



Agenda

Land Use Management Committee

Notice is hereby given that a Land Use Management Committee of Council will be held at Council Chambers, 1 Belgrave Street, Manly, on:

Monday 9 October 2006

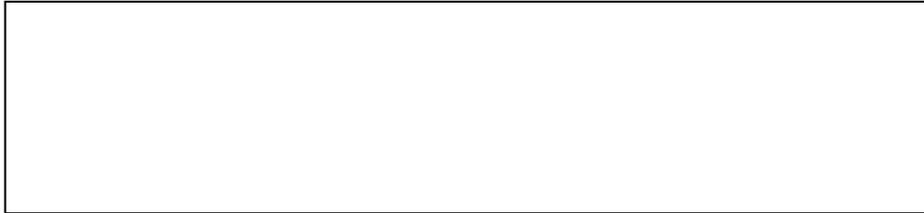
Commencing at 7:30 PM for the purpose of considering items included on the Agenda.

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*

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

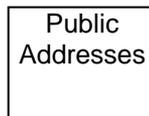
Clr Adele Heasman

Clr Dr Judy Lambert
AM

Clr Simon Cant

Clr David Murphy

Clr Pat Daley



Public Gallery

Chairperson: Clr Dr Judy Lambert
Deputy Chairperson: Clr Richard Morrison

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The following site inspections will take place on Monday 9 October, 2006.

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30 Pacific Street, Manly	8:30am
96 Seaforth Crescent, Seaforth	9:00am
30 Castle Circuit, Seaforth	9:30am

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TO: Land Use Management Committee - 9 October 2006
REPORT: Corporate Planning And Strategy Division Report No. 49
SUBJECT: Update on Three Key Sites on North Head
FILE NO:

SUMMARY

The purpose of this report is to inform the Council of recent actions by the NSW and Federal Governments in respect of three key sites on North Head which form part of the proposed North Head Sanctuary.

It is proposed to convene a meeting between Council staff and other key stakeholder groups to determine a strategy to address these imminent North Head developments.

REPORT

Introduction

At the Planning & Strategy Committee meeting on 10 April 2006 the Council considered a Mayoral Minute on the Integrated Management of North Head and a report from Corporate Planning and Strategy Division on progress towards the North Head Sanctuary. This report updates the Council on the current issues relating to the three key sites, The Australian Institute of Police Management, the Quarantine Station, and the former School of Artillery Site.

1. Australian Institute of Police Management

On 8 May 2006 a further report from the Corporate Planning and Strategy Division informed the Council of the proposed re-development of the Australian Institute of Police Management (AIPM) site by the Australian Federal Police and identified land tenure issues and negative heritage and environmental impacts from the proposal which would also impact adversely on the proposed Sanctuary.

Manly Council gave evidence to the Public Hearing of the Parliamentary Committee on Public Works held in Manly on 2 June 2006. The Committee was surprised that Council had not received three relevant documents, being:

- Heritage Assessment and Heritage Impact Assessment April 2006
- Ecological Report February 2006
- Bushfire Risk Assessment and Mitigation Advice February 2006

The Committee requested that the AIPM provide these reports to Council to enable Council to make a supplementary submission to the Committee for its consideration. Council received these reports and the Hansard from the hearing of 2 June 2006 and accepted the Committee's invitation to make a Supplementary Submission by 31st July 2006. Council is aware that a number of other supplementary community submissions were made by parties who had also attended the Public Hearing.

Report of the Parliamentary Committee on Public Works of 6TH September 2006

It appears from an extensive review of this report that issues raised subsequent to the Public Hearing of the Parliamentary Committee on Public Works have not been recorded or dealt with by the Committee. Thus Council and the community were at a severe disadvantage at the Hearing because strategic documents were only made available after the Hearing. This occurred despite the Committee's assurances to the contrary at the Hearing. There is no evidence that the significant issues raised by Council and the community with the benefit of the relevant documents supplied after the Hearing were considered by the Committee.

Corporate Planning And Strategy Division Report No. 49 (Cont'd)

In other words, apart from the Recommendations, there is no more information provided than that which appeared in the Hansard of the Hearing. The footnotes of the report support this view.

Also, the report contains the same inaccuracies that appeared in the Hansard of the hearing, eg to name just two:

that the building footprint would increase by only 2.4% not 18% and the bushfire zone provided in the National Park was 8m instead of the 30m stated in the Bushfire Risk Assessment.

It is also noted that unfavourable statements by the Bushfire Consultant were not disclosed. For example; that the site "could be subject to a threat from bushfire attack from the bushland to the south, east and to a lesser degree from the west"; "six of the eight buildings are within the Flame or Extreme Zone"; and the chance of this is "considered likely ...causing a negative consequence or loss of assets or people within is considered significant".

Furthermore, the proponents did not disclose to the Committee that the Bushfire Risk Assessment has a requirement for a Review of Environmental Factors on the potential impact of fire mitigation activities over 29 threatened species on North Head.

The Parliamentary Committee on Public Works recommendations are reproduced below in italics followed by staff comments for each:

"Recommendation 1

The Committee recommends that the Australian Federal Police as the agency responsible for the redevelopment of the Australian Institute of Police Management undertake further consultation with the Manly City Council and the local community in an attempt to address widespread community concern regarding the redevelopment."

"Recommendation 2

The Committee recommends that the Australian Federal Police use the Ecological Assessment and Heritage Impact Statement to guide their Master Plan for the Australian Institute of Police Management, and requests that the AFP provide the Committee and the public with copies of these assessments and the Master Plan."

Staff comment:

These assessments were already provided to Council in June 2006 by the AIPM following the Committee's request to AIPM and the Master Plan was prepared last year.

"Recommendation 3

The Committee recommends that the Australian Federal Police release the Construction Environmental Management Plan to the Committee and to the public, once it has been formulated."

Staff comment:

No community consultation and input to occur up front.

"Recommendation 4

The Committee recommends that the Australian Federal Police develop a Conservation Management Plan for the site, and that it provides the Manly City Council with copies of this plan once it has been formulated."

Staff comment:

Not for community input through consultation.

Corporate Planning And Strategy Division Report No. 49 (Cont'd)***“Recommendation 5***

The Committee recommends that the Australian Federal Police work with the Manly City Council and other stakeholders to ensure integrated management of North Head.”

Staff comment:

The Committee quoted Prof. Bashford's evidence at the Hearing, but the report does not disclose that the Heritage Assessment prepared for the AIPM also stated regarding the land at Spring Cove, that “it is significant as an interface between Australia's European and Asian history and Collins Beach is considered to be an iconic ‘contact’ site for Australia's European and Aboriginal history.” (Ref: Australian Federal Police Australian Institute of Police Management North Head, Heritage Assessment 2006, Vol 1, p52, prepared for the AFP AIPM by Peter Freeman Conservation Architects & Planners)

“Recommendation 6

The Committee recommends that the Australian Federal Police use the Heritage Assessments to guide the redevelopment in order to ensure that it has little visual impact on the site, and preserve the existing heritage values of the site.”

Staff comment:

This recommendation conflicts with the statement which was not disclosed at the Hearing from its Heritage Assessment that “there are radical impacts in that some of the original Seamen's Isolation Hospital buildings will be demolished and the remnant Seamen's Isolation Hospital buildings will be affected by the densification of the site by the new development” or “that the site is perhaps the richest site for the first stories of encounter between British occupiers and indigenous people” (Ref: Australian Federal Police, Australian Institute of Police Management North Head, Heritage Impact Statement, 2006 Vol 2, p 19, prepared for the AFP AIPM by Peter Freeman Conservation Architects & Planners; and Australian Federal Police Australian Institute of Police Management North Head, Heritage Assessment 2006, Vol 1, p5, prepared for the AFP AIPM by Peter Freeman Conservation Architects & Planners).

“Recommendation 7

The Committee recommends that the Australian Federal Police clarify with Manly Council the extent of the car parking that will be provided at the entrance to the site, and that efforts be made to ensure that the provision of car parking in this area does not negatively impact on the long-nosed bandicoot population at the site.”

Staff comment:

This does not address Council's other major concerns, the highly visible extent of hard surfaces from the harbour and NSW Fisheries policy about the impact of stormwater on Sydney Harbour's only Aquatic Reserve.

“Recommendation 8

The Committee recommends that the Australian Federal Police develop a Traffic Management Plan, to manage traffic on North Head during the construction period, and for those occasions when the site is commercially let.”

Staff comment:

This does not address Council's and the community's concerns about commercialisation of this sensitive site. Also, the preparation of the Traffic Management Plan requires input and cooperation from all property managers and the NSW Government as the principal landowners.

“Recommendation 9

The Committee recommends that the redevelopment of the Australian Institute of Police Management proceed at an estimated cost of \$16.224 million.”

Staff comment:

Land title issues relating to the site remain unclear. The AFP has not provided to the Committee or the Council a copy of the agreement upon which it is relying as a basis for its occupation of NSW Crown land and exemption from NSW environmental planning legislation.

Corporate Planning And Strategy Division Report No. 49 (Cont'd)

Further, there is no reference to the 1979 Agreement in the 1984 Agreement between the NSW and Federal Governments which states that the Federal Government is permitted to occupy land on North Head for quarantine and defence uses and upon the cessation of those uses the land is to be returned to the State.

As both quarantine and defence uses have ceased on North Head it would seem to follow the land is required to be returned to the State.

2. Quarantine Station

No decision has been made as yet by the State Government on the proposed commercial leasing of the Quarantine Station to Mawland for the purposes of a hotel and conference centre, restaurant and tourist facilities, as well as an educational centre. Statements to the media by Mawland during September 2006 suggested that the signing was "imminent", however, more recent statements by the Minister for the Environment, The Hon. Bob Debus, indicate that negotiations are still underway.

The Council continues to be represented on the Quarantine Station Community Committee. The Committee has reviewed a number of draft plans required as part of the conditions of consent for the adaptive re-use of the buildings and the site as prepared on behalf of Mawland. The Committee has requested clarification by the National Parks Division of the Department of Environment and Conservation of the implications of the listing of Quarantine Station on the National Heritage list.

3. The former School of Artillery

A North Head Community Advisory Committee meeting was held in August 2006, and the members were informed by the Sydney Harbour Federation Trust that they anticipate that the State Government will grant the Trust title to the land until 2030 within the next few weeks.

The Trust has also advised that the Management Plan for the former School of Artillery site has been approved by the Trust Board. A copy is tabled for information.

The Australian Wildlife Conservancy (AWC) addressed the Community Committee. It has been engaged by the Trust to prepare a Natural Resource Management Plan for the site. The AWC proposal may include a 50 hectare "sanctuary" within the former Artillery site with a view to reintroducing species.

The Education/Interpretative/Information Centre proposed for the site by the Trust is expected to open before the end of the year. It will include a Discovery Centre.

Discussion

Council has a commitment to the conservation of the natural and cultural values of North Head and to the integrated management of the land area as the most effective means to achieve the objective of a North Head Sanctuary. Both the Council and the Manly community have continued to pursue this goal, with support and assistance from individuals and groups with a similar view of the significance of North Head for all Australian people. Their contribution has included the making of representations to government by the local member, Mr David Barr, and local people, community groups, the Little Manly and Fairy Bower Precinct Community Forums, and representation on working groups and committees where relevant.

Manly Council has actively encouraged the NSW government, as the principal land owner on North Head, to recognise and protect the great significance of the land on North Head as one "area" having many layers of significance.

The Manly Council Community Environment Committee resolved at its September 2006 meeting to request the General Manager to convene a meeting of representatives of the key stakeholder groups to determine a strategy to deal with these imminent North Head developments.

Corporate Planning And Strategy Division Report No. 49 (Cont'd)

The North Head Sanctuary Foundation has taken a leading role in promoting the Sanctuary to the broader community and working with the various stakeholders including the State and Federal agencies currently occupying the key sites to make the Sanctuary a reality.

Conclusion

The proposals currently being considered for the three key sites, the Australian Institute of Police Management site, the Quarantine Station, and the former School of Artillery site have major potential implications for the achievement of a Sanctuary over the whole of North Head. Council and the community require a strategy to address the latest developments and the cumulative impacts of developments proposed and approved for North Head.

RECOMMENDATION

It is recommended that:

1. The Council request the General Manager to convene a meeting to determine a strategy to address these imminent North Head developments and issues as outlined in this report.
2. The attendees at the North Head strategy meeting should include local politicians, councillors, a representative of the Sanctuary Foundation, representatives from Little Manly and Fairy Bower Precincts Community Forums, the Environment Committee and relevant Council staff.

ATTACHMENTS

There are no attachments for this report.

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***** End of Corporate Planning And Strategy Division Report No. 49 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Corporate Planning And Strategy Division Report No. 50
SUBJECT: Preparation of New Principal Manly LEP
FILE NO:

SUMMARY

In October 2004, Council resolved to undertake a review of the Manly Local Environmental Plan (LEP) 1988, accompanying Development Control Plans (DCPs) and the broader development application process and subsequently resolved to proceed with the review. The review has progressed in the context of the NSW Planning Reforms.

This report recommends that Council resolve to prepare a new principal Local Environmental Plan consistent with the Standard LEP instrument.

REPORT

Background

The Council discussed a review of the Manly LEP 1988, accompanying DCPs and the broader development application process at its meeting on 16 August 2004.

Subsequently it considered a report to the SPC 11 October 2004 (Report No. 52 – Review of Manly LEP, 1988) and resolved to endorse a strategy for the review of its planning provisions.

The strategy included, amongst other matters, the establishment of the Manly LEP 1988 Review Working Party (LEP Working Party).

The six tasks below (resolved by Council on 11 October 2004) have formed the basis of the review of Manly LEP 1988 to date.

“1..... (iii) consideration, based on new draft LEP provisions prepared by staff, of (at least) the following issues:

- (a) a review of the overall aims and objectives and the subsequent need to address specific landuse/development provisions as a result of the Manly community visioning process;*
- (b) a review of development types suitable for 'exempt development' and 'complying development' categories;*
- (c) a review of provisions related to heritage conservation;*
- (d) adding clauses related to the natural environment, particularly conservation of natural systems and dealing with risk;*
- (e) adding clauses related to the social environment such as affordable accommodation and amenity considerations in the Manly Town Centre;*
- (f) the possibility of adding to the LEP development controls now located within Development Control Plans, eg. floorspace ratio, building heights.”*

Relating the review to Council's broader community visioning process and matters relating to the DCPs were also part of the review process.

Corporate Planning And Strategy Division Report No. 50 (Cont'd)**Implications of State Government Planning Reforms to the LEP Review**

The Council is now required to prepare a new LEP within the context of the following matters:

- Council's statutory obligation to regularly review its LEPs;
- Planning reforms of the current State Government, in particular the standardising of the format and content of LEPs across NSW, and preparation of overarching strategies;
- Other changes since the last review affecting Manly (changes in technology, planning approaches, matters for consideration, legislation since the last major review, particularly in the areas of biodiversity, environmental hazards and risk, and social policy considerations);
- Access to funding from the Planning Reform Fund Program (Council was successful in receiving some assistance for the preparation of its new LEP);
- Readiness in terms of the stage of the NSW Planning Reforms, the progress to date of the LEP/DCP reviews, and the recommendations of a number of studies.

Gazettal of Standard LEP

The Standard Instrument (Local Environmental Plans) Order was gazetted on 31 March 2006. The Order prescribes the standard form and content of principal LEPs, and requires all NSW councils to now prepare a new principal LEP in the form of the Standard LEP instrument.

The standard instrument provides a template for Council to use as the basis for preparing a new principal (comprehensive) LEP using:

- Standard zones (there are 34)
- Definitions
- Clauses
- Format.

Some minor amendments were gazetted 1 September 2006 which amend the standard instrument in relation to the following matters:

- determination of site areas for the purposes of applying floor space ratios, particularly with respect to land that is a public place (including public roads) or community land, or land on which no significant development is to be carried out;
- owner-initiated acquisition of land reserved for public purposes to reflect recent amendments to the *Environmental Planning and Assessment Act 1979* that came into effect on 28 March 2006 as a consequence of the *Environmental Planning and Assessment (Reserved Land Acquisition) Act 2006*;
- provisions requiring the concurrence of the Roads and Traffic Authority for development on land reserved for the purposes of a classified road;
- other minor and consequential amendments to certain existing zones, clauses and definitions.

Further information and documentation relating to the Standard LEP, including the full version of the Order making the Standard instrument, is available on the Department of Planning's website on its Planning Reforms page, under Reform highlights, "31 March 2006 – Standard instruments for LEPs" via the following direct link: http://www.planning.nsw.gov.au/planning_reforms/index.asp

Implications of the Standard LEP

The gazetted standard LEP differs in a number of ways from the draft version which was exhibited in September 2005.

A number of clauses affecting Manly which appeared in the draft version have been excluded from the gazetted version of the standard LEP instrument, in particular including clauses relating to foreshore building lines, excavation and filling of land, water bodies and riparian land. These have been deferred for further consideration and further work before they can be released into a standard instrument. These matters will have implications for Manly when they are released.

Corporate Planning And Strategy Division Report No. 50 (Cont'd)

Some clauses are now to be addressed more locally. These include acid sulphate soils and development on flood prone land. These are likely to be addressed via section 117 directions (Ministerial directions for planning matters) or other policy guidance. In the meantime relevant State Environmental Planning Policies (SEPPs) still apply.

Other Matters for consideration in the Preparation of a new LEP

Other reforms under the NSW Planning Reforms (previously reported on various occasions since September 2004) also affect the preparation of local environmental plans by all Councils in NSW.

