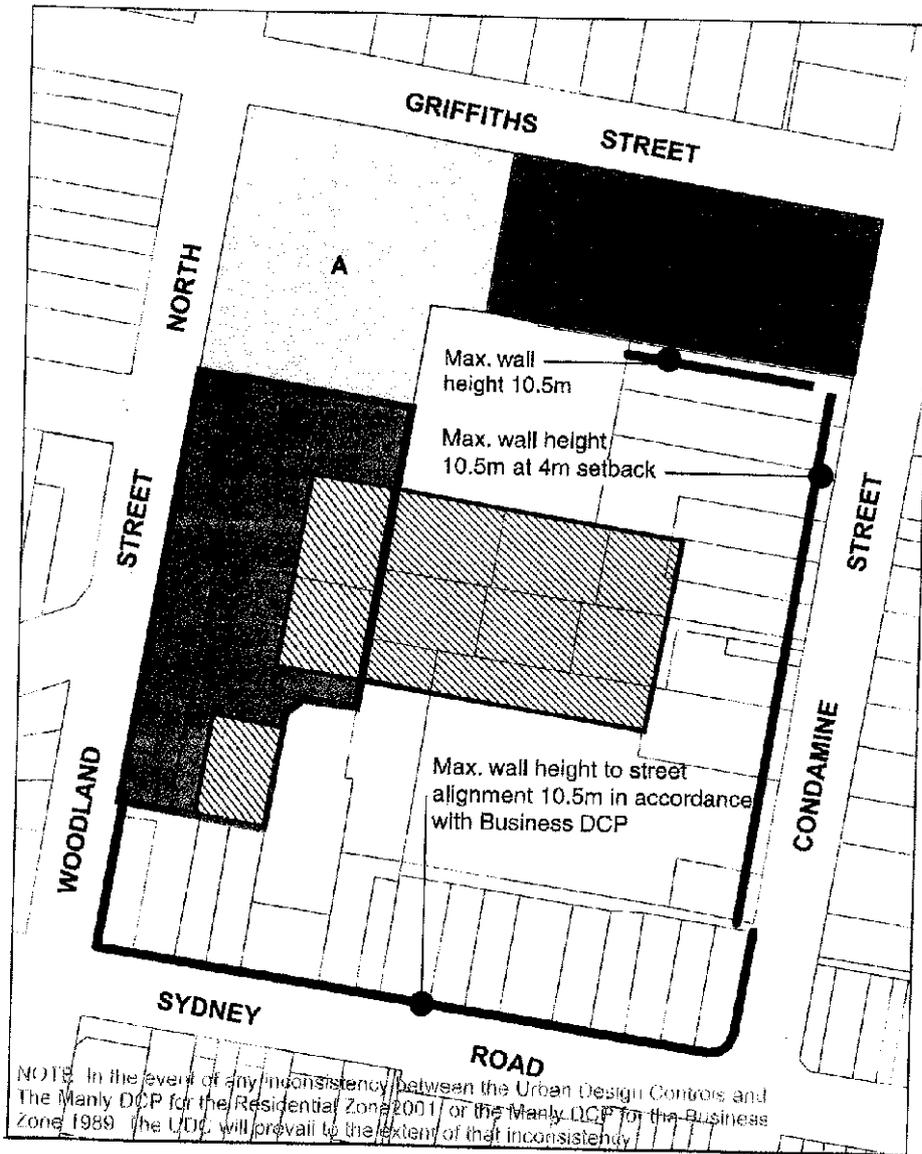
**Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999**

**Drawing Nos A2, A4, A5, A6, A8 and A8 as amended December 2005 by Don Fox Planning**

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NOTE: In the event of any inconsistency between the Urban Design Controls and The Manly DCP for the Residential Zone 2001 or the Manly DCP for the Business Zone 1989, the UDC will prevail to the extent of that inconsistency.