In the preparation of a new principal instrument Council will need to take into account:-

- Sydney Metropolitan Strategy (the Metro Strategy). A copy of the NSW Cabinet endorsed publication ("City of Cities A Plan for Sydney's Future" dated December 2005) was recently distributed to all Councillors;
- North East Sydney Sub-Regional Plan (the Sub-Regional Plan). Consultations have occurred with councils and SHOROC however several key issues raised by the councils remain to be addressed;
- Section 117 Directions issued by the Minister for Planning on 30 September 2005;
- All relevant SEPPs and REPs as they apply to Manly. Some provisions of 4 SEPPs are included in the Standard LEP instrument as they apply to all councils;
- "Surfing the Future - a vision for the Manly Local Government Area for 2025" (adopted by Council January 2006);
- Other statutory and non-statutory strategies and plans of Council (eg Manly Sustainability Strategy);
- Local strategic planning matters (such as the heritage review);
- Advice from the Department of Planning (in particular consultation with the Department's Regional Office),
- Advice provided by the representation of the Department of Planning on the LEP Working Party.

Project Manly LEP

The project involves the comprehensive review of Manly LEP 1988 and the preparation of a new principal LEP. Due to the scale of the project, a consultation strategy reflecting Council's established consultation protocols has been prepared specific to this project.

As a result of the gazettal of the Standard LEP instrument, and the progress of various other reforms and initiatives affecting local planning in Manly, it has been possible to identify the further work required for the Manly LEP 1988 review and preparation of the new principal LEP.

A total of 27 separate tasks have been identified to date to progress the preparation of a new draft LEP. These tasks include the 6 tasks identified in the October 2004 resolution (refer "Background" section of this report) which have progressed but require more work through the changes brought about by the NSW Planning Reforms.

Other issues and considerations are likely to arise through the review process and in the preparation of the new draft LEP.

A work program for the LEP review has been drafted. While it is considered that Council has the capability and resources in-house, particularly within the Corporate Planning and Strategy Division, there will be a need to seek additional expert advice where appropriate.

Corporate Planning And Strategy Division Report No. 50 (Cont'd)

It is envisaged the LEP process will involve:-

- comparison and workshopping of the provisions required to be considered under the Standard LEP and various other subject areas with relevant staff and the LEP Working Party;
- synthesis of existing studies on matters not addressed in the Manly LEP 1988, that warrant inclusion in a comprehensive LEP;
- preparation of discussion papers on the various topic areas identifying options for consideration by the LEP Working Party followed by Council's Planning & Strategy Committee;
- consultation as required with all relevant public authorities, bodies, agencies and councils (particularly neighbouring and SHOROC councils) likely to be affected by the draft LEP.

Progress on the LEP review will generally be reported to Council via the minutes of the LEP Working Party. Where decisions on various planning matters require consideration by Council, reports will be prepared for the Planning & Strategy Committee. The Planning & Strategy Committee will also be updated on the progress of the project at critical stages until completion.

Manly LEP 1988 Review Working Party (LEP Working Party)

At the meeting of the Manly LEP Review Working Party (Minutes reported to Planning & Strategy Committee on 11 September 2006) the LEP Working Party decided to split the consideration of matters of the DCPs from those relating to the LEP. Since that time, the same group has been meeting on separate occasions for DCP matters and for LEP matters.

At the second meeting on LEP matters, held 13 September 2006 (Minutes of which are on the Agenda for this meeting 9 October 2006), three particular recommendations were made regarding the project, being that:-

- The LEP Working Party invite one member of each of the Precinct Community Forums to be represented also on the LEP Working Party;
- Nine tasks identified as priority tasks by staff be endorsed as priority work over the next 4-6 months;
- A process for consultation with the LEP Working Party for tasks, involving the preparation of discussion papers and targeted consultation.

More information on the above matters, including copies of relevant handouts, is included with the Minutes of the LEP Working Party.

Where to from here

It is appropriate that the resolution of the Council to cease the preparation of minor LEP amendments continue to be adhered to, except where it is considered essential to achieve planning objectives in the short-term, pending the outcome of the LEP review.

The next steps for Council are to:-

1. Resolve to prepare a new principal LEP for the Manly LGA consistent with the Standard LEP instrument. Council has resolved to date to review its principal LEP (Manly LEP 1988) but not to actually prepare a new principal LEP, only various amending LEPs which address particular components only of the existing LEP;
2. Formally notify the Director-General of the Department of Planning of this decision.
3. Consult with relevant and interested parties in the preparation of the new principal LEP.

Consultation has commenced between Mosman and Warringah Council.

Corporate Planning And Strategy Division Report No. 50 (Cont'd)**Conclusion**

Council is required as a result of various legislative changes made through the NSW Planning Reforms to prepare a new principal LEP which is consistent with the Standard LEP instrument within 5 years from 31 March 2006.

It is recommended Council resolve to prepare a new principal LEP consistent with the Standard LEP and carry out consultation in accordance with the relevant sections of the *Environmental Planning and Assessment Act, 1979*. This will be carried out within the context of the comprehensive review of Manly LEP 1988 already underway.

RECOMMENDATION

It is recommended that Council:

1. Pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, prepare a new principal (comprehensive) draft Local Environmental Plan in respect of the whole Local Government Area of Manly consistent with the Standard LEP instrument;
2. Notify, pursuant to Section 54 of the *Environmental Planning and Assessment Act, 1979*, the Department of Planning of its decision;
3. Consult as required by Section 62 of the *Environmental and Planning Assessment Act, 1979* in the preparation of the draft Local Environmental Plan (Draft LEP) and any Local Environmental Study, with all relevant public authorities or agencies, neighbouring councils and SHOROC, and other interested parties/groups/individuals, with an interest in the draft LEP.
4. Invite any other councillors who wish to join the LEP Working Party to nominate to the General Manager.

ATTACHMENTS

There are no attachments for this report.

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***** End of Corporate Planning And Strategy Division Report No. 50 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Corporate Planning And Strategy Division Report No. 51
SUBJECT: Items for Brief Mention - Minutes for Adoption by Council - Special Purpose Committees and Joint Committees
FILE NO:

1. Report:-

In relation to surplus land at Balgowlah Boys High School, being Lots 15 and 16 DP18433, Coral Street Balgowlah, Council at its Planning and Strategy Committee meeting of 13 June 2006 resolved:

Part A

That:

- 1. The Dept of Planning be advised of the submission(s) to Draft amendment No. 74.*
- 2. The Minister for Planning is requested to make the Plan pursuant to Section 70 of the Environmental Planning and Assessment Act, 1979.*
- 3. The Manly Development Control Plan for the Residential Zone 2001, and its successor, be amended, pursuant to Section 74C(2)(b) of the Environmental Planning and Assessment Act, 1979 to include the land subject to LEP Amendment No. 74 in Residential Density Sub-zone 4 – 1 dwelling/300sqm of site area.*

Part B

That Council advise it's opposition to the sale of the property to fund the school's facilities to the NSW Premier, the Minister for Education and the Minister for Planning.

Part C

That Council appeal to the State Government to further it's obligations to provide affordable housing in the area through the use of this site."

A response has been received from the office of the Minister for Education and Training, The Hon. Carmel Tebbutt, and can be viewed as Attachment A, for the information of councillors.

2. Minutes of Meetings:-

- (i) Manly LEP DCP Review Working Party - Minutes of Meeting Held on 27 July 2006.
- (ii) Manly Social Plan Implementation Committee – Minutes of Meeting Held on 15 August 2006.
- (iii) Scientific Advisory Panel – Minutes of Meeting Held on 6 September 2006.
- (iv) Landscape Management & Urban Design Committee – Minutes of Meeting Held on 13 September 2006.
- (v) Social Plan Implementation Committee – Minutes of Meeting Held on 19 September 2006.
- (vi) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.
- (vii) Heritage Committee – Minutes of Meeting Held on 6 September 2006.

Corporate Planning And Strategy Division Report No. 51 (Cont'd)

- (viii) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.
- (ix) Manly LEP Review Working Party – Minutes of Meeting Held on 13 September 2006.
- (x) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

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

- (a) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.

Item 3.1 Environmental Levy

Recommendation:

The Committee requests that the following resolution be reported to Council.

The Committee reports its view that Levy funds for the year 2005-6 have been separately accounted for and affirms its belief that the funds have been directed to new environmental initiatives additional to the Council's normal operational and capital budget expenditure.

Moved: Richard Hewitt. Seconded: Ray Mathieson

- (b) Manly Community Environment Committee – Minutes of Meeting Held on 17 August 2006.

Item 3.2 Environmental Levy

Recommendation:

The Committee requests that the following recommendation be reported to Council.

The Committee understands that current accounting practices are to continue and recommends the Levy web page be amended to show the following additional clause –

The only staff costs charged to the Levy are either:

- a) For staff specifically employed for a Levy project, or
- b) That proportion of Bushcare staff utilized in projects agreed by the Environment Committee to be a "new environmental initiative" additional to the Council's normal operational and capital budget expenditure.

Moved: Richard Hewitt. Seconded: Ray Mathieson

- (c) Heritage Committee – Minutes of Meeting Held on 6 September 2006.

Item 8.1 Development Applications of Heritage Interest - Seaforth TAFE

Recommendation:

That any future plans for the Seaforth TAFE site ensure the preservation of the historic Balgowlah-Seaforth Library building.

Corporate Planning And Strategy Division Report No. 51 (Cont'd)

- (d) Heritage Committee – Minutes of Meeting Held on 6 September 2006.

Item 9 Heritage Review

Recommendation:

The Heritage Committee requests Council review the budget allocation for the Heritage Review to ensure a high quality consultant can be engaged to undertake one hundred percent of the work over one financial year.

- (e) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.

Item 8.3 New Member Application

Recommendation:

In light of the role of the Manly Sustainability Strategy in Council policy and practice, and the opportunity to recruit sustainable town planning skills the Committee recommend that Council create two new community representative positions and fill one immediately with applicant Tracy Davey who has significant town planning skills.

Moved: Richard Hewitt Seconded: Cllr Barbara Aird

- (f) Manly Sustainability Strategy Management Group – Minutes of Meeting Held on 12 September 2006.

Item 8.5 Congratulations to Staff and Committee

Recommendation:

1. That Council commend staff for the activities of winning the Keep Australia Beautiful NSW award for Sustainable Communities.
2. That Council write to KAB NSW suggesting that a short citation at the awards ceremony be announced so that benefits from their experiences can be relayed.

Moved: Cllr Barbara Aird; Seconded Keelah Lam

- (g) Manly LEP Review Working Party – Minutes of Meeting Held on 13 September 2006.

Item 4 Invitation to Precincts to Nominate one Representative to attend the LEP Working Group

Recommendation:

It was decided that the invitation should be extended to the Precinct Community Forums to send one member per precinct to join the LEP Working Party at future meetings regarding the LEP, and a letter is to be sent to all Precincts in this regard.

Corporate Planning And Strategy Division Report No. 51 (Cont'd)

(h) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

Item 89/06 North Steyne, Manly – Bus Zone and Parking Restrictions

Recommendation:

That Council implement the following parking restrictions on North Steyne north of The Corso.

1. Retain the existing Motorcycle Parking Zone (western side).
2. Convert the 18.0m long Taxi Zone to a Bus Zone (western side).
3. Install a new 24.0m long Taxi Zone (western side).
4. Convert the remainder of the No Stopping restrictions to No Parking (western side).
5. Convert the existing No Parking restrictions on North Steyne between Raglan St and the Corso to No Stopping (east side).

(i) Traffic Committee – Minutes of Meeting Held on 25 September 2006.

Item 91/06 Victoria Parade, Manly– Temporary Bus Zone for Boxing Day 2006

Recommendation:

1. That Council install a temporary Bus Zone, 9:00 AM to 4:00PM for Tuesday the 26 December 2006, on the northern side of Victoria Parade for a length of 40.0m.
2. Further that Council install the temporary Bus zone with 'clip-on" signs over the existing 2P Parking signage for the duration.

RECOMMENDATION

- 1.1. That Council note the response from the Office of the Minister for Education and Training in relation to Part B of the above-mentioned resolution concerning the sale of surplus land at Balgowlah Boys High School ie:
 - Once rezoning of the two parcels of land occurs the school intends to sell the properties on a competitive basis;
 - The Department of Education views the properties as surplus to its requirements;
 - Ninety percent of proceeds of any future sale of the properties will be returned to improve facilities at Balgowlah Boys High School with 10 percent being placed in a pool of funds for statewide distribution in accordance with State Government Policy.
- 1.2. That Council receive an update on surplus land at Balgowlah Boys High School (being Lots 15 and 16 DP18433, Coral Street Balgowlah) once feedback from the other State Government Departments is received.
2. That the recommendations of Minutes of Meetings, as listed in Item 2 above, being 2(i) to 2(x), be adopted.
3. That in relation to all matters of a substantial nature listed in Item 3 above, being 3(a) to 3(i), be adopted as per the recommendation of the Committees.

Corporate Planning And Strategy Division Report No. 51 (Cont'd)

ATTACHMENTS

AT- 1 Letter from the Office of the Minister for Education 1 Page

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***** End of Corporate Planning And Strategy Division Report No. 51 *****

ATTACHMENT 1

Corporate Planning And Strategy Division Report No. 51 - Items for Brief Mention - Minutes for Adoption by Council - Special Purpose Committees and Joint Committees
Letter from the Office of the Minister for Education



New South Wales
Government

Carmel Tebbutt MP
Minister for Education and Training

Manly Council

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RML 06/3282

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

Dear Mr Wong

I refer to your letter dated 11 July 2006, concerning the future use of part of the Balgowlah Boys High School site which has been declared surplus to educational needs.

I am advised that the request to dispose of Lot 15 and 16 was initiated by the Principal of Balgowlah Boys High School and was supported by the school community. The school and its community made this decision to allow for the land's asset value to be invested in more appropriate assets to support the school's education program. I am further advised that 90 per cent of the proceeds will be invested in improvements to school facilities. The remaining 10 per cent will be placed in a pool for state-wide distribution. The reallocation of assets in this way is consistent with the Department's current policies.

I understand that in accordance with the Government's Total Asset Management Guidelines, once the surplus land is rezoned the Department intends to offer the property for sale by competitive process to ensure the highest and best return to the school is achieved.

I trust this information is of assistance.

Yours sincerely

Linda Burney MP
Parliamentary Secretary for
Education and Training

25 AUG 2006

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 56
SUBJECT: 101 Bower Street, Manly Section 82A Review of Determination
FILE NO: DA506/04

Application Lodged: 16 June 2006
Applicant: Burley Katon Halliday
Owner: J & M Kierath
Estimated Cost: \$2,000,000
Zoning: Manly Local Environmental Plan, 1988 - Residential Within Foreshore Scenic Protection Area
Surrounding Development: One, Two and Three Storey Dwellings and Multi Storey Residential Flat Buildings.
Heritage: Yes

SUMMARY:

1. DEVELOPMENT APPLICATION NO.506/04 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING RESIDENTIAL FLAT BUILDING WAS RECEIVED BY COUNCIL 30 SEPTEMBER 2004.
2. THE SITE WAS LISTED AS AN ITEM OF ENVIRONMENTAL HERITAGE UNDER SCHEDULE 4 OF THE MANLY LOCAL ENVIRONMENTAL PLAN 1988 ON 22 JULY 2005.
3. DEVELOPMENT APPLICATION NO.506/04 WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
4. DEVELOPMENT APPLICATION NO.506/04 WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 9 AUGUST 2005 AND APPROVED.
5. AN APPLICATION TO MODIFY THE CONSENT WAS RECEIVED BY COUNCIL ON 23 AUGUST 2005.
6. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED.
7. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 16 MAY 2006 WHEN THE APPLICATION WAS REFUSED.
8. AN APPLICATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 FOR REVIEW OF DETERMINATION WAS RECEIVED BY COUNCIL ON 16 JUNE 2006.
9. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH NO SUBMISSIONS RECEIVED.
10. THE APPLICATION FOR REVIEW WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 24 AUGUST 2006 WHERE REFUSAL OF THE APPLICATION WAS RECOMMENDED.
11. THE APPLICATION FOR REVIEW IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT COMMITTEE MEETING AT THE REQUEST OF COUNCILLOR HAY AND MACDONALD.
12. A SITE INSPECTION IS RECOMMENDED.
13. THE APPLICATION IS RECOMMENDED FOR REFUSAL

LOCALITY PLAN

Shaded area is subject land.



Environmental Services Division Report No. 56 (Cont'd)**REPORT****Introduction**

The subject site is located on the southern (high) side of Bower Street and adjoins Reddall Street to the rear. The allotment is rectangular in configuration, with an area of 778sqm and a north east to south west orientation. The land falls approximately 7.0m from the rear to the front boundary. The land is currently developed with a part three and part two storey residential flat building.

On 02/11/04, Council received Development Application DA 506/04/04 for the following works on the subject site:

1. The retention of the existing three-storey heritage listed building.
2. The alterations and additions to the existing heritage listed three (3) level residential flat building to comprise of the following:
 - a) Basement level: Four (4) car parking spaces with access off Bower Street, garbage room, on-site water detention tank, maneuvering area and stairs.
 - b) Ground Floor Level: Apartment 1 (RL 18.45) consisting of three bedrooms, laundry area, walk-in -robe, ensuite, bathroom, lift/stair, hallway, kitchen, dining, living and a north east facing patio.
 - c) First floor Level: Apartment 2 (RL 21.52) consisting of three bedrooms, laundry area, walk-in-robe, ensuite, bathroom, lift/stair, hallway, kitchen, dining, living and a north east facing covered patio.
 - d) Second Floor Level: Apartment 3 (RL 24.88) consisting of three bedrooms, laundry area, walk-in-robe, ensuite, bathroom, lift/stair, hallway, kitchen, dining, living and a north east facing covered patio.

Three (3) open car spaces (RL 22.20) were proposed off Reddall Street and an in-ground swimming pool (RL 20.39) was proposed between the car spaces and the existing building.

The details of the proposal are shown on drawings prepared by Burley Katon Halliday, Architects and titled Project 2835 Nos. DA.1.0 (3), 1.1 (3), 1.2 (3), 1.3 (3), 1.4 (3), 1.5 (3), 2.0 (3), 2.1 (3) and 3.0 (3) all dated May 2005 and received by Council on 31 May 2005 dated 24 January 2005 and Landscape Plans Nos. 24-019, L01 -L07 dated September 2004 and received by Council on 30 September 2004.

There were two objections to the proposal. The DAU at its meeting of 9 August 2005 resolved to approve the application. The consent for the application was issued on 23 August 2005.

On 23/08/05, Council received a Section 96 application for a modification of consent. The modifications requested are:

- Amendment of the basement layout to provide for increased number of parking spaces - Drawing. No. DA1.0 (4) & DA 3.0 (4), by way of excavation under the heritage listed building.
- Relocation of detention tank and addition of rainwater tank to the north-western boundary adjoining No. 103, Bower Street - Drawing No. DA1.0 (4).
- Amendment to the ground floor external doors, facing south-east - DA 1.1 (4) & DA 2.1 (4).
- Change to the steps within Apartment 1 on the Ground floor level - DA 1.1 (4)
- Deletion of the swimming pool - DA 1.2 (4)
- Internal alteration to toilet in Apartment 2 on the First Floor level - DA 1.2 (4)

Environmental Services Division Report No. 56 (Cont'd)

- Internal alteration to Apartment 3 including re-position of toilets and study - DA 1.3 (4).
- Deletion of Condition No. 9
- Changes to the internal and external floor finish to all apartments
- Amendment of internal RLs
- Amendment to Window No. W1.05 - DA 2.1 (4).

The modification application was considered by Council's Development Assessment Unit on 16 May 2006 and was refused for the following reasons;

1. The proposed modifications are substantially different from the original development approval and therefore cannot be considered under the provisions of Section 96 (2) of the Environmental Planning and Assessment Act 1979.
2. The proposed modifications are likely to have an adverse impact on the integrity of the heritage listed item and reduce the significance of the item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
3. The proposed changes to the walls and levels of the existing heritage listed building will have an adverse impact on the heritage significance of the listed item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is likely to have an adverse impact on the natural and built environment, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with the floor space ratio requirements of the Development Control Plan for the Residential Zone 2001, Amendment 1 having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed modifications fail to comply with Clause 3.6.2 (a) - Excavation/Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
7. The proposed location of the rain water tank and on-site detention tank are likely to have an adverse impact on the amenity of the adjoining property, having regard to Section 79 C (1) (c) of the Environmental Planning and Assessment Act 1979.
8. The proposed modifications and the submitted Heritage Statement do not address the archaeological potential of the site, pursuant to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
9. The proposal is not acceptable having regard to the submissions received, pursuant to Section 79 C (1) (e) of the Environmental Planning and Assessment Act 1979.

Council became aware that the amount of excavation has been extended to under the existing building, and that internal walls have been removed contrary to the development consent. On 31/05/06, Council served a Notice to Serve an Order for the unauthorised works.

In response to the above, the applicant lodged a Section 82A application for review of determination 16 May 2006.

The main change to the above refused Section 96 application in the Section 82A application is:

- The proposed detention tank was relocated under the new basement garage at the entrance to the carpark.

Environmental Services Division Report No. 56 (Cont'd)**Development Control Plan Numerical Assessment**

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

	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density – Sub Zone 3	1 dwelling/250sqm	1 dwelling /259sqm	Yes
Floor space ratio	0.6:1	0.7:1 (original approval) 0.84:1 (section 96)	No No

Applicant's Supporting Statement

The applicant submitted a detailed statement in support of the application, a copy of which is attached to this report.

Submissions

The application for review was notified to nearby and adjoining property owners in accordance with Council Policy with no submissions received.

Precinct Community Forum Comments

The Section 96 modification application was referred to the Fairy Bower precinct Community forum for with the following comments received.

“Precinct request Council to seek deletion of visitor parking on Reddall Street that significantly detracts from Bower halls important and listed façade facing that street. All parking should now be underground as in the next door development. Reddall Street frontage should be landscaped to the standard of the next door property.”

The Section 82A application was referred to the Fairy Bower Precinct Community Forum with the following comments received.

“Technical leave to staff.”

Engineers Comments

No objections, subject to standard conditions of consent.

Building Comments

No objections, subject to standard conditions of consent.

Heritage Comments

The proposal for underground parking below the original building requires the demolition of internal sandstone walls and the demolition and reconstruction of an external sandstone wall (refer Geotechnical Report by Don Katauskas).

Retaining the existing internal masonry walls on the levels above the demolished sandstone walls will be extremely difficult. Internal walls to the first floor have already been demolished by the builder with support from the Structural Engineer for various reasons. Further demolition is

Environmental Services Division Report No. 56 (Cont'd)

proposed to the internal walls at ground level directly above the internal basement sandstone walls.

The Heritage Consultant has indicated that "It was always assumed that the interior of the building, except for those recycled parts the subject of Council's condition, was going to be significantly demolished or significantly altered."

Nevertheless it is considered that the proposed demolition is not essential for the heritage item to function as car parking has been provided and that if approved the demolition and reconstruction of the external wall will have a detrimental and irreversible impact on the items authenticity and integrity.

However, if Council approves the underground car parking it is recommended that the following conditions are added to the original conditions of consent;

If during the course of excavation relics are found, works are to stop and an excavation permit must be obtained from the NSW Heritage Council, in accordance with the relics provisions of the Heritage Act, 1977. A copy of this report and an archaeologists report is to be submitted to Council. Consent for a development issued by the Council does not provide the applicant with an excavation permit, nor a permit to destroy, damage or remove items of archaeological significance originating from either indigenous or non indigenous cultures. The permit must be applied for independently through the Heritage Council of NSW.

Planning Comments

The modification requested includes to excavate another about 10.5 metres further under the listed Item of Environmental Heritage. In this regard it is to be noted that the NSW Heritage Office placed an Interim Heritage Order (IHO) on the property and this was gazetted on the 22 March 2004. The IHO lapsed on the 22 March 2005. Amendment No. 68 of the Manly Local Environmental Plan (LEP) was gazetted on 22 July 2005 and this LEP amendment listed the subject property as an Item of Environmental Heritage in Schedule 4 - Architectural and Archaeological Items of the LEP. Therefore, Clauses 18 & 19 of the LEP are applicable to this application. Clause 18 of the Manly LEP states as follows:-

"18. Items of the environmental heritage

- (1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage —
 - (a) demolish, renovate or extend any such building or work;
 - (b) damage or despoil any such relic or any part of any such relic;
 - (c) excavate any land for the purpose of exposing or removing any such relic;
 - (d) erect a building on the land on which that building, work or relic is situated or the land which comprises that place; or
 - (e) subdivide the land on which the building, work or relic is situated or the land which comprises that place, except with the consent of the council.

- (2) The council shall not grant consent to a development application made in pursuance of subclause (1) unless it has made an assessment of —
 - (a) the significance of the item as an item of the environmental heritage of the Manly Council area;
 - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site;
 - (c) whether the setting of the item, and in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained; and

Environmental Services Division Report No. 56 (Cont'd)

- (d) whether the item constitutes a danger to the users of occupiers of that item or to the public."

With regards to the above, it is considered that the significance of the item is such that any excavation under the subject item may cause damage to or despoil the item of environmental heritage. The applicant has not provided enough evidence that the works proposed will not adversely impact on the item. Council's Heritage Advisor has noted that the consequence of the excavation will be the demolition of the significant sandstone walls which will impact on the integrity of the item and further reduce the significance of the item.

The applicant justifies the excavation, in the submitted Statement of Environmental Effects (SoEE), by stating that the excavation will provide carparking for seven (7) cars which is in line with market expectations for apartments of this size and quality. It further states that it is in keeping with Council's policy of encouraging off-street car parking. This statement has no basis as the requirement of carparking is clearly stated in the Manly Development Control Plan (DCP) for the Residential Zone, 2001, Amendment 1.

The required carparking for the proposed development is five (5) spaces, not six (6) spaces as stated in the applicant's SoEE. As per the Manly Development Control Plan (DCP) for Residential Zone 2001, Amendment 1, visitor parking is not required for developments containing less than four (4) dwellings. The subject proposal is for only three (3) dwellings/apartments and therefore does not require a visitor parking space. However, it is to be noted that Council approved seven (7) carparking spaces for the development - four (4) in the basement and three (3) as hardstand spaces with direct access from Reddall Street. As per the definition of "floor area" in the Manly DCP only 'basement carparking (ie no more than 1m above existing ground level) needed to meet the parking requirements of the Council and any internal access thereto" is exempted from the calculation of floor area. In this regard, as the carparking is in excess of the required carparking, the proposed area is to be calculated as floor area.

The maximum permissible floor space ratio for the subject site is 0.6:1, the approved floor space ratio in the original approval was for 0.71: 1. With the additional parking in the basement, which accounts for almost 112.39m², the proposed floor space ratio calculated is 0.846:1. This is considered to be excessive and therefore cannot be supported.

It is noted that the change to the steps arises out of the fact that the proposal intends to remove the original floor and replace it with new floors. The approved RL of the ground floor level was RL 18.45 and the proposed modifications propose the new floor (ground floor) at RL 18.15. Council's Heritage Advisor does not support the demolition of the original timber floors.

The deletion of the swimming pool is considered to be a positive step in the right direction. The removal of the swimming pool will provide for much needed soft open space for the development. However, it is to be noted that the submitted drawings still indicate the pool plant and air-conditioning area under the proposed car parking hard stand off Reddall Street.

The proposed Section 96 modification includes internal changes to the layout of the rooms within the existing building. As stated in Council Heritage Advisor's comments these walls were originally proposed to be retained and the removal of these walls will mean that only the skeleton of the listed building will be retained and this is considered to have a significant impact on the heritage listed building and therefore not acceptable.

The proposed changes to the internal and external floor finish are acceptable only if there are no changes to the existing floors. However, as indicated on the plans submitted, the modifications propose changes to the RLs on various levels as well as changes to the basement level and parapet height to the new section. It is considered that the applicant is making a mockery of the heritage listed building by proposing extensive changes to the listed building. Although not mentioned in the SoEE, the drawings indicate new external walls to the heritage listed building.

Environmental Services Division Report No. 56 (Cont'd)

Unless the applicant provides details of all the changes proposed, the proposed changes to the listed item is not acceptable.

The most critical issue in this application is the unauthorised excavation and the further extensive additional excavation sought. It is proposed to extend the approved excavation area in the basement garage to outside the external walls of the existing building envelope, and to remove of the internal and external sandstone wall that forms part of the heritage significance of the building.

An inspection of the site on 18/08/06 has revealed that the basement garage has been excavated an additional 12m into the building. The amount of excavation is approximately 10.5 m deeper than the approved proposal, and is 1.5 more (towards the western (front) end of the existing dwelling) than that sought in the Section 96 plans. The current excavation is totally within the building and has not extended past the existing building envelope towards the northern and southern side boundaries as proposed in the application. The ground floor has been demolished, and all internal partitioning walls on the first and second floors have been removed.

The applicant has provided engineering advice to justify the removal of the existing internal partitioning walls. The applicant has also provided a report by D. Katauskas – Consulting Geotechnical Engineer that the type of existing bedrock on the site and the state of the existing external sandstone walls could destabilize the existing footings near the excavation face. This report concluded the approved *“proposals of perching the existing sandstone block footings at the edge of the excavation presents a significant risk to footing stability. An alternative solution, in which the floor above is temporarily supported while the foundation wall is removed, and upon completion of the excavation the wall is reinstated to the Structural Engineers details, presents an acceptable risk level with respect to stability considerations. I would endorse the latter solution”*

It is considered that there must be other engineering solutions to ensure that the structural integrity of the existing foundations are not compromised without having to remove the existing sandstone walls. Although there is really nothing that can be done to overcome the problem of the unauthorised excavation, however the proposal to remove the walls for the further extension of the excavation to the outside of the existing envelope of the building cannot be supported. The applicant may argue that the proposed excavation is only to the same extent as the approved OSD. (This OSD is now proposed to be placed below the garage level and will require deeper excavation). The approved OSD was a separate stand-alone space outside the external walls and the approved proposal does not require any excavation under the walls and footings of the existing building. The justification provided by the applicant that existing foundations is unstable is not a good enough reason for the amount of additional excavation proposed.

The proposal's compliance with the Clause 10 objectives - Residential Zone of the Manly Local Environmental Plan are stated as follows:-

(a) to set aside land to be used for purposes of housing and associated facilities;

The proposal relates to the existing residential flat building and therefore complies with this clause.

(b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;

The proposed modifications have been assessed under the provisions of the Development Control Plan (DCP) for the Residential Zone, 2001, Amendment 1. The proposed development does not comply with the floor space ratio and exceeds the car parking provisions of the DCP.

(c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;

This clause is not applicable to this application as the main modifications relate to the basement level and internal alterations.

Environmental Services Division Report No. 56 (Cont'd)

- (d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

The proposed modifications are likely to have an adverse impact on the surrounding residents due to the excessive excavation. The proposed modifications are also likely to have an adverse impact on the significance of the heritage item.

- (e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

The proposed modifications will have a positive impact on the soft landscaping of the development in place of the pool towards Reddall Street however there is still proposed a row of parked cars to detract from the setting of the heritage listed building with

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

This clause is not applicable to this application as the proposal relates to an approved residential flat building.

- (g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

The proposed modifications will not increase the demand on the existing social and physical infrastructure.

- (h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

The original approval was considered to be a suitable redevelopment of the site.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

This clause is not applicable to this application.

The proposal has been considered under the relevant Heads of Consideration of the Environmental Planning and Assessment Act 1979 and these are addressed as follows:-

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed under the provisions of Section 79C 96 (2) and 82A of the Environmental Planning & Assessment Act 1979, Manly Local Environmental Plan 1988 and Council's DCP for the Residential Zone, 2001, Amendment 1. In this instance it is considered that the application is not satisfactory and therefore recommended for refusal.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposed modifications will have adverse impact on the significance of the listed heritage item and also likely to have an adverse impact on the adjoining properties due to excessive excavation

- (c) *the suitability of the site for the development,*

The proposed modifications are not suitable for the site in that it is likely to adversely impact on the significance of the listed item. The proposal also proposes to remove internal walls that have heritage significance and therefore cannot be supported. The proposal also includes changes to the RL of the floor levels that will affect the existing floors of the item.

Environmental Services Division Report No. 56 (Cont'd)

(d) *any submissions made in accordance with this Act or the regulations,*

In response to the notification of the Section 96 modification, Council received four (4) submissions one (1) in support of the application and the other three (3) raising concerns to the proposed modifications. The major concern raised was to the excessive excavation proposed and to the additional car parking already approved in the original approval along Reddall Street. In response to the notification of the 82 A review no submissions were received.

(e) *the public interest.*

The proposed modifications are not in the public interest as it will have an adverse effect on the heritage listed building, and it is likely to create an undesirable precedent for the area.

Section 96 (2) of the Environmental Planning and Assessment Act 1979, states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*

With regards to the above it is considered that the proposed modifications to the original consent, is not substantially the same development as the original development that has been consented to. The modifications requested were notified in accordance with Council's DCP for Notification, and four (4) submissions received - one (1) in favour of the modifications and the other three (3) objecting to the modifications. All matters relating to the proposed modification in terms of impact on the heritage item, neighbouring properties and streetscape have been considered and the application is not supported.

The application is not considered to be a Section 96 (2) Modification as the additional excavation under the Item of Environmental Heritage is not considered to be substantially the same development as the approved. The proposed additional excavations do not comply with Clause 3.6.2 (a) - Excavation/ Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1.

With the new excavation, the submitted Heritage Impact Statement is required to address the archaeological potential (if any) of the site. The application fails to address this issue.

Environmental Services Division Report No. 56 (Cont'd)

The proposed modifications will have an adverse impact on the heritage significance of the listed Item of Environmental Heritage and therefore considered to be not acceptable.

Under section 82 (A) an applicant may request the Council to review a determination. With this application the only amendment to the plans has been the relocation of the on-site detention tank and the rainwater tank from the side of the building to underneath the driveway and inside the extended excavation adjacent to the left. As noted above the application was re-notified in accordance with the development control plan however, no submissions were received. Clause 4(c) under section 82 A states

"in the event that the applicant has made amendments to the developed described in the original application, the consent authority is satisfied that development, as amended, is substantially the same development as the development described in the original application. "

As outlined above in the consideration of the section 96 modification it is considered that the extent of excavation underneath and expanding beyond the heritage listed building is not substantially the same development as the original application, and it is considered that the section 82 A review must be refused.

CONCLUSION:

The proposal has been considered pursuant to Section 82(A) 79C and 96(2) of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988 and the Development Control Plan for the Residential Zone 2001 (Amendment 1). It is considered that the proposal is not substantially the same as the approved development, and therefore, cannot be approved pursuant to Section 96 (2) of the Environmental Planning and Assessment Act 1979. Accordingly, it is recommended that this application under Section 82(A) be refused for similar reasons as the refusal of the Section 96 (2) application. Further, it is recommended that Council pursue the matter to issue an Order pursuant to Section 121H of the Environmental Planning and Assessment Act 1979 given in the Notice of Intention dated 31/05/06.:

RECOMMENDATION

That pursuant to Section 82(A) of the Environmental Planning and Assessment Act 1979, the request for reconsideration of the proposed modifications to Development Application No. 506/04 for alterations & additions to the existing heritage listed building at 101, Bower Street, Manly be refused for the following reasons:-

1. The proposed modifications are substantially different from the original development approval and therefore cannot be considered under the provisions of Section 96 (2) of the Environmental Planning and Assessment Act 1979.
2. The proposed modifications are likely to have an adverse impact on the integrity of the heritage listed item and reduce the significance of the item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
3. The proposed changes to the walls and levels of the existing heritage listed building will have an adverse impact on the heritage significance of the listed item, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
4. The proposed development is likely to have an adverse impact on the natural and built environment, having regard to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.