**Legend**

-  Indicates appropriate zone for higher residential component of development i.e. to a height of RL 58.5 AHD
-  Residential Zone — Max Height 6.5m - 8.0m
-  Residential Zone — Max Height 9.0m - 10.5m
-  Residential Zone Max Height 12.0m

**Project:**

**Totem Development Block  
Urban Design Controls**

**Drawing Title:**

**Building Heights**



Scale

Date

Drawn by



Prepared by  
Planning Design  
& Environment

Dwg No

NTS

1999

RE

**A5**

*Amended December 2005 by Don Fox Planning*

# ATTACHMENT 1

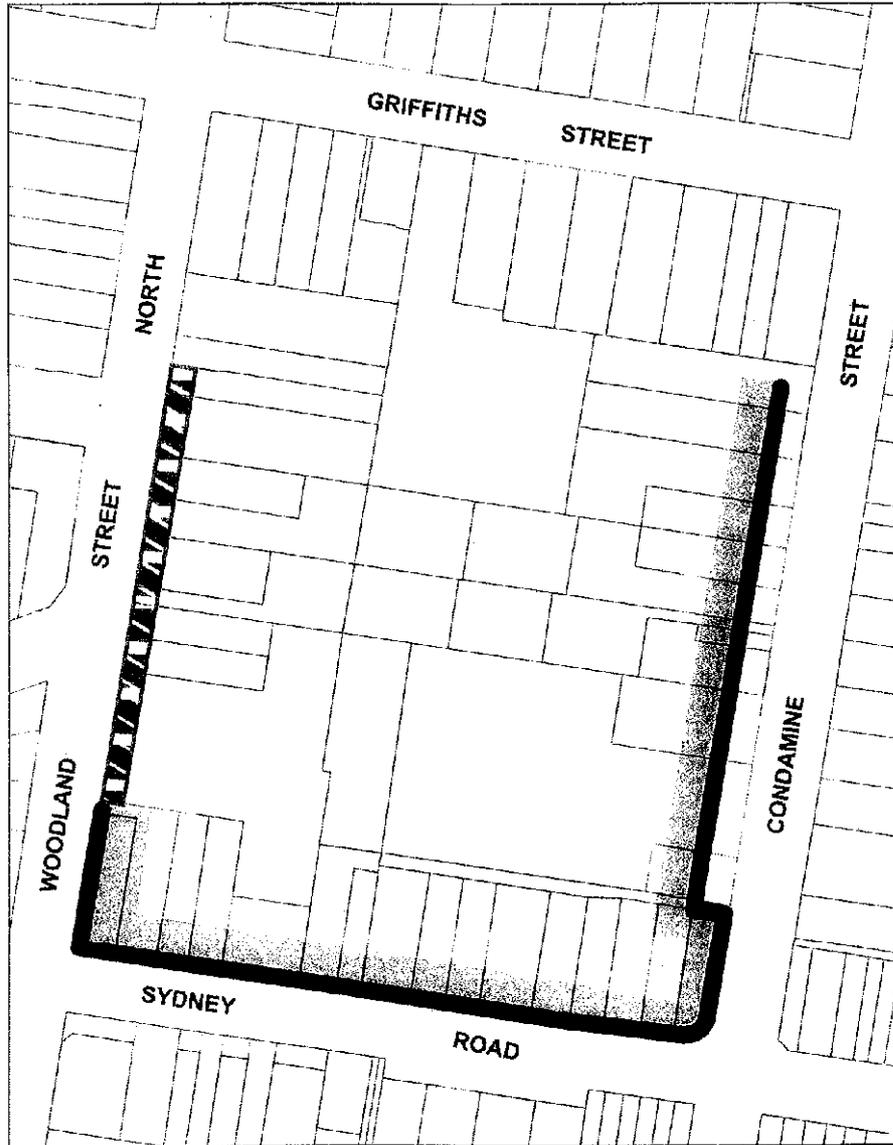
## Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999

Drawing Nos A2, A4, A5, A6, A8 and A8 as amended December 2005 by Don Fox Planning

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**Legend**

- Active well lit predominantly retail/business frontages
- Residential development to address Woodland Street with multiple pedestrian entries to building