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5. The proposed development does not comply with the floor space ratio requirements of the Development Control Plan for the Residential Zone 2001, Amendment 1 having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed modifications fail to comply with Clause 3.6.2 (a) - Excavation/Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
7. The proposed relocation of the on-site detention tank will require further excessive excavation and fails to comply with Clause 3.6.2 (a) - Excavation/Cut & Fill provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79 C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
8. The proposed modifications and the submitted Heritage Statement do not address the archaeological potential of the site, pursuant to Section 79 C (1) (b) of the Environmental Planning and Assessment Act 1979.
9. The proposal is not acceptable having regard to the submissions received, pursuant to Section 79 C (1) (e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 56 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 57
SUBJECT: 30 Pacific Street, Manly
FILE NO: DA433/05

Application Lodged: 29.9.05
Applicant: Fox Johnston
Owner: K P O'Grady and H J Howard
Estimated Cost: \$450.000
Zoning: Manly Local Environmental Plan, 1988 - Residential the Property is also on the Foreshore, Scenic Protection Area and Tourist Area
Surrounding Development: Residential Flat Buildings and Dwellings
Heritage: Pacific Street from Collingwood Street to Malvern Avenue And Sandstone Kerbs is Listed for its Street Tree Planting

SUMMARY:

1. DEVELOPMENT APPLICATION FOR 33/05 FOR ALTERATIONS AND ADDITIONS TO EXISTING DWELLING WAS RECEIVED BY COUNCIL ON THE 29TH SEPTEMBER 2005.
2. THE PROPOSAL IS NOTIFIED AND ONE SUBMISSION RECEIVED
3. THE APPLICATION WAS PRESENTED TO THE DEVELOPED ASSESSMENT UNIT MEETING OF THE 22ND FEBRUARY 2006 WITH A RECOMMENDATION FOR REFUSAL. HOWEVER AT THIS MEETING IT WAS DEFERRED FOR FURTHER DISCUSSIONS WITH THE APPLICANTS TO ADDRESS THE NON-COMPLIANCES.
4. THE PROPOSAL WAS SUBSEQUENTLY AMENDED AND RENOTIFIED.
5. THE REPORT WAS PRESENTED TO THE DEVELOPMENT ASSESSMENT UNIT MEETING OF 27TH JUNE 2006 WITH A RECOMMENDATION OF DEFERRED COMMENCEMENT. HOWEVER AT THIS MEETING IT WAS DEFERRED FOR FURTHER DISCUSSION WITH THE APPLICANT REGARDING SIDE SETBACKS AND FLOOR SPACE RATIO NON-COMPLIANCE AND STREETScape COMPATIBILITY
6. THE APPLICATION IS PRESENTED TO COUNCILS AND USE MANAGEMENT COMMITTEE MEETING ON THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. REFUSAL OF THE APPLICATION IS RECOMMENDED.

LOCALITY PLAN

Shaded area is subject land.



REPORT

Introduction

History

On 29 September 2005, Council received Development Application DA433/05 for alterations and additions to dwelling house, including a first floor addition and the provision of two (2) carparking spaces at the front of the site.

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There were no objections received. One letter of support was received. The application was presented to the Development Assessment Unit meeting of 23/02/06 with a recommendation for refusal subject to a number of reasons. The development assessment unit however, resolved to defer the application for further discussion with the applicant to bring the development closer to compliance,

On 06/04/06, the applicant lodged amended plans to try and address the reasons for refusal of the development application contained in a report to the developed assessment unit.

The application was on re-notification for the period between 21/04/06 and 05/05/06. There were no objections received.

Development Control Plan Numerical Assessment

The following is an assessment of the proposal's compliance with the numerical standards of the D.C.P for the Residential Zone 2001, Amendment 1. Where a variation is proposed to the standards an assessment is included in the Planning Comments.

Site area = 215.8m²
 Ground Floor 87.9m²
 First Floor 92.24m²
 Total 180.14m²

Provision/Standard	Permitted/Required	Proposed	Complies Yes/No
Density - Sub Zone 2	1 dwelling/150m ²	1dwelling/215.8m ²	Yes
Floor space ratio	0.75:1/161.85m ²	0.84:1/187.14m ²	No*
Floor space ratio – existing	0.75:1/161.85m ²	0.5:1/107.7m ²	Yes
Wall height East (Side)	9m	6.7m-8.0m	Yes
West (Side)	9m	6.05m-7.4m	Yes
Roof height	3m	0.5m	Yes
Front fence height	1m or 1.5m with 30% transparency	-	Yes
Setback East (Side) Ground FL	0.87m-1.2m	0.9m-1.7m (Existing)	Yes
East (Side) First FL	2.2m-2.7m	1.75m	No*
West (Side) Ground FL	900mm	270mm (Existing)	Yes
West (Side) First FL	2m-2.4m	0.15m	No*
(Front) Ground FL	6m	6.5m	Yes
(Front) First FL	6m	4.0m	No*
North (Rear) Ground FL	8m	8.3m	Yes
North (Rear) First FL	8m	5.8m	No*
Setback – swimming pool	N/A	N/A	N/A
Setback to Reserve	N/A	N/A	N/A
Setback to Foreshore	N/A	N/A	N/A
Open space - Total	50% / 107.9m ²	27% / 58.3m ²	No*
- Existing	50% / 107.9m ²	35.7% / 77 m ²	No*
Open space - Soft	30% / 32.4m ²	25% / 27.1m ²	No*
- Existing	30% / 32.4m ²	12.5% / 13.5m ²	No*
Number of Endemic Trees	1 Tree	1 Tree (10m)	Yes

Environmental Services Division Report No. 57 (Cont'd)

Provision/Standard	Permitted/Required	Proposed	Complies Yes/No
Density - Sub Zone 2	1 dwelling/150m ²	1dwelling/215.8m ²	Yes
Car Parking – Residents	2	2	Yes*
Shadow- adjoining N/S Orientation	>4hrs sunlight retained	> 4 hours retained to windows or glazed doors of living rooms	Yes*

Applicant's Supporting Statement

In support of the amended plans the applicant submitted a detailed statement and more recently additional information concerning streetscape setbacks amenity landscaped open space and carparking

Submissions

Council received one submission in favour of the application to the original application

Precinct Community Forum Comments

No objections.

Engineers Comments

No objections, subject to standard conditions of consent.

Building Comments

Queries the wisdom of trying to save a few existing walls when this proposal appears to be a totally new building. No objections subject to standard conditions of consent.

Landscaping Comments

Recommendations:-

1. *Retain existing street trees - Acronychia oblongifolia X 2*
2. *No objection to the removal of the two (2) trees located along front boundary - Acacia linifolia & Hakea Salicifolia as they are both in poor condition.*
3. *Retain one (1) Arcontophoenix Cunninghamiana and permission to remove one (1) Arcontophoenix Cunninghamiana located within the rear of the property closest to the dwelling.*
4. *Retain 1 X Callistemon Viminalis*

Comment:- The above recommendations for the retention and removal of trees shall be recommended as per conditions of consent.

Heritage Sub-Committee Comments

1. The proposed new house is out of character with adjacent properties, and the existing Federation house at number 30 both in scale and design.
2. The design appears to address a roof extension at number 28 that is shown in the elevation drawings but is not evident in the photos taken from Pacific Street.
3. The bulk of the proposed new house dwarfs even the two-storey house at number 32 from the street.
4. The proposal is not recommended, and it is suggested that the existing house be extended to the rear

Environmental Services Division Report No. 57 (Cont'd)**Heritage Advisor Comments**Heritage Status:

Vicinity of Conservation Area: Yes

Heritage Item: No

Significance of the property to the Conservation Area

The existing dwelling is in the vicinity and 'visual catchment' of a Conservation Area and dates from the key period of significance for the Conservation Area.

Assessment of Heritage Impact

The Statement of Heritage Impact stated that '30 Pacific Street has no substantive qualities of aesthetic, social or scientific significance but has minor historical significance as evidence of the early twentieth-century suburbanization of Manly'. The Statement also states that 'The proposal will not result in an adverse heritage impact on either the listed streetscape of trees or on Manly's stock of houses that reflect earlier periods of its development'. However while the streetscape has not been identified as being significant it is recommended that further consideration be given to the proposal.

Front fence

The proposal for a high fence is inappropriate in the context of the existing character of the streetscape. It should be influenced by the style of buildings within the street and the buildings in its vicinity and should avoid becoming a dominant element in the street.

It is recommended that:

- The fence height to be in keeping with the predominant fences in the street and reduced to enable the house beyond to be viewed

Demolition of the front section of the building and provision of a double carport with a new terrace over

The proposal to demolish the front of the building and to cantilever the first floor over the carparking area below is not supported. Modern development is acceptable, provided the massing, form and scale is compatible with the adjoining buildings and the area in general. The newer developments in the street are setback from the front boundary and are in a garden setting. In addition the proposal bears no relation in its proportion and form to any of the existing developments in its vicinity.

It is recommended that:

- Further consideration to be given to the front façade regarding its compatibility with the adjoining buildings
- The proposal to be set back in keeping with the later development of No 32 Pacific Street

Demolition

As the single storey federation cottage is relatively sound and intact it is recommended that:

- A basic photographic record of the existing house to be compiled prior to demolition and lodged with the Statement of Heritage Impact in the Manly Library Local Studies Collection

Comment: This is recommended as a standard condition of consent.

Environmental Services Division Report No. 57 (Cont'd)Summary

- The fence height to be in keeping with the predominant fences in the street and reduced to enable the house beyond to be viewed
- Further consideration to be given to the front façade regarding its compatibility with the adjoining buildings
- The proposal to be set back in keeping with the adjoining later development of No 32 Pacific Street
- A basic photographic record of the existing house to be compiled prior to demolition and lodged with the Statement of Heritage Impact in the Manly Library Local Studies Collection

Comment: The above comments have been addressed throughout this report.

Planning Comments

The subject site is known as 30 Pacific Street, Manly and is located on north side of Pacific Street, between North Steyne and Collingwood Street, Manly. The site is regular in shape and has a 7.01m wide frontage to Pacific Street. The site is approximately 30.8m deep. It has an area of 215.8m². The site is relatively flat.

The site contains a single storey to the Federation dwelling house with a single storey weatherboard building at the rear of the site. The site has no parking on site. The locality is predominantly residential in character.

The following matters have been addressed as a result of variations to the requirements of the DCP Residential Zone 2001, Amendment 1.

Floor Space Ratio

The proposed first floor addition involves an increase in FSR to 0.84:1. The FSR increase presents a major non-compliance with the specified numerical standard of 0.75:1. Given the 215.8m² site is not an undersized allotment as it is located within Subzone No.2 which requires 150m² per allotment, variation to the FSR requirement is not considered acceptable.

The FSR increase does not serve to control the visual bulk and scale of the building from Pacific Street, it obscures the important landscaped character fronting the dwelling and does not achieve compliance with setback or open space requirements of the DCP. Accordingly, objection is raised to the proposed increase in FSR on planning grounds.

Streetscape

The subject site contains an existing single storey dwelling with a 2.1m front setback, located substantially forward of the adjoining dwellings. The dwelling is however hidden behind well established landscaping with two trees located within the front setback of the dwelling and one fronting the property on the Council road reserve. No carparking spaces are currently provided on site, with the site having a narrow 7m frontage to Pacific Street.

The western adjoining modern two-storey dwelling has a wider (approximately 12m) frontage and driveway access along its western boundary to a single garage fronting Pacific Street. This dwelling has well established soft landscaping fronting it. The eastern adjoining dwelling utilises rear carparking access from Ceramic Lane and has a formal landscaped garden fronting Pacific Street. Pacific Street is characterised by landscaped front setbacks and predominantly low scale and visually transparent front fences.

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The first floor addition will involve a 4m front setback from Pacific Street, which represents the minimum setback of adjoining dwellings. This proposal is two-storey, and would present as a dwelling of overbearing bulk and scale, out of character with adjoining development and development within the Pacific Street streetscape. Objection is raised to this streetscape impact on planning grounds.

The proposal also involves the removal of two existing established trees within the front setback of the dwelling to be replaced by two open carparking spaces and one Christmas Bush growing to a maximum height of 5m. A 1.5m high sliding gate/front fence and a new access driveway is also proposed which involves the removal (and future replacement) of one established tree on Council road reserve.

Objection is raised to the substantial reduction of soft landscaping within the front setback. This would be out of character with the landscaped character of the existing streetscape. One carparking space is considered more appropriate to allow for the provision of additional soft landscaping and at least one endemic tree species growing to a maximum height of 10m within the front setback of area. Objection is also raised to the 1.5m high sliding gate/front fence. This would be out of character with the open landscaped character of the existing streetscape

Objection is also raised on planning grounds to the design treatment of the front façade of the dwelling which reduces opportunities for casual surveillance and security along Pacific Street, as outline under the relevant heading below.

Fence Height

Objection is raised to the 1.5m high sliding gate/front fence proposed on planning grounds. This would be out of character with the open landscaped character and low front fences which exist within the Pacific Street streetscape and is in non-compliance with the fencing requirement of the DCP. Section 3.9 of the DCP requires freestanding walls and fences between the front street boundary and the building to be no more than 1m high above ground level at any point. The height may be increased to 1.5m if the transparency of the fence above 1m is at least 30%. This level of detail is not supplied by the applicant

Setbacks

All side, front and rear setbacks proposed do not satisfy the numerical setback requirements of DCP. Given the subject site is only 7m in width, it is considered that some variations to the numerical standards should be permitted to the side setback requirements, subject to compliance with the DCP objectives.

Western Side Setback

A 0.15m western side setback is proposed for the first floor addition. A 2m-2.5m western side setback is required for the first floor addition in accordance with the DCP. This side setback requirement is considered unreasonable considering the 7m width of the block. The first floor addition should not however overhang the ground floor western side setback and should maintain or increase the existing side setback of 0.3m to reduce the visual bulk and scale of the proposed development. It should be noted that this presents as a wall almost on the boundary without windows two storeys high, and is contrary to all of the controls in Council's development control plan

Eastern Side Setback

An existing 0.9m ground floor eastern side setback is proposed to be maintained and a 1.75m eastern side setback is proposed from the external enclosing wall of the first floor addition,

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although only a 0.65m eastern side setback is proposed from the deck and 2.5m high 'green screen'. A 2.17m-2.5m side setback is required in accordance with the DCP.

It is not considered appropriate that the first floor addition (eastern side deck) should overhang and further reduce the eastern side setback in non-compliance with the DCP requirement. Consideration should also be given to the inappropriate visual bulk and scale of the eastern side deck and 2.5m high 'green screen' with respect to how it presents to Pacific Street. Given the non-compliant side setback, and visual bulk of this deck / green screen, it would be more appropriate to set it back / limit it to the more central portion of the eastern side of the dwelling.

Extensive sliding glass doors are proposed along the eastern elevation opening out onto the eastern side deck only 0.65m from the side boundary. This could limit the future development potential of the single storey eastern adjoining dwelling and create unreasonable visual and aural privacy impacts (as discussed under the relevant *privacy impacts* section below). It can not be guaranteed that privacy planting will be maintained along the 'green screen' by current and future owners of the dwelling. It is noted that the eastern adjoining property owner has raised no objections to the proposal in consideration of future development plans for that property, however Council has not viewed or assessed the future plans for the adjoining property and accordingly an impacts assessment can not base on this.

Front Setback

The first floor addition will involve a 4m front setback from Pacific Street. This would present as a dwelling of overbearing bulk and scale, out of character with adjoining development and development along the Pacific Street streetscape. Accordingly, objection is raised to the proposed front setback on planning grounds.

Rear Setback

A 5.8m northern rear setback is proposed from the first floor addition which does not comply with the 8m rear setback requirement of the DCP. Given the proposal does not comply with the FSR provisions or opens space requirements of the DCP, objection is raised to this non-compliant rear setback on planning grounds.

Fire Rating

It is noted that timber board material is proposed for the western elevation within 0.15m of the side boundary. In this respect, all building materials must comply with the fire rating requirements of the Building Code of Australia.

Fire Place

A fire place is proposed for the ground floor living room area. It is noted that as standard conditions of consent for fire places:-

1. The selection, installation and operation of the domestic solid fuel heater must comply with the NSW Environmental Protection Authority's Environmental Guidelines for Selecting, Installing and Operating Solid Fuel Heaters.
2. The operation of the solid fuel heater must not cause a nuisance to neighbouring residents through the emission of air impurities or offensive odours. Air impurity and offensive odour are defined in the Protection of the Environment Operations Act 1997.

Privacy and security

Extensive sliding glass doors are proposed along the first floor eastern elevation opening out onto a 1m wide eastern side deck only 0.65m from the side boundary. A 2.5m high 'green screen'

Environmental Services Division Report No. 57 (Cont'd)

consisting of wire mesh and climbing vines is proposed to reduce privacy impacts for the eastern adjoining dwelling. It can not be guaranteed that this privacy planting would be maintained by current or future occupants of the dwelling. The proposed design of the eastern elevation could limit the future development potential of the single storey eastern adjoining dwelling and create unreasonable visual and aural privacy impacts. Accordingly, privacy objections are raised to the design of the eastern elevation on planning grounds.

It should be noted here that at the very least, the sliding doors and glass along the eastern side of the dwelling should be constructed of double glazing to reduce aural impacts and a privacy screen should be constructed for the eastern elevation of the first floor rear deck.