Project:  
**Totem Development Block**  
**Urban Design Controls**

Drawing Title:  
**Street Level Uses**



Prepared by:  
Planning Design  
& Environment

	Scale	Date	Drawn by	Dwg No
	NTS	March 1999	RE	<b>A6</b>

*Amended December 2005 by Don Fox Planning*

**ATTACHMENT 1**

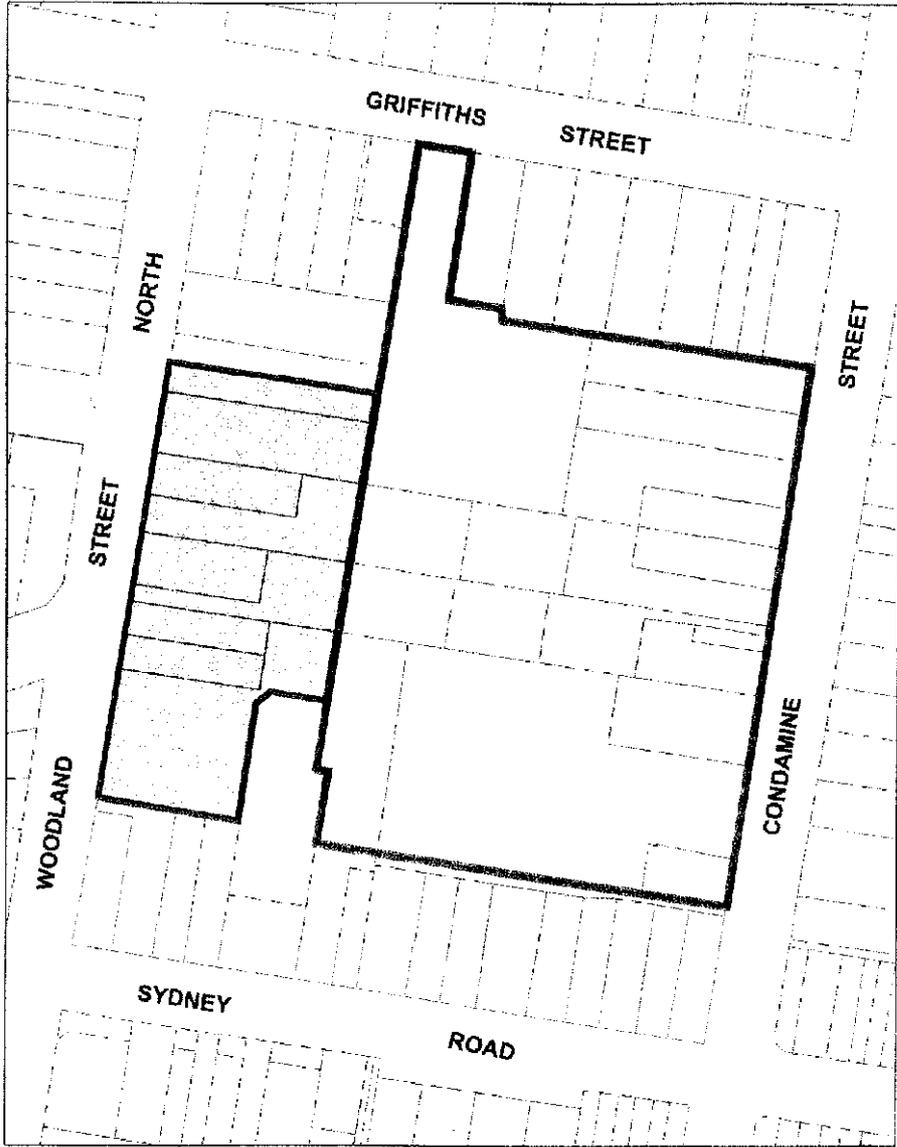
**Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999**

**Drawing Nos A2, A4, A5, A6, A7 and A8 as amended December 2005 by Don Fox Planning**

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**Legend**

 1 unit / 100m<sup>2</sup> site area

NOTE: In the event of any inconsistency between the Urban Design Controls and The Manly DCP for the Residential Zone 2001 or the Manly DCP for the Business Zone 1989, the UDC will prevail to the extent of that inconsistency.