Buildings should be oriented to address the street to allow for maximum street surveillance and provide a sense of security. The 2.5m high 'green screen' proposed fronting the first floor front elevation of the dwelling and 1.8m high front fence does nothing to enhance security or casual surveillance along Pacific Street. Accordingly, objection is raised to the proposed treatment of the front façade of the dwelling on planning grounds.

Opens Space and Landscaping

A total of 50% (107.9m²) open space is required for the subject site in accordance with the DCP. The proposed development involves a 27% (58.3m²) open space in non-compliance with this DCP requirement. The existing open space provision for the site is 35.7% (77m²). The major non-compliance in the open space provision is considered inappropriate on planning grounds considering the FSR and setback non-compliances and the excessive bulk and scale of the proposed development.

A total of 30% (32.4m²) soft open space (as a percentage of the total open space) is required for the subject site, in accordance with the DCP requirement. The proposed development involves 25% soft open space in non-compliance with this DCP requirement.

Section 3.2.1 Opens Space and Landscape Design Objective (b) is:- *to enhance the amenity of the site, streetscape and surrounding area*. This objective is not adequately satisfied by the reduced soft open space provision within the front setback of the subject site. Consideration should be given to a single carparking area (instead of a double carparking area) within the front setback, to maintain the open soft landscaped character of the Pacific Street streetscape. The DCP also requires the provision of a minimum 0.5m landscape strip between the side fence and driveway to be mass planted. This has not been provided for by the proposed development.

Accordingly, objection is raised to the proposed developments non-compliance with the openspace and landscaping requirements on planning grounds.

Landscaped Pond

A pond is proposed along the rear eastern side of the dwelling and outdoor dining area. A standard condition of consent would require that this pond not be deeper than 0.3m unless made child safe to the satisfaction of the certifying authority.

Carparking and Access

The proposal also involves the removal of two existing established trees within the front setback of the dwelling to be replaced by a double carparking area. A 1.5m high sliding gate/front fence and a new access driveway is also proposed which involves the removal of one established tree on Council road reserve.

The western adjoining modern two-storey dwelling has a wider (approximately 12m) frontage and driveway access along its western boundary to a single garage fronting Pacific Street. This dwelling has well established soft landscaping fronting it. The eastern adjoining dwelling utilises

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rear carparking access from Ceramic Lane and has a formal landscaped garden fronting Pacific Parade. Pacific Parade is characterised by landscaped front setbacks and predominantly low scale front fences.

In accordance with Section 3.12 Parking and Access requirements of the DCP, the maximum width allowable for a garage or carport forward of the front setback is 6.2m or 50% of the frontage width, whichever is the lesser. Although a carport/garage is not proposed, the impacts of the hard stand area shall be considered with respect to how it meets the Parking and Access objectives of the DCP, notably that it does not detract from the appearance of the development and the surrounding streetscape and that there is screening of accesses from public view as far as practicable through appropriate landscape treatment. Objection is raised in this respect due to the substantial reduction of soft landscaping within the front setback of the dwelling, to be replaced by the double carparking area. This would be out of character with the landscaped character of the existing streetscape.

Although the DCP requires two (2) car parking spaces per dwelling, the existing dwelling currently has no on-site carparking provisions. One (1) on-site carparking space is considered more appropriate to allow for the provision of additional soft landscaping. Of note is the DCP requirement for a 0.5m landscape strip between side fences and driveways to be mass planted, the current proposal does not comply with this requirement. Objection is also raised to the 1.8m high sliding access gate/front fence. This would be out of character with the open landscaped character of the existing streetscape.

It is also noted that the sandstone curbs on the street are listed as heritage items and inappropriate to reduce the degree of damage to these heritage items.

Overshadowing Impacts

The proposed development will increase the overshadowing impacts for the eastern adjoining dwelling located at property No.28 Pacific Street, Manly. No.28 Pacific Street is a narrow block developed with a single storey dwelling with no windows on its eastern elevation. The proposed first floor addition with non-compliant side setbacks will overshadow nearly half of the western sloping section of roof at 12pm on 21 June and the whole of the western sloping roof at 3pm on 21 June. Solar access to the dwelling between 9am and 1pm could only be achieved via a sunroof located high up near the ridge line of the western slope of the existing roof.

It is noted that the shadow diagrams illustrate development to the rear of the eastern adjoining property which is currently non-existent. The shadow diagrams provided are inadequate in this respect to conduct a true assessment of the overshadowing impacts generated by the proposed development. It is also unclear from the shadow diagrams submitted as to the cumulative overshadowing impact on the rear open space area of the eastern adjoining property No.28 Pacific Street, Manly, from overshadowing generated by the proposed development and that of the rear adjoining development. The DCP requires that new development must not eliminate more than 1/3 of the existing sunlight to the open space or adjacent properties, measured at 9am, 12 noon and 3pm on 21 June.

The shadow diagrams submitted by the applicant are inadequate to assess the overshadowing impacts of the proposed development on the eastern adjoining property. As this report is recommending refusal of the proposed development, an amended shadow diagram has not been requested to be submitted by the applicant at this stage.

Clause 10 Objectives

(a) to set aside land to be used for purposes of housing and associated facilities;

The land is currently zoned residential and developed with a dwelling; in this regard the proposal satisfies the objective.

Environmental Services Division Report No. 57 (Cont'd)

- (b) *to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

The Manly DCP for the Residential Zone 2001, Amendment 1 has been used to assess the proposed developments consistency with this objective. The application has serious non-compliances in relation to this development control plan and does not meet this objective.

- (c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;*

It is considered that the architectural treatment of this proposal is out of keeping with the style of buildings in the neighbourhood and as a would-be out of keeping with the existing character of the area. The proposed alterations and first floor addition including double hard-stand carparking space fronting the dwelling is not consistent with the existing landscaped character, bulk and scale, and setbacks of development along Pacific Street and would have an adverse impact on the amenity of properties within its vicinity.

- (d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

The proposed sliding doors onto a 1m wide eastern side verandah with a 0.65m non-compliant side setback would result in a loss of amenity for the adjoining eastern dwelling with respect to visual and aural privacy and inhibit the future development potential of the adjoining site. Inadequate provision of open space and soft landscaping would also have negative impacts on the existing amenity of the Pacific Street streetscape.

- (e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

The existing and proposed development does not meet landscaping requirements and is not innovative in its design to complement the character of the surrounding area.

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

Not applicable

- (g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

The proposed development will increase the use of existing infrastructure and services.

- (h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

The proposed development is considered to be unsuitable.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

Not applicable

EP&AA 1979 – section 79(c)

- (a) *the provisions of:*

- (i) any environmental planning instrument*
- (ii) any draft environmental planning instrument*
- (iii) any development control plan*
- (iv) the regulations*

The proposal has been considered under the provisions of the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1.

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(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposed alterations and first floor addition including double hard-stand carparking space fronting the dwelling is not consistent with the existing landscaped character, bulk and scale, and setbacks of development along Pacific Street and would have an adverse impact on the amenity of properties within its vicinity. The proposed sliding doors onto a 1m wide eastern side verandah with a 0.65m non-compliant side boundary setback would result in a loss of amenity for the adjoining eastern dwelling with respect to visual and audible privacy and inhibit the future development potential of the adjoining site. Inadequate provision of open space and soft landscaping also reduces the existing amenity of the Pacific Street streetscape.

(c) *the suitability of the site for the development,*

The site is suitable for an appropriately designed dwelling house.

(d) *any submissions made in accordance with this Act or the regulations,*

No submissions received.

CONCLUSION:

The proposal has been considered pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 1988, the Development Control Plan for the Residential Zone 2001, Amendment 1 and the Building Code of Australia

RECOMMENDATION

That Development Application No.433/05 at 30 Pacific Street, Manly, for alterations and a first floor addition to an existing dwelling house, including a double hard-stand carparking area and new driveway entry be refused for the following reasons.

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of Pacific Street as a result of its excessive bulk and scale and a reduction in soft landscaping fronting the dwelling, having regard to Section 79C(1) (c) of the Environmental Planning and Assessment Act 1979.
3. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
4. The proposed development would be an overdevelopment of the site, setting an unwanted precedent for the future character of development within Pacific Street and the Foreshore Scenic Protection Area having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed development does not comply with streetscape provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

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7. The proposed development does not comply with privacy and security provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
8. The proposed development does not comply with open space and landscaping provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
9. The proposed development does not comply with overshadowing provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 57 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 58
SUBJECT: 96 Seaforth Crescent, Seaforth Section 82A Review of Determination
FILE NO: DA326/05

Application Lodged: 27 February 2006
Applicant/Owner: D Verschoor
Estimated Cost: \$600,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
 Manly Residential Development Control Plan 2001, Amendment
 1 Sub Zone: 7
 Within Foreshore Scenic Protection Area
Surrounding Development: Two and three storey dwellings
Heritage: n/a

SUMMARY:

1. DEVELOPMENT APPLICATION NO. 326/05 FOR DEMOLITION OF THE EXISTING DWELLING AND ERECTION OF A NEW THREE STOREY DWELLING WITH DOUBLE GARAGE AND SWIMMING POOL WAS RECEIVED BY COUNCIL ON 12 JULY 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT MEETING OF 12 JANUARY 2006 WHERE THE APPLICATION WAS REFUSED.
4. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION FOR REVIEW OF DETERMINATION UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979. THE APPLICATION FORM REVIEW INCLUDED REVISED PLANS.
5. THE APPLICATION FOR REVIEW WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
6. THE APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM WITH COMMENTS RECEIVED.
7. THE CURRENT PROPOSAL EXHIBITS A NUMBER OF NON COMPLIANCES WITH COUNCIL'S RESIDENTIAL DCP AND IS CONSIDERED TO IMPACT ADVERSELY ON AMENITY OF ADJOINING RESIDENTS.
8. THE APPLICATION IS PRESENTED TO LAND USE MANGEMENT COMMITTEE BY COUNCILLOR MACDONALD.
9. RECOMMENDED FOR A SITE INSPECTION.
10. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

LOCALITY PLAN:

Shaded area is subject land.



Environmental Services Division Report No. 58 (Cont'd)**REPORT****INTRODUCTION:**Site Analysis:

The site is located on the southern (high) side of Seaforth Crescent. The site has a north/south orientation with a frontage of 15.325m, an east side boundary of 39.84m, a west side boundary of 38.21m and rear boundary of 15.24m.

The site is legally described as Lot 1, DP 514011.

The site has a 9.0m fall from the rear to the front boundary. The land is currently developed with a two storey dwelling positioned centrally on the site with a detached single garage adjoining the front boundary.

The site has an area of 594.7sqm.

The original Development Application was received by Council on 12 July 2005. The application proposed demolition of the existing dwelling, some excavation and erection of a new three storey dwelling as follows;

Basement:-

- Double garage with internal access stairs up to the new dwelling.
- Landscaping works within the front setback area.

Lower Ground Floor:-

- Swimming pool with associated terraced area within the front setback of the dwelling.
- External pedestrian access stairs up to the front entry of the dwelling and planter boxes.
- A 'Garden Bed' located under an undercroft area.
- Toilet/shower.
- Lobby area with internal access stairs.

Upper Ground Floor:-

- Kitchen/living/dining room with a balcony fronting the dwelling.
- Family room with access to the rear yard paved BBQ area and landscaped garden.
- Laundry / toilet.
- A single car parking area with access from the ROW adjoining the properties eastern boundary.

First Floor Plan:-

- Four bedrooms, three of them with access to balcony at the front of the dwelling.
- Two bathrooms.

The application was notified to nearby and adjoining property owners with two submissions received. The application was considered by Council's Development Assessment Unit on 12 January 2006 when the application was refused for the following reasons;

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979.
2. The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of the Seaforth Crescent streetscape as a result of its excessive bulk and scale, having regard to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979.

Environmental Services Division Report No. 58 (Cont'd)

3. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
4. The proposed development would be an overdevelopment of the site, and would create an undesirable precedent for the future character of development along Seaforth Crescent, Seaforth, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
6. The proposed development does not comply with the Open Space and Landscaping Provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

Council is now in receipt of an application under Section 82A for review of determination. The application for review included revised plans. The following assessment is made in regard to the revised proposal.

The application proposes demolition of the existing dwelling, some excavation and the erection of a new three storey dwelling with double garage and swimming pool as follows;

Basement:-

- Double garage complying with internal access stairs up to the new dwelling.
- Landscaping works within the front setback area.

Lower Ground Floor:-

- External swimming pool with associated terraced area.
- Lobby area with internal access stairs, toilet/shower room.

Upper Ground Floor:-

- Kitchen/living/dining room with a balcony fronting the dwelling.
- Family room with access to the rear yard and landscaped garden.
- Laundry / toilet.

First Floor Plan:-

- Four bedrooms, three of them with access to balcony at the front of the dwelling.
- Two bathrooms.

Mainly DCP for the Residential Zone 2001 Numerical Assessment:

The following numerical is an assessment of the proposal's compliance with the numerical standards of the DCP. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

Site area: 594.7m ² Sub-zone 7 GFA: 353 m ²	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Floor space ratio	0.4:1 max	0.59:1	No
Wall height - East	7.6m	7.6 m	Yes
Wall height - West	7.5m	8.3 m	No
Roof height	1.0m (Parapet)	0.6 m	Yes
Fence height	1.5m / 30% transparent	1.5 m	Yes

Environmental Services Division Report No. 58 (Cont'd)

Site area: 594.7m ² Sub-zone 7 GFA: 353 m ²	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Setback side - East	2.5 m	1.0 m	No
Setback side - West	2.7 m	1.0m - 2.1 m	No
Rear setback	8.0m	8.0 m	Yes
Swimming pool setback - side	1.5m to wet edge	2.0 m	Yes
Open space - Total	70%	84%	Yes
Open space - Total	416 m ²	503 m ²	Yes
Open space - Soft	50%	59%	Yes
Open space - Soft	208 m ²	248 m ²	Yes
Endemic Trees	3	3	Yes
Car Parking - Residents	2	2	Yes
Shadow - adjoining	> 4 hrs sunlight retained windows living rooms Open space - max 1/3 rd of existing	4 hrs retained <1/3rd	Yes Yes
Excavation	3m depth max	4 m	No

Applicant's Supporting Statement

In support of the application the applicant has submitted a written statement in support of the application for review, a copy of which is available for viewing on Council's file.

NOTIFICATIONS:

The application for review of determination was notified to nearby and adjoining property owners with two (2) submissions received raising the following concerns;

- Floor space ratio – the applicant is now asking for more space (353sqm) than previously requested in the initial submission (344.59sqm).
- The dwelling is too large for the site (238sqm required) and does not comply. Non compliance with west side setback.
- Non compliance with east side setback.
- Loss of privacy from upper floor rear Juliet balcony and bathroom windows overlooking pool area.
- View impacts.
- Request clarification of proposed fence addition to our boundary wall.
- The proposal has potential to achieve lower FSR by maintaining 2.1m setback from west side boundary. This would assist by reducing the bulk and scale of the building and increasing landscaped open space area.
- The applicant has provided calculations which do not appear to comply with the definitions set out in the DCP. These ought to be confirmed by the applicant.

Environmental Services Division Report No. 58 (Cont'd)**Precinct Community Forum Comments:**

The application was referred to the Seaforth Precinct Community Forum with the following comment received;

“Neighbour Suzanne Walcott raised concerns that, in the revised application, the FSR has been increased even further and points raised in the previous DA have not been addressed. The meeting agreed that the planned development is a gross overdevelopment of the site and would create an undesirable precedent. The meeting encouraged Council to reject the application.”

PLANNING COMMENTS**Manly LEP 1988:**

The site is located in Zone No.2 - The Residential Zone which permits dwelling houses with the consent of Council.

A dwelling is permissible with consent in the zone. The proposal is considered unsatisfactory in response to the relevant objectives of the zone, with adverse amenity impacts to neighbouring properties identified in terms of view loss and visual bulk.

Foreshore Scenic Protection Area [if applicable]

The site is also located within the Foreshore Scenic Protection Area. The proposal will result in a building which presents greater visual bulk and scale than the original building. The building is visible from Middle harbour and departs from Council's DCP with regard to side setbacks contributes to the visual massing when viewed from the street and properties adjoining. The site is located within the overall visual catchment of the Foreshore Scenic Protection Area. Accordingly the extent of built form should be controlled. The proposal will adversely effect the existing visual quality of the area in that it presents a dominance of built form. Consequently the proposal is considered unsuitable form of development.

Manly Local Environment Plan 1988 - Clause 10 Objectives

a) *to set aside land to be used for purposes of housing and associated facilities;*

The site is zoned residential and will retain its residential use.

(b) *to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;*

Council's Development Control Plan for the Residential Zone 2001 Amendment 1 has been considered in the assessment of the proposal.

(c) *to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;*

The proposal would provide variety to the existing housing stock in the area however there are unacceptable impacts on the amenity of the area arising from excessive bulk and scale of the building.

(d) *to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;*

The proposal will result in unacceptable impacts on surrounding residents in terms of views and visual impact.

(e) *to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;*

The proposal has been reviewed by Council's Landscape Officer as being satisfactory.

Environmental Services Division Report No. 58 (Cont'd)

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

The proposal maintains the residential use of the site.

- (g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*

The proposal will not result in any increase in demand on services and facilities.

- (h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

The proposal due to the non-compliance with side setbacks and resultant impacts is not considered to be suitable redevelopment.

- (i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

n/a

Manly DCP for the Residential Zone 2001:Floor Space Ratio:

The proposed FSR is 0.59:1 where 0.4:1 is permitted in the DCP. The applicant points out that the site is more than 20% smaller than the minimum required area stated in the DCP and states that the proposal is consistent with the DCP objectives in respect of FSR. However, this view is not concurred with the proposal being inconsistencies with the DCP objectives 3.3.1 (a), (c) and (d). Assuming the minimum lot size of 750sqm as being appropriate for FSR considerations, the proposal exhibits a FSR of 0.47:1 which still is a substantial variance and cannot be supported.