**Project:**

**Totem Development Block  
Urban Design Controls**

**Drawing Title:**

**Residential Density**



Prepared by:  
Planning Design  
& Environment

	Scale	Date	Drawn by	Dwg No
	NTS	Nov. 2005	DFF	A7

*Amended December 2005 by Don Fox Planning*

**ATTACHMENT 1**

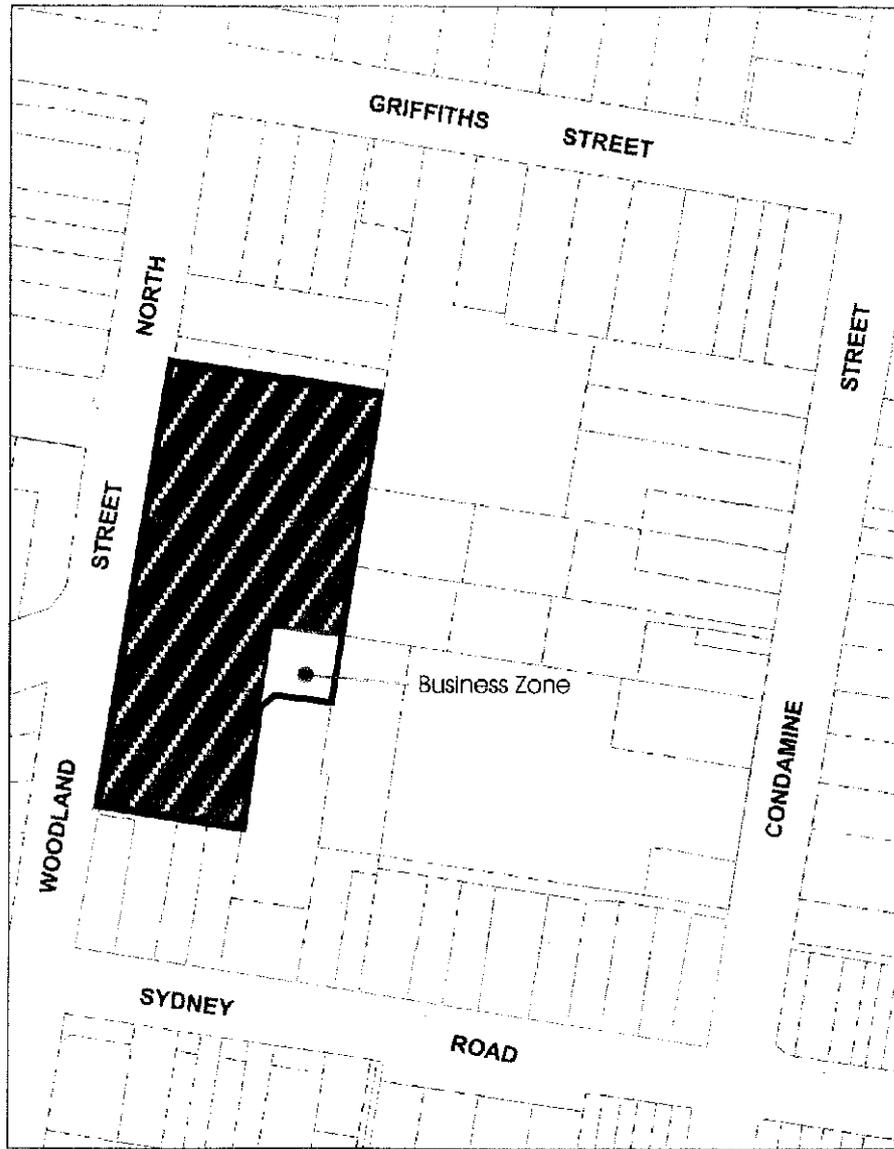
**Corporate Planning And Strategy Division Report No. 15 - Balgowlah Shopping Centre Urban Design Controls 1999**

**Drawing Nos A2, A4, A5, A6, A8 and A8 as amended December 2005 by Don Fox Planning**

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**Legend**



NOTE: in the event of any inconsistency between the Urban Design Controls and the Manly DCP for the Residential Zone 2001 or the Manly DCP for the Business Zone 1989, the UDC will prevail to the extent of that inconsistency.

Project:  
**Totem Development Block**  
**Urban Design Controls**



Prepared by:  
 Planning Design  
 & Environment

Drawing Title:  
**Floor Space Ratio**

Scale	Date	Drawn by	Dwg No
NTS	Dec 2005	DFP	A8

Amended December 2005 by *Don Fox Planning*

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 16  
**SUBJECT:** Metropolitan Strategy - North East Sub-Regional Strategy  
**FILE NO:**

---

## SUMMARY

Council continues working with SHOROC and the Department of Planning to develop the North East Sub-regional Plan. This report provides a framework for the Sub-Regional Plan and its relationship to the Sydney Metropolitan Strategy. It also updates Council on the progress of the Sub-Regional Plan.

## REPORT

### Introduction

The Sydney Metropolitan Strategy "*City of Cities*", released in December 2005, is a strategy to manage and accommodate population growth, and to ensure sufficient land and infrastructure are available for future population growth. Growth is defined in terms of the different activities within a city, eg. housing, employment, business, industries, recreation, tourism, health and education. The *City of Cities* seeks to manage these activities through balancing development on urban (70%) and non urban (30%) land, integrating infrastructure development with landuse planning, defining a hierarchy of centres/corridors, urban renewal, natural resource management, State and local government co-operation, and private-public partnership.

For local government, a fundamental implementation mechanism of the *City of Cities* is the first ever attempt by the State Government to link the State strategic directions with local strategic planning functions. *City of Cities* proposed a structure to utilise the existing Regional Organisation of Councils (ROC) as an intermediate agent to co-ordinate the different levels of Government, so that State objectives in the *City of Cities* are appropriately implemented, financed, developed and monitored. The outcome of this sub-regional planning exercise will influence the land use planning, infrastructure provision, finance and decision making functions of all NSW councils across NSW.

Manly Council is within the North East (NE) geographical sub-region under *City of Cities*, which comprises the Manly, Warringah and Pittwater local government areas. Growth targets of 17,300 new dwellings and 16,000 new jobs by 2031 are envisaged for the sub-region, which represents approximately 3% of the future growth of Sydney. These growth targets will form the basis of the NE sub-regional planning exercise.

### What will North East (NE) Sub-regional Plan deliver?

The Department of Planning will develop the Plan. SHOROC is responsible for co-ordinating between local councils and the Department. Mosman Council will be involved in a limited capacity, as it has been incorporated in the North Sub-region under the *City of Cities*. The Department indicated that the Plan will contain the following information:

- Identify potential urban renewal, infrastructure, local transport, open space network and biodiversity projects essential to achieve the objectives of the *City of Cities*. State significant projects will be costed and prioritised, and forwarded to the Cabinet for funding.
- A framework for potential agreements between Councils for future implementation of the identified projects.
- Identify areas to be conserved and areas that have potential for future residential, commercial and other development. It will inform the LEP and DCP making process for individual councils.

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

- The NE sub-region will target a 100% employment containment level for the region. This will ensure sufficient jobs and infrastructure are available for all residents seeking to live and work locally within the Region. A separate study on the employment characteristics of the Region will be commissioned by the Department and SHOROC councils, fully funded by the Department.
- The Strategy will further streamline the housing and employment capacity targets to consider the distribution, mix and types of growth.
- Preparation of a brief for the SHOROC Employment Strategy, to be funded by the Department of Planning.
- Commencement of meetings with officers of the Department to initiate the sub-regional planning process.

**The Work so far**

The report to the Planning and Strategy Committee meeting on 10 October 2005 provided the methodology and framework of the Sub-Regional Plan. To date, the following works are completed:

- A structure plan that shows all centres within the sub-region, the role of each centre and how centres are linked via the existing road and transport network.
- Identified housing capacity for each Local Government Area (LGA) within existing planning constraints (ie. zoning and density controls). The result shows that the Sub-region has sufficient capacity to accommodate the housing target of 17,300 new dwellings within existing planning frameworks.
- The structure plan also identified the conservation areas where urban development should not be located, including environmentally sensitive areas in Manly.

**Opportunities for Manly**

In order for Manly Council to advocate State funding for future urban renewal and infrastructure projects, it is essential to demonstrate that the projects will support Brookvale/Dee Why, which is nominated as the regional centre for the NE region under *City of Cities*. The projects should also promote employment opportunities within the sub-region.

The following projects have the potential to attract State funding:

- Improve and maintain existing public transport services between Manly and the Sydney CBD. Majority of Manly residents (26%) travel to the City for work, while only 23% of the residents work locally within the Manly LGA. In Warringah Council, 41% of its residents work locally in the Warringah LGA, and in Pittwater Council, 40% of its residents work locally in its LGA boundary. These demonstrate that Manly has established a strong link with the City in terms of its travelling pattern and economic composition.