Side Setbacks:

The variance to the east side setback is sought noting that the adjoining land is a driveway access handle serving the property to the rear. The applicant states that this provides sufficient separation and that there will be no adverse effects on the adjoining land. Whilst this argument may be valid to some degree (as it relates to the eastern side), the collective impact arising from proposed variations to the west side setback and FSR is unsatisfactory.

The upper floor level and lower ground floor levels are set back 2.0m and the ground floor level maintains a part 2.0m and part 1.0m setback from the west side boundary. The building has a varying height due to the slope of the land. The DCP requires a minimum setback of 2.4 for the proposed wall height which extends from 5.8m to 8.3m. Further, the proposal is not considered to comply with the setback objectives of the DCP

Excavation:

The proposed excavation for the double garage extends 4.0m below the existing ground level. Council's DCP permits a maximum of 3.0m. The proposed variance is not considered necessary as it is possible to redesign the access driveway with a gradient rather than have the driveway level form the front boundary cutting into the sloping site.

View Sharing:

The adjoining owners to the rear have a north aspect across the subject site and have raised issues with view sharing and the fact that the side setback variances limit view corridors each side. The available views are limited and whilst this issue may not of itself warrant refusal of the

Environmental Services Division Report No. 58 (Cont'd)

application it is a reasonable expectation that a new dwelling would maintain side setback distances set out in the DCP.

Streetscape:

The visual bulk and scale of the proposed building is excessive as viewed from the street and the insufficient side setbacks area contributing factor. The building will present as one of the larger developments within the immediate area and therefore is out of character with the area.

Section 79(C) of the Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application.

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1 and found to be unsatisfactory.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

The proposal will result in unacceptable impacts on the natural and built environments due to its excessive bulk and scale and inadequate side setbacks. There will be no identifiable impact on social or economic conditions.

- (c) *the suitability of the site for the development,*

The site is within the Residential zone and development for residential purposes is suitable.

- (d) *any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with two submissions received. The concerns raised in the submissions have been addressed above.

- (e) *the public interest.*

The proposal is considered to be contrary to the public interest.

CONCLUSION

The proposal has been considered pursuant to Section 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988 and the Development Control Plan for the Residential Zone 2001 Amendment 1 and found to be unsatisfactory.

RECOMMENDATION

That Development Application No.326/05 for demolition of the existing dwelling and erection of a new three storey dwelling with double garage under, swimming pool and associated landscaping at No.96 Seaforth Crescent Seaforth be refused for the following reasons;

1. The proposed development does not comply with the aims and objectives of the Residential Zone pursuant to Manly Local Environmental Plan, 1988, having regard to Section 79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979.

Environmental Services Division Report No. 58 (Cont'd)

2. The proposed development will have an adverse impact on the amenity of the adjoining properties and the character of the Seaforth Crescent streetscape as a result of its excessive bulk and scale, having regard to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979.
6. The proposed development does not comply with Floor Space Ratio provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
7. The proposed development would be an overdevelopment of the site, and would create an undesirable precedent for the future character of development along Seaforth Crescent, Seaforth, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.
8. The proposed development does not comply with setback provisions of the Development Control Plan for the Residential Zone 2001, Amendment 1, having regard to Section 79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 58 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 59
SUBJECT: 30 Castle Circuit, Seaforth Section 96 Modification
FILE NO: DA230/05

Application Lodged: 5 June 2006
Applicant: Oppidan Homes
Owner: R & L Anton
Estimated Cost: \$1,7000,000
Zoning: Manly Local Environmental Plan, 1988 - Residential
 Manly Residential Development Control Plan 2001, Amendment
 1 Sub Zone: 7
 Within the Foreshore protection area.
Surrounding Development: Single and two storey dwellings.
Heritage: Not applicable.

SUMMARY:

1. DEVELOPMENT APPLICATION NO. 230/05 FOR DEMOLITION OF THE EXISTING BUILDING AND ERECTION OF TWO DWELLINGS WITH LAND SUBDIVISION WAS RECEIVED BY COUNCIL 14 APRIL 2005.
2. THE APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 22 DECEMBER 2005 AND APPROVED SUBJECT TO CONDITIONS.
4. COUNCIL IS NOW IN RECEIPT OF AN APPLICATION UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 TO MODIFY THE CONSENT BY DELETION OF CONDITION ANS02, MODIFICATION OF CONDITION ANS03, DELETION OF CONDITIONS ANS04 AND DA323 WITH MINOR MODIFICATIONS TO RELATED CONDITIONS.
5. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEARBY AND ADJOINING PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED (ONE FROM AND ONE ON BEHALF OF AN ADJOINING PROPERTY OWNER).
6. THE MODIFICATION APPLICATION WAS REFERRED TO THE SEAFORTH PRECINCT COMMUNITY FORUM FOR COMMENT.
7. THE MODIFICATION APPLICATION WAS CONSIDERED BY COUNCIL'S DEVELOPMENT ASSESSMENT UNIT ON 29 AUGUST 2006 WHEN IT WAS RECOMMENDED FOR CONDITIONAL APPROVAL.
8. THE MODIFICATION APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT MEETING AT THE REQUEST OF COUNCILLOR MACDONALD.
9. A SITE INSPECTION IS RECOMMENDED.
10. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

LOCALITY PLAN:

Shaded area is subject land.



Environmental Services Division Report No. 59 (Cont'd)**REPORT****INTRODUCTION:****Site Description**

The subject property is located on the western side of the street and the nearest cross-street being Wakehurst Parkway. The site has an east/west orientation with double street frontage to Castle Circuit. The site is legally described as Lot 29, DP 20458.

The site is irregular in shape and has a site frontage of 18.28 metres to Castle Circuit (front) and 18.54 metres to Castle Circuit (rear) and a depth of 59.585 metres (north) and 56.535 metres (south side), resulting in total site area of 1811.00 square metres. The site is generally flat at the front and falling steeply to the rear and west by about 10.11 metres. The site is currently occupied by a single storey dwelling with car parking under. The existing dwelling is located almost 38.0 metres from the front boundary.

The buildings in Castle Circuit within the vicinity of the site are a mix of single to two storey single dwellings. The property immediately to the north of the subject property (No. 32, Castle Circuit) is a part single part two storey dwelling with views to south east. The property to the south is a single storey dwelling with a swimming pool built close to the boundary to the north and a grassed tennis court to the front. Opposite the subject site is a mix of vacant allotments and single storey dwellings.

History

Development Application 230/05 for the demolition of the existing building and erection of two (2) by two (2) storey dwellings with double garages and Torrens Title subdivision was received by Council 14 April 2005. The application proposed;

Dwelling 1 (Proposed Lot 292)

The ground floor level of the proposed dwelling consists of covered walkway, entry area, gallery, double garage, living room, dining room, study/guests bed, powder/shower, laundry, WC, meals area, kitchen, family room, timber deck (RL 85.874) and swimming pool (RL 85.58).

The proposed first floor consists of a master bedroom with ensuite, 3 additional bedrooms, WC and a bathroom.

Dwelling 2 (Proposed Lot 291)

The ground floor level of the proposed dwelling on the rear lot consists of covered walkway, colonnade, entry area, gallery, guests bedroom, ensuite, robe, Study 2, store, laundry, powder room, landing, dining, formal entertaining, informal entertaining, meals area, kitchen, pantry and west facing terraces off dining area and formal entertaining area.

A double garage with a studio above is proposed to the eastern side of the site between the proposed building on the rear lot and the front lot.

The proposed first floor level consists of a Master bedroom facing west with dressing and ensuite, 2 additional bedrooms and a bathroom. An open west facing balcony is proposed off the Master Bedroom.

Notification of the original application resulted in receipt of two submissions from owners of properties each side of the subject site. The original application was considered by Council's Development Assessment Unit on 22 December 2005 and approved subject to conditions.

Environmental Services Division Report No. 59 (Cont'd)

Council is now in receipt of an application to modify the consent under Section 96(1A) of the Environmental Planning and Assessment Act 1979.

Mainly DCP for the Residential Zone 2001 Numerical Assessment:

The following numerical is an assessment of the proposal's compliance with the numerical standards of the DCP. Where a variation is proposed to the standards, an assessment is included in the Planning Comments. The assessment deals with the modification plans in respect of the proposed dwelling on proposed lot 291, received by Council on 5 June 2006.

Site area: 1060m ² Sub-zone 7 GFA: 421 m ²	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Density	1 dwelling/ 750 m ²	1 dwelling/ 1060 m ²	Yes
Floor space ratio	0.4:1 max	0. 4:1	Yes
Wall height - North	8.0m	8.0m	Yes
Wall height - South	7.7m	8.0m	No
Roof height	3.0m	1.9m	Yes
Setback side - North	2.66 m	2.0-2.6 m	No
Setback side - South	2.57 m	1.2-2.6 m	No
Rear setback	8.0m	9.0 m	Yes
Swimming pool setback - side	1.5m to wet edge	2.0 m	Yes
Swimming pool setback - rear	1.5m to wet edge	9.0 m	Yes
Open space - Total	70%	74%	Yes
Open space - Total	742 m ²	787 m ²	Yes
Open space - Soft	50%	50%	Yes
Open space - Soft	371 m ²	371 m ²	Yes
Endemic Trees	3	3	Yes
Car Parking - Residents	2	2	Yes
Shadow - adjoining east/west orientation	> 2 hrs sunlight retained > 1/3 rd existing sunlight to open space	> 2 hrs retained to front and rear living areas >1/3rd	Yes Yes
Excavation	3m depth max	2.5 m	Yes

Applicant's Supporting Statement

The applicant submitted a written statement in support of the application, a copy of which is available for viewing on Council's file.

Environmental Services Division Report No. 59 (Cont'd)**Notifications:**

The modification application was notified from 19 June 2006 to 3 July 2006 and two submissions were received from L A Mc Dade of 32 Castle Circuit, Seaforth and the Turnbull Group, Consultant Planners on behalf of Mr & Mrs McDade of 32 Castle Circuit, Seaforth.

The following issues were raised:

- Studio above garage - Additional building height and potential to overlook adjoining properties from Studio.
- Overlooking from studio to No.32 Castle Circuit is unreasonable.
- Deletion of the Studio and replacement with a simple pitched roof form is the most appropriate design option for the garage.
- Building height – request review of our previous letters of objection and we reiterate grounds for objection on loss of views from the living room of No.32 Castle Circuit as a result of the development proposal.
- Information submitted with the application does not indicate that the dwelling has been lowered by at least 1.0m. building.
- The application proposes to reduce the roof ridge over the master bedroom, this is merely reflecting the requirement for lowering the height of the dwelling house by 1.0m.
- The application clearly makes little attempt to meet the conditions of consent, the objectives and controls contained in Council's DCP.
- Reflecting the requirement of lowering the height of the dwelling house does not warrant amendment of condition ANS 03.
- The dining room level could be lowered to be closer to natural ground level and the floor to ceiling height of the dining room reduced from 3.43m to 2.7m.
- Accuracy of amended plans – levels referred to in Statement of Environmental Effects (ridge height on Section AA is RL86.69) and corresponding plans (ridge above master bedroom at RL 87.22) do not correlate.
- The floor levels shown do not meet the levels required by the condition, dining room floor RL78.94 not 77.94, master bedroom floor RL82.72 not RL 82.62 and ridge is RL 87.22 not RL 85.92.
- Reduced floor and ridge levels are imperative in retaining the view currently enjoyed from No.32 castle Circuit, request Council seek overall lowering strict compliance with condition ANS03 and correct levels shown on plans to ensure view loss can be accurately assessed.
- Lowering roof line over master bedroom a step in the right direction however this does not go far enough.
- Required reductions in roof height do not appear to have been met.
- Request a reduction in roof heights over bedrooms 2 and 3 and over colonnade similar to the master bedroom reduction.
- Repositioning of rear dwelling 2.0m to the east would lessen impact on No.32 Castle Circuit.
- Reaffirm our original objection to the studio for reasons of dominance, privacy and view, affecting the southern windows of the living room and windows of the kitchen.

Precinct Community Forum Comments:

The application was referred to the Seaforth Precinct Community Forum for comment. No response had been received at the time of writing this report.

Building Comments:

No objections subject to the original conditions of consent.

Environmental Services Division Report No. 59 (Cont'd)

PLANNING COMMENTS

The Section 96 (2) Modification application requests modification to the following conditions:-

ANS02

The studio above the garage on Lot 291 is to be deleted and the double garage is to be provided with a pitch roof. Plans are to be amended accordingly, **prior to the issue of Construction Certificate**. The reason for this condition is to reduce the impact on the adjoining properties in terms of overshadowing and outlook.

Comment

The applicant requests that this condition be deleted. The applicant has supplied additional shadow diagrams to justify the deletion. It is noted that the garage with studio over is positioned 9.0m from the north side boundary and neighbour concerns regarding outlook and privacy impacts do not carry sufficient weight to warrant refusal or redesign of this aspect of the proposal. Further it is to be noted that the proposal complies with the requirements of the DCP in terms of floor space ratio. Having regard to the additional information submitted it is considered that the condition can be deleted.

ANS03

The proposed dwelling on the rear lot (Lot 291) is to be lowered by at least 1.0 metres. The maximum ridge height is to be no higher than RL77.94 for the dining floor level, RL82.62 for the master bedroom level and RL85.92 for the ridge above the master bedroom level. This is to improve the views to the adjoining property and comply with Council's view sharing policy. Plans are to be amended accordingly **prior to the issue of the Construction Certificate**.

Comment

The amended plans submitted, has lowered the height of the critical roof ridge to provide the views to the south-west from the living area of the adjoining dwelling. This has been achieved by re-design of the roof over the first floor master bedroom and mezzanine and ground floor gallery. The applicant erected height template on site and a site view confirmed that the proposal would now achieve the view sharing as envisaged by this condition. It is considered the proposal would now comply with the "view sharing" policy of Council's DCP and therefore the condition can be deleted from the consent.

ANS04

The proposed dwelling on the rear lot (Lot 291) is to be moved at least 2.0 metres to the east to reduce the overshadowing impact on the adjoining property to the south. Plans are to be amended accordingly **prior to the issue of the Construction Certificate**.

Comment

The applicant has submitted additional shadow diagrams to justify that the condition is unnecessary in terms of overshadowing of the property to the south. However it is considered that the proposal would still cast some additional shadows to the property to the south in critical open space areas and also is too far to the west. It is considered that the proposed dwelling should be at least moved 1.0 metre to the east to reduce the overshadowing impact as well improve the outlook from the property to the north. This will also help to maintain the consistency of setbacks of the dwellings in the locality.

DA323

This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.

Environmental Services Division Report No. 59 (Cont'd)*Comment*

The applicant requests that the 2-years given to start the project is too restrictive and therefore should be modified. It is to be noted that this is the general policy of Council for all developments in the Council area and therefore does not require to be modified. The Environmental Planning and Assessment Act provides that the applicant can request for 1 year extension to the consent and Council generally grants them provided the applicant can justify their case. Further, the consent will not lapse if the applicant can prove that physical commencement has taken place.

It is therefore considered that this condition be retained.

DA026

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

Comment

The applicant requests that the condition be modified to reflect the modifications proposed - no objection is raised to this and therefore the condition is to be changed accordingly.

DA059

Building work shall not progress beyond first floor level until such time as Registered Surveyors details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval.

Comment

The applicant requests that the condition be modified to reflect the modifications proposed - no objection is raised to this and therefore the condition is to be changed accordingly.

DA060

On completion of the building structure a report from a Registered Certifier is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.

Comment

The applicant requests that the word "Registered Certifier" be replaced with "Registered Surveyor". No objection is raised to this request as this was a typographical error and should have actually been Registered Surveyor.

Section 96 (2) of the Environmental Planning and Assessment Act 1979, states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Environmental Services Division Report No. 59 (Cont'd)

- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be."*

With regards to the above it is considered that the proposed modifications to the original consent, is not substantially the same development as the original development that has been consented to. The modifications requested were notified in accordance with Council's DCP for Notification, and two (2) submissions were received. The changes proposed allows the view sharing and the proposed condition (ANS 04) will maintain the view and reduce the amount of overshadowing issues raised. All matters relating to the proposed modification in terms of impact on neighbouring properties and streetscape have been considered and the application to modify the given consent is supported subject to conditions.

Manly LEP 1988:

The site is located in Zone No.2 - The Residential Zone which permits dwelling houses with the consent of Council.

The proposed dwellings are permissible with consent in the zone.

Foreshore Scenic Protection Area

The site is also located within the Foreshore Scenic Protection Area. The proposal is considered acceptable in terms of its impact on the visual amenity of the area, as viewed from the Harbour, foreshores and surrounds.

Manly Local Environment Plan 1988 - Clause 10 Objectives

- a) to set aside land to be used for purposes of housing and associated facilities;
The site is zoned residential and will retain its residential use.
- (b) to delineate, by means of development control in the supporting material, the nature and intended future of the residential areas within the Municipality;
Council's Development Control Plan for the Residential Zone 2001 Amendment 1 has been considered in the assessment of the proposal.
- (c) to allow a variety of housing types while maintaining the existing character of residential areas throughout the Manly Council area;
Subject to conditions included in the recommendation, the proposed dwellings are considered compatible with the character and size of housing in the locality.
- (d) to ensure that building form, including alterations and additions, does not degrade the amenity of surrounding residents or the existing quality of the environment;
Subject to conditions included in the recommendation, the amenity impacts in terms of privacy, views, overshadowing and visual impact are considered acceptable.
- (e) to improve the quality of the residential areas by encouraging landscaping and permitting greater flexibility of design in both new development and renovations;
The proposal includes landscaping of the open space areas and meets this objective.