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

- Improve public transport and infrastructure within the SHOROC sub-region. There is a need to further understand the population and employment targets in terms of the demand on the existing infrastructure and public transport. Anecdotal evidence suggests that existing road, drainage and public transport within the sub-region are reaching their capacity. There is an opportunity for the Sub-regional Plan to investigate the impact that future demand will place on existing infrastructure and advocate for funding to improve both infrastructure and public transport services.
- Urban design and integrated land use and infrastructure planning at Seaforth and Balgowlah, building on current opportunities.
- Urban renewal of Pittwater Road as the centre of a local urban village. It is accessible by public transport, close to amenities and services. It is also the beginning of the regional route that links Manly to the regional centre at Brookvale/Dee Why. Opportunities for improved public transport, increased retail and commercial activities, and hence employment opportunities. There is a need to identify infrastructure and natural resource constraints, and to undertake an economic feasibility study to minimise competition with Warringah Mall.
- Projects to conserve natural and cultural heritage values and protect environmental quality in the tourist areas such as Manly. The Ocean Beach, Shelly Beach and the Manly to the Spit walk are eco-tourism initiatives. Manly tourism industry contributes significantly to the Sydney economy. The tourism industry in Manly is mainly focused on its natural resources and coastal setting. Initiatives to promote eco-tourism and prevent damage to existing environmental assets due to increase tourism activities are essential to the Plan. Tourism also provides significant local employment opportunities. It is also critical to balance future tourist development with existing residential amenity.

The Metro Strategy calls for an Implementation Committee reporting to the Minister for Planning and consisting of representatives from Department of Planning, SHOROC at the Mayoral and General Manager level to oversee the implementation of the Plan.

**Conclusion**

Manly made a submission on the Metro Strategy, and pointed out that there were a number of matters not addressed. These included:

- Conservation of the natural and built environment;
- Planning for the social needs of both present and the future population;
- Adequate funding of infrastructure, services and facilities;
- Open Space and recreation needs.

A further report to Council on the City of Cities (Metropolitan Strategy) will be prepared for the Council once a comprehensive review of the document has been completed.

**RECOMMENDATION**

That Council receives and notes this report.

**ATTACHMENTS**

There are no attachments for this report.

PS130306CPSD\_7

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

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 17  
**SUBJECT:** NSW Planning Reforms - Changes to the Local Environmental Plan Making Process  
**FILE NO:**

---

## SUMMARY

The Department of Planning (the Department) has recently made two changes affecting the process of the preparation of Local Environmental Plans. The changes are part of the move to streamline the local environmental plan (LEP) making process. In summary the Department has:-

- Established a panel review process. A senior level panel has been established by the Department to review draft local environmental plans, and under this new process Council's LEP delegations were revoked on 22 February 2006 when the new process commenced;
- Amended the transitional provisions for Ministerial Directions issued under section 117 of the Environmental Planning and Assessment Act (EP&A Act) to extend the phasing out of the former set of section 117 directions until 31 December 2006 associated with the introduction of the new set of directions issued on 30 September 2005.

This report identifies the changes and how they affect Manly.

## REPORT

### **Local Environmental Plan Review Panel (LEP Review Panel)**

The Department has established a panel review process for LEPs, which includes the establishment of a senior level planning panel (LEP Review Panel). The new process was announced shortly before it came into effect on 22 February 2006 and applies to new LEP proposals and any draft LEPs that are currently in the system. The Department has advised that part of the role of the panel review process is to ensure against "dead end" LEPs, being draft LEPs that go nowhere.

Under section 54 of the EP&A Act, Council is required to notify the Department's Director-General of it's intention to prepare a draft LEP. Under the new process, the section 54 notification will be referred to the LEP Review Panel which will:-

- evaluate the proposed draft LEP against set criteria;
- advise the Director-General and/or Minister about the proposed draft LEP;
- advise council whether or not to proceed with drafting the LEP.

The LEP Review Panel may then reconvene at later stages in the process of preparation of a draft LEP, for example to review a council's final draft LEP before it goes to the Minister for Planning for final approval to ensure consistency with previous advice.

The LEP Review Panel will comprise:-

- Director-General of the Department (or his nominee);
- Senior executives of the Department;
- A nominee from the Local Government & Shires Associations.

Where relevant, a representative of council may also be invited to attend in person or via teleconference.

**Corporate Planning And Strategy Division Report No. 17 (Cont'd)**

As part of the new process, the delegations of the Director General previously available to council with respect to sections 65 and 69 of the EP&A Act (issued 1997) have been removed. A new Instrument of Delegation was issued by the Director General on 22 February 2006, revoking all previous delegations. It only operates in respect to a draft LEP on receipt by council of a "Written Authorisation To Exercise Delegation" and the exercise of the functions under the Instrument of Delegation is subject to any terms and conditions specified in the authorisation. A copy of the new Instrument of Delegation which took effect from 22 February 2006 is included as an attachment to this report.