Environmental Services Division Report No. 59 (Cont'd)

(f) *to allow development for purposes other than housing within the zone only if it is compatible with the character and amenity of the locality;*
The proposal maintains the residential use of the site.

(g) *to ensure full and efficient use of existing social and physical infrastructure and the future provisions of service and facilities to meet any increased demand;*
Contributions under Section 94 of the Environmental Planning and Assessment Act 1979 are applicable in respect of the proposed additional dwelling. Certification from Sydney Water in respect of water supply is required as a condition of consent.

(h) *to encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

Subject to conditions included in the recommendation, the proposed dwellings are considered to complement the site, responding to its form, slope and surrounds.

(i) *to encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination, and particularly in relation to the land to which Manly Local Environmental Plan 1988 (Amendment No 57) applies.*

Not applicable.

Section 79(C) of the Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *the provisions of:*

- (i) any environmental planning instrument*
- (ii) any draft environmental planning instrument*
- (iii) any development control plan*
- (iv) the regulations*

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Residential Zone 2001, Amendment 1. Subject to the controls detailed in the recommended conditions, the proposal is acceptable.

(b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

Subject to conditions included in the recommendation, the impacts of the proposed dwellings have been considered and will not result in any significant negative effects on the locality.

(c) *the suitability of the site for the development,*

The site is within the Residential zone and is currently developed with a single dwelling. The proposal meets the density provisions of Council's DCP and accordingly is considered to be suitable development.

(d) *any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with two submissions received. The concerns raised have been addressed above.

(e) *the public interest.*

The proposal is considered to be in the public interest, subject to the recommended conditions.

Environmental Services Division Report No. 59 (Cont'd)**CONCLUSION**

The proposal has been considered pursuant to Section 96 and 79C of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988, and the Development Control Plan for the Residential Zone 2001 Amendment 1.

From this assessment the proposal is considered a suitable form of development and conditional approval is recommended.

RECOMMENDATION

That pursuant to Section 96 (2) Of the Environmental Planning and Assessment Act 1979, the application to modify Development Consent No. 230/05 for Demolition of existing building and erection of two (2) dwellings and land subdivision at 30, Castle Circuit, Seaforth be approved, subject to the original conditions of consent, with the deletion of Condition Nos. ANS 02, ANS 03 and modification of Condition Nos. DA1, ANS 04, DA26, DA59 and DA60, retention of Condition No. DA 323 and addition of Condition No. DA 274 as follows:-

DA1

This approval relates to drawings/plans Nos. 0091A - 02 Sheet Nos. 1 to 7 dated 5 November 2004 and received by Council on 14 April 2005; Nos 0091 - 04 Sheet Nos. 1 to 7 & 10 to 12 dated 5 November 2004 and received by Council on the 18 November 2005 and Landscape Plans Nos. A05A Sheet Nos. 1 to 3 and Nos. A05 Sheet Nos. 1 to 3, both sets dated 5 April 2004 and received by Council on 14 April 2004.

Except as amended by

Nos. 0091 - 05 Sheet Nos. 1 to 9 dated 11 May 2006 and received by Council on the 5 June 2006.

ANS04

The proposed dwelling on the rear lot (Lot 292) is to be moved at least 1.0 metre to the east to reduce the overshadowing impact on the adjoining property to the south. Plans are to be amended accordingly, **prior to the issue of the Construction Certificate.**

DA26

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans (as modified) with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.

DA59

Building work shall not progress beyond first floor level until such time as Registered Surveyor's details of levels are submitted to the Principal Certifying Authority. These levels shall confirm that the works are in accordance with the levels shown and approved in the development approval, (as modified).

DA60

On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan (as modified).

DA274

Payment of contributions in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, is required for the development. The amount being in accordance with Council's Section 94 Policy applicable at the time of payment **prior to the issue of the Construction Certificate.**

Environmental Services Division Report No. 59 (Cont'd)

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 59 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 60
SUBJECT: 33 Belgrave Street, Manly
FILE NO: DA64/79

Application Lodged: 21 July 2006
Applicant: J Arissian
Owner: C & R Patronis
Estimated Cost: N/A
Zoning: Manly Local Environmental Plan, 1988 - Business
Surrounding Development: Multi storey mixed commercial and residential
Heritage: N/A

SUMMARY:

1. THE SECTION 96 APPLICATION SEEKS CHANGE OF TRADING HOURS FROM 10.00AM - 12.00 MIDNIGHT TO 7.00AM – 12.00 MIDNIGHT MONDAY TO THURSDAY, 7.00AM - 3.00AM FRIDAY TO SATURDAY AND 7.00AM – 2.00AM SUNDAY.
2. THE EXISTING SHOP IS SUBJECT OF CONSENT NO.64/79 FOR "TAKE AWAY PIZZA PARLOUR".
3. THE MODIFICATION APPLICATION WAS NOTIFIED TO NEABY AND ADJOINING PROPERTY OWNERS WITH FOUR SUBMISSIONS RECEIVED, THREE IN SUPPORT OF THE APPLICATION AND ONE OPPOSED.
4. THE DEVELOPMENT ASSESSMENT UNIT DOES NOT SUPPORT THE CHANGE OF OPERATING HOURS PROPOSED HOWEVER A COMPROMISE IS RECOMMENDED PERMITTING EXTENSION OF TRADING HOURS UNTIL 3.00AM SUBJECT TO THE APPLICANT SIGNING A DEED OF AGREEMENT BETWEEN THE APPLICANT AND COUNCIL REQUIRING THE APPLICANT IMPLEMENT AND MAINTAIN SUITABLE MEASURES TO MINIMISE ANTI SOCIAL BEHAVIOUR OF PEOPLE ATTRACTED TO THE LOCATION OF THE PREMISES.
5. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLORS MURPHY AND PEDERSEN.
6. THE APPLICATION IS RECOMMENDED FOR CONDITIONAL APPROVAL.

LOCALITY PLAN:

Shaded area is subject land.



REPORT

Introduction

The Section 96 modification of consent seeks to extend approved trading hours of the existing takeaway pizza parlour from 10.00am –12.00am (midnight) to:

- 7am – 12am (midnight) Monday – Thursday
- 7am – 3am Friday – Saturday
- 7am – 2am Sunday

Environmental Services Division Report No. 60 (Cont'd)

In recent years trading hours have been gradually increased without Council consent extending up to the hours sought by this application.

Background

The existing pizza shop / restaurant was approved by Council in 1979. The hours sought by the applicant and approved by Council were 10:00am – 12:00am (midnight). Since this time the business obtained a liquor licence in 1991 from the NSW Licensing Court permitting trading until 5am, however this was not the subject of any Council approval.

Submissions

Three submissions of support and one submission of objection were received from local residents. The submissions in support state that the business provides a late night restaurant that is frequented by shift workers who finish work late in the evening, and that its operation causes minimal disturbance to the surrounds. The objection raises issues of increased late night noise, which is a key issue addressed by the DCP for Late Night Venues and the 1am restriction it places on late night venues.

Precinct Community Forum Comments

Motion stated that The Corso Precinct Community Forum support the Section 96 modification of trading hours in relation to DA64/79.

Planning Comments**Manly Local Environmental Plan 1988**

The use of the premises as a food shop is permissible with consent in the zone.

Manly Local Environmental Plan 1988 Clause 10 Objectives

The following are comments in regard to the objectives for the Business Zone as set out in Clause 10 of the Manly Local Environmental Plan 1988.

- (a) *to provide for and encourage the development and expansion of business activities which will contribute to the economic growth and employment opportunities within the manly Council area.*

The proposal is consistent with this objective.

- (b) *to accommodate retail, commercial and professional services in established locations in the residential neighbourhoods where such development is compatible with the amenity of the area.*

N/A

- (c) *to ensure there is adequate provision for car parking in future development in the business zone.*

There is no car parking available on this site and the proposal is not considered to impact on parking demand in the area.

- (d) *to minimise conflicts between pedestrians and vehicle movement systems within business areas.*

Subject to controls contained in the Recommendation, the proposal will be consistent with this objective.

Environmental Services Division Report No. 60 (Cont'd)Manly DCP for the Business Zone

With respect to the objectives of the Business DCP, the proposed extension of trading hours is considered unfavourable by increasing incremental impacts on the amenity of neighbouring areas.

Manly DCP for Late Night Venues

The DCP requires takeaway food premises to close no later than 1:00am. The approval for the pizza shop / restaurant originally restricted business trading to 12am / midnight however given the premises benefits from a trading licence up until 5am, the suggestion of a closing time of 1:00am is considered reasonable.

Section 96 of the Environmental Planning and Assessment Act 1979

S.96 of the Act requires consideration of whether the proposed modifications result in *substantially the same development* and whether the proposed modifications result in any *increase in impacts* compared with the development as approved.

The request for trading after midnight as stated above results in substantially the same development as approved, being use of the premises as a pizza shop/restaurant. However by virtue of seeking to extend trading hours well beyond the 12am close as originally approved by Council, this is considered likely to result in an increase in amenity impacts to neighbouring properties. In particular it raises the potential for an increase in late night noise disturbance to nearby residents.

Notwithstanding, as trading has been permitted up until 5am by the Liquor Licensing Board, it is suggested that some compromise be offered permitting operating hours up until 1:00am, which is consistent with the Manly DCP for Late Night Venues.

Section 79(C) of the Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application.

- (a) *the provisions of:*
- (i) *any environmental planning instrument*
 - (ii) *any draft environmental planning instrument*
 - (iii) *any development control plan*
 - (iv) *the regulations*

The proposal has been assessed having regard to the Manly Local Environmental Plan 1988 and the Development Control Plan for the Business Zone and found to be satisfactory subject to conditions included in the Recommendation.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*
- Subject to conditions included in the Recommendation, the proposal is acceptable in terms of its impacts on the natural and built environments. The economic and social impacts will be acceptable subject to compliance with conditions included in the Recommendation.

- (c) *the suitability of the site for the development,*
- The site is within the Business zone and as such the proposal, subject to conditions included in the Recommendation is considered to be suitable development

Environmental Services Division Report No. 60 (Cont'd)

(d) *any submissions made in accordance with this Act or the regulations,*

The application was notified in accordance with Council's policy with one submissions opposed to the modification. The concerns raised in the submission have been suitably addressed in the recommended conditions of consent.

(e) *the public interest.*

The proposal subject to conditions included in the Recommendation is not considered to be contrary to the public interest.

CONCLUSION

The proposal has been considered pursuant to Section 79C and 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan, 1988 and the Development Control Plan for the business Zone and found to be satisfactory subject to conditions included in the Recommendation.

RECOMMENDATION

That the application to modify Development Application No.64/79 by extending trading hours at No.33 Belgrave Street, Manly be approved subject to the original conditions of consent and new conditions 4, 5 and 6 added as follows;

4. The hours of operation not to exceed 7:00am to 12:00 midnight Monday to Thursday, and 7:00am to 1:00am (next day) Friday, Saturday and Sunday without the prior consent of Council.
5. Trading between the hours of 1:00am and 3:00am (Friday and Saturday only) may be permitted provided an annual **Deed of Agreement** is entered into, between the applicant/Proprietor and Council, encompassing the following:-
 - The shop front is to be secured and a door is to be provided for customers to enter and leave the premises.
 - Any queues forming to enter the premises must not be more than ten (10) customers. Any number greater than ten (10) must be requested not to join the queue and move-on.
 - Security Cameras must be installed to operate 24 hours, both inside and outside, the premises. The cameras are to be installed in consultation with Council. Signage advising patrons of the cameras shall be installed in at least three (3) prominent positions.
 - The applicant/proprietor shall be responsible for the cleanliness of the areas at least to the centreline of the road and at least two (2) blocks on either side of the property.
 - The Deed of Agreement is to be renewed every 12 months.
6. The applicant/proprietor will be required to be a signatory to the **Manly Late Night Food Accord, 2006**, to be established to manage the requirements of this Deed, referred to in Condition No. 2, above.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 60 *****

TO: Land Use Management Committee - 9 October 2006
REPORT: Environmental Services Division Report No. 61
SUBJECT: DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED
FILE NO:

SUMMARY

DEVELOPMENT APPLICATIONS CURRENTLY BEING PROCESSED DURING OCTOBER, 2006.

REPORT

The following applications are currently with Council's Lodgment & Quality Assurance being advertised, notified or referred to appropriate parties.

3/07/2006

259/2006 26 Boronia La, SEAFORTH 2092

Demolition of garage & erection of new structure containing parking, entertaining area, bedrooms, bath, bar & decks

259/2006 5 Sandra Pl, SEAFORTH 2092

Demolition of garage & erection of new structure containing parking, entertaining area, bedrooms, bath, bar & decks

7/07/2006

280/2006 13 The Crescent, MANLY 2095

Demolish & Construct a Residential Flat Building & Strata Subdivision

21/07/2006

316/2006 2 Bligh Cr, SEAFORTH 2092

Alterations & Additions to an existing Dwelling

9/08/2006

332/2006 2 High St, MANLY
2095

New swimming pool at rear of property

14/08/2006

127/2006 67 Seaforth Cr, SEAFORTH 2092

AMENDED PLANS-Demolition, new dwelling house, garage, inclinator & landscaping

21/08/2006

349/2006 71 Castle Circuit, SEAFORTH 2092

Alterations & Additions to an existing Dwelling

23/08/2006

361/2006 11 Steinton St, MANLY 2095

Alterations & Additions to an existing Dwelling

28/08/2006

366/2006 39 Prince Edward Rd, SEAFORTH 2092

Alterations & Additions to an existing Dwelling

Environmental Services Division Report No. 61 (Cont'd)

31/08/2006

382/2004 33 Beatty St, BALGOWLAH 2093

Section 96 to modify approved plans: Alterations & Additions to dwelling including additional storey & alterations to pool

1/09/2006

364/2006 92 Clontarf St, SEAFORTH 2092

Construction of swimming pool

4/09/2006

375/2006 64 Castle Circuit, SEAFORTH 2092

Alterations & Additions to an existing Dwelling

6/09/2006

367/2006 72 Curban St, BALGOWLAH HEIGHTS 2093

Proposed roofed balcony to first floor at existing dwelling

7/09/2006

217/2005 3 Craig Avenue, MANLY 2095

Section 96 Modification to approved construction of two residential units with basement parking

8/09/2006

388/2006 49-52 North Steyne, MANLY 2095

Occupation and Fitout for "Yard house" Restaurant and Sushi Bar - Level 2

377/2006

4 Ethel St, SEAFORTH 2092

Alterations & additions to dwelling, carport and front fencing

11/09/2006

383/2006 Quirk Rd, BALGOWLAH 2093

Construction of a part one (1) and part two (2) storey building for the purposes of State Emergency Services Headquarters

386/2006 172A Woodland St, BALGOWLAH 2093

Demolition and construction of temporary two (2) storey structures for the purposes of "Marketing Suite"

386/2006 172 Woodland St, BALGOWLAH 2093

Demolition and construction of temporary two (2) storey structures for the purposes of "Marketing Suite"

386/2006 174 Woodland St, BALGOWLAH 2093

Demolition and construction of temporary two (2) storey structures for the purposes of "Marketing Suite"

12/09/2006

381/2006 West Esp, MANLY 2095

Alterations and Extension to Refreshment Room (Cafe Cruz) and Maritime Office and store - Manly Bathers Pavilion

13/09/2006

372/2006 2 Ellery Parade, SEAFORTH 2092

Proposed double carport and access ramp

Environmental Services Division Report No. 61 (Cont'd)

14/09/2006

373/2006 11 Barrabooka St, CLONTARF 2093
Demolition & Construction of new dwelling & swimming pool

374/2006 10 Heaton Av, CLONTARF 2093

Land Subdivision of one (1) lot into two (2) lots

15/09/2006

393/2006 42 Wanganella St, BALGOWLAH 2093
Alterations & Additions to the rear of the existing Dwelling

18/09/2006

382/2006 43-45 North Steyne, MANLY 2095
Erection of Signage - Advertising Structures and extension of the
hours of operation - Shop 1

239/2005 26 Alma St, CLONTARF 2093

Section 96 to modify approved Alterations & Additions to Dwelling
including double garage, new balcony and upper floor additions with
attached deck at rear

376/2006 10 Nield Av, BALGOWLAH 2093

Alterations & Additions to Duplex & garage including new decks & front
fencing and amended strata subdivision

378/2006 34 Frenchs Forest Rd, SEAFORTH 2092

Alterations & Additions to dwelling house & new front fence

391/2006 13 Lister Av, SEAFORTH 2092

Excavation and construction of Swimming Pool at rear and landscaping

19/09/2006

487/2004 49 Golf Parade, MANLY 2095
Section 96 to modify approved Demolish and Construct two (2) Storey
Semi-detached Dwellings and subdivision (modify landscaping)

379/2006 9 Beaconview St, BALGOWLAH HEIGHTS 2093

Alterations & Additions to existing dwelling, Garage, pool, fencing &
landscaping

380/2006 25-27 South Steyne, MANLY 2095

Shop 6 - Fitout & occupation for a take away food shop & under awning
Signage

20/09/2006

149/2001 506 Sydney Rd, BALGOWLAH 2093
Section 96 to modify approved plans: Washbay - Maintenance Facility -
Colourbond

398/2006 8 Golf Parade, MANLY 2095

Part demolition and Alterations & Additions to the existing Dwelling

384/2006 25-27 South Steyne, MANLY 2095

Shop 5- Occupation & Fitout for Restaurant & Gelato/Juice bar

Environmental Services Division Report No. 61 (Cont'd)

21/09/2006

385/2006 129 Bower St, MANLY 2095

Unit 7-Internal Alterations & Additions to a Residential Flat Building

416/2005 13 Bonner Av, MANLY 2095

Section 96 Modification to approved demolition & erection of two (2) dwellings and swimming pool and land subdivision to create two(2) lots

387/2006 555 Sydney Rd, SEAFORTH 2092

Shop 2- Alterations & Additions to existing takeaway food shop including limited eat-in facilities.

22/09/2006

285/2006 61 Alexander St, MANLY 2095

Section 96 to modify approved Alterations & Additions at rear of Semi-detached dwelling

400/2006 85 Castle Circuit, SEAFORTH 2092

Alterations & Additions to an existing Dwelling

339/2002 59 Lauderdale Av, FAIRLIGHT 2094

Section 96 Modification to approved demolition/3 townhouses/strata subdivision

399/2006 14A Plant St, BALGOWLAH 2093

Alterations and Additions to the rear Deck

25/09/2006

47/2002 6 Willyama Av, FAIRLIGHT 2094

Section 96 Modification to approved new building two dwellings on one lot

389/2006 7 Willawa St, BALGOWLAH HEIGHTS 2093

Erection of swimming pool

401/2006 47 North Steyne, MANLY 2095

Alterations and Additions to a Take Away Food Shop

390/2006 71 Gordon St, CLONTARF 2093

Alterations & Additions to existing dwelling

26/09/2006

35/2004 8 The Corso, MANLY 2095

Section 96 to modify approved Demolition of existing buildings and Construction of a Coles Supermarket, Retail Shops and Residential Apartments

394/2006 56 Curban St, BALGOWLAH HEIGHTS 2093

Alterations & Additions to existing dwelling, demolition of garage & new basement garage

395/2006 75 The Corso, MANLY 2095

Erection of Signage

Environmental Services Division Report No. 61 (Cont'd)

- 392/2006 4 Camera St, MANLY 2095
Alterations & Additions to existing Dwelling to provide for a second dwelling, demolition of existing garage & new basement garage & landscaping
- 27/09/2006
- 396/2006 23 Kitchener St, BALGOWLAH 2093
Demolition & Erection of two attached dwellings & land subdivision
- 404/2006 Market La, MANLY 2095
Alterations and Additions to the existing Manly Library Building including new third (3rd) floor and mezzanine level
- 397/2006 50 East Esp, MANLY 2095
Alterations and additions to existing premises for two (2) ground floor retail shops, professional consulting rooms and eleven (11) offices
- 397/2006 6 The Corso, MANLY 2095
Alterations and additions to existing premises for two (2) ground floor retail shops, professional consulting rooms and eleven (11) offices
- 28/09/2006
- 402/2006 15 Margaret St, FAIRLIGHT 2094
Alterations & Additions to an existing Dwelling
- 213/2004 37 Ethel St, SEAFORTH 2092
Section 96 to modify approved Erection of a Residential Flat Building Containing 16 Units, Swimming Pool and Basement Car parking
- 213/2004 33 Ethel St, SEAFORTH 2092
Section 96 to modify approved Erection of a Residential Flat Building Containing 16 Units, Swimming Pool and Basement Car parking
- 213/2004 33 Ethel St, SEAFORTH 2092
Section 96 to modify approved Erection of a Residential Flat Building Containing 16 Units, Swimming Pool and Basement Car parking
- 3/10/2006
- 26/2005 84 Curban St, BALGOWLAH HEIGHTS 2093
Section 96 Modification to approved alterations and additions to dwelling including enclosing existing terrace
- 403/2006 35 Pittwater Rd, MANLY 2095
Occupation of existing office premises for retail surf shop and an external wall-painted mural/signage
- 4/10/2006
- 405/2006 129 Bower St, MANLY 2095
Unit 26- Minor Internal Alterations to bathroom

Environmental Services Division Report No. 61 (Cont'd)

The following applications are waiting to be assigned to an Assessment Officer.

DA#	Date Rec by Council	Site Address	Proposal
DA317/06	27-Jul-06	19 Lauderdale Avenue	Strata Subdivision
DA319/06	21-Jul-06	17 Harvey Street	Alterations & Additions
DA322/06	28-Jul-06	42 Malvern Avenue	Alterations & Additions, Garage & Loft
DA325/06	31-Jul-06	122 Wanganella Street	Cabana & Storage
DA326/06	03-May-06	5 College Street	Demolition, New Dwelling & Pool
DA327/06	12-Apr-06	20 Castel Circuit	Pool
DA330/06	01-Aug-06	76 Bower Street	Alterations & Additions
DA331/06	04-Aug-06	15 Redman Street	2 Storey Dwelling
DA335/06	09-Aug-06	68 Ponsonby Parade	Upper Floor Deck
DA336/06	10-May-06	340 Sydney Road	Change of Use
DA337/06	07-Aug-06	262 Pittwater Road	Awning and Landscaping
DA339/06	04-Aug-06	35 Amiens Road	Demolition, Alterations & Additions
DA342/06	02-Aug-06	11-27 Wentworth Street	Site Office, Rooftop Plant Enclosure
DA343/06	11-Aug-06	63 Lauderdale Avenue	Alterations & Additions, Garage with Turntable Access
DA345/06	16-May-06	13 Golf Parade	Alterations & Additions
DA347/06	17-Aug-06	24 Condamine Street	Alterations & Additions & Garage
DA350/06	22-Aug-06	25 Austin Street	Alterations & Additions & Hardstand
DA351/06	23-Aug-06	33 Alan Avenue	Alterations & Additions
DA352/06	24-Aug-06	36-38 South Steyne	Advertising Structure, New Fascia & Signage
DA353/06	24-Aug-06	140 Woodland Street	Alterations & Additions
DA354/06	29-Aug-06	1/121 Sydney Road	Garbage Enclosure & Fencing
DA356/06	24-Aug-06	53 Balgowlah Road	Demolition, 2 Townhouses & Strata Subdivision
DA357/06	24-Aug-06	125 Seaforth Crescent	Vehicular Hardstand
DA363/06	26-Aug-06	50 Heathcliff Crescent	Alterations & Additions
DA364/06	29-Aug-06	92 Clontarf Street	Swimming Pool
DA365/06	01-Sep-06	3/69 Sydney Road	Bin Enclosure
DA367/06	31-Aug-06	72 Curban Street	Rooftop Balcony
DA368/06	30-Aug-06	10 Herbert Street	Swimming Pool
DA369/06	04-Sep-06	88 Ellery Parade	Carport
DA370/06	22-Aug-06	14 Radio Avenue	Rooftop Vergola
DA375/06	04-Sep-06	64 Castle Circuit	Alterations & Additions
DA459/05	12-Sep-06	20 Alto Avenue	Section 96 Modification
DA54/05	29-Aug-06	25 White Street	Section 96 Modification
DA547/04	20-Jul-06	46-48 Balgowlah Road	Section 96 Modification
DA55/05	12-Jul-06	76 Birkley Road	Section 96 Modification
DA96/06	21-Aug-06	32 Kamiri Street	Section 96 Modification

Environmental Services Division Report No. 61 (Cont'd)

The following applications are currently being processed by Council's Development Assessment Section.

DA#	Date Rec by Council	Site Address	Proposal	Target Date	DEL DAU LUM
DA319/03	16-Jul-03	14 Kempbridge Avenue	Alterations and Additions	24-Oct-06	DAU
DA423/05	29-Sep-05	59 Ethel Street	Erection of Mixed Use Development	24-Oct-06	DAU
DA428/05	21-Oct-05	7 Pacific Parade	Demolition & Erection of new Dwelling, Parking & Pool	26-Oct-06	DAU
DA506/05	06-Nov-05	3 Pacific Parade	Alterations & Additions to Residential Flat Building	19-Oct-06	DAU
DA469/05	11-Nov-05	45 Gurney Crescent	Demolition, New Dwelling	10-Oct-06	DAU
DA521/05	30-Nov-05	151 Darley Rd Lot 12	3 Storey Dwelling & Pool	Awaiting Information	
DA350/05	05-Dec-05	92 Bower Street	Section 96 Modification	31-Oct-06	DAU
DA536/05	12-Dec-05	133-136 North Steyne	Demolition of Buildings	10-Oct-06	DAU
DA60/06	21-Jan-06	16 Jellicoe Street	Demolition & Erection of Duplex RFB	Awaiting Information	
DA56/06	27-Jan-06	133-136 North Steyne	Demolition & RFB with Basement Parking & Strata Subdivision	Awaiting Information	
DA118/06	20-Feb-06	17 Rosedale Avenue	Pool & Garage	26-Oct-06	DAU
DA91/06	21-Feb-06	44 Dudley Street	Erect 2 Dwellings	24-Oct-06	DAU
DA312/05	27-Mar-06	29A Quinton Road	82A Review	19-Oct-06	DAU
DA126/06	04-Apr-06	61 Peacock Street Seaforth	Alterations & Additions; new deck, fence & driveway	31-Oct-06	DAU
DA468/02	10-Apr-06	32 Kitchener Street	Section 96 Modification	26-Oct-06	DAU
DA46/04	22-Apr-06	36 South Steyne	Section 96 Modification	24-Oct-06	DAU
DA201/06	05-May-06	18 Lauderdale Avenue	Alterations & Additions to Semi	10-Oct-06	DAU
DA186/06	12-May-06	17 Carlton Street	Alterations & Additions	Awaiting Information	
DA230/06	16-May-06	1/39 East Esplanade	Section 96 Modification	17-Oct-06	DAU
DA381/05	18-May-06	18 Collingwood Street	82A Review	12-Oct-06	DAU
DA217/06	23-May-06	38 Denison Street	Alterations & Additions	12-Oct-06	DAU
DA424/05	24-May-06	13 Nield Avenue	82A Review	26-Oct-06	DAU
DA532/02	05-Jun-06	8 Peronne Avenue	Section 96 Modification	10-Oct-06	DAU

Environmental Services Division Report No. 61 (Cont'd)

DA231/06	06-Jun-06	31 The Corso	Alterations & Additions to Ivanhoe Hotel	10-Oct-06	DAU
DA233/06	08-Jun-06	15 The Crescent	Alterations & Additions, Strata Subdivision & Carparking	12-Oct-06	DAU
DA265/05	09-Jun-06	55 Woodland Street	82A Review	17-Oct-06	DAU
DA238/06	09-Jun-06	40 Beatty Street	Demolition, Alterations & Additions, Pool & Garage	17-Oct-06	DAU
DA235/06	09-Jun-06	52-54 Wanganella Street	Administration Building & School	05-Oct-06	DAU
DA236/06	13-Jun-06	159 Woodland Street	Demolition & Land Subdivision & 2 New Dwellings	17-Oct-06	DAU
DA529/04	15-Jun-06	38a Rignold Street	Section 96 Modification	31-Oct-06	DAU
DA243/06	20-Jun-06	45 Beatty Street	Partial Demolition, Alterations & Additions, basement Car parking and Landscaping	17-Oct-06	DAU
DA248/06	21-Jun-06	37 White Street	Change of Use to place of Worship	19-Oct-06	DAU
DA250/06	23-Jun-06	74 Bower Street	Alterations & Additions	19-Oct-06	DAU
DA539/03	23-Jun-06	54 Golf Parade	Section 96 Modification	10-Oct-06	DAU
DA271/06	26-Jun-06	85 West Street	Demolition & New RFB	19-Oct-06	DAU
DA469/05	29-Jun-06	45 Gurney Crescent	82A Review	12-Oct-06	DAU
DA578/02	05-Jul-06	81 Woodland Street	Section 96 Modification	12-Oct-06	DAU
DA292/06	05-Jul-06	84 Peacock Street	Demolition, new Dwelling, Pool, Cabana & Fencing	31-Oct-06	DAU
DA276/06	06-Jul-06	35 Ponsonby Parade	Alterations & Additions, Pool	Awaiting Information	
DA297/06	10-Jul-06	25 Fairlight Crescent	3 Storey RFB Converted to Single Dwelling	10-Oct-06	DAU
DA305/06	11-Jul-06	26 High Street	Pool	31-Oct-06	DAU
DA14/05	11-Jul-06	54 Beatrice Street	Section 96 Modification	17-Oct-06	DAU
DA14/05	11-Jul-06	54 Beatrice Street	Section 96 Modification	24-Oct-06	DAU
DA283/06	12-Jul-06	27 Cutler Road	Dwelling & Pool	24-Oct-06	DAU
DA304/06	13-Jul-06	22 Collingwood Avenue	Pool	31-Oct-06	DAU
DA306/06	14-Jul-06	39 Francis Street	Alterations & Additions, Carport & Front Fence	31-Oct-06	DAU

Environmental Services Division Report No. 61 (Cont'd)

DA1230/98	17-Jul-06	44 Ellery Parade	Section 96 Modification	24-Oct-06	DAU
DA310/06	19-Jul-06	7 Edgecliff Esplanade	Widen Drive & Access	10-Oct-06	DAU
DA311/06	19-Jul-06	20 Curban Street	Pool	12-Oct-06	DAU
DA22/06	21-Jul-06	26 Ogilvy Road	Section 96 Modification	12-Oct-06	DAU
DA307/06	21-Jul-06	21 Central Avenue	Alterations & Additions to Commercial Space	26-Oct-06	DAU
DA303/06	21-Jul-06	11 Cove Avenue	Pool	26-Oct-06	DAU
DA315/06	24-Jul-06	37 Bungalow Avenue	Pool & Deck	12-Oct-06	DAU
DA312/06	25-Jul-06	31 Arthur Street	Alterations & Additions	10-Oct-06	DAU
DA329/06	31-Jul-06	95 Lauderdale Avenue	Strata Subdivision		DAU
DA340/06	01-Aug-06	11/25 Wentworth Street	Rectify Exterior	19-Oct-06	DAU
DA468/02	01-Aug-06	32 Kitchener Street	Section 96 Modification	31-Oct-06	DAU
DA323/06	03-Aug-06	15 Wanganella Street	Alterations & Additions	17-Oct-06	DAU
DA10/06	04-Aug-06	4 Daintrey Street	Section 96 Modification	17-Oct-06	DAU
DA10/06	04-Aug-06	4 Daintrey Street	Section 96 Modification	19-Oct-06	DAU
DA341/06	08-Aug-06	14 Boronia Lane	Erection of Dwelling	19-Oct-06	DAU
DA338/06	08-Aug-06	92 Clontarf Street	Demolition & New 2 Storey Dwelling	24-Oct-06	DAU
DA334/06	09-Aug-06	7 Dobroyd Road	Alterations and Additions	17-Oct-06	DAU
DA533/04	09-Aug-06	11 Jamieson Avenue	Section 96 Modification	24-Oct-06	DAU
DA344/06	09-Aug-06	11 Fairlight Crescent	Pool & Landscaping	26-Oct-06	DAU
DA88/04	15-Aug-06	22 Arthur Street	82A Review	17-Oct-06	DAU
DA154/06	16-Aug-06	47 Rickard Street	Section 96 Modification	10-Oct-06	DAU
DA6/03	16-Aug-06	25 Fromelles Avenue	Section 96 Modification	12-Oct-06	DAU
DA443/05	17-Aug-06	46 Addison Road	82A Review	10-Oct-06	DAU
DA161/06	06-Sep-06	4 Kamiri Street	Section 96 Modification	31-Oct-06	DAU

RECOMMENDATION

THAT THE INFORMATION BE NOTED.

Environmental Services Division Report No. 61 (Cont'd)

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 61 *****

TO: Land Use Management Committee - 9 October 2006

REPORT: Environmental Services Division Report No. 62

SUBJECT: Appeals List for October 2006

FILE NO:

SUMMARY

LIST OF APPEALS RECEIVED AND THEIR CURRENT STATUS FOR COUNCILLORS INFORMATION.

REPORT

DA#	L&E Appeal Reference	House #	Address	Date Appeal Lodged	Solicitor Company	Current Status
DA401/04	41145/05	87-95	Balgowlah Road, Balgowlah (Manly Golf Club)	14/10/05	Abbott Tout	Judgement Reserved 29/08/06
DA97/04	10592/05	2	Clontarf St, Seaforth	15/03/05	Abbott Tout	Judgement Reserved 14/08/06
DA28/06	10108/06	29	Edgecliffe Esplanade, Seaforth	15/02/2006	Pike Pike & Fenwick	Hearing 16/10/06
DA250/04	10321/06	51	Stuart Street, Manly	18/04/2006	Pike Pike & Fenwick	Hearing 06/10/06
DA389/05	10392/06	9	Smith Street, Manly	19/05/2006	Abbott Tout	Dismissed 20/09/06
DA43/06	10444/06	56	Alexander Street, Manly	26/05/2006	Abbott Tout	Upheld with amendment 29/09/06
DA164/06	10527/06	5	Sandy Bay Road	23/06/2006	Abbott Tout	Hearing 10/10/06
DA85/06	10583/06	164	Pittwater Road, Manly	07/07/2006	Pike Pike & Fenwick	Hearing 25/10/06
DA292/05	10584/06	107	Frenchs Forest Road, Seaforth	10/07/2006	Abbott Tout	Callover 05/10/06
DA278/05	10571/06	42	North Steyne, Manly	11/07/2006	Abbott Tout	Hearing 27/10/06
DA231/06	10765/06	27-35	The Corso, Manly	30/08/06	Abbott Tout (LF)	Callover 06/10/06
DA46/04	10771/06	36-38	South Steyne, Manly	31/08/06	Pike Pike Fenwick	Callover 13/10/06
DA538/04	10859/06	51	Wood Street, Manly	15/09/06	Pike Pike & Fenwick	Callover 27/10/06
DA458/04 and building certificate	10895/06 and 10896/06	36	Gurney Crescent, Seaforth	28/09/06	Abbott Tout	Callover 17/11/06

Environmental Services Division Report No. 62 (Cont'd)

RECOMMENDATION

THAT THE INFORMATION BE NOTED.

ATTACHMENTS

There are no attachments for this report.

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***** End of Environmental Services Division Report No. 62 ***** .