Council is now effectively required to refer all stages of the LEP preparation to the LEP Review Panel, unless a "Written Authorisation to Exercise Delegation" has been issued to council.

Council currently has a number of draft (amending) LEPs at various stages of the LEP process. Some of these will be affected by the new review process and work is underway to seek written clarification/authorisation to exercise delegation from the Department for each draft LEP where relevant. The process will also apply to the future comprehensive review of Manly LEP 1988 under the state-wide standardisation of principal LEPs.

**Changes to Ministerial Directions under Section 117 (Section 117 Directions)**

Under the changes to Parts 3 and 4 of the EP&A Act made 30 September 2005 by the Reform Act, all existing section 117 directions were revoked. Transitional provisions enabled councils to continue to apply the former set of section 117 directions to draft LEPs submitted under section 68 or 69 of the EP&A Act up until 31 January 2006.

Section 117 Directions give effect to the NSW Government's specific requirements for the preparation of LEPs. The new set of section 117 directions consolidated and updated the previous set of section 117 directions.

The Department has recently advised that the relevant transitional provisions have now been amended to extend the phasing out period up until 31 December 2006. This change has been made to allow councils to have more time to adjust to the new section 117 directions, and avoid having to amend and re-exhibit those plans where councils were unable to meet the 31 January 2006 deadline. Any LEPs submitted to the Director-General or Minister after 31 December 2006 will need to comply with the new set of section 117 directions issued on 30 September 2005. This is considered a more appropriate date for the operation of the new directions.

The recent amendment applies only to draft LEPs that were in existence when the old set of section 117 directions was repealed on 30 September 2005. The extended timeline will assist in overcoming this issue for any draft LEPs in process currently.

**RECOMMENDATION**

That the report be received and noted.

**ATTACHMENTS**

**AT- 1** New Instrument of Delegation Effective 22 February 2006 2 Pages

PS130306CPSD\_8

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

## ATTACHMENT 1

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### Corporate Planning And Strategy Division Report No. 17 - NSW Planning Reforms - Changes to the Local Environmental Plan Making Process New Instrument of Delegation Effective 22 February 2006

---

#### INSTRUMENT OF DELEGATION

I, SAM GABRIEL HADDAD, Director General of the Department of Planning, pursuant to section 23 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), delegate to Councils my functions listed in Schedule 1 to this instrument, subject to the terms, limitations and restrictions specified in Schedule 2 to this instrument.

All existing delegations made in respect of a matter referred to in this instrument are revoked.

This instrument shall take effect on 22 February 2006.

Dated 16<sup>th</sup> day of February 2006



Sam Gabriel Haddad  
DIRECTOR GENERAL  
Department of Planning

#### SCHEDULE 1

Sections 65(1) and 69(1).

## ATTACHMENT 1

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### Corporate Planning And Strategy Division Report No. 17 - NSW Planning Reforms - Changes to the Local Environmental Plan Making Process New Instrument of Delegation Effective 22 February 2006

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#### SCHEDULE 2

**1. Definitions**

"Council" has the meaning ascribed to that term in the *Local Government Act 1993*.

"Department" means the Department of Planning.

"Director General" means the Director General of the Department of Planning.

"Draft LEP" means a draft version of a local environmental plan as defined as in the EP&A Act.

"EP&A Act" means the *Environmental Planning and Assessment Act 1979*.

"Functions" has the meaning ascribed to that term in the EP&A Act.

"Section 54 Notification" means a notification by Council to the Director General pursuant to section 54(4) of the EP&A Act.

"Written Authorisation to Exercise Delegation" means an authorisation in writing signed by one of the following officers of the Department of Planning:

- (a) Director General;
- (b) Deputy Director General; or
- (c) Executive Director.

**2. General circumstances in which delegation applies**

2.1 This instrument of delegation only operates in respect of a Draft LEP on receipt by Council of a Written Authorisation To Exercise Delegation.

2.2 Exercise of functions under this instrument of delegation is subject to any terms and conditions specified in the Written Authorisation to Exercise Delegation.

**TO:** Planning and Strategy Committee - 13 March 2006  
**REPORT:** Corporate Planning And Strategy Division Report No. 18  
**SUBJECT:** "Surfing The Future" Report of The Manly Futures Forum  
**FILE NO:**

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## **SUMMARY**

The Futures Forum took place on September 17<sup>th</sup> and September 24<sup>th</sup> 2005 and was open to members of the Manly community to attend. It involved presentations from expert speakers about economic, social and environmental issues that will affect Manly in the future and a panel discussion with participants and facilitated workshops. These issues have now been put together in a report, entitled 'Surfing the Future', which provides the Council and the community with a record of the Forum outcomes, including the key concerns, challenges and opportunities and suggested actions for the Council's consideration. It is recommended that Council endorse the report for implementation through its Management Plan.

## **REPORT**

### **Background**

The Manly Futures Forum (MFF) was established to develop a 'clear strategic direction for the future of Manly'. The idea of a visioning forum was initiated by the MFF Steering Committee, as a way of engaging the community to identify a vision for the future of the Manly local government area and to test this vision against the statement:

"A thriving community where residents and visitors enjoy a clean, safe and unique natural environment, enhanced by heritage and lifestyle".

Manly has a history of embracing future challenges through community engagement. The MFF followed two previous visioning exercises in 1992 and 1994. The outcomes of both exercises provided Council with valuable information for the later development of policies and strategies. However, after 14 years since the previous events, new social priorities, environmental threats and economic issues meant that it was now timely to reinvestigate the community vision for Manly. The MFF built on the previous experience and sought to deliver the 'road map' for the journey towards the year 2025. The Forum was subsidised by the State Government through a successful bid for Planning Reform funds.

### **Surfing the Future – the Process**

The Forum event was the outcome of extensive research through a series of interviews with key individuals and community groups who have direct involvement in the range of matters relevant to the future of Manly. The interviews provided the issues of concerns that are facing Manly in the future. The Forum provided a venue to consider the challenges and look for opportunities to address these issues.

'Surfing the Future', the MFF final Report (a copy of the printed document will be made available to each Councillor), is a record of the themes which emerged from the exchange of information between guest speakers and workshop participants. Surfing the Future organises the material into seven major themes, under which are the opportunities and challenges for Council and the community to achieve the vision.

**Corporate Planning And Strategy Division Report No. 18 (Cont'd)**

The themes are:

- **A Living Manly – inclusive society and culture.** While the population may increase up to 45,000 by 2031 the importance of community should be emphasized, the need to resist intolerance, and acknowledge the differences within the community. Also the balance between work and family and other measures to maintain a healthy community. The need to protect our public areas and open spaces from privatization as they are a valued community resource.
- **An Affordable Manly – accommodation for our future.** In order for our children to remain in the local government area and to have the work force in key areas there is a need to ensure that affordable accommodation is available.
- **A Well Governed Manly – the role of local government.** The need for clear leadership that is working on the long-term goals. Also recognition that Manly Council must seek to influence the other levels of government to carry out their responsibilities and actively pursue those actions and implement policies that protect the environment, the economic and social wellbeing of the community.
- **A Natural Manly – a sustainable environment.** Conserving our natural environment and ensuring that our buildings are planned and designed for sustainability; including retaining existing fabric.
- **A Visitor Friendly Manly – a place to stop and stay awhile.** To ensure that tourism is managed so as to protect the community's wellbeing and amenity. While it places pressure on local resources, it also brings economic benefits and provides a great range of activities which are shared and enjoyed by the community.
- **A Moving Manly – transport, access and getting around.** Initiatives such as the Freebie bus will directly assist people to leave their motor vehicle at home for local journeys.

**Conclusion**

Surfing the Future will be central in setting an overarching direction for Manly Council in future, as it sets a vision to 2025. It will inform planning and policy making processes in all aspects of the work of Council and is also valuable local input to the NSW Government initiatives such as the Metropolitan Strategy, the Sub-Regional Plan and the NSW planning reform processes now underway. A copy will be forwarded to the Department of Planning for reflection in the regional planning process. The report also gives positive suggestions for action by local individuals in building a desirable future. The Forum report provides a record of the participants' deliberations and reflects the collaborative effort by the community and Council and the commitment to the future of Manly.

The recent Forum has confirmed the validity of the Vision Statement "A thriving community where residents and visitors enjoy a clean, safe and unique natural environment, enhanced by heritage and lifestyle" while providing directions for future action.

**RECOMMENDATION**

That Council endorses the report for implementation through Council's Management Plan.

**ATTACHMENTS**

There are no attachments for this report.

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\*\*\*\*\* End of Corporate Planning And Strategy Division Report No. 18 \*\*\*\*\* .